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**URBAN DECAY: THE AFFORDABLE
HOUSING CRISIS AND THE
UNDERDEVELOPMENT OF URBAN
COMMUNITIES**

OLUCHUKWU RICHARD AMAGWULA



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**Urban Decay: The Affordable Housing Crisis and the Underdevelopment of Urban
Communities**

Oluchukwu Richard Amagwula

URBAN DECAY: THE AFFORDABLE HOUSING CRISIS AND THE UNDERDEVELOPMENT OF URBAN COMMUNITIES

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I. Introduction

Teresa, was born in the Third Ward of Houston, Texas in 1965. Both of Teresa's parents were hard workers who made a living as manual laborers. Teresa's mom, Thelma, was a maid for a wealthy family and her father, Albert, worked at the car service station as a mechanic. Although Teresa's parents were extremely hard working, they would only make just enough money each month to pay for rent and food for the entire family.

Often times the family would have to sacrifice many meals in order to have enough money to pay rent. When Teresa turned twenty-one, she married a local man named Stephen. After a year of marriage, Teresa and Stephen had Samuel. Teresa, now a maid like her mother, worked for one of the wealthiest families in Houston where she was exposed to the luxuries of life that she knew she could never provide for Samuel. Teresa wanted a better life for Samuel than she had but she was forced to live in the same life that her parents, and many individuals in her community, were forced to live. However, Teresa saw that the same financial struggles she faced as a child began to affect her new family.

This vicious cycle of poverty and lack of opportunity that Teresa, and many others like her face is something that has been around far longer than the concept of affordable housing. At its inception, the primary concern or purpose of affordable housing was:

To provide financial assistance to the States and political subdivisions thereof for the elimination of unsafe and insanitary housing conditions, for the eradication of slums, for the provision of decent, safe, and sanitary dwellings for families of low income, and for the reduction of unemployment and the stimulation of business activity, to create a United States Housing Authority, and for other purposes.¹

This strictly economy increasing purpose came as a surprise to this author as this author's initial belief was the sole purpose of affordable housing was to provide housing to those who could not afford it.

Affordable housing is traditionally placed in communities with fewer resources. Given one of the principal reasons for affordable housing was to increase an individual's quality of life, the intentional placement of housing in poorer communities frustrated the purpose of affordable housing.² This placement restricted the development of urban communities in the United States as many of these communities have become underdeveloped while other planned communities have thrived.

Part I of this paper addresses the implementation of laws that promote underfunding, as well as the political pressure for passage of these laws which in turn promote the underdevelopment of urban communities while emphasizing the affordable housing crisis role in this underdevelopment. This paper proposes passing of new laws that will overhaul affordable housing and in turn promote the development of urban communities.

Part II will address the history of lower income housing in America. These laws have caused a majority of affordable housing to be largely populated by minorities, low-income families, elderly, and persons with disabilities. In addition, Part II will also discuss the governmental regulations that have caused affordable housing to be primarily located in areas of high poverty as well as other governmental issues affecting housing.

Part III will provide a deeper analysis into the two aspects of the affordable housing crisis where renters pay housing costs that are unaffordable based on their income and the lack availability of housing options to these renters, as well as address the laws that have created caused these issues. Also, this section will address the use of housing assistance programs while revealing its many flaws. Next this section will discuss the laws regarding the government's low-income tax credit and the many issues it created since its adoption. Lastly, this article will discuss the Vienna

Affordable Housing Program and how replication of the city's program may provide a solution to America's affordable housing crisis.

Part IV will discuss the underdevelopment of urban communities while focusing on cities that traditionally have affordable housing issues. This section will discuss exclusionary zoning practices such as land use regulations, the development of segregated urban ghettos housing using discriminatory laws as well as the political motives for keeping urban communities underdeveloped. Lastly, this article will compare and contrast the laws and practices regarding planned communities with the methods of development for traditionally urban communities.

