Connecticut Debate Association
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This House would require all towns to build low-income, multi-family housing.

This topic covers an important public policy issue with implications for economic and racial inequality. We caution all debaters to be respectful regarding the arguments they make and the language they use to express them.

Can You Force the Suburbs to Build Apartments? Massachusetts Is Trying.

Slate, BY HENRY GRABAR, JAN 21, 2022

Build up or pay up. Even if some towns "have to go kicking and screaming."

That is the message Massachusetts is sending to 175 cities and suburbs in the Boston area, as a bill passed last year to boost housing production begins to take effect. Almost every jurisdiction in eastern Massachusetts, from the New Hampshire border to Worcester to the Cape Cod Canal, will have to do its part zoning for 344,000 new units of as-of-right multifamily housing—or lose access to some state grant programs. That means allowing apartments in many tony subdivisions currently reserved for single-family homes.

For perspective, all of Massachusetts currently builds just 15,000 new units a year—a huge drop-off from the 20th century and one reason that the Boston area has some of the highest rents and home prices in the country. "Massachusetts is the first state to actually get a policy like this," said Jessie Grogan at the Cambridge-based Lincoln Institute of Land Policy. "Are the incentives strong enough? Probably not. But it will have some impact, and more than the other housing tools we've tried."

In some ways, Massachusetts is thriving. Employment is high; incomes are among the highest in the nation. In spite of that, the population declined between 2020 and 2021—a trend that reflects the state's crushing housing shortage. As in California and Oregon, policymakers in Massachusetts have realized that splintered metropolitan governments are structurally incapable of effectively addressing the issue. Few towns want to change, and nobody wants to go first.

So far, West Coast states have had more success breaking down apartment bans than East Coast peers like Maryland and Connecticut. But the East is catching up. Pro-housing reforms suddenly seem viable in Albany. Some are modeled after Massachusetts, where unlike most Republicans Gov. Charlie Baker has not let contempt for the poor outweigh pro-growth instinct.

Baker thinks the Bay State's crimped housing production is at the root of its affordability crisis. "It's an equity problem, it's an economic development problem, it's a community development problem," he told reporters last spring. "It makes huge differences with respect to where people can actually afford to live here in the commonwealth, whether or not they can stay, and where they make decisions about where to start a family." Liberal housing experts agree, and add that it's an environmental problem: Building restrictions in central areas force families to relocate into car-dependent sprawl.

Baker's 2021 economic development bill included zoning and permitting reform. But the biggest gambit was the multifamily housing mandate for the Boston suburbs. As Michael Kennealy, Massachusetts' secretary of housing and economic development, said in a webinar this month: "Our housing strategy could be simply summarized as more types of housing everywhere."

The mandate applies to places served by or adjacent to stations of the Massachusetts Bay Transportation Authority, the state agency that operates the buses and trains that fan out of Boston. The so-called MBTA communities include fishing towns, postindustrial cities, and rural outposts. But the highest burden falls on Boston's bedroom suburbs, such as Quincy and Newton, whose excellent transit infrastructure is compromised by complicated and exclusionary zoning rules.

Take Newton, where the median home sells for $1.4 million. It's a large suburb of 88,000 souls 7 miles from Boston Common. It has 10 stations of light rail and commuter rail.* But the residential density around those stops, according to the Massachusetts Housing Partnership's Transit-Oriented Development Explorer, never exceeds five units an acre. The median across all MBTA stations is 6.2 homes per acre; the state now requires MBTA communities include at least one district with 15 homes per acre. (That corresponds to a relatively dense but recognizably suburban fabric, such as town houses or duplexes around shared yards.)

Under compliance with the new law, Newton would realistically need more than one district, since the state is requiring it create by-right zoning capacity for 8,330 apartments. How much by-right multifamily zoning exists in Newton today? None.

At a zoning meeting in Newton last week, city councilors sounded alternately excited and defiant about loosening up land use regulations. The deep-blue suburb briefly flirted with ending single-family zoning after the racial justice protests of 2020, before retreating in panic during municipal elections last year. Newton has permitted a handful of apartment projects in recent years, but all have gone through lengthy review with the City Council. One 800-unit development, Northland, took three years, hundreds of meetings, and an 18-month public hearing process to be approved. Councilors secured additional units of affordable housing—but also shrank the project by almost 50 percent.

