

ZONING MEASURE BY INCLUSIONARY ZONING FOR AFFORDABLE HOUSING*

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ABSTRACT

City Planning is a key mechanism for government to manage and control the direction of the city. City Planning arranges all areas into zones according to land use classification. Each classification indicates activities that are allowed or disallowed to be conducted. City Planning can be enforced when come into the law form.

However, when the City Planning law is enforced, the price of land continuously increases and in turn affects the house price. At present, the price of land and house has been extremely increasing when comparing to the past. Many consumers cannot afford to buy a house because their income is too low, so they are forced to live far from the city center. Hence, these consumers have to face many inconveniences such as daily traffic jam and stress; such difficulty is considered adverse effect of Planning law.

The City Plan Act, B.E. 2518, disregards the affordable housing issue. This act supports the zoning planning and city plan procedure and makes the zoning planning and city plan concrete and enforceable. However, there is no provision that would encourage developers to supply the affordable housing while they could still enjoy profit due to they have much potential than consumer to access to the public resources. As a result, many consumers have to face the problem of unaffordable housing or be forced to live in the areas which are far from the city as the accumulated problems.

The sustainable growth of society, private sector and consumer can occur if there are more dimensions in laws which balance benefit among stakeholders, implement good planning, and support co-operation between government, private sectors, and consumer.

This thesis studies the relationships between City Planning law vs. land price, the Corporate Social Responsibility concept (CSR), existing Planning law, the alternative planning system which called “Inclusionary Zoning” and applications under the Inclusionary Zoning Law of three selected foreign countries, namely the California and Oregon State in the United States, the United Kingdom, and Malaysia. From studying these countries, it is anticipated that Thailand would see the problems arising from legal measures against the unaffordable housing which is the adverse effect of planning regulations and thus be able to provide proper legal measures to cope with the issue. This thesis also identifies and recommends alternative solutions.

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บทคัดย่อ

การวางผังเมืองเป็นเครื่องมือที่สำคัญเครื่องมือหนึ่งของภาครัฐบาลในการควบคุมและจัดการกับเมือง เพื่อให้เป็นไปตามนโยบายต่างๆของ รัฐบาลที่ได้วางไว้ งานประเภทหนึ่งของกรวางผังเมืองก็คือการแยกและจัดระเบียบการใช้ที่ดินให้เป็นหมวดหมู่ โดยจะจัดระเบียบพื้นที่ทั้งหมด ของเมือง และแบ่งเป็นหมวดหมู่และกำหนดประเภทของการใช้ที่ดิน ซึ่งจะอนุญาตหรือไม่อนุญาตการทำกิจกรรมใดๆต่อที่ดินตามที่ได้กำหนดไว้ ซึ่งในการบังคับเพื่อให้เป็นไปตามที่ได้วางแผนไว้ จึงต้องตรากฎหมายมาเพื่อให้อำนาจในการกำหนดและบังคับใช้ข้อกำหนดดังกล่าว

ผลจากการบังคับใช้กฎหมายการผังเมืองนี้ เป็นหนึ่งในสาเหตุที่สำคัญที่ส่งผลกระทบต่อราคาที่ดินที่เพิ่มสูงขึ้นอย่างรวดเร็วและ ต่อเนื่อง และเนื่องด้วยที่ดินเป็นต้นทุนที่สำคัญของที่อยู่อาศัย ดังนั้นจึงมีผลทำให้ราคาที่อยู่อาศัยเพิ่มขึ้นอย่างรวดเร็วและต่อเนื่อง เป็นผลให้ ผู้บริโภคจำนวนมากที่มีรายได้น้อย ไม่สามารถซื้อที่อยู่อาศัยได้ และโดนบีบบังคับให้ไปอยู่ในเขตที่ไกลเมืองออกไปมากยิ่งขึ้นโดยปริยาย ซึ่ง ส่งผลกระทบต่อคุณภาพชีวิตของประชาชนที่ไม่สามารถมีที่อยู่อาศัยในตำแหน่งที่ใกล้แหล่งงานได้

