

**Testimony before the Subcommittee on Housing and Insurance  
of the House Committee on Financial Services**

**Hearing on “The Future of Housing in America: Government Regulations and the High  
Cost of Housing”**

**March 22, 2016**

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Good afternoon, Chairman Luetkemeyer, Ranking Member Cleaver, members of the subcommittee. My name is A. Mechele Dickerson and I am a Professor at the University of Texas at Austin. And, I live in the 25<sup>th</sup> Congressional District in the State of Texas.

I would like to thank you for giving me the opportunity to participate in this hearing and to submit written testimony on the housing unaffordability crisis and how it is affecting lower- and middle-income families throughout our country.

I am a law professor at UT-Austin but I also taught an undergraduate freshmen seminar for the last 3 years called “Good Debt, Bad Debt, Ugly Debt.” I recently published a book on homeownership and my current research focuses on the economic problems middle-class families are facing.

You have asked me to discuss ways that federal, state and local regulations and policies have made it harder to create affordable housing, and to specifically address how overall housing trends and recent changes in the U.S. housing market should inform housing policies.

### **The housing unaffordability crisis involves more than just sluggish home sales**

One thing that is crucial to remember when developing responses to the housing unaffordability crisis is that the crisis is broader than just Americans’ inability to find affordable homes to purchase. While soaring single-family home prices make it harder for middle-income Americans to become homeowners, the crisis is having a devastating effect on people who are – and likely will always be – renters.

Americans from all income groups are struggling to find affordable rental housing, though the groups that are struggling the most are lower- and middle-income households. Because the housing affordability crisis is not limited to the home buying market, the solution should not be narrowly focused on finding ways to make it easier for people to buy single-family homes.

The devastating losses owners suffered during the recent housing crash and the 2007-2009 recession painfully demonstrate that owning a home is not always better than renting. As we saw just before the housing market crashed, even relaxed housing and lending policies that make it easy to get a buyer into a home will not keep the homeowner in that home if the owner does not have the financial means to repay the mortgage loan.

### **The housing unaffordability crisis involves more than just poor people**

Perhaps the most important point to consider when developing policies to respond to the housing unaffordability crisis is that the crisis is no longer confined to the poor. The affordable housing crisis is devastating the middle-class. Even middle- and lower-income households who are employed full-time still cannot find affordable housing. In fact, in many of the largest cities in the country, even upper-income young professionals are struggling to find affordable housing.

The numbers are striking. Approximately 75% of renters who earn between \$30,000 and \$45,000 annually and almost 50% of renters who earn between \$45,000 and \$75,000 annually pay more than 30 percent of their income on housing. For the first time in recent history, upper-income households – especially households that consist of single young adults – are also struggling. Higher-income households accounted for almost 20 percent of new renters between 2004 and 2014.<sup>1</sup>

## Post-Recession Housing Markets: More Renters

Housing prices have soared in many areas of the country, which is good for existing owners. But, soaring home prices make it hard for middle-income families and young professionals to buy homes. Because young adults and middle- and working-class families cannot afford to buy homes, most major U.S. housing markets still have not recovered from the 2007-2009 recession. In fact, the 2015 overall homeownership rate of 63.4% was the lowest rate in the country in almost 50 years.<sup>2</sup>

While overall homeownership rates have dropped, rental rates have been rising. Since the recession, the number of renters in the U.S. increased by double digits. In fact, recent survey results show that renters are now the majority in nine of the eleven largest U.S. metropolitan areas.<sup>3</sup> While there is a robust market for high-end, luxury apartments, affordable rental units are not being built at a rate that is keeping pace with the heightened demand for those units. It is especially difficult for middle-income families to find affordable rental units in large U.S. cities.<sup>4</sup>

The scarcity of affordable housing units – whether rented or owned – is now forcing an increasing number of Americans to make tradeoffs and sacrifices to pay for housing.<sup>5</sup> One-fifth of all employed Americans now find that they need income from a second job or that they must find other ways to supplement their income to make ends meet. Another seventeen percent of workers report that they can no longer save for retirement, and fourteen percent have increased their credit card debt in order to pay for their monthly living expenses.<sup>6</sup> More than 25 percent of households now pay more than 50 percent of their income on housing.<sup>7</sup>

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<sup>1</sup> JOINT CTR. FOR HOUS. STUDIES, HARVARD UNIV., *THE STATE OF THE NATION'S HOUSING 2015* (2015).