Part V, the conclusion, will discuss laws and programs that can be passed to fix the affordable housing crisis by allowing renters to pay affordable costs on housing as well as methods that may provide more housing options to the affordable housing population while aiding with the development of urban communities.

II. Background

A. History of Lower Income Housing

The modern concept, known as affordable housing stems, from programs developed in the 1930s with a number of construction and finance programs to combat the hardships brought on citizens from the Great Depression.³ The Federal Housing Administration was created in 1934, and made owning a home a real possibility for a large number of the U.S. population.⁴ Programs created used low down payments and long-term mortgages to make ownership possible.⁵ These practices have since become the norm in mortgaging, yet at the time they were unknown.⁶ However, it wasn't until 1937 where the U.S. began to specifically address the housing needs of lower income individuals using the U.S. Housing Act.⁷

At this time much of the housing across the United States was of very poor quality.⁸ Many housing facilities lacked the bare necessities to allow its inhabitants to live a sustainable life.⁹ Therefore, the initiation of public housing provided vast improvements for the individuals who were lucky enough to have access to it.¹⁰ During this time, post-World War II, many individuals were migrating from urban areas to suburbs which in turn provided for less development of the declining cities.¹¹

This post-World War II migration from urban areas to the suburbs meant declining cities.¹² Federal programs were developed to improve urban infrastructure and to clear urban blight.¹³ Urban blight created dilapidated houses, vacant lots, abandoned buildings, and damages residential and commercial properties beyond repair.¹⁴ The enactment of the United States Housing Act created a statutory structure for public housing that was used for many years, in which a number of the main structure is used to today.¹⁵ The United States Housing Act of 1937 created the United States Housing Authority (USHA) to administer the program and placed it in the Interior Department.¹⁶ The USHA was renamed the Federal Public Housing Authority (FPHA) and transferred to the National Housing Agency by Executive Order 9070 thus consolidating all purposes relating to public housing from the Public Buildings Administration, Division of Defense Housing, the Mutual Ownership Defense Housing Division, the War and Navy Departments, and the Farm Security Administration.¹⁷

In 1965, Congress elevated housing to a part of the federal government, by creating the U.S. Department of Housing and Urban Development (HUD), which succeeded the Housing and Home Finance Agency, which was then succeeded by the National Housing Agency.¹⁸ Soon after, the cost of maintaining public housing became greater than what the tenants could afford.¹⁹ This was a problem all too common to entities who provided housing and services with individuals who

make a lower income than average citizens.²⁰ Here, HUD proposed the solution of providing subsidies to public housing agencies (PHAs) that would make up for the difference between rent and the cost of maintaining the housing.²¹ In 1969, the Brooke Amendment was passed, named after former Massachusetts Senator, Edward W. Brooke III.²²

The Brooke Amendment established the principle of an income-based rent payment cap which limited an assisted family's rent payment to no more than 25% of their adjusted income.²³ This was later raised to 30% and that is the standard that exists today.²⁴ Subsequently, Congress created a number of programs that provided low interest rates and other subsidies that gave incentives to private owners who would purchase or rehabilitate housing that would in turn be rented at affordable rates.²⁵ The quick growth of these private ownership programs resulted in a large growth in construction of affordable housing in the 1970s.²⁶ However, once the contracts was created by HUD ended, the amount of private owners greatly decreased, or owners decided to pay their subsidized mortgages early and the affordable units could be lost.²⁷

In the 1917 case *Buchanan v. Warley*, the Supreme Court struck down ordinances that enforced the denial of housing to minority groups in white-zoned areas.²⁸ The Civil Rights Acts of 1964 and 1968 encompassed housing provisions that aimed to prevent discrimination against members of protected classes such as race, color, religion, sex or national origin in private or public housing.²⁹

Different presidential administrations placed different levels of priority on fair housing provisions.³⁰ Today, besides a few changes in the organization of many federal housing programs, there were no significant investment in new affordable housing for lower income individuals in the last 30 years, so accordingly a great shortage of affordable housing for that population still

exists.³¹ Although many strides were made to resolve the fair housing crisis and underdeveloped urban communities', recent laws may prove to be counterintuitive to this mission.