กฎหมายที่บังคับใช้ในปัจจุบันคือพระราชบัญญัติการผังเมือง พ.ศ. 2518 ซึ่งจากกฎหมายฉบับนี้มุ่งสนับสนุนการทำงานของ คณะกรรมการผังเมือง กระบวนการวางผังเมือง และนำผังเมืองที่ได้รับอนุมัติจากคณะกรรมการผังเมืองให้มีผลทางกฎหมายและบังคับใช้ได้จริง โดยไม่ได้คำนึงถึงผลกระทบข้างเคียงที่เกิดจากการวางผังเมือง คือราคาที่ดินที่เพิ่มสูงขึ้นซึ่งส่งผลกระทบต่อการจัดหาที่อยู่อาศัยของผู้บริโภคที่มี รายได้น้อย เข้ามาประกอบการพิจารณาผังเมือง อีกทั้งกฎหมายฉบับดังกล่าวไม่ได้สนับสนุนผู้ประกอบการเอกชนในการจัดสร้างที่อยู่อาศัย สำหรับผู้มีรายได้น้อยในขณะที่ผู้ประกอบการสังหาริมทรัพย์มีศักยภาพในการเข้าถึงทรัพยากรและใช้ประโยชน์จากอำนาจที่ตัวเองมีได้อย่าง เต็มที่ ทำให้ปัญหาดังกล่าวตกเป็นภาระของภาครัฐบาลในการใช้งบประมาณแผ่นดินจำนวนมากในการเข้าแก้ไขปัญหา

การเติบโตร่วมกันอย่างยั่งยืนของทั้งผู้ประกอบการ ผู้บริโภคและภาครัฐบาลสามารถเกิดขึ้นมาได้ หากกฎหมายมีมิติที่เพิ่มมากขึ้น โดยคำนึงถึงปัจจัยนี้เข้าไปอยู่ในเนื้อหาของกฎหมาย การจัดทำผังเมือง และการร่วมมือกันของทุกฝ่ายที่เกี่ยวข้อง เพื่อสร้างสมดุลของ ผลประโยชน์ให้ดีขึ้นมากกว่าตัวกฎหมายเดิมที่บังคับใช้อยู่

วิทยานิพนธ์ฉบับนี้จึงมุ่งศึกษาถึงความสัมพันธ์ระหว่างกฎหมายการผังเมืองที่ส่งผลกระทบต่อราคาที่ดิน แนวคิดเรื่องการดำเนิน ธุรกิจที่ร่วมรับผิดชอบต่อสังคม และศึกษาถึงแนวทางการแก้ไขปัญหาที่เรียกว่า การจัดหมวดหมู่การใช้ประโยชน์ที่ดินแบบรวมเข้าด้วยกัน โดย ศึกษาแนวทาง การบังคับใช้มาตรการทางกฎหมายจากประสบการณ์ของสามประเทศอันได้แก่ สหรัฐอเมริกาในรัฐแคลิฟอร์เนียและโอเรกอน มาเลเซียและประเทศสหราชอาณาจักรอังกฤษ และจากการศึกษานี้มุ่งหวังให้สังคมจะสามารถเห็นและตระหนักถึงปัญหาของการวางผังเมืองที่ ส่งผลกระทบต่อจัดหาที่อยู่อาศัยของผู้มีรายได้น้อยและนำเสนอมาตรการทางกฎหมายที่เหมาะสมเพื่อเยียวยาและแก้ไขปัญหาดังกล่าวต่อไป

Introduction

Generally, land use restriction by zoning is one of the government's mechanisms to control, direct, and manage the city. The basic idea of zoning is to impose the use of particular areas which can or cannot be used for some activities. The objectives of zoning are to manage the growth of the city, to allocate the public facilities, and to provide the effective social welfare as much as possible. The knowledge of zoning is derived from architecture and engineering. It is adapted for the government policy planning.

