

# Background

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## Don't Regulate the Suburbs: America Needs a Housing Policy That Works

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Despite the many accolades for President Barack Obama's swift action on a major economic stimulus package, an outline of a comprehensive financial rescue package, and his most recent proposal for another bailout for homeowners who might not meet their mortgage payments, a growing number of critics and global investors have questioned the effectiveness of these measures in helping to put the economy back on a path to faster growth.

Specifically, the costly stimulus plan is little more than a grab bag of congressional policy obsessions that other Presidents suppressed in the past; the financial rescue plan is a jumble of confused generalities; and, as currently proposed, the President's troubled homeowner relief program would further undermine any remaining notions of personal financial responsibility by requiring taxpayers who paid their bills to subsidize the many homeowners who didn't.

One of the chief failings of these programs is that they focus on symptoms, not causes. Nowhere among the host of initiatives is there any attempt to address the several underlying causes that undermined the stability of the housing finance market and the ability of ordinary American families to acquire affordable housing.

Indeed, based on President Obama's initial pronouncements on the issue, his Administration seems intent on exacerbating some of these causes by diminishing freedom of choice and making housing even less affordable. In turn, these policies will sub-

### Talking Points

- Restrictive state and local land-use regulations are a key factor in escalating housing prices.
- These escalating prices have contributed to high rates of foreclosure that are concentrated in regions with restrictive land-use regulations.
- The implementation of "smart growth" strategies in many communities has contributed to restrictive land regulations.
- Areas with less land-use regulation consistently sustain affordable housing prices, while regions with greater regulation consistently sustain prices that are unaffordable to the majority of those living in the region.
- Such land-use regulations are not unique to the United States; other countries, where housing prices have soared even higher, have recognized their harm and are now attempting to reform them.
- Future federal housing-assistance programs should be linked to a requirement to lessen the burden of these regulations.

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stantially slow the process of recovery in home-building and housing finance.

### The President Takes on the Suburbs

In a mid-February speech in Florida to sell his stimulus plan to Americans, President Obama used the forum as an opportunity to express his support for more public transit (trolleys and buses) and linked this preference to a need to deter Americans' number one housing preference: living in the suburbs. The President argued that:

I would like for us to invest in mass transit because potentially that's energy efficient. And I think people are a lot more open now to thinking regionally, in terms of how we plan our transportation infrastructure. The days where we're just building sprawl forever, those days are over. I think that Republicans, Democrats, everybody recognizes that that's not a smart way to design communities.<sup>1</sup>

The "smart way," as the President suggests, is supposedly through the policies of "smart growth" and "new urbanism," which many communities in America have adopted in recent years to limit growth and upgrade their demographics by making housing less affordable. Under the guise of deterring sprawl—i.e., preventing additional neighbors—many suburban communities have adopted exclusionary zoning, impact fees, involuntary proffers, mandatory amenities, growth boundaries, service districts, infrastructure concurrency, and large-lot zoning to discourage new construction. Inevitably, these strategies raise housing prices.

As the record reveals, states and communities that have implemented the land-use regulations common to "smart growth" strategies are the same states and communities that have seen their housing prices soar over the past decade and have experienced the most severe delinquency and foreclosure rates, as well as the sharpest declines in house values in the past year.

In sum, these "smart growth" strategies are an important contributing factor in the housing finance mess and severe recession that now confront the United States and several other countries that have implemented the same abusive land-use regulations.

### State and Local Land-Use Regulations

Because land-use regulations are largely local in nature and can vary significantly from one jurisdiction to another, attempts to compare one state, metropolitan area, or community to others face serious challenges in developing meaningful measures of the relative intensity of land regulations among the nation's thousands of jurisdictions.

