

From the Desks of Salim Furth, M. Nolan Gray, and Emily Hamilton

May 10, 2022

Land and Resource Management Committee
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

cc: Jay Dyer, Office of the Speaker

Dear Chair Deshotel, Vice Chair Leman, and committee members:

Thank you for giving us the opportunity to provide information to the Land and Resource Management Committee as it prepares to hold hearings on Speaker Phelan's Interim Charge on land use regulation. We are in-house researchers with the Mercatus Center at George Mason University. The Mercatus Center is dedicated to advancing knowledge relevant to current policy debates. Toward this end, its scholars conduct independent, nonpartisan analyses of legislation, rules, and proposals.

We have had the opportunity to study land use regulation in Texas, which is a state of outside importance in the national debate on regulation of housing construction for two main reasons. First, Texas represents the future. If California was America's future in 1960, Texas is its future today.

Second, Texas is the last, best bastion of urban property rights. That's not new—Bernard Siegan's 1972 book on Houston, *Land Use without Zoning*, was one of the earliest defenses of a promarket approach to city growth. It is an important book, yet it fell out of print until the Mercatus Center republished it in 2020. The Texas approach to permitting housing construction of all types and for a broad range of income levels has contributed to the state having a median house value that is lower than that of the country as a whole despite decades of population growth faster than the nation's growth rate.

This cover letter encloses research of particular relevance to the committee's Interim Charge 2 and serves as a brief introduction to that material.

The Costs of Minimum Lot Sizes

In the following publications, M. Nolan Gray and Salim Furth show that minimum lot sizes are too large, even in several fast-growing Texas suburbs.

A large share of recently platted lots in Frisco, Pearland, Pflugerville, and Round Rock are at or smaller than the minimum lot size, showing that the private market is oversupplied with large and midsize lots and undersupplied with lots smaller than 6,000 square feet:

- M. Nolan Gray and Salim Furth, “Do Minimum-Lot-Size Regulations Limit Housing Supply in Texas?” (Mercatus Research, Mercatus Center at George Mason University, Arlington, VA, May 2019).
- M. Nolan Gray and Salim Furth, “Do Minimum Lot Sizes in Suburbs Contribute to Texas Sprawl?,” *Austin American-Statesman*, May 7, 2019.

Tax records on all new houses built in Harris and Dallas counties show that most buyers place little value on extra yard space, as shown in the following working paper. Minimum lot sizes, which require everyone to buy extra yard space, are thus set too large. In the most expensive neighborhoods, even a small reduction in minimum lot size would boost the value of developable residential land by tens of thousands of dollars per acre:

- Salim Furth, “Foundations and Microfoundations: Building Houses on Regulated Land” (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, October 2021).

The Promise and Limits of Popular Solutions

Emily Hamilton’s research has evaluated two potential solutions to housing unaffordability.

Inclusionary zoning (a mandate that builders provide below-market-rate housing for people with moderate to low incomes) is popular in many other states, but Hamilton finds that it produces few affordable units and tends to raise the prices of the market-rate units that are built. And such schemes work only in environments of artificial scarcity:

- Emily Hamilton, “Inclusionary Zoning and Housing Market Outcomes” (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, September 2019).

Hamilton’s research also focuses on a second solution, which has recently become popular: ending single-family zoning by allowing more than one home per lot. This solution has the unimpeachable virtue of expanding property rights, but it has underdelivered so far. Hamilton and her coauthors drill down to uncover what reforms are necessary to make small multifamily dwellings and small-lot single-family dwellings economically viable. They also show that the spread of duplexes in Palisades Park, New Jersey, has enabled that town to lower property tax rates while doubling in population:

- Emily Hamilton, “Want More Housing? Ending Single-Family Zoning Won’t Do It,” *Bloomberg*, July 29, 2020.
- Edward Pinto, Tobias Peter, and Emily Hamilton, *Light Touch Density: A Series of Policy Briefs on Zoning, Land Use, and a Solution to Help Alleviate the Nation’s Housing Shortage* (Washington, DC: American Enterprise Institute, 2022).

The Houston Solution

Rather than importing housing solutions, Texas should be exporting them. In the 1990s, innovative Houston builders began pioneering the “detached townhouse,” an attractive modern type of home on a postage stamp of land. Unlike traditional townhouses, detached townhouses do not share a wall with neighbors and often face a shared courtyard. These innovations give homeowners some of the privacy benefits of typical single-family neighborhoods while retaining the advantages of density.

In 1998, Houston cut its minimum lot size to 1,400 square feet to accommodate such innovation. Gray and Millsap show that the change facilitated the construction of at least 25,000 new homes on

existing infrastructure, easing gentrification pressures and allowing young professionals to move to desirable city neighborhoods. They argue that Houston's opt-out for blocks that wanted to retain the old, larger lot size might have been politically necessary to reduce opposition to the reform:

- M. Noland Gray and Adam A. Millsap, "Subdividing the Unzoned City: An Analysis of the Causes and Effects of Houston's 1998 Subdivision Reform," *Journal of Planning Education and Research* (published ahead of print, July 15, 2020): 739456.
- M. Nolan Gray and Jessica McBirney, "Liberalizing Land Use Regulations: The Case of Houston" (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, August 2020).

Conclusion

Thank you for attending to this important issue. In our work all over the United States, we frequently promote Houston's approaches to land use, especially its embrace of small-lot zoning and neighborhood change. We hope that the committee will prioritize market-first approaches to affordability. We would be happy to discuss the research further with you or your staff members and to provide testimony when the committee holds hearings.

Sincerely,

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