However, the traditional concept of zoning is not effective enough in managing the city. It leaves many problems behind; one of these is the rapid increasing land price.¹

¹ Demographia, **The Association between Prescriptive Land use and Higher House Prices**, Literature Review on Smart Growth, Growth Management, Livability, Urban Containment and

Consequently, this will obstruct the poor or low income people in acquiring a house. Finally, the poor cannot afford the house, and this leads to another social problem.

Inclusionary zoning is a new alternative solution which mostly use in many states in United States. It is the planning law with some obligations more than the traditional planning law by imposing duty and incentives to developers to build affordable housing with the sales price lower than the market rate to the specific income rank. Developers who comply with this obligation will receive some incentive from government whether in the form of density bonus, rapid permitted procedure, reduce some design standard etc. With adapting the Corporate Social Responsibility (CSR) concept will benefit for all stakeholders in receiving sustainable growth.²

1. The Study of the Effect of Planning Law toward the Land Price

According to the research, planning laws give the positive result to the increasing price of land. There are three main factors that can affect the land price. They are “the scarcity effect, the amenity, and the value of an individual exemption from land-use regulation”³

Planning law is the key factor that impacts the land price because it limits the use and creates liabilities for the land owners and developers who have to comply with the law, for example, through the limited quantity of constructions, or limited use of the land. The details regulated in planning law directly impact the supply of land.⁴

Some of the regulations have the negative effect because they lead to the decrease of the land price. However, there are very few regulations that cause too much difficulty for the land owners, developers or the net of amenities deduct with the burden of that regulation result in zero or minus.⁵

1.1 The City Planning towards the land price in Thailand

One objective of city planning is to create amenities to the land as in Thailand many areas where the infrastructures were build, the prices are increased. The reasons of the increasing of the price can be explain by the amenity effect and the scarcity effect which the details are in the prior part which mentioned above such as the land price within 40 meters

Compact City Policy, *available at* <http://www.demographia.com/db-dhi-econ.pdf> (last visited June1, 2015).

² International Federation of Accountants, “*Good Governance and Sustainability Fundamental to Improved Business Reporting*”, Project on Business Reporting, June 2010, <http://www.ifac.org/sites/default/files/downloads/Good-Governance-and-Sustainability-Fundamental-for-Improved-Business-Reporting.pdf>

³ William K. Jaeger, **The Effects of Land-Use Regulation on Property Value**, *available at* <http://dnr.wi.gov/topic/shorelandzoning/documents/landuseregeffect-propvalues.pdf> (last visited June1, 2015).

⁴ Andrew G. Dietderich, *An Egalitarian’s Market: The Economics of Inclusionary Zoning Reclaimed* (1996)

⁵ Peter V. Schaeffer & Cecily A. Millerick, *The Impact of Historic District Designation On Property Value: An Empirical Studies*, 5 *Econ Dev. Q.* 301, 311, (1911)

from the Talingchan- Bangbuatong Road moved up 12.3% during B.E. 2537-2541⁶ or in Bangkrapi district, the more sufficient and recondition of public facilities creates more demand which impacts the average 256.46% of the market price between year 2530 to 2540⁷

1.2 The Housing Environment in Bangkok

In housing aspect, the housing price depends on the conventional housing market. This means when using market mechanism, the attractive price can motivate supplier to supply housing into the market. Hence, high demand does not directly affect the supply of housing.⁸

In the demand of housing depends on these following factors: the growth rate of the macroeconomic, national economic policies, lending from commercial bank, speculation from the high income people, type of investment in real estate of developers and ability or power of buyers⁹

Hence the housing environment in Bangkok is in the imperfect market, this means excessive supply does not directly effect to the housing price. Additionally, the excessive demand does not directly effect to the housing price. So even in Bangkok which has the high demand in housing and high demand in supply housing, the capability of the buyer to afford the house still remains. Due to the high demand not has the power or ability to afford it. In other side the high supply is resulted from the wrong business's decision.¹⁰