That type of back-and-forth negotiation, beloved by city councils the world over, is what Massachusetts is trying to avoid by making zoning "as of right"—no horse-trading and no unforeseen delays. "It's a huge problem in metro Boston," said Grogan. "Local communities have evolved to require a special permitting process, which allows a lot of flexibility to get concessions and amenities. On the other hand, it makes development a lot more expensive and less predictable because you never know what you'll be asked to do going into the process."

Tim Reardon, of Boston's Metropolitan Area Planning Council, noted that even straightforward zoning can be burdensome. The Boston suburb of Essex, for example, requires a four-bedroom apartment include six parking spots! "As a developer told us in a forum last week," he said, "there's also a concern that as-of-right zoning could have so many restrictions that it ends up being infeasible." Even well-meaning rules, such as affordability requirements or environmental standards, can put a chokehold on new supply.

More worrisome, perhaps, is the possibility that suburbs can fulfill the mandate by redrawing zoning maps to include existing apartment buildings constructed during a more freewheeling era. According to the planning council, this double-counting could reduce the law's impact by 75,000 units, nearly 25 percent of the total, especially in places that are already relatively dense and well served by transit—such as the college towns of Cambridge and Somerville. Perversely, this means that those places could sneak through allowing little new housing—while some faraway small towns zone for rapid growth.

Finally, there's the concern that prosperous suburbs will simply not follow the law—a possibility that a couple of Newton councilors suggested might be easier than abandoning their right to shape future projects. "It remains uncertain what the courts will do if they don't comply," said Clark Ziegler of the Massachusetts Housing Partnership, which is working with jurisdictions on adapting to the new rules. "It is a mandate. It's not an opt-in." But if penalties don't go beyond loss of grants, the mandate may not legalize apartments in very many suburbs. That, in turn, would funnel pent-up demand into those jurisdictions that do permit new apartments, increasing the burden of compliance. (This is one reason the state wants all these suburbs to upzone at once.)

Still, said Ziegler, whose organization has been angling for a multifamily mandate for a decade, it's a good start. "You have to take the long view here. It will take a while to play out, and that's appropriate. Some communities are poised. Some are going to have to go kicking and screaming."

The High Cost of 'Affordable Housing' Mandates

The Wall Street Journal, By Paul Kupiec and Edward Pinto, Feb. 12, 2018

'Inclusionary zoning' laws create a vicious circle of higher prices and reduced demand.

As housing prices recover from the Great Recession, municipalities across America are considering laws that will raise the cost of homeownership. The Wall Street Journal reports that cities like Philadelphia, Detroit and Atlanta are requiring developers to set aside some portion of their new units to sell or rent at below-market prices to low-income households. Like many progressive promises, this is a fool's errand. These laws will reduce the cost of housing for targeted political groups if they increase the cost of housing for everyone else.

The concept, called "inclusionary zoning," has been implemented by 886 communities, nearly 90% of which are in California, Massachusetts and New Jersey. While the intent of these laws is to increase the supply of affordable housing, history shows they increase the cost of housing and limit the supply of new affordable units.

Consider a project plan to produce 100 identical new housing units with development outlays for land, materials, zoning site preparation and other costs of $23.75 million. Including a 5% return for the developer, the project costs $25 million. Without government involvement, the market price for each housing unit will be $250,000. The successful sale of 100 units at this price would cover all out-of-pocket development costs and earn the developer a competitive profit.

What happens if the municipality requires the developer to sell 10% of these new units at below-market prices? Laws are rarely so specific, but assume that the municipality caps the price on affordable units at $125,000. The law doesn't change the cost of building. It merely changes the price the developer can legally charge for some of its new housing units. The total cost of $25 million must now be spread over 10 units, each with a maximum legal price of $125,000, and 90 units priced to cover the remaining cost. Each of the 90 "market price" units must sell for $263,889 for the developer to cover costs.

Policy makers may view inclusionary zoning as a free lunch, but requiring developers to sell or rent 10% of their housing units at below-market prices to "qualified households" means charging above-market prices to everyone else. The affordable-housing requirement increases the median house price in the development by 5.5%.

