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POLICY BRIEF

Build-to-Rent Housing Bans: A Case of Zoning Overreach

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From Salt Lake City to Charlotte, headlines blare: Investors are "gobbling up" homes![1] The single-family investment market is indeed changing, though more gradually than some headlines suggest. And the vise-tight conditions of 2021 and early 2022 squeezed some prospective homeowners right out of the market.

Amid the headlines, several local governments in Georgia have crossed a zoning threshold: they are regulating the ownership of housing for the first time, banning build-to-rent (BTR) subdivisions. This new regulatory approach is grounded in hostility toward outside investors and skepticism toward—or perhaps prejudice against—renters.

The new regulations are unwise. Banning BTR homes will divert investor demand to the existing single-family home stock, which is already in short supply. And extending zoning from the traditional regulation of use to the novel regulation of ownership opens the way for vast regulatory overreach.

Before BTR home bans spread to other states, legislators should quietly close that door. Zoning power does not and should not give cities and counties the right to ban renters.

AN INTRO TO BUILD-TO-RENT HOMES

In the United States, the term "BTR" refers to subdivisions of attached or detached single-family homes intended for rental by a management company. Some developments are intended for BTR homes from their inception. More commonly, a BTR real estate company purchases lots or houses at some stage of the development process.[2] BTR companies then market the houses to renters and manage the properties in much the same way that an apartment complex is managed.

BTR homes represent a tiny fraction of the housing market. RentCafe estimates that 90,000 BTR houses (including townhouses, duplexes, triplexes, and fourplexes) existed in the United States by the end of 2021, and another 14,000 are expected to be built in 2022.[3] That is one-tenth of 1 percent of the approximately 1.4 million housing completions expected in 2022.[4]

DATA ON SINGLE-FAMILY RENTALS

BTR homes are a small slice of the small single-family rental market. Table 1 shows that just 3 percent of US households live in single-family rentals. And among one-to-four family rentals, the BTR stock represents less than 0.5 percent. Unlike the rest of the single-family rental market, BTR homes are usually created and managed by corporate or institutional investors.

Table 1. Share and Income of US Households by Dwelling Type and Ownership

<table>
<tr><th></th><th>SINGLE-FAMILY</th><th>MULTIFAMILY (2+)</th><th>MOBILE HOME</th></tr>
<tr><td>Owners</td><td>56%
$82,800</td><td>12%
$70,000</td><td rowspan="2">6%
$36,500</td></tr>
<tr><td>Renters</td><td>3%
$47,900</td><td>22%
$37,200</td></tr>
</table>

Note: Each cell shows the percentage and median income of all US households of a certain dwelling type and ownership. Land and structure ownership is often split for mobile home residents, so all ownership patterns are combined.
Source: Steven Ruggles et al., "IPUMS USA: Version 11.0" (dataset), Integrated Public Use Microdata Series, 2021, https://www.ipums.org/projects/ipums-usa/d010.v11.0.

The rest of the single-family rental market is dominated by "mom and pop" landlords who own a handful of buildings and usually live in the same area.[5] Single-family rentals grew in the Sunbelt following the Great Recession's wave of foreclosures.[6] Contrary to scholarly worries about so-called financialization, single-family rentals remain arguably the least financialized housing in the United States.[7] According to one estimate based on 2015 data, the share of single-family rentals owned by institutional investors, including real estate investment trusts (REITs), was 1.2 percent, or roughly 180,000 houses.[8] That figure may exclude homes owned by regional real estate companies, which are not publicly traded.