Among the most comprehensive of such attempts is the one conducted by the Brookings Institution.<sup>2</sup> The Brookings typology assigns a metropolitan area's land-use regulations to one of four major categories and further divides the areas under review into 12 subcategories. By degree of intensity, they are:

- **Reform** (Growth Management, Growth Control, Containment, Contain-Lite);
- **Exclusion** (Basic, Plus Restriction, Extreme);
- **Traditional** (Middle America, High Density); and
- **Wild Wild Texas** (Dallas–San Antonio, Houston, Austin).

As is to be expected from basic economic theory, restricting the supply of a product (in this case, land) leads to shortages of it, which in turn leads to higher prices for land and, hence, higher prices for new and existing housing. Not surprisingly, house prices (and their affordability compared to local incomes) conform relatively closely to the intensity of land-use regulations described by the Brookings typology.

### Impact of Land-Use Regulations

Among the areas described as part of the "Reform" category (the most restrictive) are the major metro-

1. "Remarks by the President at Fort Myers Town Hall," February 10, 2009, at [http://www.whitehouse.gov/the\\_press\\_office/Remarks-by-the-President-at-Fort-Myers-Town-Hall/](http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-at-Fort-Myers-Town-Hall/) (March 2, 2009).

2. Rolf Pendell, Robert Puentes, and Jonathan Martin, "From Traditional to Reformed: A Review of the Land Use Regulations in the Nation's 50 Largest Metropolitan Areas," The Brookings Institution, Metropolitan Policy Program, August 2006, at [http://www.brookings.edu/~media/Files/rc/reports/2006/08metropolitanpolicy\\_pendall/20060802\\_Pendall.pdf](http://www.brookings.edu/~media/Files/rc/reports/2006/08metropolitanpolicy_pendall/20060802_Pendall.pdf) (March 2, 2009).

politan areas of California, Florida, Nevada, and Arizona,<sup>3</sup> all of which experienced substantial house-price escalation from the late 1990s to mid-2007 and all of which are also rated “unaffordable” by the annual Demographia survey.<sup>4</sup> As a consequence of the price escalation in these areas, many Americans attempting to become homeowners could do so only by taking on levels of debt in excess of what they could comfortably afford.

- Whereas the typical relationship between median house prices and median income was historically about three-to-one or less, this “median multiple” (the ratio of median house price to median income) in most urban areas of California rose to between seven- and 11-to-one at the peak of the market.
- In 2007, the median-priced home in the metropolitan areas of San Francisco, Los Angeles, and San Diego was more than 10 times the median income of households in those areas. In other areas with tight land-use regulations, that ratio was 5.5 for the Washington, D.C., area; 5.1 in Portland, Oregon; 5.9 in Las Vegas, Nevada; 6.0 in Seattle, Washington; and 7.1 in Miami, Florida, to name just a few of the many unaffordable places in the United States.<sup>5</sup>

In contrast to the high housing prices in regulated areas, less stringently regulated areas maintained their affordability during the past housing boom and bubble. In 2007, the ratio of median house price to median income was 2.3 in Indianapolis, 2.8 in Atlanta, 2.5 in Dallas, and 2.9 in Houston. In each of these areas, the median price for a house never exceeded \$200,000—in contrast to \$804,000 in San

Francisco, \$588,000 in San Diego, \$430,000 in Washington, D.C., and \$365,000 in Miami.

Not surprisingly, delinquency and foreclosure rates in the areas with tight land regulations and inflated housing prices are among the highest in the nation. They are also the areas that have experienced the greatest declines in housing prices over the past year, thereby further destabilizing regional housing markets and the national mortgage finance system.

According to house-price data collected by the National Association of Realtors for 159 metropolitan areas for the fourth quarter of 2008,<sup>6</sup> 26 metropolitan areas had experienced house-price declines in excess of 20 percent since the fourth quarter of 2007. Among these 26 metropolitan areas, 18 were in the land-use restricted states of California (seven); Nevada (two); Arizona (two); and Florida (seven), while six were in the hard-hit recession states of Michigan and Ohio.<sup>7</sup> In Michigan and Ohio, however, house prices generally remained at or below the 3.0 historical median multiple norm.

