Determining the duration of required affordability for dedicated affordable housing

Some affordable housing programs are designed to preserve affordability for a set period of time, sometimes called a “control period.” During the control period, covered units are subject to rent or sales price limitations and new occupants must meet established income requirements.

These restrictions help to ensure that homes created through affordability programs serve their intended purpose and do not immediately convert to market rates. After the control period has expired, the units can be rented or sold at market levels or converted to other uses. While some owners, particularly non-profit or mission-oriented organizations, choose to keep the affordability provisions in place even after the legal requirements expire, others opt out and allow the units to convert to market rates.

To serve the most people possible, and maximize the return on the public investment, it’s generally a good practice for localities in high-cost markets to aim to preserve
affordability for the longest possible time. Cities, towns, and counties can strive for “permanent” affordability in their housing programs, where use restrictions remain in place in perpetuity or, at minimum, require affordability that persists for the full 50-year lifecycle of a property. While federal regulations allow for shorter periods of affordability—new rental housing developed with HOME funding, for example, must remain affordable for at least 20 years and projects funded with Low Income Housing Tax Credits (LIHTC) are required to have an affordability term of at least 30 years—these federal requirements are minimums, not maximums, and should be viewed as starting points to be exceeded where possible.

While long-term affordability is the best way to get the most value from every dollar of investment, it does bring some trade-offs that need to be considered when designing policies. This brief describes some of those considerations, as well as steps that cities, towns, and counties can take to mitigate potential downsides.

1. **For affordable homeownership units, limits on sales prices that help to preserve the value of public investment can also limit the potential for individual asset accumulation and wealth generation.**

Most affordability requirements associated with ownership units are structured to allow the owners to earn a modest return when they sell their homes while still preserving affordability for the next family, an arrangement known as “shared equity” homeownership. When structured appropriately, this arrangement can work well for both the first and subsequent home purchasers. When structured poorly, however, buyers may be unable to build assets when they sell, and may even need to sell at a loss in order to preserve affordability for the next buyer. Some critics argue that placing limits on the ability of low-income and minority homebuyers to build assets is unfair and deprives them of the opportunities enjoyed by other homeowners. However, other approaches that do not restrict affordability can also be viewed as unfair in that they provide substantial benefits to one household while depriving others of the ability to be assisted. For example, assistance structured as an interest-free loan that is forgiven over time results in a windfall for one buyer, but fails to preserve those resources to assist the next household.

Fortunately, in high cost markets it is generally possible to balance the goals of preserving public subsidies (by keeping a share of any home price appreciation in the home) and allowing for some level of individual asset accumulation and wealth generation (by distributing the rest to the seller). Moreover, when families purchase homes at below-market levels, they have a measure of protection from losses, as they may still be able to sell for the original purchase price (or even at a modest profit) even
2. **For rental housing, additional steps may be needed to ensure buildings with long-term rent restrictions remain viable over time.**

Under traditional financing models, when rents are held at affordable levels over long periods of time, there may not be sufficient revenue to cover the cost of critical capital investments that are needed over the lifecycle of any property, such as replacing the roof or other major systems as they wear out. Failure to make these improvements in a timely manner can lead to deterioration and eventually leave an entire building uninhabitable. One approach to addressing this challenge has been to inject new subsidies into these properties after 15 to 20 years, often through the LIHTC program. Using 4% tax credits, property owners who are committed to preserving affordability may be able to raise funds to undertake needed rehabilitation. However, this approach often comes with high transaction costs as well as the opportunity costs associated with having to focus on recapitalizing existing properties rather than creating new affordable properties.

An alternative approach is to consider changes to the underwriting of subsidized properties that reflect a much longer timeframe. Many affordable properties are financed with the expectation that they will need recapitalization every 15 to 20 years. “Lifecycle” underwriting, by contrast, assumes a term of 50+ years, and structures the original development transaction so that rental properties remain viable—financially and physically—for a longer period that aligns with long-term affordability requirements. Research on a sample of 269 affordable rental properties found that about half of the properties would remain financially and physically viable over a 50-year lifecycle with no additional funding, if given access to cash flow and refinancing proceeds. For the remaining properties, financial and physical viability would be possible with an additional upfront deposit of $6,500 per unit – a modest sum relative to total development costs. While the sample used in this study is not representative of all properties, the findings illustrate the potential value of exploring lifecycle underwriting as a way to reduce the long-term costs of preserving the affordability of multifamily housing.

