# How builder uses off-site affordable housing to enable big money on luxe condos

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takes years, and labor and material costs can spiral beyond original estimates. Since 2003, only nine of the 314 market-rate developments in the city have resulted in off-site units — 156 apartments, 419 condos.

"The inclusionary program has been successful to the extent that developers have actually created those BMR units," Peter Cohen, co-director of the Council of Community Housing Organizations in San Francisco, said in an email. "But the fact is that many of them simply 'fee-out' because it's relatively less of a cost burden and hassle for them … the cheaper pathway."

**City Planning gave Tishman a special exemption on affordability rules for the rental units.**

The fee, set when the developer begins negotiating with the city, is due with the project's first construction permit. There's no risk, but some developers are hard-pressed to come up with such a big chunk of change years before they can sell their sumptuous condos.

As of 2014, according to Egan, the city had collected less than $90 million in inclusionary fees since the ordinance went into effect. A City Planning document summarizing the inclusionary program lists 76 projects that opted to pay the fee.

The most popular way of meeting the inclusionary requirement has been to designate a percentage of on-site units affordable: In the Planning summary, of 314 total projects in 25 years, 210 builders chose on-site, integrating 3,397 affordable units into their higher-priced digs.

How does a developer decide which option is most advantageous? Don Falk, chief executive officer of Tenderloin Neighborhood Development Corp., says they try to comply with the law while minimizing "some combination of risk and cost. From the city's — the public's — standpoint, it's none of our business how they accomplish their obligation."

Tishman's choice is adding modestly to the affordable housing stock for middle-income earners, but it eliminated hundreds of units of low-income rental housing TNDC had had in the works a dozen years.

"Affordable" in San Francisco refers to housing for both low- and middle-income renters and owners. But there's a world of difference between them: Affordable rental units built by nonprofits, according to the Mayor's Office of Housing, rent to households with incomes ranging from $14,250-$42,800 for one person.

**3,397 affordable units have been integrated into market-rate buildings in 25 years.**

Affordable units built under inclusionary rules, says MOH, also can rent to households with incomes of $42,800. At 1400 Mission, however, the cap goes up to $108,150. The disparity, a source says, is because City Planning issued Tishman a special exemption from the inclusionary requirements.

## HISTORY OF 1400

Tishman Speyer built Infinity — 650 units on Rincon Hill — and chose the off-site option with 163 affordable units at 888 Seventh St., a mix of market-rate and moderate-income condos built by project sponsor A.F. Evans.

Tishman followed up with the 1 million-plus-square-foot Lumina, 37- and 42-story towers on Folsom Street between Main and Beale. It has 16 studios, 200 one-bedrooms, 373 two-bedrooms and 67 three-bedrooms. Costs range from $695,000 to $825,000 for a 650-square-foot studio; a three-bedroom is more than $5 million. The two-story penthouse reportedly was going for $49 million.

Again, Tishman chose the off-site option, but sponsored 1400 Mission itself, building four studios, 52 one-bedroom, 94 two-bedroom and 17 three-bedroom condos, plus rentals — one studio, 13 one-bedroom, eight two-bedroom and one three-bedroom.

For building off-site, the city gave Tishman nearly $50 million credit toward its inclusionary requirement (see sidebar). Had it chosen the fee option, it would have paid the same amount directly to MOH.

## PLANNED FOR LOW-INCOME

Central City Extra's premiere issue in March 2000 carried a story about TNDC's plan to expand its portfolio from Tenderloin-only housing into South of Market — a 2.2-acre property on 10th Street running from Market to Mission.

A year earlier, TNDC and Citizens Housing Corp. had bought the half-block of vacant, crumbling buildings from Bank of America for $4.5 million and began negotiating a $7 million loan.

By 2004, TNDC's development plans were solidifying. A structure on the property was razed, leaving a deep, wide hole, ready to receive one or more of the buildings TNDC had mapped out for the site: a 15-story, 158-unit tower for low-income seniors; another, 21 stories, with up to 240 apartments for low- and moderate-income families; and a third, 26 stories with 440,000 square feet for city offices.

It would have been a significant addition to affordable housing in San Francisco.

The city's involvement was key. Its offer to purchase a portion of the land for about $10 million would guarantee that the two nonprofits could finance affordable housing on the remainder of the site.

Four years later, the hole remained.

The city had pulled out, deeming the cost of building new offices too high, leaving the nonprofits with a big loan coming due.

