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## Thomas Dolan Architecture : Planning Issues

### Affordability and Inclusionary Zoning

Inclusionary zoning is a term used to describe requirements of some cities that a certain percentage of units in multi-unit housing projects be set aside as "long term affordable" housing, usually for low and moderate income people, as locally defined. Live/work has long been held to be exempt from such requirements. To the extent that certain forms of live/work evolve more in the direction of housing types, this exemption may need to be re-examined. Affordability is an issue which can be addressed only in part by issues of planning and zoning, or even building regulations, which tend to make construction more expensive.

At its best, true live/work is an affordable land use and building strategy. By not having to rent or own separate places for living and working, much is saved in expenses per month. It is estimated that the average automobile costs \$5,000 per year to own, maintain, fuel, insure, etc. Therefore if a couple, for example, can do without one car, they are saving roughly \$500 per month. Therefore, the simple fact of not commuting and not maintaining a separate home and workplace is an important "land use subsidy" inherent in live/work, making it more affordable.

As stated elsewhere, the occupation of derelict commercial buildings for live/work began as an affordable strategy for artists and others on the margins of society. As live/work has moved into the mainstream and become an accepted real estate "product" in the form of lifestyle lofts, home office, etc., prices for such units have gone up, often astronomically, and the likelihood of finding an affordable live/work space has decreased. It is a relative term. Many San Francisco lofts are being occupied by workers in the Silicon Valley, for whom \$350,000 for a spacious lifestyle loft is a bargain compared to a \$750,000 bungalow in Silicon Valley. Never mind the hour-plus commute and the fact that



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the units are not being worked in by many owners-- a difficult thing to enforce, at best.

There are still low and moderate-income artists whose presence in a city adds vitality to its cultural life. In the face of many societal trends, their tenure in inexpensive live/work spaces is often limited at best without intervention of non-profit developers or other agencies of subsidy. Gentrification of loft districts can be a real problem for these people, and most are not equipped to pay condominium prices.

So what can be done to preserve, protect, and create long term affordable live/work?

Designate certain areas of a city off-limits for condominium live/work, but appropriate for rental or limited equity coop ownership. The most likely candidate for such a designation would be industrial areas where the likelihood of conflict between upscale buyers and established local businesses could be great anyway.

Create incentives for developers to include artists in their projects, through such means as density bonuses, parking requirement relaxations, and other building code relaxations.

Encourage non-profit developers to view low and moderate income artists as an underserved group deserving of their support through the development of affordable live/work projects.

Create programs that encourage tenants in existing legal or illegal live/work buildings to organize as a group and purchase their building from the owner, sometimes in combination with a legalization of the building in cooperation with city officials.

A word about forms of ownership: While having a great place with



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affordable rent is a great thing, the only way to assure one's future housing expense is some form of ownership. There are several common forms that we will touch on here.

**Fee simple ownership.** The simplest and most common, in which an individual or some entity owns a property outright, with or without a mortgage. Examples would be an entire building or a single-family house, or a piece of land.

**Condominium.** What's called a "common interest subdivision", in which fee simple ownership of one's individual unit is combined with shared ownership of the common areas, such as elevators, corridors, courtyards, roof and building shell, the land on which the project sits, etc. Each owner has a separate mortgage. Condominiums can be bought and sold more or less like houses and they usually don't have any restrictions on sale price.

**Limited Equity Coops** are the most common form of ownership organized around long-term affordability. The building is owned by the Cooperative and individuals own shares that entitle them to occupy a particular unit. The "Limited Equity" provision works like this: when one sells, one can only receive one's down payment plus a small amount of appreciation on one's equity (i.e. down payment) based on the consumer price index or some other index, plus the amount of any improvements one has made which were pre-approved by the coop board. This form of ownership was created specifically for those who want to stay in their space indefinitely. Its one down side is that without the appreciation of one's home, what is for many their only nest egg is absent. If at some point they choose to leave a limited equity coop and re-enter the -conventional housing market, it can be a brutal awakening.

There are variations on these forms of ownership, including such cooperatives (popular in New York City) and "equity cap condominiums", an attempt to create longer-term affordability in condominium projects.

It is possible as a group, or partnership to purchase a property as a sin-



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gle piece on a fee simple basis, and then convert the property to condominiums or limited equity coop. There is a lot of paperwork and often there are some (or a lot) of physical alterations to the building required, but the end result can be a building bought wholesale, subdivided without a developer profit, and individual ownership of more affordable units. Such "self-development" is not for the faint of heart and requires the help of professionals who do it all the time: an architect, a surveyor or civil engineer, attorneys, builders, a good title officer who knows subdivisions, and usually a member of the group who has some experience with the process, or alternately, a paid project manager and possibly a meeting facilitator and recorder.

Virtually nobody would argue with the wisdom of converting existing underutilized commercial and industrial buildings to live/work. It has been done for 30 years and continues to be a viable building type. Some cities, such as Oakland, California, have chosen to go more slowly on permitting new construction live/work in manufacturing zones and districts--although they have always permitted home occupation in any residence without the usual restrictions on square footage devoted to work space. Oakland, having seen some of the problems that have occurred in San Francisco from her vantage point across the bay, intends to learn from that experience and-- acknowledging that its real estate values are far lower and its commercial and industrial vacancy rates far higher-- decide soon what kind of new construction live/work is suitable where, and perhaps designate some places where-- particularly as market rate condominiums-- it may not be suitable at all.