3. **Affordability restrictions of any duration require monitoring, and cities, towns, and counties that establish long control periods should be prepared to**
provide long-term stewardship.
Families who purchase affordable homes agree to comply with a variety of conditions. These include resale restrictions that limit the price of the property as well as other provisions, such as requirements to use the property as a principal residence. Ongoing monitoring helps to ensure that these conditions are met. Income-restricted rental properties also need some level of oversight to ensure that new tenants meet income requirements, affordable rent levels are maintained, and the property is maintained effectively.

Cities and towns that do not have the staff capacity to fill this monitoring and oversight role sometimes certify third-party organizations to act as partners that can monitor compliance and review requests for exceptions to program regulations. Partner organizations may also deliver homeownership counseling and foreclosure prevention assistance and qualify new buyers. Municipalities can also build notification requirements and rights of first refusal into the deed restriction that limits the resale price of affordable ownership properties. These provisions can help to alert the sponsoring agency to any pending sales, so it can step in if the sale does not comply with program requirements.

While there is a cost to ensuring compliance over time, in most cases it will be substantially lower than the cost of providing additional subsidy dollars year after year in programs where long-term affordability is not maintained. However, it is not always cost-effective to do so. Where the administrative costs of monitoring sales begin to approach the value of the subsidy—for example, for a first-time homeownership program that provides $2,500 in closing cost assistance—cities may determine that it makes more sense to structure the assistance as grant funding (or a forgivable loan) with no expectation of continued affordability. In other cases, however, the per-unit subsidy cost will be large enough to justify the investment in maintaining it. This threshold will vary by market, but a potential minimum may be a per-unit subsidy of $10,000.

4. Flexibility in program design can help to avoid unintended consequences when home prices and neighborhoods decline.
Long-term affordability requirements help to promote a stable supply of affordable housing, particularly in neighborhoods where local real estate market trends and community opposition limit the feasibility of replacing units that convert to market rate in the same or similar locations. As home prices increase, long-term affordability requirements become increasingly important. When prices drop substantially, however, it may be difficult for owners of resale-restricted properties to find buyers. In
extreme cases, homeowners may be “trapped” in units they are unable to sell, as buyers choose comparably-priced units that don’t carry any resale restrictions. In anticipation of this scenario, cities, towns, and counties can build provisions into the program regulations that allow for a relaxation of affordability covenants in extenuating circumstances.

It is also important to acknowledge neighborhood change, and recognize that areas that were once rich in amenities and resources may deteriorate over time. In mature high-cost markets, preserving the long-term affordability of specific housing units may be critical to providing continued access to good schools and other services for lower-income households. In less stable markets, however, municipalities may wish to consider policies that provide for the long-term preservation of subsidies, rather than specific units. This approach provides flexibility to shift the location of affordable housing, while helping to ensure the public subsidy keeps pace with the need.

1. See *Balancing Affordability and Opportunity: An Evaluation of Affordable Homeownership Programs with Long-Term Affordability Controls* by Kenneth Temkin, Brett Theodos, and David Price for an evaluation of eight shared equity programs. The authors find that homebuyers are able to earn competitive returns while keeping home prices affordable to additional lower income buyers. _

2. In declining market scenarios, shared equity programs can even result in greater returns than might otherwise be possible in traditional homeownership. See *Filling the Void Between Homeownership and Rental Housing: A Case for Expanding the Use of Shared Equity Homeownership* by Jeffrey Lubell, pages 9-11, for a discussion of how shared-equity homeownership can be used to mitigate the risks of traditional homeownership. _

3. See *Lifecycle Underwriting: Potential Policy and Practical Implications* by Maya Brennan, Amy Deora, Ethan Handelman, Anker Heegaard, Albert Lee, Jeffrey Lubell, and Charlie Wilkins for more information on lifecycle underwriting. _

**See also:**

*Balancing trade-offs between the quantity, quality, and location of affordable housing*

*Use of publicly owned property for affordable housing*

*Property acquisition funds*