Given the high debt burdens that high housing prices have imposed on many homeowners in the four most heavily regulated states, it is not surprising to find that the highest foreclosure rates are also concentrated in the same high-cost, land-use restricted states: According to RealtyTrac, a leading real-estate reporting firm, nine of the 10 areas with the highest foreclosure rates were in California, Nevada, Arizona, and Florida,<sup>8</sup> while 18 of the top 20 were in urban areas that Brookings includes in its most restrictive category, including California, Nevada, Arizona, and Florida.<sup>9</sup>

3. Other areas so designated are Portland, Oregon; Denver, Colorado; and Seattle, Washington.

4. “4th Annual Demographia International Housing Affordability Survey: 2008,” at <http://www.demographia.com/dhi2008.pdf> (March 2, 2009). Demographia is an international public policy firm based in St. Louis, Missouri, that specializes in demographics, urban policy, and transportation.

5. *Ibid.*

6. For details, see National Association of Realtors, “Median Sales Price of Existing Single-Family Homes for Metropolitan Areas,” 2008, at [http://www.realtor.org/Research.nsf/files/MSAPRICESF.pdf/\\$FILE/MSAPRICESF.pdf](http://www.realtor.org/Research.nsf/files/MSAPRICESF.pdf/$FILE/MSAPRICESF.pdf) (March 2, 2009).

7. The other two were the Atlanta area, where sub-prime mortgages were used in excess, and the Washington, D.C., area, where many suburban counties have adopted strict regulations on land use.

8. Detroit was tenth.

9. Press release, “Foreclosure Activity Increases 81 Percent in 2008,” RealtyTrac, January 15, 2009, at <http://www.realtytrac.com/ContentManagement/pressrelease.aspx?ChannelID=9&ItemID=5681&acct=64847> (March 2, 2009).

A similar analysis conducted by Demographia, using the same realtor data but measuring the price decline from each region's market peak to the fourth quarter of 2008 and categorizing the regions by an alternative measure of the intensity of land-use restrictions, found nearly identical results. Defining the more regulated markets as "prescriptive" and the less-regulated markets as "responsive," the analysis found that each market that experienced a price decline in excess of 35 percent from peak to trough was prescriptive and was located in California, Florida, Nevada, or Arizona—the top four states for 2008 foreclosure rates.

The Demographia analysis also focused on the magnitude of the potential loss per loan to lenders that may occur as a result of a foreclosure. For example, while the Atlanta area had the 17th-highest foreclosure rate in 2008, the affordable nature of its house prices meant that the peak-to-present decline in house prices entailed a median loss of only \$24,800. By way of contrast, the median peak-to-present loss exceeded \$230,000 per house in San Francisco and San Diego and was more than \$200,000 per house in Los Angeles and San Jose.

In addition to the substantial monetary loss that each foreclosure in these areas imposes on mortgage lenders, these same areas seem likely to receive a disproportionate share of whatever federal subsidies are provided in a nationwide program of foreclosure mitigation, loan renegotiation, or loan refinancing. As a consequence, taxpayers nationwide are being placed in the position of having to bail out borrowers in those few regions whose abusive land regulations contributed to the bubble in home prices and its subsequent collapse.

The Administration's \$275 billion foreclosure mitigation plan, proposed in February 2009, is silent on this type of self-destructive state and municipal behavior. Congress should ensure that the final plan recognizes this and should require

that state and local governments revise their practices, which in some cases are getting worse. In California, legislators recently passed a bill to tighten land regulations further by compelling regional planning authorities to encourage higher-density housing served by public transit.<sup>10</sup>

A better plan would be to link any federal housing assistance to reform of a state's or a region's land-use and planning regulations. As Edward Glaeser of Harvard University and Joseph Gyourko of the University of Pennsylvania recently noted:

If some aid to expensive states is made conditional on permitting more construction, then pricey places will face incentives to permit more units and promote affordability. Those incentives will encourage restrictive cities and towns to look beyond their borders, and to make America more affordable by permitting more construction in the high-price housing markets that are under-supplied and unaffordable even to the middle class.<sup>11</sup>

Regrettably, President Obama's February 2009 Homeowner Affordability and Stability Plan will do precisely the opposite, providing the largest taxpayer subsidies for areas with the most restrictive land-use regulations.