Zooming in on the Nashville area, researchers find that REIT-owned properties are concentrated in areas with newer homes and educated, middle-income residents.[9]

Sources agree that, through 2019, the number of corporate-owned rental houses was small but growing briskly. But it is not clear whether corporate home purchases have risen since 2019. Redfin data show that investor purchases steadily rose starting in 2006, dropped in 2020, and rebounded to an all-time high in 2022.[10] But Redfin's methodology makes no distinction between corporations and the dominant mom-and-pop investors. The National Association of Realtors finds that purchases by "companies, corporations, or limited liability companies (LLCs)" were a smaller share of home sales in 2020 and 2021 than in any year since 2011.[11]

Single-family rentals are especially attractive to families with children. Of households in single-family rentals, 47 percent have children, compared with 27 percent of multifamily renters and 31 percent of single-family owner occupants.[12] Single-family rentals, especially BTR homes, have lower turnover and vacancy rates than multifamily rentals, which is appealing to investors.[13]

In addition to attracting long-term renters, single-family rentals are common landing spots for families who have moved to a new area and are not quite ready to buy. Among households that earn at least $60,000, have children, and have moved across state lines in the past 12 months, 33 percent rent single-family homes. Of comparable households that have not moved across state lines, just 12 percent rent single-family homes.[14]

NEIGHBORS' CONCERNS ABOUT SINGLE-FAMILY RENTAL HOUSING

When single-family homes are purchased by investors, home-owning neighbors worry. One concern is that landlords will not perform maintenance. A Lauderdale, Minnesota, resident said, "There's not a lot of incentive to improve the property."[15] Another concern is with the renters themselves. A Charlotte, North Carolina, homeowners' association president noted that "people who own their homes usually take more pride in their property."[16]

In the full-contact housing market of 2021 and 2022, investors have boxed out some mortgage-reliant homebuyers. A Florida man told a reporter, "I put an offer on three different homes, just to find out that later on I was overbid by a cash buyer from another place."[17]

It is certainly true that skepticism toward investors can be a polite screen for prejudice against renters. But neighbors' concerns have a straightforward logic and are, no doubt, often validated by experience.

HOW BUILD-TO-RENT HOMES CAN LOWER THE PRESSURE

BTR homes can alleviate neighbors' concerns without depriving renters of spacious housing options. By adding new supply to the single-family rental market, BTR homes lower the demand for investor purchases of existing houses in the area, because both types of housing must compete to serve the same pool of renters.

Concerns about next-door spillovers, such as property neglect, are also ameliorated in a BTR subdivision. Because a single owner manages all the properties, it has a direct interest in preventing negative spillovers. Renters vote with their feet, creating expensive turnovers for landlords. In multifamily buildings, managers have found it worthwhile to offer free apartments to coordinators who host fun events and welcome new residents; better community improves retention.[18]

Thus, BTR homes create a new financial incentive for maintenance. In addition, they motivate managers to keep higher standards for tenants, given that those who make neighbors feel unsafe become a financial risk.

REGULATORY ENVIRONMENT

Traditionally, local land use regulation has been silent on the question of ownership. Commercial districts, for example, do not distinguish between family-owned businesses, partnerships, or public corporations.

Banning rental occupancy risks falling afoul of legal protections, both because it sharply curtails property rights and because it may discriminate against protected classes, including racial minorities who are more likely to rent than to own. North Carolina and New Jersey courts have found that owner-occupancy requirements violate the state constitution.[19] Those two states, at least, delegate the power to regulate use, not ownership.

One state away, however, several Atlanta suburbs have begun regulating BTR subdivisions, although they have not attempted to limit investor purchases of single-family homes:

- The city of Alpharetta has restricted most of its residential zones to "For-Sale" development since earlier than 2014.[20]
- Clayton County has banned BTR homes entirely.[21]
- The city of Woodstock has restricted communities in which 20 percent or more of homes are rentals to its R3 zone and added costly exterior material requirements.[22]
- The city of Holly Springs requires planned BTR districts to apply for discretionary approval.[23]
- Cherokee County limits single-family developments in which 10 percent or more of homes are rentals to its RD3 zone.[24]
- Forsyth County has instructed staff to prepare an ordinance limiting BTR homes.[25]

In response to the rising tide of local regulation, Georgia legislators in February 2022 introduced bipartisan legislation to clarify that the state's grant of zoning powers does not extend to regulating ownership.[26] The bill did not come to a vote.