<sup>2</sup> United States Census Bureau, *Residential Vacancies and Homeownership in the Second Quarter of 2015*, <http://www.census.gov/housing/hvs/files/qtr215/currenthvspress.pdf>. Tbl 14; United States Census Bureau, *Housing Vacancies and Homeownership*, <http://www.census.gov/housing/hvs/data/histtabs.html>.

<sup>3</sup> Sean Capperis, Ingrid Gould Ellen and Brian Karfunkel, *Renting In America's Largest Cities* (2015), [http://furmancenter.org/files/CapOneNYUFurmanCenter\\_NationalRentalLandscape\\_MAY2015.pdf](http://furmancenter.org/files/CapOneNYUFurmanCenter_NationalRentalLandscape_MAY2015.pdf).

<sup>4</sup> Jonathan McCarthy and Richard Peach, *Differences in Rent Inflation by Cost of Housing* (2015), <http://libertystreeteconomics.newyorkfed.org/2015/11/differences-in-rent-inflation-by-cost-of-housing.html#.VumThfkrLie>.

<sup>5</sup> MacArthur Foundation, *HOW HOUSING MATTERS 3* (2015), [https://www.macfound.org/media/files/E-11540\\_How\\_Housing\\_Matters\\_2015\\_FULL\\_REPORT.pdf](https://www.macfound.org/media/files/E-11540_How_Housing_Matters_2015_FULL_REPORT.pdf); Board of Governors of the Federal Reserve System, *REPORT ON THE ECONOMIC WELL-BEING OF U.S. HOUSEHOLDS IN 2014* (2015).

<sup>6</sup> *HOW HOUSING MATTERS*, *id.*

<sup>7</sup> *THE STATE OF THE NATION'S HOUSING 2015*, *supra* note 1.

## Housing Trends

### Millennials and Homeownership

The future of homeownership in this country is in the hands of the millennials, *i.e.*, people born between 1980 and the mid-2000s.<sup>8</sup> Unfortunately, the future right now does not look promising because fewer young adults are buying homes.

Homeownership rates for adults between the ages of 25 and 34 dropped by more than 9 percent in the last ten years and homeownership rates for young adults are the lowest they have been in more than twenty years.<sup>9</sup> Young families traditionally comprise the bulk of first time home-buyers, and for the last 30 years approximately 40% of single-family home sales were to first-time buyers.<sup>10</sup> However, the share of total home sales to first-time buyers dropped to 33 percent in 2014<sup>11</sup> and dropped again (to 32 percent) in 2015. The number of first-time buyers of homes is now at the lowest level since 1987.<sup>12</sup>

Recent survey results indicate that most millennials value homeownership and view owning a home as a high priority.<sup>13</sup> While young Americans continue to embrace the concept of homeownership, they are struggling to find affordable homes to buy. Young workers are struggling even though they ostensibly should have more income to save to make a down payment on a home because they are more likely to have college degrees than prior generations.<sup>14</sup> Similarly, young adults who prefer to rent rather than buy should, theoretically, have fewer difficulties finding affordable rental housing than young adults did in earlier generations.

Despite higher college attainment rates, however, many millennials cannot afford to buy or rent homes. Higher student loan burdens combined with unstable employment prospects have even made it harder for young professionals to find affordable housing, whether for rent or for sale. Thus, while young adults are more likely to attend and graduate from college, they are also more likely than Baby Boomers to graduate from college with burdensome student loan debts.

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<sup>8</sup> The Council of Economic Advisers, 15 ECONOMIC FACTS ABOUT MILLENNIALS 16 (OCT. 2014), [https://www.whitehouse.gov/sites/default/files/docs/millennials\\_report.pdf](https://www.whitehouse.gov/sites/default/files/docs/millennials_report.pdf).

<sup>9</sup> STATE OF THE NATION'S HOUSING 2015, *supra* note 1, Ch. 4, at 21.

<sup>10</sup> 2015 NATIONAL ASSOCIATION OF REALTORS® PROFILE OF HOME BUYERS AND SELLERS, <http://www.realtor.org/reports/highlights-from-the-2015-profile-of-home-buyers-and-sellers>.

