

EXHIBIT

9



2014 00857603

Bk: 5428 Pg: 334 Doc: DEED
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DEED

I, AMY LEHMAN, a married woman, of Miami, Florida 33143, for NO CONSIDERATION as this is a transfer and not a sale, grant to AMY LEHMAN, as TRUSTEE of the AMY S. LEHMAN REVOCABLE TRUST w/d July 22, 2014 (see Trustee's Certificate recorded in the Berkshire Middle District Registry of Deeds in Book 5428, Page 332), whose mailing address is 7351 S.W. 47th Court, Miami, Florida 33143, with QUITCLAIM COVENANTS, the land situated in the Town of Lenox, County of Berkshire, and Commonwealth of Massachusetts, bounded and described on Exhibit A annexed hereto:

10 Stone Ledge Road, Lenox, M A

WITNESS my hand and seal this 5 day of August, 2014.

Amy Lehman
AMY LEHMAN

STATE OF FLORIDA

County of Volusia

On this 5th day of August, 2014, before me, the undersigned notary public, personally appeared, Amy Lehman, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose as her free act and deed.

[Signature]
, NOTARY PUBLIC
My Commission Expires:



EXHIBIT A

PARCEL 1

Lot 12, containing 0.62 acres of land, as shown on a plan of land entitled "Definitive Plan STONE LEDGE SUBDIVISION, Stone Ledge Road, Lenox, Mass. Applicant: Sawmill Realty, Inc." prepared by Foresight Land Services dated February 28, 2003, which plan is recorded with the Berkshire Middle District Registry of Deeds in Plat G, No. 183 and also as shown on a plan of land entitled "Plan of Land Showing Revised Lots 4, 5, 6, 7, 8A, 15A and New Lot 16, STONE LEDGE SUBDIVISION, Stone Ledge Road, Lenox, Ma" prepared by Foresight Land Services dated June 29, 2004, which plan is recorded with the Berkshire Middle District Registry of Deeds in Plat G, No. 301.

Being the same premises conveyed to the grantor herein by deed of Sawmill Realty, Inc. dated November 1, 2004 and recorded on November 22, 2004 with the Berkshire Middle District Registry of Deeds in Book 3101, Page 234.

PARCEL 2

Lot 12A, containing 16,612 square feet or 0.38 acres of land, as shown on a plan of land entitled "Plan of Land Showing Revised Lots 8B, 9A, 10A, 11A, 13A, Lot 14A, 15B and Lot 16A Stone Ledge Subdivision Stone Ledge Road, Lenox, MA" prepared by Foresight Land Services dated August 22, 2006, which plan is recorded with the Berkshire Middle District Registry of Deeds in Plat H, No. 200.

Being the same premises conveyed to the grantor herein by deed of Sawmill Realty, Inc. dated December 28, 2006 and recorded on December 29, 2006 with the Berkshire Middle District Registry of Deeds in Book 3702, Page 123.

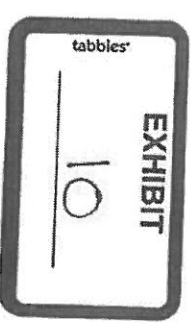
Parcels 1 and 2 are being conveyed subject to, and with the benefit of the following:

Subject to and together with the right to use the said Stone Ledge Road in common with others for all the usual purposes of a way.

Subject to and with the benefit of the Declaration of Covenants, Conditions and Restrictions dated August 18, 2003 and recorded with said Registry of Deeds in Book 3030, Page 202.

Subject to an easement granted to Verizon New England, Inc. dated August 20, 2004 and recorded August 27, 2004 with said Registry in Book 3030, page 254.

Subject to an easement granted to Massachusetts Electric Company dated August 8, 2005 and recorded August 17, 2005 with said Registry of Deeds in Book 3304, Page 179.



2014 00857804

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DEED

We, THOMAS R. LEHMAN and AMY LEHMAN a/k/a AMY S. LEHMAN, husband and wife, of Miami, Florida 33143, for NO CONSIDERATION as this is a transfer and not a sale, grant to AMY LEHMAN, as TRUSTEE of the AMY S. LEHMAN REVOCABLE TRUST w/a/d July 22, 2014 (see Trustee's Certificate recorded in the Berkshire Middle District Registry of Deeds in Book 5428, Page 332), whose mailing address is 7351 S.W. 47th Court, Miami, Florida 33143, with QUITCLAIM COVENANTS, the land situated in the Town of Lenox, County of Berkshire, and Commonwealth of Massachusetts, bounded and described on Exhibit A annexed hereto:

12 Stone Ledge Road, Lenox, M A

WITNESS our hands and seals this 13 day of August, 2014

Thomas R. Lehman
THOMAS R. LEHMAN

Amy Lehman
AMY LEHMAN

STATE OF FLORIDA

County of Miami-Dade

On this 13th day of August, 2014, before me, the undersigned notary public, personally appeared, Thomas R. Lehman, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as his free act and deed.

