TEXAS
The University of Texas at Austin

FEBRUARY · 2023
ISSUE BRIEF

AFFORDABLE HOUSING CHALLENGES AND OPPORTUNITIES IN TEXAS

Prepared for the 88th Texas Legislature

THE UNIVERSITY OF TEXAS FACULTY & AFFILIATES

Allan Cole
Steve Hicks School of Social Work

Mandy Pope
McCombs School of Business

Jake Wegmann
School of Architecture

Sherri Greenberg
LBJ School of Public Affairs

Elizabeth Mueller
School of Architecture

Kayla Smith
LBJ School of Public Affairs;
School of Architecture

Steven Pedigo
LBJ School of Public Affairs

Heather Way
School of Law

Lance Gilliam
LBJ School of Public Affairs

INTRODUCTION

Across 14 years of non-partisan Texas Lyceum surveys asking Texans whether they believe the Texas economy is better off, worse off, or about the same as the rest of the country, only recently—in 2021 and in 2022—have Texans been more likely to say our state's economy is in worse shape than the nation's economy.[1] The trend continued in the latest poll, conducted January 2023, which found that 52% of Texans believe they now spend too much of their income on housing costs.[2] Texas has long cultivated a reputation for relative affordability that encourages population growth and economic development, but these survey results reinforce a growing concern of Texans in all kinds of communities—urban, suburban, and rural—that their financial future looks less optimistic than it has in the past. With high levels of inflation increasing the cost of everyday living expenses, household budgets are strained. Housing-related costs are the largest expense category for Texans, regardless of income level.[3] Many factors impacting inflation are driven at a national or even global scale, but the price of owning or renting a home is also highly influenced by local conditions. Potential new homeowners, pressured by higher interest rates, find that they can afford few homes at current prices and are forced to stay in the rental market. Existing homeowners are squeezed by higher property tax valuations while also recognizing that they could benefit financially from selling their home, but many observe that finding a new place to live in a desirable neighborhood would be too costly for them. High housing costs for both homeowners and renters limit households from moving to pursue jobs that offer upward economic mobility. Diminishing housing affordability poses a threat to the state's economic well-being, and actions to encourage affordable housing deserve focused attention from the 88th Legislature.

The motivation for this issue brief begins with the University of Texas at Austin's 10-year Strategic Plan, "Change Starts Here," which commits to understanding affordability challenges for the university's community.[4] University leadership brought together a diverse group of stakeholders throughout the 2021-2022 academic year to share their perspectives about housing challenges and opportunities in Austin. To build on and broaden the geographic scope of this work leading up to the legislative session, a faculty collaboration representing the LBJ School of Public Affairs, the School of Architecture's Community and Regional Planning department, the School of Law, and the Steve Hicks School of Social Work convened two focus groups to discuss housing affordability issues in fall 2022. Roundtable and breakout session conversations included participants from cities and metro areas throughout the state, including Austin, Dallas, Fort Worth, Houston/Harris County, Abilene, Lubbock, and El Paso. Discussion participants represented city governments, policy organizations, academia, real estate developers, investors, and housing advocacy organizations.

The purpose of this document is to summarize the conversations and raise awareness of the key housing affordability themes and issues that emerged during the focus groups. Participant perspectives reflected the diversity of their experience working in the housing affordability space, and conflicting views were occasionally presented. The inclusion of identified issues in this brief does not imply that all participants were in agreement. Some participants offered ideas the state could take to help address housing affordability, which are shared, but this document does not intend to present policy recommendations.

CONTEXT

Noting that Texas offers no exception to the nationwide housing shortage,[5] participants in the housing affordability stakeholder conversations largely focused on ways to increase the supply of both market-rate and affordable housing. Because housing demand is outpacing supply, especially in a fast-growing state like Texas, more market-rate housing must be constructed to ensure that households at all income levels do not face housing costs that rise faster than their growth in wages. Households are generally considered to be housing cost-burdened when they pay more than 30% of their income toward housing expenses like mortgage payments, rent, insurance, and utilities.

