CATO
POLICY
ANALYSIS

August 31, 2021 Number 920

Common-Sense Policy Reforms for California Housing

By Lee Ohanian

EXECUTIVE SUMMARY

California housing has become unaffordable. As of February 2021, the median California home price was nearly $700,000 and the median condominium price was $515,000. The median rent for the same month was $1,733. Based on industry mortgage financing and renting standards, this means that both homebuyers and renters require household incomes of nearly $100,000 to qualify for housing.

The state's housing crisis is creating substantial financial distress for its residents. Because California incomes are only moderately higher than the national average, housing costs are much higher, exacerbating homelessness and poverty and squeezing household budgets to the point that they are significantly lowering the quality of life, particularly for low- and middle-income households.

Policies and regulations that raise the cost of building and/or limit building—particularly near the coastal locations of the Bay Area, Silicon Valley, Los Angeles, Orange County, and San Diego—are the primary reasons why housing prices and rents have increased so much. Constraints on supply are the primary driver of California's housing crisis.

Therefore, California policymakers should undertake reforms, including: limiting the effects of urban-growth boundaries and other land-use restrictions so as to allow additional housing construction; eliminating regulations that artificially drive up construction costs, such as prevailing-wage requirements; limiting construction permit fees; reforming the California Environmental Quality Act; limiting the power of Local Agency Formation Commissions; and eliminating unnecessary and exclusionary zoning restrictions.

In the absence of substantial reforms, California's housing crisis will become more severe and economic inequality will expand. Middle-income households, particularly those with school-age children, will relocate outside of California so that the state will become primarily home to high-income households that can afford the high housing costs.

LEE OHANIAN is a professor of economics at the University of California, Los Angeles, and a senior fellow with the Hoover Institution at Stanford University.

INTRODUCTION

California housing has become unaffordable. As of February 2021, the median California home price was nearly $700,000 and the median condominium price was $515,000.[1] The state has the second-highest rents of any state, after Hawaii[2]; the median rent the same month was $1,733.[3]

Based on industry mortgage financing and renting standards, this means that both homebuyers and renters in California require household incomes of nearly $100,000 to qualify for housing.[4] This is having an enormous detrimental effect on younger households in the state. More than half of voters ages 18–39 have considered moving out of California because of high housing costs.[5] Furthermore, the state's housing costs present an enormous hurdle for those considering moving to California.

The state's housing crisis is creating substantial financial distress for its residents. Because California incomes are only moderately higher than the national average, housing costs are much higher, exacerbating homelessness and poverty and are squeezing household budgets to the point that they are significantly lowering the quality of life, particularly for low- and middle-income households.

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California's housing crisis is leading to a separation of the state into haves and have-nots. California ranks 48th in income inequality,[6] and about 35 percent of Californians live near or below the poverty line.[7] Housing prices, and their effect on cost of living, significantly exacerbate the problem of poverty in California: under the Census Bureau's Supplemental Poverty Measure, which adjusts for cost of living, the poverty rate was almost 8 percentage points higher in 2018 than it was under a measure that was not adjusted for the cost of living.[8]

In this paper I analyze why California housing is so expensive and how it is expanding inequality within the state, focusing on how economic and land-use policies have driven up housing costs and how these policies can be changed to increase housing affordability and enhance efficiency and economic activity.

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Demand growth has predictably dropped as housing costs have skyrocketed. While California grew from a small state in terms of population at the turn of the 20th century to become home to 12 percent of the U.S. population by 1990, the relative increase in its share of the population stopped 30 years ago. The most rapidly growing states today—including Arizona, Florida, Idaho, Nevada, Texas, and Utah—have much lower housing costs than California.

In the absence of substantial reforms, California's housing crisis will become more severe and inequality will expand. Middle-income households, particularly those with school-age children, will relocate outside of California so that the state will become primarily home to high-income households that can afford the high housing costs, and to low-income households that either take their chances at achieving high-income growth or else lack the means to relocate.

CALIFORNIA GROWTH AND HOUSING: AN OVERVIEW

California's population grew enormously over much of the 20th century as housing supply kept pace with demand. The growth during this period was truly extraordinary.

In 1900, the state accounted for only about 2 percent of the U.S. population. To put that in perspective, at the turn of the 20th century, the populations of Alabama, Indiana, Kentucky, Mississippi, and even Iowa were larger than California. Ohio was more than twice as large and Illinois was about three times as large. Chicago alone had nearly the same population as California.

People flowed into California throughout the 20th century. By 1940, its share of the U.S. population had increased to about 5 percent and by 1980 it had increased to about 11 percent. Despite this rapid growth, in which California's population grew from less than 1.5 million in 1900 to about

26 million by 1980, its home prices were much more affordable then than they are today.

