

October 15, 2021

The Honorable Emanuel Cleaver
Chairman
United States Subcommittee on
Housing, Community Development and
Insurance
United States House of Representatives
Washington, D.C. 20515

The Honorable French Hill
Ranking Member
United States Subcommittee on
Housing, Community Development and
Insurance
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Cleaver and Ranking Member Hill:

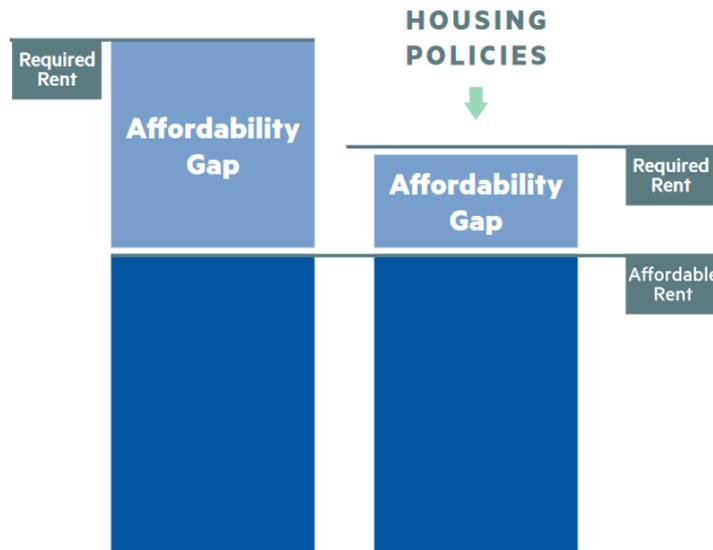
We write to applaud your focus on the subject of today's hearing, *Zoned Out: Examining the Impact of Exclusionary Zoning on People, Resources, and Opportunity*. As the title of this hearing aptly highlights, exclusionary zoning has harmful impacts well beyond just constrained housing supply, reaching into almost every corner of communities across our nation. Without proactive leadership from policymakers, exclusionary zoning will continue to limit economic growth, restrict access to resources every household needs to thrive – including quality education and healthcare – and even harm our environment. NMHC and NAA echo the view of former Obama Administration advisor [Michael Stegman when he said](#) eliminating exclusionary land use regulations should be the civil rights issue of our time.

NAA and NMHC collectively represent the apartment industry that provides apartment homes for 40 million residents, contributing \$3.4 trillion annually to the economy. As previously noted in an [August 16, 2021, correspondence](#) from a group of housing and real estate organizations to Congress, we support the goals of legislation examined in today's hearing alongside a number of other bills aiming to address regulatory barriers and historic underinvestment in housing which has led to supply shortages and affordability pressure on our nation's renters. On behalf of our industry, our residents, and all the future apartment residents that stand to benefit from eliminating exclusionary zoning and other punitive regulations, we thank you for today's hearing.

Exclusionary zoning is just part of a mosaic of harmful policies that create barriers to the development of rental housing which is critical to addressing the nation's housing affordability challenges. Ultimately, these policies result in renter households absorbing undue costs, frequently imposed on the families in a community least able to afford them. A 2019 study by the Atlanta Apartment Association, HR&A and NAA entitled "[Drivers of Multifamily Housing Costs and Affordability in Atlanta](#)" found, among other conclusions, that neighborhoods with higher rents are overwhelmingly zoned for single-family housing. Further, prohibitive zoning that discourages multifamily development curbs the ability to normalize rent.

NMHC released its [Housing Affordability Toolkit](#) to highlight the impact of policies like exclusionary zoning, which restrict the supply of housing within a market, driving up

prices and limiting opportunities to thrive to a fortunate few. Policymakers have an opportunity not just to deconstruct a bad policy legacy from previous eras, but to also improve the market circumstances for millions of households by helping increase supply and drive down the cost of housing.



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On June 17, 2021, senior White House officials, including Council of Economic Advisors Chairwoman Cecilia Rouse, [weighed in on this matter](#), noting the uniquely harmful impact of policies like exclusionary zoning on minority communities. They said, “Indeed, policies and practices exist today that are seemingly non-discriminatory on their face but still negatively affect many families of color, especially Black families. Many of these policies and practices have long-term impacts—from education to employment to business ownership to housing—that must be addressed.”