### **Land-Rights Abuses Not Unique to the United States**

**The United Kingdom.** As bad as land-use regulations have become in the United States, they are even worse in the United Kingdom and have been that way since the end of World War II, when the Town and Country Planning Act was adopted by the Labor government in 1947. Operating under principles that have since been mimicked by America's "smart growth" and "new urbanism" advocates, this movement attempted to comprehensively restructure Britain's culture of living

10. Ana Campoy, "California Seeks to Curb Sprawl," *The Wall Street Journal*, September 2, 2008, at [http://online.wsj.com/article/SB122031252260888829.html?mod=residential\\_real\\_estate](http://online.wsj.com/article/SB122031252260888829.html?mod=residential_real_estate) (March 2, 2009), and Joel Kotkin, "Jerry Brown's War on California Suburbs," *The Wall Street Journal*, July 19, 2008, at [http://online.wsj.com/article/SB121642163643366589.html?mod=opinion\\_main\\_commentaries](http://online.wsj.com/article/SB121642163643366589.html?mod=opinion_main_commentaries) (March 2, 2009).

11. Edward L. Glaeser and Joseph Gyourko, "Two Ways to Revamp U.S. Housing Policy," *The New York Times*, December 16, 2008, at <http://economix.blogs.nytimes.com/2008/12/16/two-ways-to-revamp-us-housing-policy/?pagemode=print> (March 2, 2009).



arrangements by directing people into new, dense, high-rise developments that combined employment opportunities, businesses, and housing into compact developments. In addition to the enhanced social interaction that ostensibly would occur among people forced into closer proximity, such developments were thought to preserve rural ambience by preventing construction of new housing in the countryside.

Reflecting the anti-suburb prejudices common to Britain's planners and artists in the 1930s, planner and university lecturer Thomas Sharp condemned suburban life for "its social sterility, its aesthetic emptiness, its economic wastefulness.... Suburbia is not a utility that can promote any proper measure of human happiness and fulfillment." George Orwell claimed in his 1939 novel *Coming Up for Air* that suburbia was a haven for "Tories, yes-men, and bumsuckers."<sup>12</sup>

The elitist nature of these views was more sharply expressed by economist P. Sargant Florence when he observed in his review of *An Enquiry into People's Homes*, a 1943 report on working-class attitudes on housing, that the report pointed to certain moral standards that "cannot safely be left to housewives who are not equipped with the necessary knowledge of what lies within the realm of possibility" and that "architects and planners must give the lead and the target must be placed higher than the inarticulate yearnings of the average working-class housewife, if the same ill-defined sense of dissatisfaction is not to be perpetuated."<sup>13</sup>

A half-century later, some of America's new urbanists would mimic these same prejudices. In 1996, James Howard Kunstler contended in the *Atlantic Monthly* that:

When we drive around and look at all this cartoon architecture and other junk that we've smeared all over the landscape, we register it as ugliness. This ugliness is the

surface expression of deeper problems—problems that relate to the issue of our national character. The highway strip is not just a sequence of eyesores. The pattern it represents is also economically catastrophic, an environmental calamity, socially devastating, and spiritually degrading.<sup>14</sup>

As is often the case with schemes that attempt to impose the tastes and fancies of artistic elites on ordinary people, most of the British were opposed to the program. Based on a national survey conducted in Britain in 1950, a book titled *Patterns of British Life* concluded that:

Most people like living in houses rather than flats and they like having a house to themselves. They like their own private domain which can be locked against the outside world and, perhaps as much as anything, they are a nation of garden lovers. They want space to grow flowers and vegetables and to sit on Sunday afternoons and they want it to be private.<sup>15</sup>

Nonetheless, because the new socialist government had largely nationalized much of the future residential housing development, many British citizens had few choices of where they could live. As a result, the supply of new single-family detached housing was invariably below what was demanded by the public, and prices rose accordingly.