THE NEED FOR STATE LEGISLATION

Legislators, both in Georgia and elsewhere, would do well to rein in the regulation of ownership. Although—so far—only a handful of jurisdictions are regulating a single type of rental property, leaving the precedent unchallenged would open the door for a massive expansion of city power to regulate private ownership.

State legislatures could use the approach taken in Georgia's bill, SB 494, specifically protecting BTR homes. They could also address the underlying question at a deeper level by clarifying that their zoning-enabling statutes, like North Carolina's, do not empower cities or counties to regulate ownership.

Outside of Georgia, state legislatures should be proactive about preventing bans on BTR homes. Doing so while the issue is merely prospective allows the legislature to head off action by local governments rather than directly preempting them.

BIGGER-PICTURE SOLUTIONS

Allowing BTR homes will not solve the broader housing cost crisis; only housing abundance can do that. And in growing, high-demand regions, the only way to achieve housing abundance is through a long-term commitment to permitting more homes of all kinds—multifamily, single-family, for rent, and to own. State and local leaders alike have roles to play in ensuring that laws and ordinances reflect a commitment to housing abundance and building the communities that make a house a home.

ABOUT THE AUTHOR

Salim Furth is a senior research fellow and director of the Urbanity project at the Mercatus Center at George Mason University. His research focuses on housing production and land use regulation and has been published in *Critical Housing Analysis* and the *IZA Journal of Labor Policy*. He has testified before several state legislatures as well as the US Senate and House of Representatives. He frequently advises local government officials on zoning reform and housing affordability. Furth earned his PhD in economics from the University of Rochester.

NOTES

1. Kimball Young, "Investors Are Gobbling Up Utah's Affordable Housing," *Salt Lake Tribune*, August 3, 2022; Bendix Anderson, "SFR Investors Continue to Gobble Up Available Homes," *WealthManagement*, March 3, 2022; Mike Collins, "Corporate Investors Are Gobbling Up Homes in Charlotte's Tight Housing Market," May 19, 2022, in *Charlotte Talks with Mike Collins*, radio show, https://www.wfae.org/show/charlotte-talks-with-mike-collins/2022-05-18/corporate-investors-are-gobbling-up-homes-in-charlottes-tight-housing-market.

2. Sudha Reddy, "COVID Accelerates Demand for Build-to-Rent Single-Family Housing," *UrbanLand*, April 29, 2022.

3. Two- to four-family structures are sometimes lumped together with single-family houses because they are financed under the same rules. Multifamily buildings of five or more units are financed differently. Alexandra Ciuntu, "Built-to-Rent Homes Expected to Hit All-Time High in 2022, Fueled by Need for Space and Privacy," *RentCafe* (blog), January 20, 2022.

4. Census Bureau, "Monthly New Residential Construction, June 2022," news release no. CB22-118, July 19, 2022, https://www.census.gov/construction/nrc/pdf/newresconst_202206.pdf.

5. Between 79 and 95 percent of single-family rentals have small-scale ownership; the uncertainty in these numbers arises because limited liability structures, which are reported for 16 percent of rental houses, may be controlled by individuals or corporations. Census Bureau, Rental Housing Finance Survey (database), accessed August 12, 2022, https://www.census.gov/data-tools/demo/rhfs/#/?s_tableName=TABLE2&s_byGroup1=3&s_filterGroup1=2.

6. Dan Immergluck, "Renting the Dream: The Rise of Single-Family Rentership in the Sunbelt Metropolis," *Housing Policy Debate* 28, no. 5 (2018): 1–16.