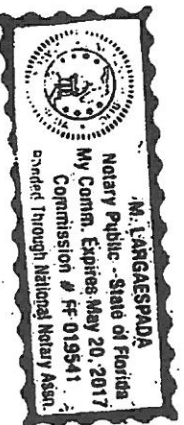


Elsa Fresco
ELSA FRESCO, NOTARY PUBLIC
My Commission Expires:

STATE OF FLORIDA

County of Miami Dade

On this 13th day of August, 2014, before me, the undersigned notary public, personally appeared, Amy Lehman, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose as her free act and deed.



M. LARGAESPADIA
M. LARGAESPADIA, NOTARY PUBLIC
My Commission Expires:

EXHIBIT A

Lot 11A, containing 0.62 acres of land, as shown on a plan of land entitled "Plan of Land Showing Revised Lots 8B, 9A, 10A, 11A, 13A, Lot 14A, 15B and Lot 16A Stone Ledge Subdivision Stone Ledge Road, Lenox, MA" prepared by Foresight Land Services dated August 22, 2006 (the "Plan"), which Plan is recorded with the Berkshire Middle District Registry of Deeds in Plat H, No. 200.

Subject to and together with the right to use the said Stone Ledge Road in common with others for all the usual purposes of a way.

Said Lot 11A is a portion of the premises conveyed to Sawmill Realty, Inc. by deed of Daniel J. Bartoni, Jr., Donna C. MacDowell, Michael Bartone and Donald J. York dated July 25, 2003 and recorded with the Berkshire Middle District Registry of Deeds in Book 2645, Page 146.

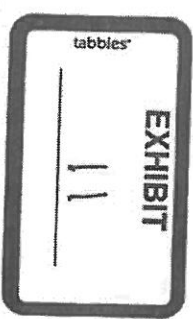
Said Lot 11A is conveyed subject to and with the benefit of the Declaration of Covenants, Conditions and Restrictions dated August 18, 2003 and recorded with said Registry of Deeds in Book 3030, Page 202.

Subject to an easement granted to Verizon New England, Inc. dated August 20, 2004 and recorded August 27, 2004 with said Registry in Book 3030, page 254.

Subject to an easement granted to Massachusetts Electric Company dated August 8, 2005 and recorded August 17, 2005 with said Registry of Deeds in Book 3304, Page 179.

Being the same premises conveyed to the grantors herein by deed of Sawmill Realty, Inc. dated December 28, 2006 and recorded with the Berkshire Middle District Registry of Deeds in Book 3702, Page 120.

CHAIN OF TITLE 12 STONE LEDGE ROAD



Amy Lehman, Trustee of the Amy S. Lehman Revocable Trust

August 28, 2014

Book 5428, Page 337

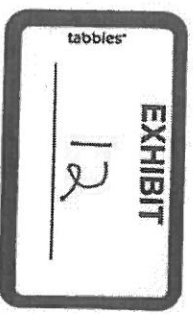
Thomas R. Lehman and Amy S. Lehman

December 28, 2006

Book 3702, Page 120

Sawmill Realty, Inc.

CHAIN OF TITLE 10 STONE LEDGE ROAD



Amy Lehman, Trustee of the Amy S. Lehman Revocable Trust

August 28, 2014

Book 5428, Page 334

Both lots 12 and 12A Conveyed

Lot 12

Amy S. Lehman

November 22, 2004

Book 3101, Page 234

Sawmill Realty, Inc.

Lot 12A

Amy S. Lehman


December 29, 2006

Book 3702, Page 123

Sawmill Realty, Inc.

POLICY


Minimum-Lot-Size Regulations Mean Less Housing

Adam A. Millsap Contributor 

I write about state and local policy and urban economics.

May 8, 2019, 09:27am EDT


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 minimum-lot-size regulations in Texas force people to buy more land than they otherwise would, which limits population density

 Ultimately, the only way to keep housing affordable is to increase supply in high-demand areas.

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EXHIBIT

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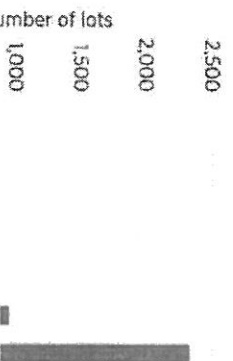


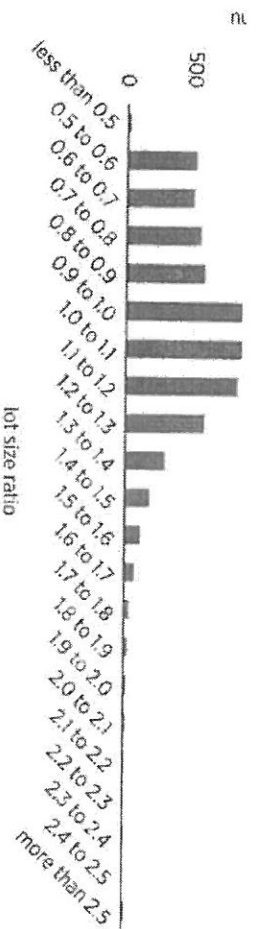
Local governments regulate land use extensively: height requirements, parking requirements, and floor area ratios are just a few examples. Another—and one of the most common—is a minimum lot size. A new study from the Mercatus Center at George Mason University shows that minimum-lot-size regulations in Texas force people to buy more land than they otherwise would, which limits population density and ultimately drives up housing prices.

