

ALLOWING TRIPLEXES WOULD LOWER RENT IN MARYLAND

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Chair Barve, Vice Chair Stein, and members of the committee, thank you for inviting me to comment on the importance of middle housing and the impact of local zoning on affordability. I study land use regulation and housing markets as codirector of the Urbanity Project at the Mercatus Center at George Mason University.

The Modest Home Choices Act of 2020 (HB1406) would allow the construction of triplexes (three-family homes) on lots currently reserved for single-family homes in census tracts near transit, near job concentrations, or with very high incomes. Triplexes are a form of “middle housing,” which includes everything between single-family detached homes and large multifamily buildings. Townhouses, cottage clusters, and apartments above shops are all examples of middle housing. In older Maryland neighborhoods, these are common, but in many places built under postwar regulations, the middle housing is missing. Some other forms of middle housing are encouraged by HB1406, but the bill focuses on “upzoning” to allow triplexes in more places.

AFFORDABILITY

In the interest of full disclosure, I am a resident of Takoma Park, and the Modest Home Choices Act would upzone the home that my wife and I own there. In fact, that house is the ideal place to begin, because it perfectly exemplifies the housing market status quo and the demand for middle housing in transit-accessible suburbs.

In 2005, a developer purchased the lot and tore down a small 1938 house. He replaced it with the modern six-bedroom home that we bought a decade later. According to Montgomery County’s R-60 zoning, it was perfectly fine to triple the number of bedrooms, but only so long as the property remained a single-family home. The visual impact and massing of a two- or three-unit house on that site could have been identical.

Because demand for smaller homes is strong within walking distance of the metro, we have easily found renters to share our home. Most people value privacy more than we do. However, it would be easier to sell our home someday if a future buyer could legally install a door and split the space.

Allowing more middle housing would expand the property rights of Maryland homeowners like me while also better serving the many people who do not want or cannot afford a large detached house.

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In addition to serving a more diverse population, expanding the number of housing units will have a broader impact on rental affordability.¹ Academic estimates have generally found that a 10 percent increase in the housing supply yields a 5 to 10 percent decrease in rent, relative to what would have occurred otherwise.²

One way to achieve a 10 percent supply increase is to add one triplex per block in a large area.³ Without taking behavioral effects into account, a 5 percent reduction in rent would decrease the number of rent-burdened households by 7 percent.⁴ In other words, areas can achieve substantially lower rent without big changes to the look and feel of neighborhood streets.

The impact of widespread upzoning on property values is much harder to predict. On the one hand, having more abundant housing lowers prices. On the other hand, allowing owners to invest more flexibly on a given parcel increases the value of the land. The net effect for most property values would therefore be small.

THE AUTHORITY OF THE STATE

Although land use regulation has traditionally been a local prerogative, state legislatures have always played a central role in defining the boundaries of that local power. State legislatures limit local authority on rent control, set procedural rules for zoning board meetings, impose environmental requirements, and generally define the scope of local action.

In addition, state legislatures protect individual rights of all types from local infringement—in voting, employment, public access, speech, and property rights.⁵ That these rights are not absolute does not make them unworthy of state protection.

The state can also be more pragmatic than localities about the costs of exclusionary zoning. Because Maryland localities are part of larger housing markets, they do not fully internalize the costs of unaffordability. The state has a wider lens, and it recognizes that when Montgomery County is unaffordable, it puts price pressure on Frederick County, and so on.

Local governments have an important and legitimate role in using their land use powers to prevent harms and nuisances. Thus, when local governments are allowed to ban or segregate two- and three-unit homes, the legislature's implicit value statement is that those homes may be harms or nuisances to neighboring single-family homes.

There are thus three good reasons to limit the power of local governments to ban small multifamily buildings: to expand individual property rights, to respond to the spillovers caused by local exclusion, and to disavow the morally questionable basis of housing-type segregation.

1. A large body of research finds that regulations tend to increase rent. For a review of that research, see Sanford Ikeda and Emily Washington, "How Land-Use Regulation Undermines Affordable Housing" (Mercatus Research, Mercatus Center at George Mason University, Arlington, VA, November 2015).

2. For background on the rental elasticity of demand estimates that inform this section, see David Albouy, Gabriel Ehrlich, and Yingyi Liu, "Housing Demand, Cost-of-Living Inequality, and the Affordability Crisis" (NBER Working Paper No. 22816, National Bureau of Economic Research, Cambridge, MA, November 2016).

3. I assume 20 single-family houses per block, one of which is replaced with a triplex via teardown or addition.

4. The average household income here is adjusted for household size and includes renter households nationwide. For this computation, I used all renters with gross rent above \$200 and income above \$7,500. "Rent-burdened" is defined here as spending over 35 percent of income on gross rent. Behavioral effects would dampen the headline effect because beneficiaries would spend some of the savings on rent (e.g., by moving to bigger or more-convenient units) and migration from other areas would increase. Although these behavioral effects would decrease the top-line affordability impact, they would increase the net welfare benefit of the policy.

5. For example, Maryland requires local boards of election to offer same-day voter registration.