1.3 The Corporate Social Responsibility Concept

The Corporate Social Responsibility Concept is a business concept which aims to balance benefit among business sector and public sector. Hence it is good to the business to take this concept in to account and to adapt this concept to real practice in order to fit the benefit in these dimensions: proper returns to owner, quality goods and services, good employment condition, and others benefit which is expected from the community regardless the law will prescribe or not.”¹¹

⁶ สุวรรณี กลิ่นจันทร์, การวิเคราะห์ปัจจัยที่มีผลกระทบต่อราคาที่ดินและแนวโน้มราคาที่ดินในอนาคต กรณีศึกษาของอำเภอบางบัวทอง จังหวัดนนทบุรี, มหาวิทยาลัยรามคำแหง, 2548 (Suwannee Klinchan, The Analysis of factors which affect to the land price and the trend of future price in Bang Bua Thong, Nonthaburi province, Ramkhamhang University, 2548)

⁷ จีรศักดิ์ สังข์ช่วย, การเปลี่ยนแปลงราคาที่ดินเพื่อที่อยู่อาศัย ปี 2530-2540: กรณีศึกษา แขวงหัวหมาก เขตบางกะปิ, จุฬาลงกรณ์มหาวิทยาลัย, 2544 (Jeerasak Sungchue, The Change in Residential Price B.E. 2530-2540: the case study of Hua Mark, Bangkapi, Bangkok, Chulalongkorn University B.E.2544)

⁸ วารสารธนาคารอาคารสงเคราะห์ ปีที่ 4 ฉบับที่ 13 เมษายน-มิถุนายน 2541 (Government Housing Bank Journal, 4th Year, Volume 13, April-June B.E 2541)

⁹ *Id.*

¹⁰ *Id.*

¹¹ OECD, **Corporate responsibility: Frequently asked questions: What is corporate responsibility?** available at:

<http://www.oecd.org/corporate/mne/corporateresponsibilityfrequentlyaskedquestions.htm> (last visited June 1, 2015).

Inclusionary Zoning by its features has this CSR concept. Additionally, enacted Inclusionary Zoning into the mandatory or law form will ensure the effectiveness of reducing the unaffordable housing problem.

1.3.1 The Significance of the Corporate Social Responsibility

Without CSR, in the current complex society, the problems arising from the business sectors can be found in the form of:¹²

- (1) Increasing gap between the poor and the rich because the different power in access to public resources, information, and laws which leads to inequality in the society;
- (2) Political issues as consequence of the problems derived from the social gap between the rich and the poor;
- (3) Devouring public resources because the old school economic concept in finding maximum profit but neglecting consumers, society and environment;
- (4) Cultural destruction because the more the people concern on generating profit, the more ignorance towards the culture they become.

2. Inclusionary Zoning

Inclusionary zoning is also a tool that the government uses in order to serve its citizen by means of imposing the duty (mandatory) to the developers or encourage them to do (voluntary) using some incentives that can motivate the developers to create the affordable housing for the moderate or lower income which the amount of income in each ranking is indicated by government agency.¹³

Comparing between Mandatory Inclusionary Zoning and Voluntary Inclusionary Zoning, from the studies found that the Mandatory can produce or can supply more the affordable housing to the market.¹⁴

2.1 Characteristic of Inclusionary Zoning

¹² เครือข่ายธุรกิจเพื่อสังคมและสิ่งแวดล้อม SVN Asia (Thailand) ร่วมกับ สำนักงานปฏิรูประบบสุขภาพแห่งชาติ สถาบันธรรมรัฐเพื่อการพัฒนาสังคมและสิ่งแวดล้อม ภาควิชาเศรษฐศาสตร์ คณะสังคมศาสตร์ มหาวิทยาลัยศรีนครินทรวิโรฒ มูลนิธิซีเมนต์ไทย วารสารธุรกิจกับสังคม สถาบันสิ่งแวดล้อมไทย สถาบันคีนันแห่งเอเชีย, งานสัมมนา CSR In Action (Social & Environment business network, SVN Asia(Thailand) co-operation with the National Health System Reform Office (HSRO), Good Governance for Social Development and the environment Institute (GSEI), Economic Faculty of Srinakarinwirot University, SCG Foundation, Business & Social Journal, Thailand Environment Institute Foundation and Kenan Institute Asia, CSR in Action Seminar)