As a consequence of 60 years of intense land-use regulations, housing throughout the United Kingdom is some of the least affordable in the world, as the Demographia report reveals; its housing and housing-finance markets, like those in California, Florida, and other states with severe land-use regulations, are in collapse; and several insolvent banks and mortgage lenders have been nationalized.

Under Demographia's housing affordability taxonomy, urban areas with a median multiple of 3.0 or less are considered "affordable," places with a

12. David Kynaston, *Austerity Britain: 1945–1951* (New York: Walker & Company, 2008), p. 30.

13. *Ibid.*, p. 51.

14. James Howard Kunstler, "Home from Nowhere," *The Atlantic Monthly*, September 1996, pp. 43–66.

15. Kynaston, *Austerity Britain*, p. 607. These views are not materially different from the views of the typical American family, then and now.

median multiple between 3.1 and 4.0 are considered “moderately unaffordable,” those between 4.1 and 5.0 are rated “seriously unaffordable,” and those with median multiples above 5.1 are rated “severely unaffordable.” Of the 265 urban areas included in the 2009 Demographia study,<sup>16</sup> which covers the United States, Ireland, New Zealand, the United Kingdom, and Australia, not a single British urban area managed to make it into the “affordable” or “moderately unaffordable” categories, which included 161 of the 265 areas covered in the report, all of which were located in the United States and Canada.

Of the 16 United Kingdom urban areas covered in the report, six were rated “seriously unaffordable” in 2007, and 10 were rated “severely unaffordable” and had median multiples that were nearly as high as those of most of the coastal California metropolitan areas. Included among the severely unaffordable areas (and measuring them at their price peaks in 2007) were Belfast (8.8); Exeter/Devon (8.2); London (7.7); and Bristol/Bath (6.9). The most affordable British area was Dundee with a median multiple of 4.4, comparable to Daytona Beach in high-cost Florida.

However, unlike some leaders in the United States who are endorsing policies that would make the situation worse, Prime Minister Gordon Brown recognizes that the U.K. has a housing affordability problem and that onerous land regulations are the prime culprit, and he intends to do something about it.

Based on the findings and recommendations of the Taylor Review,<sup>17</sup> which was conducted by British Member of Parliament Matthew Taylor and criticized Britain’s planning policies and land use

regulations, Prime Minister Brown is “preparing to sweep aside planning controls in villages and market towns to allow the biggest rural house building in a generation” and “has concluded that protecting the environment should no longer be the overriding consideration when decisions are made about whether to allow development in areas where locals are struggling to afford homes.”<sup>18</sup> Under the new plan, local councils would be told to:

- Earmark new building sites in every village and hamlet where affordable housing is needed;
- Use sweeping powers to overrule normal planning curbs in protected areas;
- Provide incentives for farmers to sell land to developers; and
- Create a generation of new communities on the outskirts of market towns.

In a previous report, prepared for the Blair government, Bank of England Monetary Policy Committee member Kate Barker blamed the nation’s high housing prices on its land-use restrictions.<sup>19</sup>

**Australia.** Although Britain’s land-use problems extend back to the early 1950s, Australia’s problems with counterproductive land regulations are more recent and are a consequence of the same smart growth/new urbanist fads that have swept through the United States. Unlike in the United States, where the majority of communities rejected this more fashionable approach to planning, many of Australia’s political leaders and urban planners were seduced by the concept and imposed rigid rules on communities that included regulation of the type and color of mailboxes and the type and location of plants used in landscaping. In one community, new

16. “5th Annual Demographia International Housing Affordability Survey: 2009,” at <http://www.demographia.com/dhi.pdf> (March 2, 2009).