The U.S. Census Bureau used to track state-level housing prices in its Census of Housing.[9] This was introduced in 1940 and is available for years through 2000. The California house price premium, which I define as the percentage difference between the average California home price and the national average, as reported in the Census of Housing, averaged about 28 percent from 1940 to 1970. This premium jumped to an average of 100 percent between 1980 and 2000.

These data have important implications for understanding housing affordability trends. During California's remarkable period of post–World War II growth, housing remained relatively affordable. Between 1940 and 1970, the state's population grew from about 6.9 million to about 19.9 million. Despite that growth, its house price premium remained fairly modest, averaging 28 percent in this period, with a peak premium of 36 percent in 1970.[10] Standard supply-and-demand principles imply that California housing supply was largely keeping up with the increased demand from this substantial population growth. Between 1954 and 1970, the state gained about 200,000 housing units per year.

But its rapid population growth stopped soon after that. Between 1970 and 1980, California's share of the U.S. population rose just 1 percentage point, and then another percentage point between 1980 and 1990, and has remained at 12 percent since then. This slowdown coincides with a large change in California's housing price premium. The premium rose from 36 percent in 1970 to 79 percent by 1980, and then to 147 percent by 1990. As California home prices increased, fewer households could afford to live in California because fewer homes were being built. Housing starts in the 1990s fell to about 100,000 annually, which represents a 50 percent decline from housing construction in earlier years.

Since the census home price dataset was discontinued after 2000, I use the Case-Shiller dataset to continue the comparison of California home prices to home prices nationwide.[11] Case-Shiller is an index of home prices that is calculated by comparing the value for which the same home sells for at different points in time. Both the Case-Shiller California index and the national index have increased by a factor of about three since 1990, which suggests that the state's 1990 price premium of 147 percent, calculated using the census data, approximately continues today.[12]

Current median sales price data also indicate a very high price premium. According to the California Association of Realtors, the median California home price was about $700,000 in January of 2021, compared to about $304,000 for the national average, which indicates a premium of about 130 percent.[13]

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Straightforward supply-and-demand logic explains why the California house price premium was stable before 1980: housing supply kept up with the remarkable growth in demand, in which California's population grew by more than 12 million between 1945 and 1975.[14] In that 30-year period following the end of World War II, approximately six million housing units were constructed in California, including about 3.5 million single-family homes and 2.5 million apartments and other multifamily housing units.[15] But housing construction never again reached that level. In the 1970s, approximately 1.96 million housing units were either built or started. Since 1990, however, the decadal average has been about half of that and is not getting better.[16] In 2019, the last full calendar year before the coronavirus pandemic, California housing starts were only about 110,000,[17] nearly 80 percent below Gov. Gavin Newsom's target of 500,000 per year.[18]

CALIFORNIA HOUSING AFFORDABILITY

California housing is unaffordable not only because housing costs are so much higher than in other parts of the country, but also because the state's household incomes do not come close to compensating for these much higher housing costs.

Median California household income is about $80,000, compared to about $65,000 for the rest of the country, which is an income premium of about 23 percent.[19] But this income premium does not keep up with the state's high taxes and

cost of living. California has higher sales and state income taxes than the national average, and, as noted above, the price of a home in California is almost 150 percent higher than the national average.[20] Given this discrepancy between the modest income premium and a very significant price premium, the median income in California, after adjusting for cost of living, is considerably lower than in the rest of the country.

As a result, California rents are the second highest in the country, as noted above. Also, 53 percent of the state's households have monthly housing costs that exceed the recommended industry standard of 30 percent of monthly household income. That puts them in potential financial risk because of an excessive housing budget.[21] Even with historically low mortgage interest rates, only 28 percent of California households can afford the state's median-price single-family home, and just 42 percent can afford the state's median-price condominium or townhome, based on industry-standard qualifications.[22] This includes assuming that the household has a 20 percent down payment and the required closing costs, which would total a minimum of $150,000 for the state's median-priced home. In contrast, about 55 percent of households nationwide can afford a median-priced condominium or townhome, and these homes require a much lower down payment for a conventional mortgage than do homes in California.

The problem of housing affordability affects people of color particularly hard. Compared to the 28 percent affordability statistic for Californians as a whole, only 20 percent of Latinos and 19 percent of black Californians can afford the median single-family home (8 percentage points and 9 percentage points less than average, respectively).[23]

The hurdle of down-payment affordability in California is indeed difficult for most households to navigate. Down-payment affordability is fundamentally tied to household net worth. Examining the distribution of net worth within the United States, I note that only about the top 20 percent of American households, which have a median net worth of about $554,000, can clearly afford the conventional down payment and closing costs of a California home. Households at the top 70th percentile of the distribution, which have a net worth of about $188,000, would struggle to afford the down payment and closing costs.