As defined in the study, a “minimum-lot-size regulation is a requirement that every individual parcel of land in the regulated area be equal to or greater than a specified square footage.” Researchers have found that such regulations increase the cost of housing by requiring people to purchase more land, exacerbate segregation by income, and encourage sprawl. While these effects are more pronounced in high-demand areas such as Seattle, New York, and other large coastal cities, they exist anywhere the regulations bind or force people to buy more land than they want.

To examine whether minimum-lot-size regulations limit housing density in cities often considered pro-growth, city planner Nolan Gray and economist Salim Furth examined four Texas cities: Frisco, Pflugerville, Round Rock, and Pearland. The authors create lot-size ratios (LSR) for the parcels in each city. This is the ratio of actual lot size to the regulated minimum lot size. A LSR of 1 to 1.1 is an indication that the minimum lot size is binding and thus limiting density. The figure below shows the LSR distribution for Pflugerville.

FIGURE 5. PFLUGERVILLE, TEXAS, LOT SIZE RATIO DISTRIBUTION





lot size ratio for Pflugerville GRAY, NOLAN AND SALIM FURTH, "DO MINIMUM-LOT-SIZE REGULATIONS LIMIT HOUSING SUPPLY IN TEXAS?" MERCATUS CENTER AT GEORGE MASON UNIVERSITY, 2019.

As shown, many of the lots in Pflugerville have LSRs between 1 and 1.1. This clustering at the regulated minimum, which is 9,000 square feet, is an indication that many people would prefer smaller lots if they could get them.

The figure also shows there are many lots below the regulated minimum, which are called noncompliant lots. Such lots exist for two reasons. First, minimum-lot-size regulations typically don't apply to parcels surveyed before the regulation was put in place. Second, lot owners can apply for variances granted on a discretionary basis that allow smaller lot sizes.

The authors note that the sharp drop in lots with LSRs below 0.5 "...provides a glimpse at the unofficial constraints that developers encounter within the variance and discretionary review process." Some lot owners in Pflugerville have successfully negotiated lot sizes down to 4,500 to 5,400 square feet (LSR of 0.5 to 0.6), but it seems nearly impossible to get a lot size below 4,500 square feet (LSR less than 0.5).

There's good reason to believe that variances are disproportionately granted to people with connections since land-use regulations as a whole are often controlled by people with local political and economic influence. This is because real estate is a larger proportion of Americans' wealth and many people worry that too many variances or the wrong kind of variance might lower home values. So even if the variance process reduces the adverse effects of

a minimum-lot-size regulation, it probably doesn't reduce the harms equally for everyone.

The LSR figures for the other three Texas cities are similar to Pflugerville's: There's clustering near the minimum-lot size cutoff, indicating that minimum-lot-size regulations affect development in all four cities and often force people to buy more land than they would absent the regulations.

The big takeaway from all this is that local governments across the country, not just those in big coastal cities known for strict zoning, are limiting housing density and increasing the cost of housing via minimum-lot-size regulations. Several cities have begun to address the adverse effects of various land-use regulations—such as Cincinnati's reform of parking requirements and Minneapolis allowing denser development—but as this new study shows much more is needed.

Ultimately, the only way to keep housing affordable is to increase supply in high-demand areas. 🐦 Minimum-lot-size regulations are just one of many regulations standing in the way.

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Adam A. Millsap

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I am the Senior Fellow for economic opportunity issues at Stand Together and Stand Together Trust. I write about state and local policy, urban...

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To improve housing affordability, we need better alignment of zoning, taxes, and subsidies

By Jenny Schuetz

January, 2020

About the Author



Jenny Schuetz

Fellow – Metropolitan Policy Program
@jenny_schuetz

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Executive Summary

Housing affordability is a financial stress on American families

Housing costs are rising faster than incomes, putting greater financial stress on U.S. families. In 2017, nearly half of renter households spent more than 30 percent of their income on rent, meeting the Department of Housing and Urban Development's (HUD) definition of being "cost-burdened." While affordability has long been a problem for poor renters, even middle-income households are facing greater challenges, particularly in urban areas with strong job markets. And where people can afford to live has important implications. Research shows that children who grow up in high-opportunity communities have better economic outcomes as adults. Cities and neighborhoods with strong labor markets and good schools—exactly the places in highest demand—are not building enough new housing, contributing to worsening affordability. Because housing near jobs and transit centers is so expensive, low- and moderate-income people are pushed to cheaper housing on the outskirts of metropolitan areas, requiring them to spend more time and money commuting.