What is "affordable" housing? Affordable housing is a relative term that depends on both geographic location and household income. Participants discussed the need for public education to address misconceptions about affordable housing and who benefits from it. Housing is said to be affordable when households have enough money left over after paying their housing costs to afford other necessary budget expenses such as food, transportation, childcare, clothing, and healthcare. Because of the limited number of market-rate housing units that are affordable to many households, government programs incentivize and support the development of affordable housing. Affordable housing programs typically limit occupancy of units to households at or below certain area Median Family Income (MFI) levels, and residents do not pay more than 30% of that MFI amount on rent or mortgage payments.

Federal programs that provide funding for affordable housing largely aim to help households with low and moderate incomes (incomes of less than 60% of the area MFI for rental housing and less than 80% of the area MFI for homeownership), as these households struggle the most to find market-rate housing they can afford without becoming housing cost-burdened.[6] Residents earning less than 50% of the area MFI, in particular, face enormous cost burdens and difficulties navigating the state's narrow supply of safe and affordable housing available to households at these income levels. Because of the increasing struggles that middle-income households are facing to access homeownership opportunities, some housing programs in high-cost markets also provide support for households earning from 80% to 120% of the area MFI.

Effective policies to increase market-rate and affordable housing supply must be designed with the local context in mind because housing shortages may be most acute for differing income groups depending on the jurisdiction. There is no "one-size-fits-all" solution, which is why participants in these housing conversations mentioned a combination of statewide regulatory reforms and ways the state could support local market-rate and affordable housing development through incentives.

STAKEHOLDER CONVERSATIONS: KEY THEMES AND ISSUES

During the stakeholder conversations, five thematic issues emerged and are discussed in this issue brief:

- Negative effects of local regulations on market-rate and affordable housing supply
- Lack of sufficient funding to support the development of affordable housing
- Issues with statewide regulation of affordable housing programs
- Issues affecting households receiving housing support
- Property tax exemptions and public benefits

NEGATIVE EFFECTS OF LOCAL REGULATIONS ON MARKET-RATE AND AFFORDABLE HOUSING SUPPLY

Local land development policies and permitting processes often reflect decades of amendments and regulatory response to specific issues that may no longer be relevant. In today's context, where lack of supply is driving up the cost of housing in Texas, participants suggested that municipalities could be incentivized by the state to fast-track the housing development process. Especially as the cost of debt is increasing due to rising interest rates, time spent navigating land development restrictions and permitting requirements costs both market-rate and affordable housing developers money, which ultimately increases the price for households who will move in when the housing is completed.

Participants also suggested that cities be incentivized to eliminate restrictions on the types of housing that are more likely to be affordable for households making the local MFI or less, such as Accessory Dwelling Units (ADUs) and duplexes. Often called "infill" housing, these types of homes are frequently outlawed outright or made infeasible by development requirements such as excessive lot line setbacks and off-street parking space minimums. Population growth and changing market conditions necessitate reconsideration of local regulations that may have been appropriate at some point but now contribute to restrictions on the state's housing supply, driving up housing prices.

A related issue is that many Texas cities have very little land zoned to allow for multifamily housing and manufactured homes. Multifamily housing is an important form of affordable and market-rate housing in the state. Participants reported barriers to changing restrictive zoning regulations to allow for multifamily development through existing political processes. Expanding multifamily housing would help ease the state's housing supply shortage and ensure that workers are able to live in reasonable proximity to jobs and educational opportunities. Similar barriers exist for manufactured homes, an important form of market-rate homeownership for lower-income households.