<sup>11</sup> STATE OF THE NATION'S HOUSING 2015, *supra* note 1, at CH. 4, 16; NAR Annual Survey Reveals Notable Decline in First-time Buyers, <http://www.realtor.org/news-releases/2014/11/nar-annual-survey-reveals-notable-decline-in-first-time-buyers>.

<sup>12</sup> John Gittelsohn and Prashant Gopal, *Boomers Seen Boosting New-Home Sales as Millennials Wait*, Bloomberg News, (Dec. 17, 2014) <http://www.bloomberg.com/news/articles/2014-12-17/boomers-seen-boosting-new-home-sales-as-millennials-wait>.

<sup>13</sup> HOW HOUSING MATTERS, *supra* note 5; NATIONAL ASSOCIATION OF HISPANIC REAL ESTATE PROFESSIONALS, STATE OF HISPANIC HOMEOWNERSHIP 9 (2014).

<sup>14</sup> HOW HOUSING MATTERS, *supra* note 5.

College costs have been increasing for the last 30 years, but student financial aid has not kept pace.<sup>15</sup> The total volume of student loans and the percentage of undergraduate students who took out student loans has dramatically increased since 1980.<sup>16</sup> Middle-class students in particular are relying on student loans to pay for college and young college-educated adults cannot afford to buy homes or pay rent because they are spending a disproportionate of the income repaying student loan debt.<sup>17</sup> In a recent survey, 56 percent of millennials reported that student loan expenses caused them to delay saving for a down payment or saving for a home purchase.<sup>18</sup>

In addition to higher student debt levels, many middle-income millennials are avoiding homeownership and also are struggling to find affordable rental housing because they can no longer assume they will have stable lifetime employment or that they will earn enough to save for a down-payment or to repay a 15 or 30-year mortgage loan. Wages for lower- and middle-income workers in this country have been stagnant for almost 30 years, and all Americans workers should now expect to have multiple jobs over their lifetimes, to hold more than one job at a time, and to have multiple periods of unemployment.<sup>19</sup> Unstable and relatively lower wages combined with relatively higher student loan debt make it harder for young workers to save enough to buy a home<sup>20</sup> or, increasingly, to even find affordable rental housing.<sup>21</sup>

### **Millennials and Household Formation**

In addition to the income and job instability that young adults are facing, millennials are not forming households as early or in the same way that Baby Boomers did. Many employed young professionals are postponing marriage and this has caused them to delay forming their own households and, instead, to return home to live with their parents.<sup>22</sup> Because young married couples are the group most likely to be homeowners, homeownership rates will not increase until young adults leave their parents' home, marry, and then form their own households.

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<sup>15</sup> The cost to attend college has been increasing for the last 30 years for many reasons, including decreased state support for public colleges and also because both private and public colleges are awarding disproportionately fewer need-based financial aid and more merit-based scholarships and aid. Gov't Accountability Office, *Higher Education State Funding Trends and Policies on Affordability* 7-13 (2014), at <http://www.gao.gov/assets/670/667557.pdf>.

<sup>16</sup> The number of federal student loans dramatically increased (from 2.3 million to 10.9 million loans) between 1980 and 2009. Christopher Avery and Sarah E. Turner, *Student Loans: Do College Students Borrow Too Much Or -- Not Enough?* 26 J. OF ECON. PERSPECTIVES 165, 167 (2012).

<sup>17</sup> See Andrew Delbanco, COLLEGE: WHAT IT WAS, IS, AND SHOULD BE 115 (2012) (“while funding of grants for low-income students has failed to keep up with the rising cost of college, there has been robust growth in the amount of unsubsidized federal loans that go mainly to students from middle-income families.”)

<sup>18</sup> 2014 NATIONAL ASSOCIATION OF REALTORS® HOME BUYER AND SELLER GENERATIONAL TRENDS, EX. 5-4 (2014), <http://www.realtor.org/sites/default/files/reports/2014/2014-home-buyer-and-seller-generational-trends-report-full.pdf>.

<sup>19</sup> Jaison R. Abel, Richard Deitz, and Yaqin Su, *Are Recent College Graduates Finding Good Jobs?* CURRENT ISSUES IN ECONOMICS AND FINANCE (2014), [http://www.ny.frb.org/research/current\\_issues/ci20-1.pdf](http://www.ny.frb.org/research/current_issues/ci20-1.pdf).