Affordability is lowest in coastal California, the area that runs from the Pacific shoreline inland about 30 or so miles. In the high-technology areas of Silicon Valley and the San Francisco Bay Area, affordability is only 20–22 percent in the counties of San Francisco, San Mateo, and Santa Clara, where minimum qualifying incomes range from about $250,000 to $300,000 for a median-priced home. Affordability is only modestly better in Los Angeles County and San Diego County, at around 25 percent, with minimum qualifying incomes of $124,000 and $133,200 respectively.[24]

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Demand to live in these areas is high because most of the state's high-paying jobs are in these locations. However, failure to build enough housing means that the high demand pushes prices further upward, which in turn means that high housing costs erase the income gains of working in these locations. This leads a number of Californians to work in coastal California, but to live far outside these areas in locations where housing is much more affordable.

Those who drive at least 90 minutes to work each way, known as "super commuters," are most highly concentrated in California as compared to the rest of the United States.[25] The Central Valley areas of Stockton-Lodi and Modesto have a combined population of more than 900,000, and about 10 percent of the workers in these areas qualify as super commuters, many of whom drive to Silicon Valley or the San Francisco Bay Area for work.

Housing affordability is the main reason why these workers choose to commute more than three hours each day rather than live near their coastal California jobs. In Stockton-Lodi and Modesto, between 40 and 50 percent of households can afford the median-priced home, compared to about half of that affordability level in coastal California locations.

Thus, the Central Valley super commuters enjoy the benefits of coastal California incomes while being able to afford home ownership in the Central Valley. But California's high rate of super commuting comes with large costs, creating

additional congestion on the state's highways and roads and expanding the state's carbon footprint. Transportation is the largest source of greenhouse gases in California, producing more than twice as much as electricity generation.[26] And it is just not super commuters from the Northern Central Valley driving to the San Francisco Bay Area and Silicon Valley: in 2017, there were almost 175,000 super commuters in the Los Angeles metropolitan area, creating more congestion and more carbon emissions.[27]

California's housing crisis is the consequence of demand growing faster than supply, which manifests itself in prices rising to levels that most new homebuyers cannot afford. This lack of affordability can be addressed successfully with common-sense policy reforms. These reforms—which include modifications to Local Agency Formation Commissions, Urban Growth Boundaries, California's Environmental Quality Act, zoning changes, ministerial approval, regulatory changes to reduce construction costs, and the use of modular housing technologies—are discussed below.

URBAN GROWTH BOUNDARIES

California's population is very narrowly concentrated near the Southern California coast, in the San Francisco Bay Area, and in the Sacramento area. Much of California, including the coastal areas other than those noted above, is relatively sparsely populated.

Expanding California's housing stock should include developing areas outside of major population centers. This approach is important because the challenges to building that are created by "NIMBYism" ("not in my backyard") within urban areas are not present in areas with little development. Doing this will require modifying Urban Growth Boundaries (UGBs), which are government-established boundaries that separate urban areas from agricultural lands and/or undeveloped lands.

These boundaries are typically voter-approved and are set for a specific period of time (e.g., 20 years). UGBs are relatively new, with the first being approved for the San Francisco Bay Area in 1996.[28] The main purpose of these restrictions is to preserve greenbelt areas from urban sprawl. From this perspective, their effect is similar to that of Local Agency Formation Commissions (LAFCOs), discussed later, which are regional planning commissions under California law that work to restrict development. Troublingly, UGBs and LAFCOs are sometimes paired together, so that a binding UGB can prevent development even if a LAFCO is relaxed to allow for development. UGBs are significantly restricting the ability of some cities to build because they are already at their boundary limits.

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By restricting how land can be used and by preventing land from being allocated to its highest-valued use, UGBs drive up the price of the limited buildable land within urban areas, thus increasing housing prices. One important reform is to expand boundaries and reallocate land that is currently used for agriculture to housing. Presently about 43 percent of California land is devoted to agricultural production, so even a modest reallocation could make a large difference in the amount of land available for housing.[29]

Extending housing growth into land zoned for agriculture may require rezoning for residential use. This can, in principle, be expedited because most zoning is done at the county and city level. For new developments that require rezoning, no state approval is needed. Any rezoning proposals must be run through the county's planning department, be approved by the board of supervisors, and may involve a review under the California Environmental Quality Act (CEQA). To encourage rezoning, the state may tie county or city funding to the successful rezoning of farmland to accommodate additional housing supply. A similar approach of tying rezoning to funding has been discussed in conjunction with California's Regional Housing Needs Allocations.[30] CEQA reviews should be significantly streamlined, with a maximum review period of no more than six months.