Why better alignment of three housing policies would help

Just as health care reform under the Affordable Care Act was designed as a "three-legged stool," improving housing affordability will require better alignment of three policy tools: reforming land use regulation to allow smaller, more compact housing; increasing taxes on expensive, underused land; and expanding housing subsidies to low-income households. Each of these changes are described in more detail below.

First leg: zoning reform

The U.S. needs to build more housing, and less expensive housing, especially in high-opportunity communities. To accomplish that, local governments must reduce regulatory barriers that limit the market's ability to build small, lower-cost homes on expensive land. For example, local zoning regulations prohibit building anything other than single-family detached houses on three-quarters of land in most U.S. cities. Townhouses, duplexes, and apartment buildings are simply illegal. Even where multifamily buildings are allowed, zoning rules like building height caps and minimum lot sizes often limit the financial feasibility of developing new housing. Single-family houses use more land per home than other housing types. Therefore, in places where land is expensive,

building multiple homes on a given lot is the most direct way to reduce housing costs, because it spreads the cost of land across multiple homes.

A simple numerical example illustrates how redeveloping existing single-family lots with more compact housing types can improve affordability (Table 1). A typical single-family lot in Washington, D.C., is large enough to accommodate three side-by-side townhomes or a three-story, six-unit condominium building. Based on prevailing construction costs and financing terms, a developer could profitably build three new townhomes that would sell for just under \$1 million each—about the same price as an older, poor condition single-family home on the same lot. Or the developer could build six two-bedroom

Table 1: Redeveloping single-family lots with more homes increases affordability

	One-family detached	Townhomes (3)	Condo bldg (6 units)
Acquisition	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000
Construction costs			
• Demolition & site prep		\$ 100,000	\$ 100,000
• Hard costs: labor & materials		\$ 1,140,000	\$ 1,476,000
• Soft costs: design & permitting		\$ 124,000	\$ 157,600
Financing Costs		\$ 62,000	\$ 78,800
Developer Fee		\$ 181,950	\$ 210,930
Total development costs		\$ 2,607,950	\$ 3,023,330
Construction loan interest		\$ 172,125	\$ 199,540
Equity Return		\$ 219,068	\$ 253,960
Total cost/resale price	\$ 1,000,000	\$ 2,999,143	\$ 3,476,830
Resale price per unit	\$ 1,000,000	\$ 999,714	\$ 579,472

Source: Baca, McAnaney, and Schuetz 2019¹.
Construction costs and financing terms are estimated for Washington DC.

condos, each priced around \$580,000—roughly 40% cheaper. While the numbers used for this analysis are for Washington, D.C., the financial implications—adding more homes to a single lot reduces per-unit costs—are similar in other high-priced markets across the U.S.

Redeveloping older, low-density buildings with new, high-density buildings is quite common in expensive cities—except in the wealthiest neighborhoods where affluent homeowners use their financial and political resources to block most new housing. City-wide zoning reforms that open up those neighborhoods to townhomes, duplexes, and small apartment buildings would substantially increase the supply of housing, while also making those communities financially accessible to many more families.

Several of the 2020 Democratic presidential candidates have proposed plans to address housing affordability through relaxing exclusionary zoning. The issue has bipartisan appeal: the White House has issued an Executive Order to reduce regulatory barriers to affordable housing. Making progress on this issue will require cooperation across federal, state, and local governments.

Second leg: land value tax

Removing barriers to developing apartments would eventually lead to more housing in expensive neighborhoods over time. However, the transition would happen faster—and more equitably—if that effort were paired with higher taxes on land. The concept of taxing land dates back to the 19th century, when Henry George proposed it to prevent wealthy landowners from artificially limiting the supply of homes. Unlike typical property taxes, which charge the same rate on both land and structures, taxes that charge a higher tax rate on land and a lower rate on structures encourage owners of expensive land to build more intensively. Pure land value taxes that exempt structures altogether are quite rare in practice, compared to “split rate” taxes.

For example, consider the development incentives

for the owner of a downtown parking lot in expensive cities like Boston or Los Angeles. Under a typical property tax regime, the owner would owe more taxes if she built an apartment building on the lot. But under a land value tax, the owner would face the same tax bill whether the land was developed for parking, apartments, office space, or any other use.