The impact on nonsubsidized home prices can be even more counterproductive. Inclusionary zoning laws impose significant costs on developers, which are forced to find buyers with the necessary qualifications and financing to purchase the subsidized units. If the potential pool of nonsubsidized qualified home buyers falls short of 90 households when new units are priced at $263,889, the developer won't undertake the project. In that case the overall supply of houses will be smaller as new developments are abandoned, putting additional pressure on the prices of existing homes.

The example is simplistic, but the historical record bears out its common-sense predictions. A 2004 study by the Reason Foundation found that inclusionary zoning laws led to less affordable housing in the San Francisco Bay area. The total production of new housing units declined, and the production of new affordable-housing units declined precipitously. The drop in new home construction also coincided with significant price increases for resales and new "market price" units.

Studies by both the Cato Institute and the Brookings Institution show that housing is more affordable where there are fewer land-use restrictions. If zoning, building codes, fees and inclusionary zoning laws raise development costs, housing will be expensive. Many zoning codes place restrictions on unit density, parking capacity, the size of dwelling units, landscaping and countless other factors that drive up building costs and price many households out of the market.

Rather than promise the impossible—making housing affordable by decree—municipal governments should embrace practical solutions. They should adopt land-use and building code regulations that reduce development costs. They should expedite approval processes, lower impact fees and taxes, and reduce other unnecessary regulations. Only by adopting measures that trim development costs can municipal governments stimulate the production of new housing that is more affordable for everyone.

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Multifamily housing fight in Woodbridge could have broad implications for zoning in Connecticut

Hartford Courant, By MICHAEL HAMAD, JAN 18, 2021

This proposed multifamily housing project at 2 Orchard Road in Woodbridge has touched off a fierce debate over Connecticut's lack of affordable housing. Attorneys on both sides say it could have broad implications for zoning in wealthy towns across Connecticut.

This proposed multifamily housing project at 2 Orchard Road in Woodbridge has touched off a fierce debate over Connecticut's lack of affordable housing. Attorneys on both sides say it could have broad implications for zoning in wealthy towns across Connecticut. (Handout)

A standoff over a proposal to build multifamily housing on a 1.5 acre residential property in Woodbridge has broad implications for zoning laws in other towns across Connecticut — a state with the 10th-highest housing wage in the U.S., according to the National Low Income Housing Commission, and where the average two-bedroom rental has a fair market rate of $1,374 per month.

Designed to provoke a wider debate about race, income inequality, exclusion and fair housing in wealthy Connecticut towns — some of which could be addressed by the state legislature this year — the contested proposal also points to the hypocrisy of many white suburban residents, some of whom demonstrated against racial injustice at Black Lives Matter rallies last summer but consistently vote down affordable housing projects in their towns.

In September, the Open Communities Alliance (OCA), a civil rights advocacy group, and the Jerome N. Frank Legal Services Organization at Yale Law School submitted a 138-page application to the Woodbridge Town Plan and Zoning (TPZ) Commission to build a four-unit, multifamily home on the grounds of 2 Orchard Road, which was purchased in 2020.

"Towns throughout Connecticut have used exclusionary zoning to keep affordable housing to a minimum," said Erin Boggs, executive director of the OCA. "Some towns have really perfected their technique, and Woodbridge is one of those."

The proposal asks the TPZ to amend its regulations and Plan of Conservation and Development (POCD) to permit multifamily housing with affordable units in most of the town's residential districts.

It also asks for a residential zoning plan that would "fully correct and remedy the Town's history of exclusionary land use policies and practices," allowing private developers to build affordable housing in proportion to Woodbridge's

geographical position in the region.

The applicants claim that Woodbridge's existing regulations have illegally excluded multifamily and affordable housing for decades, running afoul of state and federal fair housing laws.

Boggs said that Woodbridge currently allows multifamily housing in only 0.2% of the town.

"This is a shocking way to do zoning in a state that has laws that actually require that every town host a fair portion of the regional need for affordable housing, welcome people from all income levels and promote inclusion and diversity," Boggs said.