REDUCING CONSTRUCTION COSTS

For housing production that manages to navigate the approval process, high construction costs stand as another obstacle. Cumming Insights, a construction market analysis firm, estimates per square foot costs in 2020 of about $380 for single-family homes and about $570 for apartment buildings in San Francisco, far above the national average of about $229 per square foot.[31]

Construction costs for below-market-rate housing are much higher than that. A 2019 study of San Francisco below-market-rate units averaged more than $737,000 of construction costs per unit.[32] Assuming an average size of 858 square feet per unit, this is about $860 per square foot.[33] This cost is probably a lower bound, given that below-market-rate housing units are likely smaller than the average California apartment unit. For example, if the average size of below-market-rate apartment units is 750 square feet, then the per unit construction cost is nearly $1,000 per square foot—almost twice the average San Francisco cost cited above and quadruple the national average.[34]

> "Researchers at the University of California, Berkeley, estimate that prevailing wages drive up construction costs from 9 to 37 percent."

A separate issue that drives up the cost of large-scale development is labor costs that reflect prevailing-wage requirements. One regulation is that taxpayer-subsidized affordable housing projects must pay construction workers prevailing wages. This stands in contrast to a more economically efficient approach under which open market forces, rather than centralized regulations, would set costs. Prevailing wages, which are determined by the state's Department of Industrial Relations, are most often defined as union wages. This encourages developers to hire union labor and thus appears to be a political subsidy to construction labor unions. Moreover, this means that taxpayers are footing the bill for costs that exceed market costs.

Prevailing wages for Northern California apply to many locations that differ considerably, ranging from San Francisco, in which market wages are already high because of the high cost of living, to Fresno, in which wages are much lower. An important implication of this "one wage fits all locations" requirement is that the distortion in low-cost locations such as Fresno are much more severe.

Prevailing wages (including non-wage benefits) are $100 per hour for heat and frost insulation workers, $85 per hour for carpenters and drywall installers, $65 per hour for masons, and $58 per hour for laborers.[35] Drawing on data from 2016, a *Los Angeles Times* article shows union construction worker compensation premiums of about 50 percent to 80 percent over nonunion labor.[36]

Researchers at the University of California, Berkeley, estimate that prevailing wages drive up construction costs from 9 to 37 percent. Beacon Economics, a private economics consulting firm, estimates that they increase costs by 46 percent. Some have argued that high prevailing wages are offset by increased productivity by union workers, but studies show that worker productivity in heavily unionized industries tends to be lower than in nonunionized industries, not higher.[37]

Others claim that prevailing wages are necessary because of the high cost of living in California's metropolitan areas. These claims fail to account for the fact that prevailing-wage regulations themselves are at least partly to blame for the high cost of living (especially housing prices) that they are ostensibly intended to ameliorate. In this way, prevailing-wage regulations create a sort of feedback loop with the consequence of higher housing production costs resulting in higher prices for renters and homebuyers.[38]

Given the high union premium, prevailing-wage policies are distorting the market process by driving costs above the level that would emerge from a competitive market. With significant cause to doubt arguments about productivity and the need to account for cost of living, there is no compelling reason to preserve union-based prevailing-wage schedules. It amounts to creating a protected class of workers whom taxpayers unwittingly pay more than their services' market value. Eliminating this distortion and allowing the market to determine wages would reduce costs, expand supply, and improve economic efficiency.

CONSTRAINING TAX AGENCIES FROM PERMIT OVERCHARGING

Permit and project impact fees have skyrocketed in some areas of California. In the city of Fremont, for example, these fees are the highest in the Bay Area, where fees total nearly $160,000 for a median-priced home of $850,000 in a 20-home development, and almost $80,000 per unit in a 100-unit multifamily project.[39] These fees are insufficiently linked to the actual costs that development creates in a community, which in any case should be at least primarily covered by additional property taxes that result from new developments.[40] Instead, these fees are another revenue source to help fund cash-strapped local governments. It boils down to a discriminatory practice in which tax increases that would otherwise affect all residents are instead borne by newcomers.

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These fees that exceed the marginal cost of development also affect the smallest projects. In San Jose, an owner of a small apartment building chose to convert a recreation room into two small studio apartments. The city requested nearly $50,000 in impact fees (with the money going to maintaining local parks), which would have increased the cost of construction by more than 60 percent. The owner fought the excessive fees but was delayed two years in building and spent a total of $200,000, including legal fees, in which the owner ultimately paid a small fraction of the original impact fee request and was required to install an outdoor barbecue and picnic tables.[41]

REFORMING CALIFORNIA'S ENVIRONMENTAL QUALITY ACT

Approved in 1970, CEQA goes far beyond the requirements of the National Environmental Protection Act, which was passed by Congress in 1969. The act allows projects with negative environmental effects to go forward, but requires that those effects be publicly disclosed. In contrast, CEQA requires state and local governments, to the broadest extent possible, to prevent projects that would damage the environment.

Under CEQA, projects with negative environmental effects can only go forward if the environmental damage is mitigated. In some cases, projects can be denied if a feasible alternative exists that creates less environmental damage. CEQA requires the permitting agencies (state and/or local government agencies) to enhance public participation in the process and it also allows lawsuits by private parties.