¹³ PolicyLink, *Inclusionary Zoning, 2003*, available at <http://www.policylink.org/site/c.lkIXLbMNJrE/b.5137027/>

¹⁴ Nicholas Brunick, Lauren Goldberg, Susanna Lehvin, “*Voluntary or Mandatory Inclusionary Zoning, Production, Predictability and Enforcement*”, Business and Professional People for the public interest, August 2004, available at <http://www.bpichicago.org/documents/mandatoryv.voluntary5.06.pdf>

Inclusionary Zoning must have at least one from these characteristics¹⁵: Inclusionary Percentage, Alternative On-Site Development, Income Target, Remain the Affordable housing, Development Incentive.

2.2 Inclusionary Zoning Experiences

2.2.1 United States

According to study, each state which adapts this inclusionary zoning will set the structure of enforcement by dividing into two levels which are:

In the state level will enact the model law as the law which will prescribe the scope of duties and power of government agencies, obligations and incentives which will allow with developers.

In the local level, the local has authorities which given by the model law to set all obligations and incentives which will suit to their local

2.2.2 Malaysia

The legal system, in order to cope with this regime, divided into 3 core steps which are National Developing Plan to set the target of the amount of housing, then the state government set the policies which will impose quota to developers by the delegation of power from the National Land Code Act which empower to state government to enact their laws which the state can indicate the conditions and the prohibition of land use¹⁶ through the State Gazette¹⁷ and the local authority implement in through the Town and Country Planning Act, 1976 in Section 19 (1)

2.2.3 England

Inclusionary Zoning in England is designed to decrease the intensity of details in inclusionary zoning law by mean of negotiation between developer and local authority. In order to develop any site, all developer have two choices to be permitted, first developer must comply with the obligations; or make an agreement with the local authority. Agreement between developer and the local authority may have some duties to developer whether in the form of operates some activities or pay some specific fee to the local authority.¹⁸

According to the experience of three countries found that to enforce this system through the legislation must indicate the target and mission in the state level and delegated power to the local level for adapting to suit its area.

However in the details of the studied experience, Malaysia has the most inflexible laws among the others while in England has the negotiation system and developed the program to calculate the suitable percentage which will impose duty to developers while in United States the level of flexible regulations depend on each state.

Hence, to adapt this Inclusionary Zoning in Thailand, it is a necessary to amend the planning law and the relevant laws in order to solve the problem of high housing price by adapting the concept from the Housing Element Law and Inclusionary Zoning of California. In addition, the successful Inclusionary Zoning in England should be brought into discussion. In additional bring the concept of inclusionary zoning which practices in England

¹⁵ Dustin C. Read, Jr., "*Inclusionary Zoning*", Homes for Working Families, Inc., May 2008

¹⁶ The National Land Code S 120, S 116(4)

¹⁷ The National Land Code S 52(2)

¹⁸ Town and Country Planning Act (1990) s 106(1)

in issues of the negotiation, concern the financial feasibility of developers and its innovation program which will calculate the suitable of burden that can get along with business sector for effectiveness in using.