One concern about zoning reforms that allow higher density development is that such upzoning increases property values, creating windfall gains for existing property owners. Upzoning could also encourage landowners to delay development as they await the opportunity to build larger, denser buildings. Assessing taxes on the increased land value not only incentivizes more development more quickly on expensive land, but also allows local communities to capture some of the returns on additional land value. This feature of land value taxes is especially attractive in locations where the local government has made investments that increase land values, for instance by building public transit. Imposing a land value tax in locations already developed to maximum capacity without relaxing zoning would hand landowners a larger tax bill, but not enable more housing supply.

Land value taxes paired with upzoning would similarly change incentives for owner-occupants of large single-family homes in expensive locations. Zoning reforms that allow higher density housing would increase land values and, under land value taxes, yield higher tax bills. Current owners who treasure their yard space could keep their single-family homes as-is and pay the taxes. But some homeowners might decide to subdivide their homes (for instance, turning garages into accessory dwelling units) or sell their properties to developers. From the upzoning example, a land value tax bill would be the same if the lot remained a single-family home or was redeveloped as townhouses or condos. But the tax bill would be split across three households under the townhouse scenario, or six households under the condo scenario, just as the land costs would be shared.

Land is most expensive in city centers, near job clusters and transportation nodes. Land value taxes primarily change financial incentives for owners of expensive land with low density structures. The increased density encouraged by shifting to a land value tax would enable more people to live near work, reducing commuting distances. If all communities within a state adopted land value taxes, single-family homes on inexpensive land far from city centers or in low-cost metros would be less affected.

Third leg: More housing subsidies

Building more housing, especially smaller housing, will over time bring down housing costs (or at least keep them from rising as quickly). But expanding the supply of market-rate housing is not enough to help the poorest families. For the 14 million low-wage workers with median income around \$20,000, HUD guidelines suggest they should spend no more than \$500 per month on housing costs. That's less than the operating expenses for minimum quality apartments in most of the U.S. For low-income families, the only way to bridge the gap between incomes and housing costs is through public subsidies.

The federal government could reduce financial stress for low-income families by expanding housing subsidies, like vouchers or the National Housing Trust Fund. Unlike food stamps or Medicaid, federal housing subsidies are not an entitlement: currently around one in five eligible renter households receives federal assistance. Alternatively, supplementing incomes through the Earned Income Tax Credit or higher minimum wages would help poor families pay the rent.

In one sense, more subsidies for poor families is independent of zoning and tax reforms—housing affordability has been an urgent concern for many years. But upzoning and moving to land value taxes could worsen affordability pressures. In hot real estate markets, these two policies would likely prompt redevelopment of older, low-density, low-rent apartments into new, larger buildings that are out of reach for existing renters. Expanding

housing vouchers to cover more families would therefore help protect low-income renters from displacement. It is also possible that expanding housing subsidies without enabling more supply through zoning reform would push up rents in some markets.

Implementation questions and challenges

The economic intuition behind zoning reform, land value taxes, and increased housing subsidies is straightforward, but implementing these policies poses some challenges. Single-family-exclusive zoning benefits long-term homeowners, also known as highly engaged voters. Mayors and city councils face stiff opposition from their constituents from proposing zoning reform. State and federal policymakers are increasingly interested in how to encourage zoning reform, but have limited direct control. This raises the question: are there financial or legal levers that could effectively encourage local governments to reform their zoning—especially when the most exclusionary localities are wealthy?

Like zoning, property taxes are largely the domain of local governments, although states create the legal framework under which localities operate. Some states might have to amend their constitutions to permit a “split” property tax, with different tax rates applied to land and structures. One technical challenge is that accurately assessing market values for land, separate from structures, is not easy. But a new dataset created using appraisal data from the Federal Housing Finance Administration is highly promising.

Expanding vouchers is legally and procedurally simple. It just requires Congress to demonstrate the political will to spend more money on poor people. Low-income families who receive federal housing vouchers rent apartments from private landlords. Families pay thirty percent of their income toward rent, with the remainder picked up by HUD. Vouchers reduce financial stress, crowding, and the risk of homelessness among low-income families. Recent research shows

that with relatively inexpensive program changes, vouchers can also help poor families move to neighborhoods that offer better economic opportunity.

locations, and provide financial relief to low-income families. It represents a way to gain substantial payoffs for people and a way to tackle big challenges in America.

In conclusion, better housing policy has the potential to improve the efficiency of local housing markets, create more homes in high opportunity

Thanks to Sarah Crump for outstanding research assistance.

Eliminating Land-Use Barriers to Build More Affordable Homes

By Gretchen Blankinship , Andy Winkler

Sep 26, 2019

SHARE

Land-use restrictions and other regulatory barriers reduce and delay construction, limiting the supply of affordable homes. This, in turn, raises housing costs, increases income inequality, and reduces economic growth. The Trump administration launched a new *interagency council* [<https://www.whitehouse.gov/presidential-actions/executive-order-establishing-white-house-council-eliminating-regulatory-barriers-affordable-housing/>] to eliminate such regulatory barriers. Yet it will face what previous administrations—both Democratic and Republican—have encountered: exclusionary, local land-use practices are politically challenging to tackle as a matter of national policy, despite their national implications. Though state and local governments have the most effective policy levers for eliminating exclusionary land-use practices, this blog reviews regulatory barriers to building more affordable housing and outlines policy options for the White House council to consider.