B. Demographics

In order to determine the demographics of those in lower income housing. This paper will use the state of Texas as a representative of the race and classes that are disparately affected by issues regarding lower income. Texas mirrors the United States closely in terms of percentages of races in the population, with the exception of its Hispanic population.³² 74.7% of Texas population is white alone, while 73.8% of the United States, making a small difference of only 0.9%.³³ 11.8% of Texas population is African American, while 13.3% of the United States is African American. Besides Whites, Texas and the United States vary less than 0.7% for African American, American Indian or Alaskan Natives, Asians, Native Hawaiian and Other Pacific Island Alone, and two or more races.³⁴ The expected demand for housing has been shown to have a direct correlation to the demographic makeup of Texas.³⁵

The number of people in poverty varied dramatically by race and ethnicity.³⁶ In Texas, Whites had a poverty rate of 16.1% while African Americans had a poverty rate of 24.1%.³⁷ Hispanics had the highest poverty rate of 26.1%, while Asians had the lowest at 11.8%.³⁸ In turn, lower incomes often lead to greater housing challenges.³⁹ In addition, the older Texan population will face housing challenges that will become even more prevalent as the population continues to age.⁴⁰

Another factor affecting housing is disability. HUD's Office of Policy Development and Research reported that worst case housing needs affected 38.7% of unassisted very low-income renter households containing persons with disabilities in 2013.⁴¹

The Fair Housing Act of 1968 made it illegal to discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin.⁴² *Tex. Dep't of Hous. & Cmty. Affairs v. Inclusive Cmty. Project, Inc.* examined this discrimination through the disparate impact of housing under the Fair Housing Act.⁴³ The non-profit Inclusive Communities Project alleged that the Texas Department of Housing and Community Affairs disproportionately directs tax credits to minority areas of Dallas while denying them in white areas.⁴⁴ In short, the argument was that low-income households relying on housing vouchers were concentrated in minority areas.⁴⁵ In this case it was determined that a mere showing of disparate impact alone can be evidence of disparate treatment.⁴⁶ Therefore, it is evident that the biggest housing challenges are faced by minorities, low-income families, the elderly and persons with disabilities as they are the most vulnerable and underprivileged groups of the United States.

C. Geographical Location

One of the problems heavily associated with the United States housing program is the concentration of affordable housing in areas of poverty.⁴⁷ The Department of Housing and Urban Development (HUD) have emphasized dispersing housing assistance in order to deconcentrate poverty in one particular area.⁴⁸ The Low Income Housing Tax Credit (LIHTC) program, which will be discussed further later in this article, is the nation's largest affordable housing subsidy program yet is not administered by HUD and therefore compliance with HUD's poverty de-concentration objectives cannot be strictly monitored.⁴⁹

HUD performed a study to determine the spatial distribution of LIHTC properties in order to determine if units are being placed in areas that conflict with HUD's goal of de-concentrating the spatial pattern of housing assistance.⁵⁰ The study determines if LIHTC properties are more

clustered than the average housing unit.⁵¹ A number of analyses are performed, including a global clustering analysis, a local clustering analysis, a descriptive examination of the characteristics of clustered properties, and an analysis of space-time clustering, or diffusion.⁵² The study revealed a number of findings. First, it was determined that in all metropolitan areas, LIHTC properties were more highly clustered than other housing units, although the degree of clustering differs by metropolitan area.⁵³ LIHTC clusters tended to be located in densely-developed central city locations that have higher poverty rates and lower shares of non-Hispanic whites.⁵⁴ Clusters are more likely to be located in Qualified Census Tracts (QCTs) and Difficult to Develop Areas (DDAs) in most metropolitan areas.⁵⁵ The Houston metropolitan area spatial distribution of LIHTC greatly differs from the spatial distribution of other metropolitan areas.⁵⁶ Houston's metropolitan area exhibits lower levels of clustering, fewer clustered properties in QCTs and DDAs, few clustered properties in high-poverty areas, and few clustered properties in majority-Black neighborhoods.⁵⁷