2.3 The Similarity of Inclusionary Zoning and the Corporate Social Responsibility

Inclusionary Zoning's features and outcomes match with the principle of CSR which requires business to take some actions showing responsibility to community whether by law or voluntary. This CSR concept, if being used continually, benefits the business and community in the long term. Without CSR concept in doing business or having less concern and understanding of this concept, it can contribute to social gap and economic disparity.¹⁹

However, it might be difficult to receive the co-operation from all businesses, so, for the effectiveness of practice; the concept must be infiltrated through the legislation in the form of Inclusionary Zoning. Nevertheless, a hundred of laws cannot be successful unless there was a good cooperation from communities and developers. Therefore, for the best practice, business sector should willingly comply with the law.

3. Planning Law in Thailand

3.1 City Plan and Zoning Definition

City plan is an official document that includes city preservation and development as one of the objectives of the plan. City plan must indicate visions, missions, targets, analysis of the existing conditions and future trend, description of the current physical economic and social conditions, and must set the mission plan in order to achieve the target.²⁰

Zoning is one part of the city plan which categorizes land and all areas of that city into many suborders and divides those suborders into zoning. The zoning will allow or prohibit certain activities that may be conducted in each zone in order to serve the city planning purposes.²¹

3.2 The Legal Plan

3.2.1 The City Plan Act, B.E. 2518

The City Plan Act is the model law which specifies the general rules and regulations for planning process and the method of implement the city plan. However in the enforcement issue, the specific law must be enacted in order to use in specific areas. At

¹⁹ *Supra* Note 10

²⁰ ศูนย์บริการวิชาการ คณะสถาปัตยกรรมศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย, รายงานฉบับสมบูรณ์ โครงการจัดทำมาตรฐานด้านผังเมืองของ กรุงเทพมหานคร (Educational Service Center, Faculty of Architecture, Chulalongkorn University, **The Final Report: The Standard Zoning Process in Bangkok**)

²¹ ขนิษฐา เทียบจริยาวัฒน์, การศึกษาแนวทางการวางและจัดทำผังเมืองเฉพาะใหม่, มหาวิทยาลัยศิลปากร 2553 (Kanittha Tiebjariyawat, **A study to propose guidelines for preparing and making a new specific plan**, Silapakorn University B.E.2553)

present, the current act delegates power to government agencies to enact the Comprehensive Plan and the Specific Plan.²²

3.2.2 The Royal Decree for survey and preparation of making the comprehensive and specific plan

This Royal Decree will empower the authorities to necessary entering into the surveyed land, indicate the surveyed land whether this land will form to the comprehensive plan or the specific plan, indicate the land use regulation etc.²³

3.2.3 The Comprehensive Plan

The comprehensive plan is the guideline plan imposed by the government agency. This plan is the legal plan²⁴ which imposes the duty to comply with all levels of users, whether in private or government agency and the users will be legally punished if acting in contrary to this plan.

3.2.4 The Specific Plan

This plan is the action plan, which aims to comply with the comprehensive plan.²⁵ The specific plan thoroughly indicates details in order to achieve the comprehensive plan.

3.3 The Factors that have an impact on the Planning Policy

- * The National Economic and Social Development Plans
- * Increasing Public Welfare
- * Development Policies of Central Government Agencies
- * Development Policies of Provincial Government Agency
- * Project of Transportation System or Public Facilities
- * Big Project of Private Sector
- * The Existing or Former Plans

Conclusion and Recommendations

According to the study, it is found that planning Law has the adverse effects toward the land price which will be consequently affect the housing price. The knowledge or the information used as the input of planning is not proper and not focus on the side effect of the planning. The co-operation between the government agencies is ineffective and leads to inharmonious and unexpected outcome which results in other problems such as spawn, misuse of existed affordable housing, and loss of government budget. The existing planning law constrains the private developers from supplying the affordable housing due to some regulations which concern on density, architectural design, or restrict certain land use. Hence,

²² เอกบุญ วงศ์สวัสดิ์กุล, ความรู้เบื้องต้นเกี่ยวกับกฎหมายผังเมือง พร้อมด้วย พ.ร.บ. การผังเมือง พ.ศ. 2518 และกฎหมายประกอบ, สำนักพิมพ์นิติธรรม 2538 (Ekboon Wongsawatdkul, **Introduce to the City Plan Law along with the City Plan Act B.E. 2518 and the supplement laws**, Nititham Publisher B.E. 2538)