<sup>20</sup> 15 ECONOMIC FACTS ABOUT MILLENNIALS, *supra* note 8, at 16; HOME BUYER AND SELLER GENERATIONAL TRENDS, *supra* note 18.

<sup>21</sup> Richard Fry, *More Millennials Living with Family despite Improved Job Market*, Pew Research Center, [http://www.pewsocialtrends.org/files/2015/07/2015-07-29\\_young-adult-living\\_FINAL.pdf](http://www.pewsocialtrends.org/files/2015/07/2015-07-29_young-adult-living_FINAL.pdf).

<sup>22</sup> 15 ECONOMIC FACTS ABOUT MILLENNIALS, *supra* note 8, at 37.

Relative to baby boomers, millennials are not getting married. The average age for marriage has increased over the last 50 years.<sup>23</sup> In the 1950s, the average age for marriage was 22.8 years for men and 20.3 for women. In 1960, 77 percent of young adults were married.<sup>24</sup> The average age of marriage for both genders increased by more than 6 years by 2013, and only 30 percent of 20 to 34 year-olds were married that year.<sup>25</sup> Only 28 percent of millennials were married in 2014, while 48 percent of boomers were married at that same age.<sup>26</sup>

The profile for the typical first-time home buyer are married couples in their 30s who have young children. Historically, young married couples bought single-family detached homes in neighborhoods that were zoned for single-family housing.<sup>27</sup> Now, young adults are postponing marriage and childrearing.<sup>28</sup> Because of the fundamental changes in how young adults are now forming households, homeownership rates likely will remain low until millennials choose to and can afford to buy their own homes.

### **Mismatch between Millennials' Housing Needs and Available Housing**

Even well-paid young professional workers who are interested in buying homes find it harder to find suitable housing because of the mismatch between their housing needs and the size of existing housing. One reason it is harder for single young professionals to find moderately-sized and priced homes is because of the average size of newly constructed homes.

The average size of a newly constructed single-family home in 1973 was 1660 sq. ft. and was 1740 sq. ft. in 1980. By 1990, the average home size increased to 2080 sq. ft., then increased to 2,366 sq. ft. by 2000 and increased even more (to 2521 sq. ft.) by the time the recession started in 2007. Though homeownership rates have been dropping since the recession, home sizes have continued to grow. In fact, the average size of new homes built in 2014 (2,657 sq. ft.) was even larger than the homes that were built during the housing boom during the early 2000s.<sup>29</sup>

While home sizes are getting bigger, households are getting smaller. Census data show that the average U.S. household size started shrinking in the 1960s.<sup>30</sup> In the 1960s, the average

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<sup>23</sup> UNITED STATES CENSUS BUREAU, FAMILIES AND LIVING ARRANGEMENTS: HISTORICAL TIME SERIES (2015), <https://www.census.gov/hhes/families/data/marital.html>.

<sup>24</sup> 15 ECONOMIC FACTS ABOUT MILLENNIALS, *supra* note 8, at 34.

<sup>25</sup> *Id.*

<sup>26</sup> Pew Research Center, COMPARING MILLENNIALS TO OTHER GENERATIONS, <http://www.pewsocialtrends.org/2015/03/19/comparing-millennials-to-other-generations/#!>.

<sup>27</sup> HOME BUYER AND SELLER GENERATIONAL TRENDS, *supra* note 18.

<sup>28</sup> *Today's First-Time Homebuyers Older, More Often Single*, <http://zillow.mediaroom.com/2015-08-17-Todays-First-Time-Homebuyers-Older-More-Often-Single>. Millennials are delaying marriage for a number of reasons, including higher college attendance rates that delay household formation and because stagnant wages and relatively higher un- and under-employment rates make them less inclined to want to marry. 15 ECONOMIC FACTS ABOUT MILLENNIALS, *supra* note 8, at 37.

<sup>29</sup> United States Census Bureau, SQUARE FEET OF FLOOR AREA IN NEW SINGLE-FAMILY HOUSES COMPLETED, <https://www.census.gov/construction/chars/pdf/squarefeet.pdf>.