D. Government Issues Affecting Housing

There are a number of government issues affecting housing, however this article will discuss what this author believes to be two of the most important: Underfunding and neglect from the Department of Housing and Urban Development.

i. Underfunding

Since 1995, the amount the United States' government spent on low-income housing assistance decreased by over 20 percent both as a share of all non-defense discretionary spending and as a share of the Gross Domestic Product (GDP).⁵⁸ The cutbacks to low income housing increased greatly during President George W. Bush Administration.⁵⁹ Bush's administration's annual budgets primarily focused on tax cuts and funding increases for defense and homeland

security.⁶⁰ In 2005, discretionary funding for federal low-income housing programs was “slashed.”⁶¹ Then “after rising moderately in 2006 and 2007,” funding “fell again in 2008.”⁶² “In 2008, the total amount of funding for all low-income housing programs was \$2.0 billion or 5.0 percent below the 2004 level.”⁶³ Three areas of funding under lower income housing are: (1) housing choice vouchers; (2) public housing; (3) and Section 8 Project-Based rental assistance. “Between the years of 2004 and 2006, voucher assistance for approximately 150,000 low-income families was eliminated because of funding shortfalls compelled housing agencies to serve fewer families.”⁶⁴ “Many agencies have also cut costs in other ways” that have in removal of incentives for landlords to rent units to families with vouchers, and “limited the ability of families to use these vouchers” as a means to relocate to neighborhoods with that have lower crime rates and a better school system.⁶⁵

Recently, funding cutbacks have forced several housing agencies to make up for the loss “by increasing costs for low-income tenants, delaying repairs, and cutting back on security.”⁶⁶ Additionally, a large number of agencies have concluded that they are unable to “sustain all of their developments and are seeking to remove them from the program.”⁶⁷ Around “165,000 units of public housing have been lost since 1995 and not replaced and sadly it is likely that the losses will continue.”⁶⁸

Another area of lower income housing that faced cutbacks is “Section 8 Project-Based Rental Assistance.”⁶⁹ Section 8 is a “public-private partnership” program where “private owners sign contracts with HUD to provide affordable homes to nearly 1.3 million low-income families, three-quarters of which are headed by individuals who are elderly or have disabilities.”⁷⁰ A number of “changes in HUD funding policies,” which were designed in part to save money for the department, “caused widespread and lengthy delays in payments to owners” and have weakened

confidence in this program from both home voucher holders and landlords.⁷¹ It is estimated that “10,000 to 15,000 units of affordable Section 8 housing are lost every year” because landlords are rapidly exiting the program.⁷²

These losses are likely to increase as the landlords confidence in the program decreases.⁷³ Additionally, there is a large risk for approximately 150,000 units whose owners have strong financial incentives to leave the program because the rents they receive are well below market rates.⁷⁴

ii. Governance by the Department of Housing & Urban Development

The Department of Housing and Urban Development current mission is

[T]o create strong, sustainable, inclusive communities and quality affordable homes for all. HUD is working to strengthen the housing market to bolster the economy and protect consumers; meet the need for quality affordable rental homes; utilize housing as a platform for improving quality of life; build inclusive and sustainable communities free from discrimination, and transform the way HUD does business.⁷⁵

However, underfunding and lack of affordable housing amounts to little considering the newest problem HUD faces; its leadership.