Opponents in Woodbridge — a town of less than 10,000 residents in New Haven County — said they recognize the need for affordable housing but take issue with both the specific building plans and the applicant's attempts to strip regulatory power from the town.

Tim Herbst, a land-use attorney and former gubernatorial candidate who represents 12 Woodbridge families opposed to the project, said it's rare for a revision to a POCD to be "applicant-driven."

"The text amendment as written, if passed, would essentially allow these types of applications over the counter," Herbst said. "There would be no planning and zoning commission review whatsoever. There would be no special permit standards in the regulation. Essentially, it's saying that this multiunit housing would be allowed in every residential zone in the town of Woodbridge as a right, so a person could go in and basically over the counter obtain a permit."

Changing the character of the town

A 2019 investigation by The Connecticut Mirror and ProPublica found that nearly 40 Connecticut towns have blocked construction of private multifamily housing projects in the last 20 years.

Woodbridge is 78.3% White, 3.2% Black (non-Hispanic) and 5.7% Hispanic, with a median income of $157,610 and a poverty rate of 3.5%, according to the U.S. Census Bureau. It's also a suburb of New Haven, where two-thirds of residents are Black or Hispanic, the median income is a little over $42,000 and a quarter of residents live in poverty.

As proposed, two of the four units at 2 Orchard Road would be leased to families receiving rental assistance under the federal Section 8 program or through Connecticut's Rental Assistance Program. Judging by the racial makeup of rental assistance recipients in the region, the applicants said, the families who eventually occupy those units would likely be Black or Hispanic,

If the town rejects the proposal, it could face a declaratory judgment action for failing to comply with state law. The state of Connecticut could face a similar action for failing to enforce the law, and applicants could also file a federal lawsuit under the Fair Housing Act for discriminatory housing practices — all actions that could force Connecticut towns with similar restrictions to revise their zoning regulations.

In December, a neighborhood group calling itself "Woodbridge Residents for Town Planning" mailed out a flyer asking residents to contact members of the Town Plan and Zoning Commission in opposition to the project.

"Woodbridge, do we want this? (Traditional, single-family home) Or THIS next door? (Proposed 4-unit building complete with 9-car parking lot)," the flyer states, along with two contrasting images. "WE must be in control of our Town's future!"

Residents Sal Coppola and Doug Boulton also launched a GoFundMe page on behalf of the neighborhood group to pay for Herbst's legal fees and other expenses. It has since raised more than $21,000.

More than a dozen town residents expressed concern or support for the proposal at a Jan. 4 public hearing on Zoom, and there have also been roughly 150 written responses from residents, mostly in opposition.

"This application boarders [sic] on insanity and must be denied," one couple wrote. "I sincerely hope and pray that you deny this application and keep our vry special Town as is."

The next public hearing is scheduled for Feb. 1.

Herbst said his clients aren't opposed to the concept of affordable housing but take issue with the project's design itself, which could lead to problems with the town's groundwater, infrastructure and sewer systems.

"To not even really analyze those issues and to basically insult the commission and say we don't even want you having a review of these applications, I think, is a disservice to our longstanding tradition of local control, especially when it comes to land use decisions," Herbst said. "I think there's a better way to do this."

Regional control

The Woodbridge dispute also brushes up against the Connecticut third rail of regionalization, which last sparked in 2019 when lawmakers introduced legislation that would require smaller towns to consolidate school functions, touching off hours of public testimony in opposition and the eventual failure of three bills.

But critics point out that Woodbridge — like other towns — has failed to enact meaningful change in its housing policies for the better part of four decades, necessitating the involvement of the state or outside activists.

State Sen. Rick Lopes, D-New Britain, who co-chairs the housing committee in the General Assembly, said the legislature bases much of its agenda on the freedoms of local control and local rule.

"Those things are wonderful until you can statistically prove that these rules are hurting their neighbors and other members of the state," Lopes said. "I'm all for freedom, but when you are hurting your neighbors and hurting fellow citizens of this state, something needs to change in your policies. I would love to see these solutions coming from the towns and from local control, but they actually have to do something. They can't just say they're going to do something and then have nothing change year after year."

Lopes, who said he was unfamiliar with the Woodbridge proposal, said Connecticut's issues with exclusionary zoning practices are emblematic of a state with a widening gap between the haves and the have nots.