Participants suggested that the state consider providing incentives or requirements for the review of land development policy and financial support to increase local government capacity to change existing regulations. An example of state action is SB 491, filed by Senator Bryan Hughes (R-Mineola) in the current session. The bill seeks to prevent Texas cities with more than 750,000 residents from establishing height restrictions that limit the development of multifamily housing based on a lot's proximity to another lot that is located more than 50 feet away; this action represents an effort to curtail the influence of single-family home structures on surrounding development.[7] Another recent precedent is the U.S. Housing and Urban Development (HUD) "Yes In My Backyard" competitive grant program, which provides funding for local governments to identify and remove regulatory barriers to increasing and preserving housing supply.[8] Other examples of state action to increase housing supply include New York's recently announced "Housing Compact," Massachusetts state law 40 B, and California state laws SB 9 and SB 10.[9]

LACK OF SUFFICIENT FUNDING FOR CREATING AND PRESERVING AFFORDABLE HOUSING

In 2020, Texas's state and local government spending on housing and community development equaled just 0.9% of total expenditures.[10] Compared to other states' share of spending on housing and community development, Texas ranked 49th in state spending (only ahead of Nebraska), 33rd in local spending, and 40th in combined state and local spending (similar to Kentucky, West Virginia, and North Dakota). Of the amount Texas spent on housing and community development, local governments funded 97.9% of expenditures compared to the state's contribution of 2.1% of expenditures. Participants suggested that the state consider ways to increase the use of the funding sources it controls for affordable housing, including state budgetary surpluses and relatively flexible one-time and ongoing federal funding like the American Rescue Plan Act (ARPA), Community Development Block Grants (CDBG), and CDBG-Disaster Recovery (CDBG-DR) money.

State-held private activity bonds are an important element of financing affordable housing projects through the federal Low-Income Housing Tax Credit (LIHTC) program, which currently produces more affordable housing than any other program in the United States by awarding developers federal tax credits in exchange for providing units that are affordable to households earning less than 60% of the area MFI.[11] The LIHTC program has a competitive element, known as the 9% tax credit, which is awarded to developers by the Texas Department of Housing and Community Affairs (TDHCA) according to the criteria set forth in its annually updated Qualified Allocation Plan (QAP). The LIHTC program also has a historically non-competitive element, known as the 4% tax credit, which requires developers to fund their projects using at least 50% federally tax-exempt bond financing. Participants noted that it can be difficult to achieve that 50% requirement and suggested that the state consider prioritizing the use of private activity bonds, rather than the current lottery system, for affordable housing.

Land costs are a significant driver of housing development costs. Participants noted that both the State of Texas and local jurisdictions own significant amounts of underutilized public land. Participants discussed the possibility of leveraging state-owned land for development as affordable or mixed-income housing, which could be done in partnership with nonprofit and private developers. The state could also incentivize the development of local jurisdictions' publicly owned land, and provide technical assistance to help smaller communities with limited capacity to undertake the development process of creating affordable housing on these parcels.

ISSUES WITH STATEWIDE REGULATION OF AFFORDABLE HOUSING SUPPORT PROGRAMS

As the agency responsible for administering Texas's allocation of Low-Income Housing Tax Credit funding, the Texas Department of Housing and Community Affairs serves as the gatekeeper for determining which projects receive federal subsidy according to the criteria set forth in the Qualified Allocation Plan (QAP) it develops to comply with federal and state laws. Participants discussed several aspects of the QAP, often dictated by state law, that can make it difficult for worthy projects to receive funding. They suggested that the effectiveness of these elements be evaluated given the current supply shortage and increasing unaffordability issues:

- Reconsider criteria that awards or deducts project scoring points based on local neighborhood organization and state representative project support or project opposition letters.
- Reconsider state-mandated restrictions on how close projects may be located to each other, particularly in high-opportunity areas.
- Evaluate ways the QAP may be disincentivizing developer use of local density bonuses, which can help increase project feasibility in areas with high land costs.
- While perspectives varied, some participants urged a reconsideration of restrictions that prevent projects from being located in low-income areas when evidence exists that the neighborhood is experiencing increased investment and revitalization.