On March 2, 2017 Ben Carson was named Secretary of Housing and Urban Development.⁷⁶ Secretary Carson spent the majority of his adult life in medicine and was a former director of pediatric neurosurgery at Johns Hopkins Children’s Center.⁷⁷ As a child Carson’s mother received housing assistance yet this appears to be his only direct experience with Affordable housing in his entire life.⁷⁸ Secretary Carson will be responsible for a budget of over 40 million dollars to assist millions of low-income renters, fight urban blight and help struggling homeowners stop foreclosures.⁷⁹ Carson never had a role in housing policy or held any position in government and that should be extremely unsettling to the American society. Carson’s lack of experience means he is unaware of how housing works at an administrative level. As the head of

a one of the most dysfunctional yet necessary departments of the government this does not bode well to the department's future. As a department that faced numerous past and continuing issues it does not appear that with Carson at its helm, it will depart from of its negative past.

III. Understanding The Affordable Housing Crisis

A. Overview of Crisis

Today, the problem with housing affordability is that there is a high percentage of low income households who pay a disparate portion of their incomes on their housing and as well as the lack of availability of housing options to these renters.⁸⁰

Affordable housing crisis plagued the United States for years.⁸¹ The following will provide an overview of this crisis. However, prior to addressing the crisis in itself it is important to have knowledge on key factors that have attributed to this crisis. The term "low-income housing" means decent, safe, and sanitary dwellings that are assisted under 42 USCS § 1437a.⁸² The term "public housing" includes dwelling units in a mixed finance project that are assisted by a public housing agency with capital or operating assistance.⁸³ In addition, the term "low-income families" means those families whose incomes do not exceed eighty per centum of the median income for the area in which that family resides.⁸⁴ This number is determined by the Secretary of Housing and Urban Development and adjusted for smaller and larger families; however, the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.⁸⁵

Despite a slight improvement from 2014, fully one-third of US households paid more than 30 percent of their incomes for housing in 2015.⁸⁶ Today many renters are more likely to be unable to afford their housing than home owners.⁸⁷ Surprisingly, the number of cost-burdened renters, 21

million, greatly exceeds the number of cost-burdened owners, 18 million, even though nearly two-thirds of US households own their homes.⁸⁸

The crisis also has been shown to disproportionately affect minorities.⁸⁹ A large number of minority homes, which are more likely to reside in high-cost metro areas and have lower incomes than white households, are more likely to face severe cost burdens for housing.⁹⁰ In 2015, the cost-burdened share was forty-seven percent for blacks, forty-four percent for Hispanics, and thirty-seven percent for Asians/others, compared to twenty-eight percent for whites.⁹¹ In 2015, twenty-five percent of black households paid more than half their incomes for housing which was nearly twice the thirteen percent share of white households.

B. Rental Assistance Programs

Federal rental assistance enables over 5 million low-income households to afford modest homes.⁹² There are three major assistance programs: Housing Choice Vouchers, Section 8 Project-based Rental Assistance, and Public Housing.⁹³ The housing choice voucher program is the federal government's major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market.⁹⁴ Under this program participants are able to find their own housing, including single-family homes, townhouses and apartments.⁹⁵

In this program housing choice vouchers are administered locally by public housing agencies (PHAs). The PHAs in turn receive federal funds from the HUD to administer the voucher program.⁹⁶ A family that is issued a housing voucher is responsible for finding a suitable housing unit of the family's choice where the owner agrees to receive rent through the program.⁹⁷ The landlord receives a housing directly from the PHA for the family.⁹⁸ The family will then pay the difference between the actual rent charged by the landlord and the amount subsidized by the program.⁹⁹ In some situations PHAs are allowed to establish local preferences for selecting

applicants from its waiting list.¹⁰⁰ For example PHA's may give a preference to a family who is "(1) homeless or living in substandard housing, (2) paying more than 50% of its income for rent, or (3) involuntarily displaced."¹⁰¹ The family pays 30% of its monthly adjusted gross income for rent and utilities however if the rent is greater than the payment standard the family is required to pay any additional amount.¹⁰² The landlord has one general role under this program – "to provide decent, safe, and sanitary housing to a tenant at a reasonable rent."¹⁰³