CEQA has two significant flaws that interact in a very damaging way. One is the requirement of environmental mitigation without explicit consideration of a cost-benefit analysis. The other is unregulated bringing of private lawsuits. Both of these can lead to grossly inefficient resource allocation.

The first flaw, on its own, leads to economic inefficiency. All resource allocation decisions require an understanding of the benefits and costs of the use of those resources. *Any* development will affect the environment, and efficiency dictates that the costs of mitigating a development's environmental impact have some justification in terms of the mitigation's benefits. While there can and will be reasonable disagreement about these issues, this disagreement should be grounded within the framework of a cost-benefit analysis. It makes no sense to spend millions of dollars in mitigation on a project whose environmental costs are nowhere near that much.

While CEQA has accomplished many worthwhile environmental goals, it is also being used in ways that weren't intended. Specifically, CEQA litigation is being widely used by groups that want to delay or block development for a variety of reasons, many of which have little to do with environmental concerns. A detailed 2015 report established that nearly half of CEQA litigation targets public projects—including projects that would allow individuals to reduce their carbon footprints—that are unconnected with private business interests.[42] Infill development projects (i.e., projects that redevelop already-built areas within cities and townships) account for 80 percent of challenged agency approvals of projects with a specific physical location. Notably, infill housing development was intended to be exempt from CEQA, but this exemption has been applied to relatively few projects.[43]

Moreover, CEQA litigation is used by labor unions and other organizations to extract wage and work-rule agreements, as well as other concessions, from private developers and public agencies. Business interests deploy CEQA challenges to derail the projects of their competitors. Community organizations use CEQA to extract developer amenities and other investments in the community that go beyond the additional costs the development imposes on city services. There are also frivolous lawsuits simply intended to block development. These lawsuits appear to be based on environmental reasons, but the filing parties frequently have no history of involvement in environmental protection, and by making their claims under CEQA they are using it as a veil for their self-interests. The 2015 report found that 85 percent of CEQA lawsuits were filed by organizations with no record of environmental advocacy.[44]

Regulatory compliance, including CEQA-based lawsuits, drives up construction costs by requiring additional legal fees, delaying projects, and requiring additional studies and reports. One striking example of how regulatory compliance raises costs is the Newhall Ranch development. Permits for this 60,000-resident planned community—including more than 20,000 homes, seven schools, several parks, thousands of acres of open space, and 50 miles of hiking trails—were submitted in 1994. It was not until 2017 that all lawsuits, several of which came under CEQA, were settled. In response to the lawsuits, the developer produced more than 109,000 pages of documents; the project was reviewed by 25 government agencies, and the developer attended 21 public hearings and more than 700 meetings by 2012. At that point, the development was approved. However, additional environmental litigation was filed after approval over the validity of the project's approved environmental impact report.

The developer and the plaintiffs settled all lawsuits in 2017—23 years after the plans were originally submitted. The settlement of the last lawsuit included requiring the developer to install electric vehicle charging ports in almost every home in the development, as well as installing charging ports elsewhere in Los Angeles as a carbon offset. Note that only about 1 percent of registered autos in California are electric vehicles, which indicates that few of Newhall Ranch's charging ports will be used.[45] This is the type of gross inefficiency that drives up costs—costs that ultimately are borne by homeowners. This is because developers will not develop unless their costs are covered.

Tying up development for 23 years is grossly inefficient, raises development costs substantially, and constrains housing supply. The CEQA reforms described below, if implemented, would have allowed this project to proceed sooner, at a lower cost, and would have provided new housing units at an earlier date. All told, roughly half of CEQA lawsuits are decided in favor of the plaintiff, which further incentivizes those bringing CEQA-based lawsuits. All of this increases the time, cost, and uncertainty of getting projects done, which in turn reduces developer incentives to initiate projects.

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There are several simple and sensible reforms that would remedy some of the worst abuses of CEQA litigation, as suggested in the 2015 report. First, duplicative lawsuits should be prevented, particularly for projects that have already passed the CEQA review. Duplicative lawsuits were one factor in accounting for the unacceptably long 23-year approval process for the Newhall Ranch development. Second, procedural reforms should ensure that delay tactics are not allowed, perhaps by including setting a deadline by which CEQA challenges must be filed—a reform that has been used in San Francisco.[46] Third, losing parties in CEQA legislation should pay for court costs and attorney's fees, as is the default rule in other civil cases. Exceptions to this rule could be permitted only in truly unusual circumstances. Judicial remedies, in particular for minor issues, should be limited to the fixing of such specific issues and not rescinding a public agency's entire project approval in order to force the repetition of the entire CEQA assessment.