ISSUES AFFECTING HOUSEHOLDS RECEIVING HOUSING SUPPORT

Because lack of funding is a critical barrier to the creation of affordable housing, it is important to fully maximize the utilization of existing programs. Congress created the federal Housing Choice Voucher (HCV) program to provide low-income tenants with funding to help cover the costs of market-rate rents for apartments of their choosing. It is difficult to receive an HCV because the program's limited funding creates long waiting lists. Addressing state-specific issues, participants discussed additional obstacles faced by Texans who do receive HCVs. Many landlords refuse to accept HCVs, and while some Texas jurisdictions have tried to prevent source-of-funding discrimination against HCV holders, the state overruled these local efforts in 2015. Participants noted that this action by the state has exacerbated the difficulty HCV recipients face when trying to find a unit that will accept their voucher. When tenants are unable to find a housing unit that will allow them to use their HCV, and while some Texas jurisdictions have tried to prevent source-of-funding discrimination against HCV holders, the state overruled these local efforts in 2015. Participants noted that this action by the state has exacerbated the difficulty HCV recipients face when trying to find a unit that will accept their voucher. When tenants are unable to find a housing unit that will allow them to use their HCV, this important source of federal funding to support housing affordability is given to the next household on the waiting list, who will likely face the same struggles to find a landlord or property management company that will accept the voucher. The discrimination against voucher holders not only creates obstacles for using the voucher but also limits voucher holders' access to high-opportunity neighborhoods offering greater educational and economic opportunities.

Participants also discussed how emergency rent relief funding deployed during the pandemic as part of the Texas Eviction Diversion Program was an effective way for households to maintain their housing in the face of financial emergencies. This program intervened to prevent many households from having an eviction on their record, which creates barriers to accessing both market-rate and affordable housing in the future. Participants discussed how eviction mediation programs provide an alternative to formal eviction proceedings, which are time-consuming and costly for both landlords and tenants.

PROPERTY TAX EXEMPTIONS AND PUBLIC BENEFITS

Rising real estate market valuations create rising property tax bills, which can be a significant financial burden for homeowners, landlords, and renters. To address this issue, the state is discussing an increase in the homestead exemption to help homeowners afford increasing property tax bills.[12] The state also offers property tax mitigation mechanisms that support the development of affordable rental housing.

In 2015, amendments to Section 303.042(f) of the Texas Local Government Code allowed private developers to receive 100% property tax exemptions and sales tax exemptions through long-term leases with Public Facility Corporations (PFCs) established in partnership with local government entities. This tax exemption structure is becoming an increasingly utilized tool for developing multifamily housing in Texas, but participants noted the need for "guardrails" that ensure the housing public benefit received is worth the significant cost of lost tax revenue for local jurisdictions. Some examples of standards that participants felt should be incorporated into the requirements for PFC tax exemption eligibility include transparency and accountability measures, adoption of industry-standard affordability requirements, establishment of minimum thresholds for the number of income-restricted units provided by PFC developments, prevention of source-of-income discrimination, and limiting the use of the PFC mechanism to the geographic area controlled by certain types of local jurisdictions.[13]