<sup>30</sup> United States Census Bureau, CHANGES IN HOUSEHOLD SIZE, <https://www.census.gov/hhes/families/files/graphics/HH-6.pdf>.

household size was approximately 3.29.<sup>31</sup> By 2000, average household size dropped to 2.59 and that number has continued to decrease.<sup>32</sup> Household size is dropping because marriage rates overall have stalled over the last 30 years, and there are simply fewer married households with children. For example, in the 1960s, more than 70 percent of U.S. households consisted of married couples. Now, less than 50 percent of all households consist of married couples.<sup>33</sup>

Average household size is also decreasing because the number of households consisting of only one person is increasing. In the 1960s, less than 10 percent of all households consisted of one person. By 2014, though, more than 25 percent of all U.S. households consisted of single adults, in part because millennials are delaying both marriage and child rearing.<sup>34</sup>

### **The Homeownership Focus of Municipal Zoning and Land Use Laws**

Zoning and land use laws in this country have consistently favored and encouraged homeownership. Almost a century ago, the United States Supreme Court ruled that cities and municipalities can constitutionally place limits on private property rights by enacting comprehensive zoning laws. In 1926, the Court in *Euclid v. Ambler Realty*<sup>35</sup> gave cities the authority to use zoning laws to keep multi-family housing out of neighborhoods that primarily consist of owner-occupied, single-family homes.

Renters have never been viewed as favorably as homeowners, and the Court in *Euclid* referred to apartment houses as “parasites.” The Court agreed that cities could deem apartment buildings to be public nuisances and exclude multi-family housing from residential districts because these large multi-family units would monopolize “the rays of the sun which otherwise would fall upon the smaller homes.”<sup>36</sup> Similarly, the Court concluded that cities could segregate single-family homes from multi-unit housing to ensure that homeowners were not deprived of the “free circulation of air” and to make sure their children could continue to have “quiet and open spaces for play.”<sup>37</sup>

Cities no longer characterize apartments or renters as parasites. Nonetheless, housing laws and policies continue to be based on the antiquated notion that homeownership is always preferable to renting, and that homeowners are more valuable to society than renters. Moreover, state and local land use laws generally fail to reflect the crucial role that rental housing will play in providing affordable housing for middle-income Americans.

Middle-income families will continue to struggle to find affordable housing as long as cities continue to keep affordable housing out of neighborhoods that have single-family houses. Planning commissions or zoning boards have adopted and continue to embrace and enforce rules

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<sup>31</sup> United States Census Bureau, HOUSEHOLDS AND FAMILIES: 2010 5 (2012), <https://www.census.gov/prod/cen2010/briefs/c2010br-14.pdf>.

<sup>32</sup> *Id.*

<sup>33</sup> U.S. Census Bureau, TRENDS IN THE PREVALENCE OF HOUSEHOLDS, [www.census.gov/hhes/families/files/graphics/HH-1.pdf](http://www.census.gov/hhes/families/files/graphics/HH-1.pdf).

<sup>34</sup> *Id.*

<sup>35</sup> 272 U.S. 365 (1926).

<sup>36</sup> *Id.* at 394

<sup>37</sup> *Id.*

and regulations that exclude affordable, multi-family housing from single-family neighborhoods and voters, especially wealthy ones, favor zoning laws that exclude affordable housing from single-family neighborhoods.<sup>38</sup> Similarly, land use laws in most affluent suburban neighborhoods limit the number of people who can live in a home. Finally, many zoning laws require developers to build homes that have a minimum lot size and these large lots make it virtually impossible to build affordable homes.<sup>39</sup>

There are good reasons to have zoning laws, as they are designed to help preserve the character of neighborhoods. In addition, existing neighbors understandably are concerned about the effect that having more rental units or smaller affordable houses in their neighborhoods will have on traffic and neighborhood school enrollments. Whether or not by design, exclusionary zoning laws make it virtually impossible for renters to live in most higher-income neighborhoods. Moreover, because these laws decrease the amount of developable land, developers cannot easily or efficiently build smaller or affordable housing in neighborhoods that are zoned for larger and single-family housing.<sup>40</sup>

## **Rethinking and Re-envisioning U.S. Housing Policies**

Housing policies should continue to support developers who want to build, and Americans who have the means to purchase, large, single-family homes. However, we as a nation are serious about solving the housing unaffordability problem, all current land use laws and policies should be re-examined to ensure that these policies reflect the new economic realities middle-income households now face.