Regulatory Barriers to Housing Development

Demand for affordable rental units far outnumbers existing supply. In 2015, there were 11.3 million extremely low-income renter households—defined as those earning less than 30 percent of area median income nationwide or \$17,050 per year for a family of four. Yet there were only 4.3 million available and affordable rental units for these households.

Research has shown that exclusionary or restrictive land-use regulations, and other regulatory barriers lengthen project permitting, reduce and delay home construction, raise housing prices, increase income inequality, and reduce economic growth¹. The imbalance between the available supply of affordable homes and high demand has led to pervasive and severe rent burdens, housing instability, and the increased risk of falling into homelessness.

Local communities, directly and indirectly, restrict housing development in many ways—for example, by requiring minimum parking lot sizes, imposing building height limits, and having lengthy permitting or environmental review processes. Single-family zoning is one obvious way that communities limit the development of denser, more affordable neighborhoods, by excluding construction of apartment buildings, duplexes, older adult housing, public housing, student housing, and other multifamily buildings. Single-family zoned neighborhoods are relatively common in the United States. Cities as diverse as Charlotte, NC, and San Jose, CA, zone 84 percent to 94 percent of city land, respectively, for detached, single-family homes.

Source: New York Times

Their Social and Economic Impacts

Exclusionary land-use and other regulatory barriers are often implemented with the intention of advancing important policy goals. However, in the aggregate, they have costly and wide-reaching economic and social impacts.

Exclusionary land-use and regulatory barriers contribute to a too-limited supply of affordable housing, which pushes up rents for low-income families.² Paying too much in rent makes it more difficult for black families, in particular, to accumulate wealth and afford homeownership. Yet home equity is the largest component of family wealth. As such, there is a wide disparity today between the white homeownership rate at 73.1 percent and black homeownership rate at 40.6 percent. This imbalance helps to perpetuate a longstanding and dramatic racial gap in family wealth. For every \$100 in white family wealth, black families hold just \$5.04.

By restricting the supply of housing in dynamic labor markets, regulatory barriers limit the number of workers with access to the most productive American cities. This, in turn, impedes economic growth and contributes to rising inequality. By limiting mobility to productive economic centers, exclusionary zoning practices are estimated to have *lowered GDP* by more than 50 percent between 1964 and 2009. Loosening restrictive land-use laws in just three of the most productive cities in the United States—San Francisco, San Jose, CA, and New York City—*would increase the average U.S. worker's salary* by almost \$9,000 a year.

Exclusionary land-use and regulatory barriers entrench patterns of segregation and work to concentrate both wealth and poverty. In the past, systemic and legalized housing discrimination segregated American cities. While federal civil rights legislation worked to end these discriminatory practices, research has shown that zoning decisions made many decades in the past can still be traced to observed racial inequities today.³ [fn3] Zoning and land-use regulations, intentionally or unintentionally, help wealthier Americans “protect” the value of their homes by preventing new housing development and pricing out minority—usually black—and low-income families.

[#_ednref1]

State and Local Deregulatory Efforts

Recognizing these impacts, some state and local governments have sought to reform land-use and regulatory barriers. Their efforts provide lessons for other communities and a guide for federal policymakers on best practices to promote.

California: Some lawmakers in California have tried to advance zoning reforms with *Senate Bill 50* [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB50], the MORE Homes Act. The bill would “upzone” or override local zoning laws that prohibit higher-density housing construction near major job centers and transit hubs. With *80 percent of California* [<https://www.motherjones.com/politics/2019/05/california-sb50-housing-zoning-wiener/>] currently zoned for single-family homes, S.B. 50 would allow more neighborhoods to have taller buildings with more units and require that a certain number of those units be rented at below market rates. Despite attempts to address gentrification and other concerns, plan skeptics have argued the bill lacks sufficient safeguards to ensure that additional housing construction and development around transit hubs does not only benefit wealthier households.

While S.B. 50 has not yet passed, California has had some success in growing the number of accessory dwelling units (ADUs). ADUs can be in-law units, granny flats, basement apartments, garage conversions, or backyard cottages that add to the existing housing supply. Because the construction of these units does not typically require additional land purchases or new infrastructures like parking and utility build-outs, ADUs can be relatively affordable housing options. In 2016 and 2017, California reformed the ADU permitting process, design and parking requirements, and fees as a part of a broader effort to address the state’s housing crisis. As a result, applications for ADUs in California *jump* [http://ternercenter.berkeley.edu/uploads/ADU_Update_Brief_December_2017_.pdf] from 80 in 2016 to 1,970 in 2017. Other cities, such as *Po*

rtland, OR [<https://www.portlandoregon.gov/bds/36676>], and *Austin, TX* [<https://www.austintexas.gov/page/adu>], have also made strides in increasing ADUs.