Rouse and her colleagues went on to highlight a fundamental principle of the relationship between housing and resident wellbeing, saying, “Exclusionary zoning laws have a profound impact on social welfare because *where* a family lives matters.” It is with this in mind NMHC and NAA have supported elements of President Biden’s infrastructure plan designed to encourage better zoning policy, including the \$5 billion competitive grant program to provide flexible and attractive funding to jurisdictions that take concrete steps to eliminate needless barriers to produce affordable housing and expand housing choices for people with low or moderate incomes.

The Administration has continued its leadership on this topic with the [September announcement](#) that HUD was developing at Housing Supply Toolkit to help guide future

¹ [The Housing Affordability Toolkit \(nmhc.org\)](https://www.nmhc.org)

deployment of HUD resources to jurisdictions committed to addressing local regulatory barriers to housing. The Federal Housing Finance Agency (FHFA) is also exploring ways to identify markets impacted by exclusionary zoning using loan data.

In January, 2021, HUD released a report titled [*Eliminating Regulatory Barriers to Affordable Housing*](#), which accurately identified the practical impacts of exclusionary zoning. “While one often thinks of restrictive land use regulations in the context of highly regulated markets with high priced housing, many communities throughout the country limit the production of the “missing middle” housing, that set of diverse, unsubsidized housing options that blend into single family neighborhoods, ranging from bungalow courts, townhouses, duplexes to fourplexes, and courtyard apartments, which is necessary to meet the spectrum of housing needs.” The report went on to note, “This is a critical time to take action to increase housing production. As the COVID-19 response has reminded communities of the importance of nurses, teachers, first responders, grocery clerks, skilled laborers, factory workers, and janitors as neighbors, housing these essential front-line workers continues to be a challenge in much of the country. Starter homes, garden apartments, and other components of the “missing middle” housing are not being produced to satisfy demand. Allowing more building opportunities can serve as a stimulus for the construction industry.” The report also quoted Obama Administration FHA Commissioner Carol Galante from a New York Times article when she noted the elimination of regulatory barriers would, “get workers back to work, provide safe and affordable living for those hard hit by this pandemic and get property taxes and other revenue flowing.”

Communities across our nation are desperate for new housing, and policymakers at all levels of government can help meet this public need by confronting the numerous hurdles that can hinder development beyond just exclusionary zoning, including excessive entitlement expenditures and environmental site assessments; impact fees; inclusionary zoning mandates or rent control; and onerous building code requirements. Barriers like these and their negative effect on housing development are well documented in NAA’s [*Barriers to Apartment Construction Index*](#). Moreover, the collective impact of these barriers is insurmountable in many markets with [*research by NMHC and the National Association of Home Builders showing*](#) that on average, regulations comprise 32 percent of total development costs.

While we support additional funds for existing subsidy programs, we believe there must also be a focus on addressing the supply side of the equation. To that end, eliminating restrictive exclusionary zoning is an important part of that goal. Addressing onerous exclusionary zoning, streamlining the permit process and easing regulations could go a long way to address the housing affordability challenges faced by communities across the nation while making critical investments in infrastructure of all types. To that end, we urge lawmakers to craft legislation that will incentivize states and localities to:

- Reduce barriers;

- Streamline and fast track the entitlement and approval process;
- Provide density bonuses and other incentives for developers to include workforce units in their properties;
- Enable “by-right” zoning and create more fully entitled parcels;
- Defer taxes and other fees for a set period of time;
- Lower construction costs by contributing underutilized buildings and raw land;
- Create incentives to encourage higher density development near jobs and transportation

The apartment industry hopes eliminating exclusionary zoning can be a bipartisan effort and join with the Administration to help bring relief to communities experiencing the harmful effects of these punitive regulations. On behalf of the apartment industry and the millions of families who call an apartment home, we thank you for drawing attention to this critical challenge facing our nation’s housing market. We hope the recognition of exclusionary zoning, its legacy, its victims, and the vast potential we can unlock with its elimination will be an outcome of this hearing and look forward to working with Members to advance this goal.

Sincerely,



Cindy Chetti
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National Multifamily Housing Council



Gregory Brown
Senior Vice President, Government Affairs
National Apartment Association