### **Rethinking Zoning Laws: Inclusionary Zoning**

It will be impossible to solve the housing unaffordability crisis unless cities and states enact zoning laws that encourage and potentially subsidize the building of affordable housing. If cities and states are truly committed to making housing affordable, they must review and possibly revise their land use laws to give developers an incentive to build more affordable housing units. Inclusionary zoning is one way to create more affordable housing and to signal that cities are committed to enacting land use policies that address the housing needs of middle- and lower-income Americans.<sup>41</sup>

In general, inclusionary zoning ordinances require developers to set-aside a minimum percentage (typically 10 to 25 percent) of units in their new residential housing projects for low

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<sup>38</sup> Eran Ben-Joseph, *Facing Subdivision Regulations*, in REGULATING PLACE: STANDARDS AND THE SHAPING OF URBAN AMERICA 219-220 (Eran Ben-Joseph and Terry S. Szold, eds.)(2005). Wealthy voters tend to vote in favor of zoning laws whereas black, Latinos and low- and moderate-income voters typically vote against zoning laws.

<sup>39</sup> See also Alana Semuels, *How to Decimate a City*, ATLANTIC MAGAZINE 12 (2015) (discussing how a two-acre minimum lot size prevents low-income residents in Syracuse from leaving decaying urban neighborhoods and moving to suburban neighborhoods).

<sup>40</sup> MECHELE DICKERSON, HOMEOWNERSHIP AND AMERICA'S FINANCIAL UNDERCLASS: FLAWED PREMISES, BROKEN PROMISES, NEW PRESCRIPTIONS 185-186 (2014); Eran Ben-Joseph, *supra* note 38, at 175-76.

<sup>41</sup> At a bare minimum, if politicians are committed to providing affordable housing for their constituents, they should avoid enacting laws (as the Texas legislature did in 2005) that ban inclusionary zoning.



and moderate income residents.<sup>42</sup> Other ordinances give builders financial incentives (including tax abatements, fee waivers or waivers of zoning requirements involving density, area, height, open space, or use) to provide affordable housing.<sup>43</sup>

Inclusionary zoning laws already exist in a number of areas in this country, including Montgomery County, Maryland, the District of Columbia, Cambridge, Massachusetts, Highland Park, Illinois, Boulder, Colorado,<sup>44</sup> Seattle<sup>45</sup> and other cities in Washington state.<sup>46</sup> Inclusionary zoning is an especially useful way to help alleviate housing affordability in fast-growing urban housing markets (like Austin, Denver, Houston and Miami) since builders already have a financial incentive to create new housing in these markets and workers – especially young professionals – are already attracted to those desirable areas.

### **Embracing Non-Traditional Housing that Responds to Millennials' Housing Needs**

The affordable housing crisis will continue to exist as long as land use and housing laws and policies are guided by the view that large single-family homes are preferable to all other forms of housing. Federal, state and local policies and laws must embrace non-traditional forms of housing and not reflexively reject attempts to create more affordable housing simply because the owners of expensive, single-family homes object to the affordable housing units. Cities and states also should review their land use laws and policies to ensure that they reflect the needs and desires of young adults to have smaller and more affordable housing, whether rented or owned.

One non-traditional type of housing that should help make housing affordable for young single professionals and also for older, retired Americans is micro homes (also referred to as mini, minim, or tiny houses) or micro apartments. Micro-housing is typically smaller than 500 square feet and generally are built in urban areas with good mass transit systems.

Zoning ordinances and building codes that mandate minimum lot or dwelling size and that impose parking requirements often prevent developers from placing micro units in residential neighborhoods.<sup>47</sup> While micro-housing units are smaller than the homes that are

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<sup>42</sup> Robert W. Burchell and Catherine C. Galley, *Inclusionary Zoning: Pros and Cons* in INCLUSIONARY ZONING: A VIABLE SOLUTION TO THE AFFORDABLE HOUSING CRISIS? 5 October (2000), <http://www2.nhc.org/media/documents/InclusionaryZoning.pdf>. The California Supreme Court recently upheld an inclusionary zoning ordinance that requires developers to set aside housing for moderate-income households, pay a fee in lieu of providing the housing, or provide equivalent substitute housing. *See* Calif. Bldg. Indus. Ass'n, 61 Cal. 4th 435 (Cal. 2015), *cert. denied*, 84 U.S.L.W. 3133 (No. 15-330) (Feb. 29, 2016).

<sup>43</sup> Burchell and Galley, *supra* note 42, at 3.