Fourth, all parties in the litigation should be made to comply with strict disclosure rules regarding their identities and interests. The disclosure rules would prevent

the hidden nonenvironmental motives behind attractive, environmental-conscious names that are attached to groups that have little, if any, environmental interests. This commonsense reform could significantly reduce lawsuits, given that 85 percent of CEQA litigation is filed by groups with no history of environmental advocacy.

Fifth, historical preservation standards should be tightened to ensure that only truly significant buildings are preserved, not simply old buildings that do not have a significant historical or architectural interest. One approach to this would be to adopt a more specific set of standards as to what constitutes a historical building so that the procedures are not taken advantage of by opponents to development, as they too often are now.[47]

Sixth, the CEQA definition of a "project" should be redefined. Currently, this definition is an activity undertaken by a public agency or a private activity that receives government support or discretionary approval and which "has a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment."[48] The definition should be changed in two ways: by specifying that the change in the environment must be *significant and cost-measurable* (as measured as the estimated social cost of the change); and by basing the discretionary approval on a cost-benefit analysis in which the cost of mitigation is evaluated net of the benefits of mitigation. (To see how cost-benefit analysis can be used to identify inefficient mitigations, note that the Newhall Ranch development agreed to install electric power charging stations in almost every home. Given that only 1 percent of California cars are electric vehicles, a sensible cost-benefit analysis would clearly show that such an investment would not pass the test.)

Seventh, the use of ministerial actions that do not require CEQA review should be expanded. A ministerial action is one under which a government agency does not have discretion as to whether an approval will be issued, given that the application complies with all relevant legal requirements. A ministerial approval process exists in contrast to the discretionary approval process (which is more common for multifamily housing approvals) under which an agency has broad leeway to deny even an approval that otherwise complies with relevant laws.[49] Recent court decisions on whether an action was ministerial or discretionary suggest an expanded use of ministerial interpreted actions.[50] In addition, the legislature and municipalities should consider new legislation to expand the use of ministerial actions in land-use decisions. This reform would carry additional benefits by not only bypassing CEQA but by streamlining regulatory approvals more generally.

Eighth, the nine-month deadline for finalizing CEQA rulings should be enforced, meaning that court decisions must fall within this timeline. This would provide clarity to developers in terms of the length of the review process and reduce the incentive to file lawsuits to simply delay development.

Ninth, a project should not be stopped unless there is established proof that its continuation will create substantial, irreparable environmental harm or poses a significant risk to public safety.

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Tenth, the CEQA "fast track" process that allows designated "leadership projects" to move more quickly through the judicial system should be expanded. Leadership projects could include large housing developments that would be expected to reduce housing costs in a particular location. Fast-tracking should drop the requirement that a development not result in additional greenhouse gas emissions. Because carbon emissions are a global problem, and because California is responsible for less than 1 percent of global emissions, requiring carbon-neutral emissions standards of new development does not satisfy a sensible cost-benefit assessment.

LOCAL AGENCY FORMATION COMMISSIONS

Local Agency Formation Commissions are regional planning commissions that regulate land use by determining whether a city's boundaries can expand. They also regulate special districts that provide important services to cities,

including airport, water, sanitation, fire, harbor, and police services.

These commissions indirectly raise housing costs by affecting both regulatory and planning authority in the development process. As a regulatory agency, their legislated purpose is to prevent urban sprawl and facilitate the creation of local planning agencies to permit development that is consistent with local circumstances and conditions. They are also intended to protect agricultural land and open spaces from rapid development. Key regulatory responsibilities include establishing, expanding, decreasing, combining, and eliminating cities and special districts as well as authorizing outside service contracts.

There are 58 of these independent agencies within California (one for each county) and they regulate the boundaries of cities and special districts that provide services. Any city that wishes to expand must receive LAFCO approval. This is important because adding new housing in existing cities with established infrastructure can be politically easier on undeveloped land than adding high-density infill housing in areas with existing residents.

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As a planning agency, a LAFCO determines and updates the sphere of influence of each city and special district. The state legislature created LAFCOs in 1963 in response to California's rapid growth and the lack of coordination across cities in planning and development. A city's sphere of influence is defined as "the probable physical boundaries and service area of a local agency."[51] All boundary changes, such as annexations and detachments, must be consistent with the spheres of influence of the affected agencies with limited exceptions. In updating spheres of influence, these agencies are required to prepare Municipal Service Reviews of relevant local agencies and services. They can initiate proposals to consolidate special districts, merge a special district with a city, dissolve a special district, establish a subsidiary district, or any combination of these.

The LAFCOs are governed by a commission consisting of some combination of elected and politically appointed officials representing the county board of supervisors, city councils, and special district directors. As political bodies, LAFCOs are subject to the same political pressures as are the state's politicians, who thus far have done little to facilitate sufficient new housing to reduce its cost. Consequently, increasing a city's boundaries and adding new housing through this channel do not occur nearly often enough. Moreover, the same inefficient, drawn-out processes of building within cities occurs when cities expand.