The Housing Choice voucher was designed to help low income families move into better neighborhoods with better opportunities and get rid of the concentrated areas of poverty associated with public housing projects.¹⁰⁴ However today that has not happened.¹⁰⁵ Most voucher-holders still live in low-opportunity, high-poverty neighborhoods.¹⁰⁶

C. Low Income Housing Tax Credit

The Low Income Housing Tax Credit (LIHTC) program does not provide housing subsidies.¹⁰⁷ Instead, the program provides tax incentives to encourage developers to create affordable housing.¹⁰⁸ These tax credits are provided to each state based on the state's population and are distributed to the state's designated tax credit allocating agency.¹⁰⁹ In turn, these agencies distribute the tax credits based on the state's affordable housing needs with broad outlines of program requirements from the federal government.¹¹⁰ This is done through the Qualified Allocation Plan (QAP) process.¹¹¹ Tax credit subsidies make these places affordable by requiring rent restrictions.¹¹² However, many units are subsidized through additional sources of federal or state funding, which allow for deeper affordability to lower-income families.¹¹³

However, this program heavily favored banks, brokers and developers and brought on large amount of fraud throughout the industry because of lack of oversight.¹¹⁴ The majority of housing

agencies have never been audited.¹¹⁵ There have been only seven audits of the 58 state and local housing agencies that the IRS relies on to watch the program since it began in 1986.¹¹⁶

D. The Vienna Social Housing Program

i. Overview

There are affordable housing programs throughout the world that work and housing policy makers in the United States could learn a great deal from examining them.

In Vienna, Austria housing for lower income population is defined as social housing.¹¹⁷ Nearly 60% of Vienna's population live in subsidized apartments. In the book *Social Housing in Europe*, the author describes the Austrian approach to social housing by stating that: "[T]here is a general political consensus that society should be responsible for housing supply, and that housing is a basic human need that should not be subject to free market mechanisms; rather, society should ensure that a sufficient number of dwellings are available."¹¹⁸

The city of Vienna's Municipal Department owns over one-quarter of the city's total housing stock compared to the city of New York, where the New York Housing Authority owns 8.2% of all rental properties.¹¹⁹ Vienna's public housing program began during the era of social democratic rule known as Red Vienna.¹²⁰ Traditionally, social housing in Vienna was based on the roles of not-for profit developers, direct subsidies from the state, rent control for the old stock and cost renting for new construction.¹²¹ Today, these principals still exist.¹²² Between 1924 and 1933, Vienna built 61,175 apartments in 42 housing developments throughout the city to encourage interaction among social classes.¹²³

ii. Finances

Similar to the United States, public housing in Vienna is financed primarily by using governmental funds.¹²⁴ Social housing is financed by a fixed amount from income tax, corporation tax and housing contributions which is paid by employees.¹²⁵

Unlike in the United States, the majority of Austrian housing subsidies are object- rather than demand-side, meaning that the subsidies are applied to housing construction rather than to the individual.¹²⁶ Around four-fifths of all the new housing constructed in Austria is subsidized by public funds.¹²⁷ The only properties that are ineligible for subsidies are second homes and expensive houses and apartments.¹²⁸

Another distinction between Vienna's public housing program is that it indirectly controls the private housing market. Seeing as how a majority of the city's housing is run by the city or subsidized, the private landlords have to compete with social housing for the same tenants.¹²⁹ Therefore, private landlords cannot afford to inflate rents for fear of never finding a tenant. In addition, because the large majority of Vienna's population lives in municipal or subsidized housing social stigma surrounded public housing in the United States does not apply in Vienna.