<sup>44</sup> *See* [http://montgomerycountymd.gov/DHCA/housing/singlefamily/mpdu/program\\_summary.html](http://montgomerycountymd.gov/DHCA/housing/singlefamily/mpdu/program_summary.html); <https://www.cambridgema.gov/CDD/housing/fordevelopersandpropmanagers/inclusionarydevelopers>; <http://www.cmap.illinois.gov/about/2040/supporting-materials/process-archive/strategy-papers/inclusionary-zoning/policies>; <https://bouldercolorado.gov/housing/inclusionary-housing>; <http://dhcd.dc.gov/service/inclusionary-zoning-affordable-housing-program>.

<sup>45</sup> Seattle passed a law in November 2015 that is designed to add 6,000 housing units for low-income residents over the next decade. Jason Redmond, *Seattle law requires developers to pay for affordable housing*, Nov. 17, 2015, <http://www.reuters.com/article/2015/11/18/us-seattle-housing-idUSKCN0T707820151118#PDBRB6OM1kAGdJXC.97>.

<sup>46</sup> *See* <http://www.psrc.org/growth/housing/hip/alltools/inclus-zoning>.

<sup>47</sup> Dawn Withers, *Looking for a Home: How Micro-Housing Can Help California*, 6 GOLDEN GATE UNIVERSITY ENVIRONMENTAL LAW JOURNAL 125, 150 (2012).

allowed by most municipal land use laws, local zoning boards or commissions laws must be willing to permit developers to build non-traditional housing like micro-homes or rental units because of the potential these housing units have to expand the amount of affordable housing *especially* for young, single adults.<sup>48</sup>

Micro housing alone will not single-handedly solve the housing affordability crisis. But, if young adults pay less rent for smaller rental units, they will be able to save money for a down payment to buy a home. As such, micro-homes can solve their immediate problem of scarce affordable rental housing and can also help increase millennials' homeownership rates.<sup>49</sup> In addition, smaller homes may provide a better housing fit for young single professionals who might be able to buy a home, but not a large square foot homes.

Smaller homes also should be more appealing to young professionals who do not want to have roommates, who want to become homeowners, but who have no desire to buy a large home because they are single and have no children.<sup>50</sup> Likewise, because most micro-housing units are built in urban areas, this non-traditional type of housing can respond to the preferences of young professionals to live close to their jobs and to entertainment and leisure activities.<sup>51</sup>

Finally, micro-housing can also respond to the housing needs of retired parents/grandparents who want to live in their own (smaller) housing unit, but on the same real property with their adult children.<sup>52</sup>

### **Embracing the Joint Ownership of Homes**

Generally speaking, when people think of “homeownership” they envision that one person or family will be the sole owner of a detached home. This antiquated view needs to change given the housing affordability crisis young adults and working families are facing, and also the financial challenges older baby boomers who are live in gentrifying neighborhoods are facing. While neither governments (whether local, state, or federal) nor homeowners have ever fully embraced shared equity housing, housing and tax laws and policies need to abandon the narrow view that individually-owned homes should be the ideal form of housing.

Community Development Corporations (“CDCs”) and Community Land Trusts (“CLTs”) may be one way to make housing more affordable for middle- and lower-income Americans *especially* if they live in neighborhoods that are gentrifying. Generally speaking, CDCs enter into long-term residential property leases with residents in neighborhoods that are at risk of

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<sup>48</sup> Tim Iglesias, *The Promises and Pitfalls of Micro-housing*, 37 ZONING AND PLANNING LAW REPORT (Nov. 2014)

<sup>49</sup> Leasing recent began for a nine-story, micro-unit development in New York. The modular building consists of 55 studios ranging from 260 to 360 square feet and includes 14 units that have been designated as affordable. Ronda Kaysen, *Leasing Begins for New York's First Micro-Apartments*, N.Y. TIMES (Nov. 20, 2015), [http://mobile.nytimes.com/2015/11/22/realestate/leasing-begins-for-new-yorks-first-micro-apartments.html?referer&\\_r=0](http://mobile.nytimes.com/2015/11/22/realestate/leasing-begins-for-new-yorks-first-micro-apartments.html?referer&_r=0).

<sup>50</sup> Kaysen, *id.*

<sup>51</sup> Iglesias, *supra* note 48; HOME BUYER AND SELLER GENERATIONAL TRENDS, *supra* note 18, at Ex. 2-7.