Rancho Cucamonga's recent 6.5 square-mile annexation of land around part of the city's boundary is an eye-opening example of these gross inefficiencies. Last year, the city's LAFCO approved annexation of about 4,100 acres of undeveloped, chapparal-covered semi-desert to be developed with homes, a new school, and limited commercial activity. Owned by San Bernardino County, which was happy to sell the unincorporated land it would likely never use, this annexation for Rancho Cucamonga seemed like a no-brainer. But the annexation process took about 40 years to complete—for nearly as long as Rancho Cucamonga has existed as an incorporated city. After 40 years, the city and the LAFCO agreed to an annexation plan, but one that would provide little new housing. Some 82 percent of the acreage being annexed is to remain undeveloped. Just 2,700–3,000 single-family homes are planned, and those numbers have a way of being reduced once a development works its way through the approval process. Before the acceptance of the current plan, higher-density housing was proposed but the community fought this.

Rancho Cucamonga is not a very dense city, with about 4,350 people per square mile (compared to Los Angeles with more than 7,000 per square mile). In comparison to the main city, the annexed area will house only about 1,700 people per square mile, assuming an average of four people living within each home. This density is only about 40 percent of the existing city's, and partially reflects the restriction that no multifamily housing be built in the new annexed area.

It is expected that it will take 15–20 years to finish the development, which can only be due to CEQA and other

administrative delays, with potential litigation. This implies a total timeline of about 60 years to build just 2,700 homes, between the time of initial annexation discussions to expected development completion, on a project that could not be more fundamentally straightforward. Again, this was unincorporated, barren land adjacent to the city, and the owner of the land was happy to sell it. How long would it take in a more complex situation? Eighty years? More?

California legislators have the power to determine city boundaries, but understandably have deferred this responsibility to the LAFCOs. The example above shows how remarkably inefficient that LAFCOs can, and have, become. Their legislative guidance should be updated to reflect California's housing crisis. Their primary charge of preventing urban sprawl, which dates from 1963, needs to be updated to make it easier to expand city boundaries and a city's sphere of influence.

A reasonable change would be to remove the charge of LAFCOs to prevent urban sprawl. An important reason for removing this charge is not only because this directive is impeding new housing construction, but also because it has no generally recognized definition and thus can be interpreted in a variety of ways, depending on the interests of political and social groups that wish to prevent development.

An alternative legislative charge for LAFCOs is to prioritize expanding city boundaries and their spheres of influence to accommodate new housing that can efficiently tie into existing city services and organizations. Purchasing land, or negotiating its use, from the federal government may be a key issue here, given that the federal government owns nearly 50 percent of California.

At a minimum, the legislature needs to change the primary charge of LAFCOs from preventing urban sprawl to a charge that prioritizes facilitating new housing construction that can be accomplished by reasonable city boundary and sphere-of-influence expansions. The legislature can tie in transportation and other development funds to encourage sensible expansions of cities.

ZONING REFORMS

Restrictive zoning also increases California housing costs. A 2005 study concluded that restrictive zoning regulations increased housing prices in San Francisco and San Jose by about 50 percent.[52] This premium is likely to be even higher today.

Other studies have reached similar conclusions: zoning slows down the construction of new housing units and makes it difficult to build public infrastructure. One important impediment to building new housing is that 66–80 percent of all residences in California are zoned for single-family homes.[53] This, in turn, prevents high-density housing that can economize on scarce land in urban areas.

"The legislature needs to change the primary charge of Local Agency Formation Commissions from preventing urban sprawl to a charge that prioritizes facilitating new housing construction."

Very recently, there has been significant interest in using state legislation to bypass local zoning rules and modify single-family zoned areas. Some of this interest was motivated by California Senate Bill (SB) 35, which was passed in 2017, and which provided a ministerial approval process for any municipality or county that failed to build the amount of housing assigned to it by the regional planning authority. It limits the number of times local governments must review projects, thus in principle streamlining approval, and—by using a ministerial rather than discretionary approval process—exempts qualified projects from CEQA review.

While SB 35 provides an important opening for increased ministerial approval in residential development, it has not been the game-changer its proponents had hoped it would be. As of late 2019, SB 35 had been successfully applied in just 30 projects in the state.[54] There are several drawbacks that likely account for why it hasn't been applied more frequently. One is that ministerial approval is not guaranteed to facilitate development because opponents can bring a civil suit after a project passes (or fails to be stopped), arguing that the project did not qualify for ministerial approval. Another drawback is that SB 35 requires that a substantial fraction of a development be set aside for below-market-rate housing. Furthermore, builders are

required to pay prevailing wages, which, as noted above, can significantly inflate the cost of housing production. This joint requirement reduces the incentives to build because the cost savings arising from streamlined approval are offset by the higher costs of prevailing wages and the lower revenue from requiring that a large number of units be set aside for below-market rates.