TNDC and Citizens sold that portion of the land in 2006 for $26.5 million to developer Crescent Heights to build luxury condos. Falk says the two nonprofits each cleared about $7 million in that deal.

They kept the southern third of the parcel for 150 affordable apartments to be rented to low-income families and the homeless — barely half the number of units they'd wanted originally, but still, it would be housing for the poor.

As late as March 2009, Falk was telling The Extra that the project was "delayed, not terminated," confident it still could fly.

What flew was Crescent Heights' NEMA. The first of four connected towers containing 754 market-rate condos opened in fall 2013 across the street from the Twitter building, part of the amazing/distressing mid-Market boom.

And Falk was almost right — 1400 Mission did make it, but not for the renters TNDC had originally intended.

"Tishman Speyer decided to meet their inclusionary requirement consistent with the deal that the One Rincon Hill developers had made with then-Supervisor Chris Daly (25%)," Falk told The Extra in an email. "The 1400 Mission site worked in terms of accommodating that many units, and more. So we made an agreement to sell them the site for $4.25 million."

To "informally broker" the deal, Falk explained, TNDC and Tishman jointly approached Maracor, a San Francisco company that helps developers plan and manage all phases of residential, commercial and retail projects.

"Maracor conceptualized how it all might work," Falk said. "It brought both of us comfort to offer them a strong role in overseeing the architect, general contractor and construction process and budget. They're also playing a major role in overseeing the sale of the completed condominiums."

And TNDC's role in 1400 Mission today? Development consultant.

"From a technical standpoint, we're not part of the property ownership entity," Falk says. "We have a contract with the owner, similar to what the architect and general contractor and other firms have. The scope of work laid out in our contract included things like playing a role in the design and entitlement process."

TNDC suffered with all developers, for-profit and nonprofit, in the years after the 2007 recession, but it has had a string of recent successes and expects that by 2019 more than 6,000 low-income people will live in TNDC housing. Of the dozen properties in its pipeline, one has inclusionary funding already in place and another is likely.

Forest City, developer with the Hearst Corp. of the mammoth 5M project at Fifth and Mission, is meeting its inclusionary requirement by putting $18 million toward TNDC's Eddy-Taylor Apartments at 168-186 Eddy, paying for 66 of the planned 110 units. 5M also will have 212 on-site affordable units.

**Fewer than 2 units a year have been built under the fee option to fund affordable housing.**

Falk says the 5M project "isn't really consistent with the inclusionary ordinance. It's something really creative that hasn't been done before, best described as a 'directed in-lieu fee' — they're

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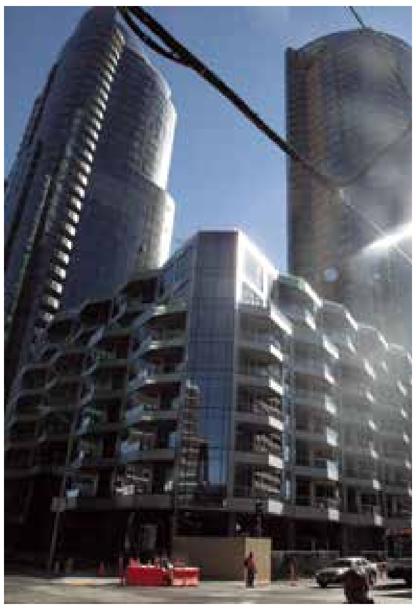

Mark Hedin

**The Lumina,** *at Folsom and Main streets, is Tishman Speyer's luxe condo counterpart to 1400 Mission Street. Its 656 condos start at $695,000 and go to $49 million for the penthouse.*

Marjorie Beggs

**1400 Mission** *is the off-site affordable housing that Tishman Speyer built to meet its obligation for being able to keep its tony condo units at the Lumina all priced at market rate.*

## 25 YEARS OF AFFORDABLE HOUSING: 4,400 UNITS

In 25 years of requiring residential developers to provide affordable housing, 314 projects have produced more than 4,400 units under the city's three inclusionary options.

### Affordable housing, 1989-2014

| | | | |
|---|---|---|---|
| On-site projects: | 210 | On-site units: | 3,397 |
| Off-site projects: | 9 | Off-site units: | 575 |
| Fee projects: | 76 | Estimated: | 400 |
| *Mixed projects: | 16 | | |
| Dedicated land: | 3 | | |
| Total projects: | 314 | | |

*16 builders mixed their options, and 3 developers dedicated land to affordable housing.
Source: Planning Department

CENTRAL CITY EXTRA

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