ROUNDTABLE PARTICIPANTS

Greg Anderson
Austin Habitat for Humanity

Michael Chapman
City of Lubbock

Mandy DeMayo
City of Austin

Anne Gatling Haynes
Austin Economic Development Corporation

Nora Linares-Moeller
HousingWorks Austin

Sherri McDade
Denton Housing Authority

Nelson Mock
University of Texas Law School

David A. Northern, Sr.
Houston Housing Authority

Leilah Powell
LISC San Antonio

Mark Rogers
Guadalupe Neighborhood Development Corporation

David Steinwedell
Affordable Central Texas

Jason Arechiga
The NPR Group

Stephanie Champion
Builders of Hope

Emily Brizzolara-Dove
Texas 2036

Chris Hensman
Arnold Ventures

Ben Martin
Texas Housers

Linda McMahon
The Real Estate Council

Walter Moreau
Foundation Communities

Nicole Nosek
Texans for Reasonable Solutions

Gene Reed
Abilene Housing Authority

Bennett Sandlin
Texas Municipal League

Rachel Stone
Guadalupe Neighborhood Development Corporation

Alina Carnahan
Real Estate Council of Austin

Cullum Clark
George W. Bush Institute

Bill Fulton
LBJ School of Public Affairs

Nathan Kelley
Blazer

Jeremy Mazur
Texas 2036

Terry Mitchell
Momark Development

David Noguera
City of Dallas

Jim Plummer
Bracewell LLP

Kirk Rudy
Endeavor Real Estate Group

Michele Steeb
MissionPoint Partners

Greg Weaver
Catellus Development Corporation

SOURCES

(1) Chaisson, Madison. The Texas Lyceum Poll: 2007 to 2022. The Texas Lyceum. https://tel.memberclicks.net/assets/202208_Lyceum_Polling_Report_2007_2022.pdf.

(2) The Texas Lyceum Poll: 2023. The Texas Lyceum. https://tel.memberclicks.net/assets/Poll/TwentyThree/Lyceum_2023_Poll_Executive_Summary_FINAL%20%281%29.pdf.

(3) Texas: Quintiles of Income Before Taxes, 2019-2020. U.S. Bureau of Labor Statistics, June 21, 2022. https://www.bls.gov/cex/tables/geographic/mean/cu-state-tx-income-quintiles-before-taxes-2-year-average-2020.htm.

(4) UT Austin Strategic Plan. Strategic Plan | The University of Texas at Austin, December 8, 2022. https://strategicplan.utexas.edu/.

(5) Khater, Sam. Housing Supply: A Growing Deficit. Freddie Mac, May 7, 2021. https://www.freddiemac.com/research/insight/20210507-housing-supply.

(6) ABT Associates and NYU Furman Center. Federal programs for affordable housing. Local Housing Solutions, February 1, 2022. https://localhousingsolutions.org/fund/federal-programs-for-affordable-housing/.

(7) Lee, Jonathan. Bill to Curb Compatibility Filed at the State Legislature. Austin Monitor, January 23, 2023. https://www.austinmonitor.com/stories/2023/01/bill-to-curb-compatibility-filed-at-the-state-legislature/.

(8) Jordan, Jason. Congress Funds New 'YIMBY' Grants for Zoning Reform. American Planning Association, January 10, 2023. https://www.planning.org/blog/9262900/congress-funds-new-yimby-grants-for-zoning-reform/.

(9) Capps, Kriston. New York State Joins the YIMBY Fray. Bloomberg.com, January 13, 2023. https://www.bloomberg.com/news/articles/2023-01-13/new-york-goes-full-yimby-from-long-island-to-buffalo.

(10) U.S. Census Bureau. 2020 State & Local Government Finance Historical Datasets and Tables. Census.gov, September 20, 2022. https://www.census.gov/data/datasets/2020/econ/local/public-use-datasets.html.

(11) Keightley, Mark P. An Introduction to the Low-Income Housing Tax Credit. Congressional Research Service, Updated January 6, 2023. https://sgp.fas.org/crs/misc/RS22389.pdf.

(12) Scherer, Jasper. Texas Lawmakers Unveil Initial Plan for $15 Billion in Property Tax Relief. Houston Chronicle, January 18, 2023. https://www.houstonchronicle.com/politics/texas/article/texas-legislature-state-budget-property-tax-relief-17723148.php.

(13) Public Facility Corporations and the Section 303.042(f) Tax Break for Apartment Developments. The University of Texas School of Law Entrepreneurship and Community Development Clinic, Updated November 2020. https://law.utexas.edu/wp-content/uploads/sites/11/2020/09/2020-ECDC-PFC-Report.pdf.