Several bills have been introduced within the state legislature to rezone single-family areas to include multifamily homes. However, these have not passed, as there is substantial political pressure brought by opponents of these changes. One of these pieces of legislation, Senate Bill 50, would have allowed "fourplexes" in single-family home neighborhoods and would have permitted five-story developments near transit stops and in areas that are job rich.

If SB 50 was a bridge too far, then a politically feasible solution could be to split the two halves of the bill from each other: permitting duplexes and/or triplexes in what otherwise would be single-family locations, and separately addressing the more-controversial idea of very dense housing near transit stops or job-rich areas. Oregon has implemented duplex and triplex legislation along these lines in what were single-family neighborhoods. In California, this could be facilitated by creating more neighborhood buy-in, and thus putting less political pressure on legislators to prevent this change. Separating the duplex/triplex half of SB 50 from the more controversial multifamily half would bypass the community-character argument that many of SB 50's opponents made: duplexes and triplexes fit more easily into the built environment of single-family homes than larger apartment buildings do, thus depriving the opposition of one of their strongest arguments.

A much more modest approach, 2020's SB 1120, which would have taken this approach and allowed duplexes in single-family zones, failed to pass the legislature. Leadership in the state's lower chamber, the assembly, brought up the bill for a vote with too little time left before the legislature's deadline for passing bills.[55]

Other zoning changes that should be much easier to implement would involve converting industrial, retail, and commercial space into residential and mixed-use space. The COVID-19 pandemic has accelerated trends that were already occurring: some commercial spaces were becoming redundant (especially shopping centers) and work was increasingly fluid as more occupations were performed at home or away from a central office setting. Going forward, this can provide an important new source of housing supply and should be prioritized by state and local lawmakers as high-priority actions.

"A practical approach to this would be to allow residential use in zones that are currently zoned for commercial or industrial uses, except where a pressing health, safety, or environmental issue would preclude homebuilding."

A practical approach to this would be to allow residential use in zones that are currently zoned for commercial or industrial uses, except where a pressing health, safety, or environmental issue would preclude homebuilding. There is, to be sure, some discussion over whether converting offices and shopping malls into apartments would be cost-effective, and what direction trends in teleworking will take as we emerge from the pandemic. Whatever the answer to those questions, allowing the market to answer them, rather than precluding through zoning regulation the potential use of this land for residential uses, would be a more robust way of answering open questions.[56]

CONCLUSION

The data presented show that California's housing affordability crisis is creating a division between the haves and have-nots within the state, as millions of Californians live at or near poverty levels and are becoming increasingly vulnerable to financial distress. This crisis reflects the simple economics of supply and demand, in which housing supply is not growing nearly fast enough to reduce housing costs and expand the state's housing stock. With a median state home price of $700,000, the idea of owning a home for most Californians who do not already have equity will never be more than a dream.

Significant policy reforms are needed if the state is to increase its housing supply and reduce these costs. Moving the needle significantly requires a portfolio of policy changes.

These reforms include reducing construction costs, which run much higher in California than the rest of the country because of a morass of regulatory issues that raise developer and builder costs, and which, in turn, are passed on to homeowners. They also include substantially modifying CEQA, which is being used in entirely unintended ways to block and/or delay development, and to extract payments from developers for special-interest groups. Modifications are also needed in LAFCOs and UGBs, both of which significantly influence how much a city or urban area can expand, thus limiting the land available for housing. Zoning reforms are also needed, including transitioning agricultural land to urban development, introducing multifamily housing into single-family-home zoned areas, and transitioning commercial, industrial, and retail space into residential and mixed-use development.

The broad portfolio of reforms that are necessary and the equally broad array of groups opposing these various reforms mean that strong political leadership at both the state and local government levels is required to break the stranglehold that the status quo has had for decades and which is preventing development and creating an affordability crisis that negatively affects the state's most economically vulnerable residents. It will be up to voters to demand that their representatives make humane choices that will promote a more-civil society, one in which more people have decent homes that are affordable, and one that welcomes future Californians with a new version of the California Dream that can come true.

> "California's housing affordability crisis is creating a division between the haves and have-nots within the state."

ACKNOWLEDGMENTS

Funding for the Cato Project on Poverty and Inequality in California provided in part by the generosity of the Steffy Family grant program of the Orange County Community Foundation, the Rising Tide Foundation, and our Sponsors. The author thanks Ben Conrad and David Hervey for their helpful comments and research assistance.

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CITATION

Ohanian, Lee. "Common-Sense Policy Reforms for California Housing," Policy Analysis no. 920, Cato Institute, Washington, DC, August 31, 2021. https://doi.org/10.36009/PA.920.