"It's a sad thing to come to realize, that in Connecticut you are guaranteed a fairly high quality of life, a very high level of primary education unless you happen to live in one of the roughly 10 communities that are very poor and don't have these guarantees," he said.

Boggs said she hopes the Woodbridge TPZ will approve the proposal and make the changes needed to comply with state and federal law. She's also pushing the Connecticut legislature to adopt Fair Share zoning, which would require each town to zone for a reasonable proportion of its regional need for affordable housing.

"If we were compelled to go to court, it could create an opportunity to have the court's involvement in mandating some of these changes," Boggs said.

At the Feb. 1 meeting, Herbst said he will introduce evidence into the record that shows flaws in the OCA proposal and will also offer an alternative, one he said was "far better, more practical and can assist the town in getting to where it needs to be in developing an affordable housing plan that works."

Woodbridge, Herbst added, is a test case — "I often tell people that this is like the Mount Laurel of Connecticut," he said, referring to a famous 1975 judicial interpretation by the New Jersey Supreme Court — that has attracted the interest of land use attorneys around the state.

"I believe [it's] part and parcel of a legislative agenda that would strip local municipalities of local control and zoning, provide a uniform statewide standard similar to what's being proposed in Woodbridge, and to basically attack this in two ways: through the application process — which by extension would be the judicial process if this goes up on appeal — and then secondly through the legislative process," Herbst said.

"I would have to believe that Gov. [Ned] Lamont and Lt. Gov. [Susan] Bysiewicz are going to recognize that. They don't call Connecticut the land of steady habits by accident. I think you're going to see moderate Democrats and the far left fight over some of these proposals, because I think some of them go way too far."

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The facts about state's affordable housing statute

The Connecticut Mirror, by CT Mirror Staff, July 21, 2017

A lot has been said about affordable housing lately – some of it accurate, some not so much – after the legislature approved a bill that changes Connecticut's principal affordable housing statute and Gov. Dannel P. Malloy vetoed it.

Whether the General Assembly decides to sustain or override the governor's veto remains to be seen. Good, intellectually honest people – lawmakers, developers, municipal officials, housing advocates – can disagree about whether the bill altering the Affordable Housing Appeals Procedure should become law.

But while everyone is entitled to their opinion, not everyone, as the late U.S. Sen. Daniel Patrick Moynihan liked to say, is entitled to their own facts. There is one set of facts about the 8-30g statute, as the law is known. And lawmakers, before they vote to erase Malloy's veto or uphold it, should be aware of the truth.

Fact 1: Contrary to a frequent misstatement, 8-30g does not allow developers carte blanche to ignore local zoning.

The law says, in simplest terms, that unless 10 percent of a town's housing stock is government-assisted or deed-restricted to remain affordable, a developer who is willing to build housing with a sufficient degree of guaranteed long-term affordability can challenge the town's failure to approve the proposal. At least three of every 10 units in the development must be priced so that people earning less than 80 percent or 60 percent of the state or area median income need not pay more than 30 percent of their income in rent or mortgage payment.

Does the town have recourse? Absolutely. If it can show the development would significantly threaten public health or

safety, it can deny the developer's application.

Judges have ruled in favor of towns when significant issues regarding wastewater, traffic or other substantial objections were proven. Or the town can facilitate the building of enough affordable housing to get over the 10 percent threshold. Or the town can qualify for a four-year moratorium from 8-30g by encouraging the development of a much smaller number of eligible housing. If it continues to promote additional affordable housing development during the moratorium, it can obtain additional moratoriums.

Is it difficult to qualify for a moratorium? Not if the town tries. Farmington, Wilton, New Canaan and Ridgefield have qualified. Darien, Berlin and Trumbull have qualified for two. Another 31 towns exceed the 10 percent threshold. Towns can find the right locations, achieve consensus and attract talented developers. But many don't try.

Fact 2: Connecticut is not the only state with a similar statute. Massachusetts has a very similar law that was a model for 8-30g.

Fact 3: Contrary to assertions that 8-30g has produced few units, it has produced about 5,000 affordable homes and more than 10,000 additional modestly priced, market rate apartments and homes as part of mixed-income developments. It has spurred many forward-thinking towns to proactively permit thousands more affordable homes to be built.