²³ พระราชบัญญัติการผังเมือง พ.ศ. 2518 มาตรา 15 (The Zoning Act, B.E. 2518 S 15)

²⁴ กฎกระทรวงให้ใช้บังคับผังเมืองกรุงเทพมหานคร พ.ศ. 2549 (The Enforcing of Zoning Ordinance, B.E. 2549)

²⁵ ณัฐกานต์ ดวงปาน, การบังคับใช้ผังเมืองเฉพาะเพื่อการจัดการสิ่งแวดล้อมเมืองและชุมชน, นิติศาสตร์บัณฑิต คณะนิติศาสตร์ มหาวิทยาลัยธรรมศาสตร์, 2556 (Nattakun Duangpan, **The Enforcement of Specific Zoning for Environment and Community Management**, Faculty of Law, Thammasat University)

the problem of inability to own housing among the poor or the lower income remains unchanged.

In other countries such as the United States, England, and Malaysia, they have the system which is called “Inclusionary Zoning” to solve this high housing cost problem which used lower budget than Thai policy does. For example, by means of enacting the “Housing Element Law” as the model that elucidates the objective, the duties, and the minimum standard for local to adapt into their jurisdiction. Hence the regulations can reduce the problem of overlapping and less co-operation among government agencies. In addition, Inclusionary Zoning system will enforce, encourage and offset the cost of the private developers in order to supply the affordable housing.

In business sector, to put Inclusionary Zoning into practice is by adaptation of CSR concept. The value gained will be added to the products and the proper profit can strengthen that business in the long run as the sustainable growth in the industry. The survival of society equals to the survival of business. However it is difficulty to receive the cooperation because many of business concern in maximizing their profit so it is necessary to enforce them for the effectiveness of Inclusionary Zoning.

According to the existing laws, it is a necessary to amend the City Planning Act in the Definition part In section 4 should add the meaning of “*Development Project*” in order to effective enforcement and prevent private sectors from violating this law. And amend in the Comprehensive Plan’s elements in section 17 must contains:

“(6)sufficient provide affordable housing to targeted income by proper impose obligations and incentive to developers

In order to comply with (6), the minimum of percentage that each comprehensive plan will impose to developers is not less than 10% of affordable unit of their development project²⁶ or pay fee for affordable housing fund not less than 5% of their total revenue from that development project²⁷

Developers who be obliged to build the affordable housing will receive some incentives to offset developers cost one or more of the following incentives:

- (a) Density adjustments.*
- (b) Fee waivers or reductions.*
- (c) Finance-based incentives but not excess 2 times of tax deductible expense.*
- (d) Preferential treatment for processing of permits.*
- (e) Expedited service for local approval processes.*
- (f) Modification of height, floor area or other site-specific requirements.”*

The number of inclusionary percentage comes from the study; the obligation varies between 5-40% of affordable units in each development project. Hence 10% is the low burden obligation which is not too much for developers.

The alternative obligation derived from this study that there might be an event which

²⁶ Supra note 86

²⁷ Supra note 89

some development projects aims to sell to the luxury market. Hence, this sentence can make the obligation more flexible and suitable for the business plan

In additional for the effective in planning, should amend in the Specific Plan's elements in section 28 by adding:

“(10) assess the housing need in each ranking income and sufficient provide affordable housing to targeted income which will be prescribed.

(11) detail of obligations in order to supply affordable unit in each ranking income and the details of incentive that will give to the developers to offset their cost and as be the incentive for supplying the affordable housing.”

Other recommendations to enhance the law and effective in solving problems are: reevaluating the Zoning Ordinance and others relevant laws, improving the effectiveness of supply the affordable housing by the Social Development and Human Security Department, supporting the study of the high housing solution and realizing significance of the problem of unaffordable housing.

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