iii. Quality of Living in Social Housing

Additionally, Vienna's public housing program allows for tenants to live in affordable housing without having to sacrifice quality of living.¹³⁰ In order to promote the continuing quality in social housing Vienna's distributes subsidies for large-scale developments through a process known as *Bauträgerwettbewerbe*, or developers' competition.¹³¹ A board of individuals made up of city representatives, builders, and specialists in housing law chooses designs based on their quality, impact on the economy, and the ecological impact.¹³² These competitions have increased the quality of the social housing, cut construction cost, as well as encourage creative themes, such

as the Autofreie Mustersiedlung, or car-free estate, or the Frauen-Werk-Stadt, a family-friendly community designed by women architects.¹³³

iv. Flaws

However, Vienna social housing program is not completely perfect. Although the program effectively ended the early-twentieth-century housing crisis, the top-down implementation of the program angered workers. Although, the program involves designers and academics in its planning there appears to be little citizen participation.¹³⁴

In addition, some trends of segregation have been shown. The program promotes mixed-income housing developments to encourage social mixing however recent trends have shown that immigrants and the elderly increasingly inhabit the older developments , while younger, Austria-born families inhabit the newer housing developments.¹³⁵ In result, although initially it appeared that while Vienna's social housing program increased mixing between classes within the city as a whole, a closer look at some patterns and demographics that could potentially defeat the program's purpose if not properly addressed by Vienna policy makers.

Lastly, the social housing program can pose a threat to itself simply because it worked so well. "As the city's high quality of life, bolstered by the availability of affordable housing, attracts additional residents, pressure on housing stock increases." Recently, Vienna City began to rely on public-private partnerships to fill the gap between thus gearing away from its tradition system.¹³⁶

Regardless of these noted flaws the American housing system would greatly improve with the implantation of the policies put in place that have allowed the Vienna social housing program to thrive. In its implementation, the United States can alter the plan to avoid the noted flaws.

IV. The Underdevelopment of Urban Communities

Under the Equal Protection clause of the United States constitution “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”¹³⁷ The case of *Village of Arlington Heights v. Metropolitan Housing Development Corp* the court determined that consistent pattern of official racial discrimination is not a necessary prove a violation of the equal protection clause of the Fourteenth Amendment.¹³⁸ Today, there are many instances where state government and developers have colluded to develop properties in violation of this amendment. Discrimination of the urban community may not have been the stated purposes of these project’s however its effect is clear. In addition, this author believes that because of these actions the urban community suffered and remains greatly underdeveloped.

A. Planned Communities

One of the impedances of developing the urban community is the growth of planned communities. A planned community defined as “a development that has been approved through a comprehensive review of projects characterized by an integrated and unified design. It may include a variety of project types including infill developments, housing developments, mixed use developments, and master-planned communities.”¹³⁹

i. Cluster housing or cluster development

Cluster housing or cluster development are projects meant for single family residential developments meant to house single families that are clustered in one area of the project in return but have common open space that in areas that are not taken up by housing.¹⁴⁰ In these projects

the density is higher where housing is clustered, but there is no overall increase in density.¹⁴¹ Additionally, these projects are typically limited in size.¹⁴²

ii. Mixed-Use Developments

Mixed use developments combine residential with nonresidential uses.¹⁴³ These projects typically include multistory buildings and are often built as developments in urban areas.¹⁴⁴ There are other examples for mixed- use development planned community villages for rural areas that typically incorporate a village center with retail and office uses.¹⁴⁵

iii. Master-Planned Communities.

Master-planned communities is a planned community, are typically vast communities that combine employment, office, retail, and entertainment centers, often mixed in use, with associated self-contained neighborhoods.¹⁴⁶ A master planned community can be a new town required to have a minimum size of between 600-1,000 acres.¹⁴⁷

iv. Planned Communities and Affordable Housing

Today, it has become common to require planned communities to provide for affordable housing in the development of the plan.¹⁴⁸ Having an affordable housing requirement sometimes impacts the design of the community because of the cost, and in many cases, the location.¹⁴⁹ By providing a different design for affordable housing this segregates those in the community who can only live in affordable housing from the rest of society.¹⁵⁰