17. For details, see “Matthew Taylor Review on Rural Economy and Affordable Housing,” July 23, 2008, at <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyimplementation/reformplanningsystem/matthewtaylorreview/> (March 2, 2009).

18. Isabel Oakeshott, “Gordon Brown to Bulldoze Rural Housing Curbs,” *The Sunday Times*, January 4, 2009, at <http://www.timesonline.co.uk/tol/news/politics/article5439439.ece?print=yes&randnum=1235156845491> (March 2, 2009).

19. Barker Review of Housing Supply, *Delivering Stability: Securing Our Future Housing Needs*, Her Majesty’s Stationery Office, March 17, 2004, at [http://www.hm-treasury.gov.uk/barker\\_review\\_of\\_housing\\_supply\\_recommendations.htm](http://www.hm-treasury.gov.uk/barker_review_of_housing_supply_recommendations.htm) (March 2, 2009), and Barker Review of Land Use Planning, *Final Report—Recommendations*, Her Majesty’s Stationery Office, December 2006, at [http://www.hm-treasury.gov.uk/d/barker\\_finalreport051206.pdf](http://www.hm-treasury.gov.uk/d/barker_finalreport051206.pdf) (March 3, 2009).

home builders were prohibited from installing central heat and air conditioning in order to achieve a smaller “carbon footprint.”

Not surprisingly, urban areas in Australia became every bit as expensive as those in the United Kingdom and California. As in the U.K., there are no Australian communities to be found among the “affordable” or “moderately unaffordable” rankings, and most of them are ranked in the “severely unaffordable” category in the most recent Demographia report.<sup>20</sup> Of the 27 Australian urban areas included in the report, 24 are rated “severely unaffordable,” while the remaining three are “seriously unaffordable.” At the peak of the market in 2007, the median multiple for Sydney was 8.6, while Perth was at 7.6 and Melbourne registered 7.3.

There is an increasing recognition of the role that smart growth has played in making housing in Australian urban areas unaffordable. A number of policy initiatives have been announced in recent years to liberalize land-use restraints. The most important is in the Melbourne area, Australia’s second-largest urban area (population 3,500,000), where a regional plan that was to stop development on the urban fringe has now been virtually abandoned by a new policy that will allow construction of more than 130,000 new suburban houses.<sup>21</sup>

## Conclusion

As housing-price trends in the U.S. over the past decade reveal, the intensity of a region’s land-use regulations is a key factor in the region’s relative house-price inflation, affordability, and recent fore-

closure experience. Areas with less land-use regulation consistently sustain housing prices that are affordable, while regions with greater regulations consistently sustain prices that are unaffordable to the majority of the citizens living in the region.

A number of other English-speaking nations, notably the United Kingdom, Australia, New Zealand, and Ireland, have land-use regulations that are more intense than those generally in force in the U.S.—and even higher housing prices as a result. In recent months, national and regional leaders in some of these overregulated countries have recognized the source of the problem and have announced a commitment to lessen the regulatory burden in order to reduce housing prices.

In the United States, however, there is still little recognition of the connection between regulatory limitations and housing prices, and prospective initiatives currently under discussion are likely to leave houses in many states with still higher price tags. Indeed, in the event that President Obama’s interest in smart growth policies leads to federal involvement in land-use regulation, housing affordability in the United States could soon approach the levels now common in the United Kingdom.

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20. “5th Annual Demographia International Housing Affordability Survey: 2009.”

21. Marc Moncrief, “Go-Ahead for Urban Sprawl,” *The Age*, December 3, 2008, at <http://www.theage.com.au/national/goahead-for-urban-sprawl-20081202-6ps9.html> (March 2, 2009).