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TESTIMONY

ENCOURAGING LOCAL GOVERNMENTS TO LOWER THEIR BARRIERS TO HOUSING CONSTRUCTION

Emily Hamilton
Senior Research Fellow, Urbanity Project, Mercatus Center at George Mason University

Subcommittee on Housing, Community Development, and Insurance of the US House Committee on Financial Services
Zoned Out: Examining the Impact of Exclusionary Zoning on People, Resources, and Opportunity

October 15, 2021

Thank you, Chair Cleaver, Ranking Member Hill, and members of the subcommittee. I am Emily Hamilton, a senior research fellow at the Mercatus Center at George Mason University, where I am codirector of the Urbanity Project. My remarks today will focus on three points:

1. Local zoning rules needlessly increase the cost of housing for millions of American households.
2. A federal grant program targeted at the right localities can help alleviate these problems.
3. A federal grant program can only succeed if funds are disbursed on the basis of housing market outcomes rather than on the basis of plans or aspirations.

PROBLEMS STEMMING FROM EXCLUSIONARY ZONING

Many local rules limit the amount of housing that can be built and increase the cost of housing that is permitted. These rules are typically codified in a municipality's zoning code. These rules include apartment bans, requirements that each new house sits on a large piece of land, and minimum parking requirements among others. Such rules increase the cost of building housing, particularly in places where land is expensive.[1]

Under current zoning policies, half of American renters are rent burdened; for many families, there is too little left for other necessities once rent is paid.[2] The percentage of renters who are rent burdened has increased over past decades, reflecting the increasing cost of exclusionary zoning.[3] Tragically, in

1. Emily Hamilton, "Land Use Regulation and Housing Affordability," in *Regulation and Economic Opportunity: Blueprints for Reform*, ed. Adam Hoffer and Todd Nesbit (Logan, UT: The Center for Growth and Opportunity at Utah State University, 2021), 186.
2. Government Accountability Office, "Rental Housing: As More Households Rent, the Poorest Face Affordability and Housing Quality Challenges" (report no. GAO-20-427, Government Accountability Office, Washington, DC, May 2020). The US Department of Housing and Urban Development (HUD) defines "rent burdened" households as those that spend 30 percent or more of their income on housing.
3. Robert Collinson, Ingrid Gould Ellen, and James Ludwig, "Low-Income Housing Policy" (NBER Working Paper No. 21071, National Bureau of Economic Research, Cambridge, MA, April 2015).

some of the regions where exclusionary zoning is rampant, homelessness rates are rising as families are increasingly shut out of the housing market entirely.[4]

TARGETING THE RIGHT LOCALITIES

Members of Congress from both parties have introduced bills in the House and Senate intended to reduce exclusionary zoning, reflecting a growing bipartisan consensus on the need for land use reform.

Several proposals to date would withhold Community Development Block Grants (CDBGs) from the most exclusionary localities or target CDBG grantees with new funding for reducing barriers to housing construction. Unfortunately, CDBGs do not reach all of the localities that enforce zoning codes. In particular, many suburbs in high-wage regions where reform is most urgently needed do not receive CDBGs.[5] In order to effectively encourage zoning reform, any new program Congress considers creating should include all of the localities that enforce zoning rules as eligible grantees.[6]

HOW TO STRUCTURE AN EFFECTIVE REFORM

In addition to reaching the correct set of grantees, a successful zoning reform program must reward localities for the right outcomes, namely permitting abundant housing construction. A proposal recently considered by this committee would instead fund planning exercises for potential reforms to exclusionary zoning. Sadly, past experience shows that plans to improve housing affordability often sit on local government shelves without actually leading to any zoning changes or new housing.[7]

Another proposal, considered by the 116th Congress, is the Housing, Opportunity, Mobility, and Equity (HOME) Act, which would be an improvement on the approach of funding planning activities. It would instead reward localities for adopting specific policies intended to improve housing affordability, such as increasing the amount of land where multifamily housing could be permitted or reducing parking requirements.

Though this approach is better, it still does not necessarily reward localities for actually making more housing feasible to build if—as often happens—localities permit multifamily housing only in locations where it would not be feasible to build or otherwise make housing that appears legal to build on paper difficult to build in practice.[8]

Instead of rewarding localities for promising to permit more housing eventually or for adopting policies that may not result in more housing construction on the ground, Congress could instead adopt a competitive grant program that ranks localities according to their housing market outcomes. Such a program would reward growth, with the most exclusionary localities receiving nothing. My colleague

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4. John M. Quigley and Steven Raphael, "The Economics of Homelessness: Evidence from North America," *European Journal of Housing Policy* 1, no. 3 (2001): 323–36.
5. Jenny Schuetz, *HUD Can't Fix Exclusionary Zoning by Withholding CDBG Funds* (Washington, DC: Brookings Institution, 2018).
6. Emily Hamilton, "Opportunities for Better Federal Housing Policy: How the Biden Administration and Congress Can Improve Housing Affordability" (Policy Brief, Mercatus Center at George Mason University, Arlington, VA, January 2021).
7. For example, under the 2015 Affirmatively Furthering Fair Housing rule, HUD withheld CDBGs from localities that failed to adopt plans to affirmatively further fair housing. The rule resulted in localities and HUD passing planning documents back and forth until HUD determined that the document met the grantees' requirement to continue receiving CDBG funds. The rule failed to lead to local zoning reforms or increased housing construction.
8. Many localities have rules that appear to permit relatively low-cost housing construction while maintaining exclusionary zoning in practice. For example, Washington, DC, reformed its zoning ordinance to permit accessory dwelling units (such as basement apartments or backyard cottages) to be built across the city starting in 2016. Since then, fewer than 100 units have been permitted, in large part because accessory dwelling units that meet onerous zoning and building code requirements are prohibitively expensive for many homeowners to build.

Salim Furth and I have developed one formula that could enable such a program by ranking high-demand localities primarily according to their rate of housing permitting and lower-demand localities primarily according to the prices of their new construction.[9]

CONCLUSION

The particulars of a grant program intended to encourage zoning reform would need to be debated, but a successful program must reward the correct metric in the correct jurisdictions—actual housing market outcomes in the localities that enforce zoning rules—rather than plans to permit more housing in the future or tweaks to rules that may not actually result in more, lower-cost housing being built.

9. Salim Furth et al., "HUD Can Use Housing Market Data to Inform Fair Housing Accountability" (Public Interest Comment, Mercatus Center at George Mason University, Arlington, VA, March 2020).