<sup>52</sup> Withers, *supra* note 47, at 138.

gentrifying and pricing out existing residents.<sup>53</sup> CLTs create permanently affordable homes by allowing low- to moderate-income households to purchase homes in neighborhoods that they otherwise could not afford. While homeowners generally remain in homes held in a CLT indefinitely and they can build equity in those homes, they cannot rent out the homes. Moreover, if they decide to sell their homes, they can only sell the home to another lower-income household at an affordable price. By limiting the owner's property rights, CLTs ensure that the home remains affordable to lower-income families.<sup>54</sup>

CLTs and CDCs can increase the number of affordable houses for young adults, but they cannot provide affordable housing on a larger scale unless they receive outside financial support. Both groups have high operating costs, in part because they must purchase and potentially upgrade or refurbish homes before selling or leasing them to owners. While some CLTs are already receiving financial support from financial institutions (like Wells Fargo),<sup>55</sup> these entities cannot solve the housing crisis without financial support from lenders or tax subsidies from federal, state, or local governments.

### **Respecting and Embracing the Voices and Needs of Renters**

Federal tax laws provide few incentives for developers to create (or for owners to prefer) non-traditional forms of owning homes because the mortgage interest deduction (MID) provides such an enormous incentive for taxpayers to buy single-family homes. The MID, one of the most expensive housing subsidies the United States, allows taxpayers who own and occupy their homes to claim a deduction on their federal income tax returns for the interest they pay on mortgage loans for their primary or second home up to a maximum of \$1 million of mortgage debt.

The MID is one of the most politically popular and fiercely protected tax expenditures, and is also one of the most expensive tax expenditures as it costs upwards of \$70 billion annually. Data show that higher-income taxpayers disproportionately benefit from the MID because most middle-income taxpayers do not itemize deductions.<sup>56</sup> Despite the popularity of this housing subsidy, it is simply unrealistic to think that the federal government will ever be able to provide substantial tax subsidies to help make housing *especially rental housing* more affordable for middle-income households and also continue to provide this enormously expensive tax benefit.

Finally, housing policies and laws cannot continue to allow the owners of single-family homes to dictate where affordable housing can be built. Homeowners, especially those who live in single-family detached homes, have been able to prevent developers from placing multi-family units and micro housing units in their neighborhoods. While homeowners have legitimate concerns about the effect that micro-units, apartments or other multi-family housing will have on

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<sup>53</sup> For an example of a CDC, see <http://texashousers.net/2015/11/30/cdc-spotlight-fending-off-gentrification-one-block-at-a-time-in-blackland/>.

<sup>54</sup> James J. Kelly, Jr., *Sustaining Neighborhoods of Choice: From Land Bank(ing) to Land Trust(ing)*, 54 WASHBURN L.J. 613 (2015).

<sup>55</sup> See [http://www.laketahoenews.net/2015/07/letter-wells-fargo-helps-with-affordable-housing/?utm\\_source=dlvr.it&utm\\_medium=twitter](http://www.laketahoenews.net/2015/07/letter-wells-fargo-helps-with-affordable-housing/?utm_source=dlvr.it&utm_medium=twitter).

<sup>56</sup> Joint Comm. on Taxation, ESTIMATES OF FEDERAL TAX EXPENDITURES FOR FISCAL YEARS 2012-2017 (2013).

density, traffic, parking or congestion in their neighborhoods, the housing affordability crisis that middle-income renters are facing will never be solved as long as existing homeowners can essentially veto where (and whether) multi-family and non-traditional housing units can be developed.<sup>57</sup>

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<sup>57</sup> Withers, *supra* note 47, at 136, 146; Iglesias, *supra* note 48. *See also* Then There's This: Split Views on ADUs, <http://www.austinchronicle.com/news/2014-06-20/then-theres-this-split-views-on-adus/>.

## **Conclusion**

Mr. Chairman, I commend you for convening this hearing to look at how the lack of affordable housing is harming the middle-class. Middle-class and working-class Americans who work hard, play by the rules, and are not leading extravagant lifestyles are now struggling to find affordable housing to buy or to rent, and this is a national crisis.

Federal, state, and local policies must do more to encourage affordable housing (both rental and for sale) for lower- and middle-income families in this country. And we all must be willing to rethink our views of homeownership, renting, and non-traditional housing if we hope to help American working families.

Thank you. I will be happy to answer any questions you have.