7. Many scholars have expressed deep concern about financialization of rental housing. None, to my knowledge, has contrasted the modest impact of large-scale finance on single-family rentals, which are commonly family-to-family interactions, with the impact of finance on, for instance, the single-family ownership sector, which is intimately entwined with mortgage rates. Some scholars have openly misinterpreted their data to exaggerate the influence of investors. For instance, Yonah Freemark, Eleanor Noble, and Yipeng Su write that "housing property ownership in the Twin Cities, too, is increasingly dominated by investor landlords" after documenting that just 10 percent of single-family homes in that area are rentals. Yonah Freemark, Eleanor Noble, and Yipeng Su, *Who Owns the Twin Cities? An Analysis of Racialized Ownership Trends in Hennepin and Ramsey Counties* (Washington, DC: Urban Institute, 2021). See also Suzanne Lanyi Charles, "The Financialization of Single-Family Rental Housing: An Examination of Real Estate Investment Trusts' Ownership of Single-Family Houses in the Atlanta Metropolitan Area," *Journal of Urban Affairs* 42, no. 8 (2020): 1321–41; and Megan Nethercote, "Build-to-Rent and the Financialization of Rental Housing: Future Research Directions," *Housing Studies* 35, no. 5 (2019): 1–36.

8. Deirdre Pfeiffer, Alex Schafran, and Jake Wegmann, "Vulnerability and Opportunity: Making Sense of the Rise in Single-Family Rentals in US Neighbourhoods," *Housing Studies* 36, no. 7 (2021): 1028.

9. Ken Chilton et al., "The Impact of Single-Family Rental REITs on Regional Housing Markets: A Case Study of Nashville, TN," *Societies* 8, no. 4 (2018): 1–13.

10. Lily Katz and Sheharyar Bokhari, "Investor Home Purchases Slump 17% from Pandemic Peak as Interest Rates Rise," *Redfin News*, June 15, 2022.

11. National Association of Realtors Research Group, *Impact of Institutional Buyers on Home Sales and Single-Family Rentals*, May 2022, 3, 8.

12. Pfeiffer, Schafran, and Wegmann, "Vulnerability and Opportunity," 1034.

13. Reddy, "COVID Accelerates Demand."

14. Author's calculations. Households that lived outside the United States a year prior are excluded. Steven Ruggles et al., "IPUMS USA: Version 11.0" (dataset), Integrated Public Use Microdata Series, 2021, https://www.ipums.org/projects/ipums-usa/d010.v11.0.

15. Shannon Prather, "Landlord Snapping Up Lauderdale's Single-Family Homes," *Star Tribune*, July 10, 2022.

16. Peter Whoriskey and Kevin Schaul, "Corporate Landlords Are Gobbling Up U.S. Suburbs. These Homeowners Are Fighting Back," *Washington Post*, March 31, 2022.

17. Jason Guy, "Would-Be Florida Home Buyers Being Boxed Out by Real Estate Investors," WESH, July 21, 2022.

18. "Multifamily Industry," Apartment Life, accessed August 12, 2022, https://apartmentlife.org/multifamily-industry.

19. Adam Lovelady, "Determining and Distinguishing Land Uses," *Coates' Canons NC Local Government Law*, May 31, 2013; Carl A. Rizzo and Christopher P. Massaro, "New Jersey Court Rejects Zoning Board's Issuance of a Variance That Discriminates against Tenants," *Real Estate and Construction Services* (blog), Cole Schotz, P.C., February 19, 2019.

20. The earliest evidence I could find dates from 2014, when existing text clearly distinguished "for sale" from "for rent" zoning. Alpharetta, Ga., Ordinance 692 (July 21, 2014).

21. Clayton County, Ga., Ordinance 2021-67 (Apr. 6, 2021).

22. Woodstock, Ga., Ordinance 7175-2021 (May 24, 2021).

23. Holly Springs, Ga., Ordinance 06-2021 (Nov. 15, 2021).

24. Cherokee County, Ga., Ordinance 2022-O-005 (Feb. 15, 2022).

25. Ashlyn Yule, "Commissioners Approve Motion to Draft a Plan for Build-for-Rent Permits," *Forsyth County News*, January 28, 2022.

26. S.B. 494, 2021–2022 Reg. Sess (Ga. 2022); H.B. 1093, 2021–2022 Reg. Sess. (Ga. 2022).