Minneapolis, MN: The city council approved a *plan* [<https://minneapolis2040.com/>] to eliminate single-family zoning and allow for the construction of duplexes and triplexes throughout the city. In addition to approving a plan to rid Minneapolis of restrictive zoning laws, the city council authorized \$40 million in affordable housing funds. As the first major city in the country to pursue such an ambitious plan, many housing advocates and experts are following closely to measure its impact.

Oregon: Lawmakers passed a law [<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2001>] requiring cities with more than 25,000 residents to permit duplexes, triplexes, fourplexes, and “cottage clusters” for areas previously zoned only for single-family dwellings. In cities with 10,000 residents or within metro areas, the law allows duplexes. While the law did not directly eliminate all the state’s single-family zoning, it left very few areas in the state where single-family zoning is permissible. The bill was intended to work in concert with a law that caps annual rent increases to 7 percent and bans “no-cause” evictions.

Utah: *S.B. 34* [<https://le.utah.gov/~2019/bills/static/SB0034.html>], sponsored by state Sen. Jake Anderegg (R), was signed into law in March 2019. The legislation requires that cities plan for housing affordability and make a good faith effort to facilitate new housing construction, or risk losing state transportation funds. However, it gives cities flexibility to support housing development as they see fit, whether by waiving development fees, allowing ADUs, or rezoning to allow for higher-density neighborhoods near transit.

Past Federal Deregulatory Efforts

Over the years, many federal efforts have been launched to identify and reduce restrictive zoning and unnecessary regulations and grow the supply of affordable rental homes, by both Democratic and Republican administrations.

In 1990, then-Housing and Urban Development Secretary Jack Kemp established the Advisory Commission on Regulatory Barriers to Affordable Housing to address federal, state, and local laws, regulations, ordinances, and codes that acted as barriers to the development of affordable housing. The commission released a *report* [https://www.huduser.gov/Publications/pdf/NotInMyBackyard_508.pdf] that identified exclusionary zoning policies, excessive development fees, and specific regulations that slow the permitting processes. It further concluded that not-in-

my-backyard sentiments are often intentionally exclusionary and growth-inhibiting. Yet, in the years following its publication, more and more communities have adopted the regulatory barriers the report identified as detrimental to low-income households, with a spike in the late 1990s and early 2000s.

In 2000, the American Homeownership and Economic Opportunity Act was signed into law to expand homeownership. In response, HUD launched a Regulatory Barriers Clearinghouse to collect, process, and disseminate information on state and local policies affecting affordable housing. *The clearinghouse* [<https://www.huduser.gov/portal/rbc/rbcsearch>] continues to store information on judicial decisions, ordinances, research papers, state and local government reports, and other information on regulatory barriers and strategies to build affordable housing.

The Obama administration attempted to crack down on restrictive zoning with its Affirmatively Furthering Fair Housing regulation. The rule and an accompanying tool for local governments were designed to expand the scope of the Fair Housing Act to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities, free of discrimination. The Obama administration also provided guidance to local communities on how to address regulatory barriers in its *Housing Development Toolkit* [https://www.whitehouse.gov/sites/whitehouse.gov/files/images/Housing_Development_Toolkit%20f.2.pdf], released in 2016.

These efforts have been met with limited success. In fact, research—such as one *innovative measure* [<https://www.nber.org/papers/w23609>] of land-use regulation drawn from state appeals court records—has shown that regulatory barriers to housing development have continued to increase over time.

Policy Options for the White House Council

President Trump issued *Executive Order 13878* [<https://www.federalregister.gov/documents/2019/06/28/2019-14016/establishing-a-white-house-council-on-eliminating-regulatory-barriers-to-affordable-housing>], establishing the White House Council on Eliminating Regulatory Barriers to Affordable Housing. The council, chaired by HUD Secretary Ben Carson, is tasked with:

- Identifying federal, state, local, and tribal laws, regulations, and practices limiting affordable housing development
- Identifying successful practices and strategies for removing them

Evaluating and quantifying the impacts of existing barriers

Assessing potential administrative actions that can be taken under existing authorities to address regulatory barriers

Recommending policies and encouraging their adoption at all levels of governments

To most impactfully deliver on these aims and grow the supply of affordable homes, the White House council could consider the following:

Using both carrots and sticks to incentivize change. Regulatory barriers like land-use restrictions are implemented locally, and often to the benefit of entrenched and powerful local interests. Though heavy-handed federal intervention can be controversial and politically fraught, the council should consider all options on the table, both carrots and sticks, if it wants to succeed where previous administrations have not. Importantly, land-use and other regulatory barriers also have national implications. For example, exclusionary land-use practices:

Raise housing prices, thereby raising the cost to the federal government to provide low-income housing assistance through programs like housing vouchers

Entrench historic patterns of segregation and perpetuate racial inequities

Limit geographic mobility, which increases income inequality and reduces economic growth

The federal government can influence local governments by either incentivizing them to change—for example, by providing bonuses or preferences in the distribution of HUD and other discretionary federal funds when communities meet housing supply goals—or by reducing federal funding to communities with highly restrictive land-use and regulatory policies.