Fact 4: Many towns have used exclusionary tactics – minimum lot sizes, glacial land-use approval processes, purposeful failure to build sewers and other infrastructure, lawsuits and oft-repeated myths that affordable homes will lower property values, increase crime and swell school budgets – to block affordable home creation.

Fact 5: Mixed-income 8-30g developments have been good neighbors, bringing none of the ills opponents have predicted. They are environmentally sound, and are often anti-sprawl because they must have sewer hookups and other infrastructure, and their multifamily design saves energy even without green features.

Most important, they have provided opportunity for thousands who wouldn't have otherwise enjoyed it. Because most have been built in wealthier towns that had previously produced little affordability, those living in these affordable or modest-market-rate homes have had access to high-resource schools, jobs, health care, child care and other vital services that are all connected to better outcomes for their families.

The 8-30g statute has given more families the opportunity to live in the communities that work best for them. In a state with one of the highest achievement gaps, the second-highest wealth disparity, disgraceful underemployment among youth and minority groups, too much sprawl and often too little access to opportunity, 8-30g has been a shining light.

California's Free-Market Housing Fix

The Wall Street Journal, By Edward Pinto and Tobias Peter, Feb. 3, 2022

A new state law allows landowners to build four units on most lots zoned currently for one unit.

Has California's housing crisis gotten so bad that the state is willing to try a free-market approach? The recent passage of SB9, also known as the California Housing Opportunity and More Efficiency Act, suggests so.

The new law upends the long-held assumption that elites can allocate resources better than markets. In California, that belief produced zoning overreach, excessive land-use restrictions, urban growth boundaries, endless environmental reviews and further regulation by neighborhood groups and local officials. All that made buildable land scarce and expensive.

This dysfunctional regime, known locally as "build absolutely nothing anywhere near anyone," or Banana, has prevented thousands of small property owners and builders from adding to the housing supply by working on a few units at a time. But it has rewarded deep-pocketed developers with large government subsidies for few new units built near a handful of transit stops or in low-income neighborhoods. If government money were the fix, California wouldn't have the second-highest home prices after Hawaii, the highest rents and the third-highest rate of homelessness of any state.

With an untenable status quo, the Legislature decided to restore some private property rights taken away by zoning restrictions to most property owners and rely on private markets. Effective Jan. 1, SB9 allows landowners to build up to four housing units on about 80% of the lots currently zoned for only one unit. It allows lot splitting—the conversion of current homes, with some limitations, into rentable units, and new construction of duplexes. We estimate that around 2.5 million single-family detached homes in California could be converted to duplexes. In a best-case scenario, more than 500,000 units would be added over 10 years with benefits accruing to existing property owners and small-scale builders, not large, politically connected private developers.

SB9 reinforces a growing consensus that the way to make housing more affordable is to increase supply, not to ease credit, increase government subsidies, or suppress interest rates. Even a few progressive think tanks and cities have come around to this view.

Modest zoning reform on a broad scale is highly effective. The borough of Palisades Park, N.J., always has allowed moderately higher density housing, unlike many neighboring communities. Over the past 40 years, Palisades Park has seen a 50% population increase by replacing older single-family homes with two-family homes—mainly duplexes—while neighboring boroughs' populations remained flat. Today, Palisades Park residents enjoy lower taxes and a more vibrant commercial area than their neighbors.

Even in California there are signs that private enterprise can take off. From 2018 to 2020 homeowners added more than 15,000 accessory dwelling units, also known as granny or mother-in-law flats, with more to come. The catalyst for this explosive growth was a decadeslong effort by the Legislature to overcome local obstacles that began in the 1980s.

SB9 applications are already being filed. The first was for a private home built in 1951 in Palo Alto, Calif., which sits on a 1-acre lot and is valued by Zillow at around $4.5 million. With four newly-built energy-efficient units, the lot's total value could double easily, now split over four units. The city's tax base would also double—all with minimal new infrastructure expenditures, no subsidies and no urban sprawl. What's not to like?