B. Land Use Regulations

Many municipalities in the United States regulate land use and development in some form.¹⁵¹ However, there are a number of land-use regulations that range from traditional zoning and density restrictions to newer smart growth policies that are designed to limit expansion of individuals away from central urban areas.¹⁵² These land use regulations have a great number of

benefits, however, they frustrate the purpose of affordable housing by restricting the housing supply and increasing housing prices.¹⁵³ Studies by the Mercatus Center at George Mason University have proven that these regulations places a larger burden on poor households who are more likely to rent their home than wealthier households.¹⁵⁴

The four main land use regulations are minimum-lot-size regulations, minimum-parking requirements, inclusionary zoning, and urban growth boundaries.¹⁵⁵

i. Minimum Lot Sizes

Minimum-lot-size regulations regulate what the smallest possible area that something can be built on in order to restrict housing density.¹⁵⁶ According the Mercatus Center study “the supply-limiting and cost-increasing effects of these regulations are stronger than the effects of other land-use restrictions.”¹⁵⁷

ii. Minimum-Parking Requirements

Minimum-parking-space requirement regulations set a limit on the number of parking spaces for residences for single-family homes or apartments.¹⁵⁸ Similar to Like lot-size regulations, these regulations limiting density and save space yet and raise housing prices.¹⁵⁹

iii. Inclusionary Zoning

Under these regulations developers are required to set aside a certain percentage of a new development to lease or sell at below-market rates.¹⁶⁰ However, these regulations are seldom used as they increase developer’s costs at the margin which discourages construction which ultimately lowers the supply of housing.¹⁶¹

iv. Urban Growth Boundaries

Urban growth boundaries are “smart growth regulations designed to protect farms and forests from urban development, however these regulations have been associated with increased housing costs within the boundaries.”

These land-use regulations tend to limit housing supply and in turn drive up the price of housing.¹⁶² The burden of increased housing prices fell disproportionately on lower income households, who spend a larger percentage of their income on housing than wealthier households.¹⁶³ These effects are more drastic in more populated cities in the United States, where the high cost of housing kept population growth relatively low despite the economic opportunities in these cities.¹⁶⁴

v. Proposals

Currently many homeowners actually receive benefits from these regulations, however, there have been many proposals, that seek to reduce current homeowner’s financial loss that stem from cuts of land-use regulations.¹⁶⁵ These proposals for reducing current homeowner’s financial loss include things such as home equity insurance, zoning budgets, tax increment local transfers, and state implementation of zoning reforms.¹⁶⁶

With equity insurance homeowners will be able know the value of their home is protected even if an increase in the supply of housing in their area drives home prices down.¹⁶⁷

With a zoning budget city that will be legally required to set a budget for population growth and this growth rate will be put to a vote by the city council.¹⁶⁸

Tax increment local transfers would provide tax incentives to developers within a city.¹⁶⁹ By allowing more development the housing options will increase and also become more profitable to developers. Lastly, states with the problem of land use regulations that reduce the availability of affordable housing can pass legislation in their respective municipalities that provide financial

incentives such as tax breaks to homeowners who suffer financial loss for the reduced use of land use regulations.

V. Conclusion

This Article proposes a provisions and overhauls of housing policies that may be used to approach the Affordable Housing Crisis and the underdevelopment of the urban community. The two issues of availability and cost of affordable housing are the main questions answered by this article. By imitating Vienna's social housing program, while noting where improvements can be made, the United States housing program will rid America of the negative stigma behind affordable housing and make quality housing available to the majority of society. Additionally, passing laws that make discriminatory practices such as land-use regulations and repeated placement of lower income housing in traditionally lower income areas illegal. Although not easily completed as these provisions may be met with great pushback, it is possible to convince opponents of these new laws of the numerous societal and economic benefits. In conclusion, there will be a complete renovation of affordable housing and the urban community by implementing the recommendations.

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²⁷ *Id.* at 8.

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