Meaningfully engaging the public, advocates, and congressional leaders in its work. Given the complexities of this issue and the political capital required to overcome entrenched local interests, the council should consider seeking input from and coordinate broadly with key stakeholders. It should also consider frequently updating members of Congress on its findings and progress to secure political champions for council policy recommendations.

Educating and assisting local governments and communities. States and local communities have more effective policy levers than the federal government to address local regulatory barriers. However, they often lack the institutional capacity to adopt best practices in planning, land use, and housing development. The federal government can do more to help. For one, it can better identify local barriers to affordable housing development and disseminate information on best practices. The federal government also has a long an history of supporting state and local agencies with technical assistance, e.g., like HUD's *Section 4 program* [<https://www.hudexchange.info/programs/section-4-cap>]

activity-building/]. The council could consider identifying and coordinating existing technical assistance programs, and assess whether they need additional funding, to better assist state and local governments looking to break down regulatory barriers to affordable housing development.

Coupling deregulatory efforts with additional subsidies for housing construction and rental assistance. While it's important to tackle exclusionary land-use laws and other barriers to the development of affordable housing, it's equally important to increase federal funding for affordable housing construction and rental assistance.

Conclusion

Finding new ways to break down barriers to affordable housing development has bipartisan support and is sorely needed. The White House council is well-positioned to elevate and scale best practices, make its agenda a centerpiece economic and civil rights priority, and advocate for broader, *consensus-driven policy* [https://bipartisanpolicy.org/wp-content/uploads/2019/03/BPC-Housing-Rental-Housing.pdf] solutions to grow the supply of affordable rental homes.

End Notes

¹See, for example, Devin Buntten, "Is the Rent Too High? Aggregate Implications of Local Land-Use Regulation," 2017. Available at: <https://www.federalreserve.gov/econres/feds/files/2017064pap.pdf> [https://www.federalreserve.gov/econres/feds/files/2017064pap.pdf]. Vicki Been, "City NIMBYS," 2018. Available at: <https://furmancenter.org/research/publication/city-nimbys>. Peter Ganong and *rch/publication/city-nimbys* [https://furmancenter.org/research/publication/city-nimbys]. Daniel Shoag, "Why Has Regional Income Convergence in the U.S. Declined?" 2017. Available at: <https://www.nber.org/papers/w23609> [https://www.nber.org/papers/w23609]. Edward Glaeser, Joseph Gyourko, and Raven Saks, "Why Have Housing Prices Gone Up?" 2005. Available at: <https://www.nber.org/papers/w11129> [https://www.nber.org/papers/w11129]. Edward Glaeser and Joseph Gyourko, "The Economic Implications of Housing Supply," 2017. Available at: <https://www.nber.org/papers/w23833> [https://www.nber.org/papers/w23833]. Joseph Gyourko and Raven Molloy, "Regulation and Housing Supply," 2014. Available at: <https://www.nber.org/papers/w20536> [https://www.nber.org/papers/w20536]. Edward Glaeser and Bryce Ward, "The causes and consequences of land use regulation: Evidence from Greater Boston," 2009. Available at: https://scholar.harvard.edu/files/glaeser/files/the-causes_and_consequences_of_land_use_regulation_evidence_from_greater_boston_2009.pdf. John Quigley and Larry Rosenthal, [https://scholar.harvard.edu/files/glaeser/files/the-causes_and_consequences_of_land_use_regulation_evidence_from_great_er_boston_2009.pdf] "The Effects of Land Use Regulation on the Price of Housing: What Do We Know? What Can We Learn?" 2005. Available at: <https://urbanpolicyberkeley.edu/pdf/QR2005.pdf> [https://urbanpolicyberkeley.edu/pdf/QR2005.pdf]. Jeffrey Zabel and Robert Paterson, "The Effects of Critical Habitat Designation on Housing Supply:

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3 Allison Shertzer, Tate Twinam, Randall Walsh, "Race, Ethnicity, and Discriminatory Zoning," 2014. Available at: <https://www.nber.org/papers/w20108>. [https://www.nber.org/papers/w20108] Allison Shertzer, Tate Twinam, and Randall Walsh, "Zoning and the Economic Geography of Cities," 2016. Available at: <https://www.nber.org/papers/w22658> [https://www.nber.org/papers/w22658]

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