It is true that not-in-my-backyard types or local officials still may hinder SB9's effectiveness. While the Legislature tried to limit the discretionary powers of local officials, it didn't remove all options for local opposition, leaving, for example, the ability to impose onerous design requirements. Affordable-housing mandates or rent controls could limit the number of new units built, which would interfere with the filtering process. This process relies on the building of new, more-expensive units, which frees up an older, less-expensive ones, similar to the used-car market.

SB9's broad applicability may allow for the largest restoration of property rights in our lifetime. In many of California's 4,000 jurisdictions, the chance to evaluate the effects of best and worst practices at the local level will help policy makers craft solutions for other high-priced communities around the country.

If SB9 fails, California may be doomed to a demographic future in which the state consists of a small group of the ultrarich, a shrinking middle class, and a growing segment living in or near poverty. There is hope that SB9 will allow private enterprise to address California's housing crisis. Policy makers should provide all the backing they can.

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Program to Spur Low-Income Housing Is Keeping Cities Segregated

The New York Times, By John Eligon, Yamiche Alcindor and Agustin Armendariz, July 2, 2017

HOUSTON — A mural on the wall of an elementary school here proclaimed, "All the world is all of us," but the hundreds of people packing the auditorium one night were determined to stop a low-income housing project from coming to their upscale neighborhood.

The proposed 233-unit building, which was to be funded with federal tax credits, would burden their already overcrowded elementary school with new children, many people argued during a lively meeting last year. Some urged the Houston Housing Authority to pursue cheaper sites elsewhere.

As cheers rang out over nearly three hours for every objection raised, Chrishelle Palay, a fair-housing advocate, confronted the mostly white crowd.

"It's time to face your fears," Ms. Palay said as boos rang out. "Stop succumbing to misleading rhetoric, and begin practicing the inclusive lifestyles that many of you claim to lead."

The outcome was familiar. Elected officials sided with the opposition. And an effort to bring affordable housing to an affluent, majority white neighborhood failed in Houston, where low-income housing is overwhelmingly confined to poor, predominantly black and Latino communities.

A review of federal data by The New York Times found that in the United States' biggest metropolitan areas, low-income housing projects that use federal tax credits — the nation's biggest source of funding for affordable housing — are disproportionately built in majority nonwhite communities.

What this means, fair-housing advocates say, is that the government is essentially helping to maintain entrenched racial divides, even though federal law requires government agencies to promote integration.

The nearly $8-billion-a-year tax credit program allows private developers to apply for credits they can use to help finance new housing or the rehabilitation of existing units.

The program offers developers larger credits for building in poorer communities, which tend to need affordable housing the most but also have large minority populations. That has meant that even in a place like Houston, one of the country's most diverse cities, racial divides can run deep.

When she got a federal housing voucher many years ago, Tonya McKinney said, she searched far and wide for an

apartment but ended up in Houston's Fifth Ward, a neighborhood she was not happy with. Founded by former slaves, the community, just east of downtown, has a long history of blight but has undergone significant redevelopment in recent years.

Her three children want change, she said.

"They talk about this all the time, about us moving into a better area," said Ms. McKinney, 46, who used to work in retail but is now disabled. "They're actually tired of living in what they call the ghetto."

The proposed Houston housing, known as the Fountain View Drive project, would be built in the Galleria district, which sits a few miles west of downtown and features shiny office towers and stores. And at 87 percent white, it is an unlikely site for low-income tax-credit housing.

While only about a third of census tracts in the nation's hundred largest metropolitan areas have a majority nonwhite population, 54 percent of new tax-credit projects have been built in those tracts since 2000, according to a Times analysis. And that pattern of placing tax-credit projects in communities with disproportionately high black and Latino populations has been consistent over time, the data shows.

The Treasury Department, which administers the program, includes no provisions in its regulations that address segregation. That, fair-housing advocates argue, runs afoul of the Fair Housing Act, which requires government agencies that administer housing programs to do so in a way that reduces racial segregation.

"It's been clear for a long time that the tax-credit program is perpetuating racial segregation," said Michael Daniel, a fair-housing lawyer.

While nearly 58 percent of the people living in all tax-credit properties in Houston are black, the area proposed for the housing development is just 3 percent black.

At the meeting last year, Galleria residents complained mostly of school overcrowding, the effect on their property values and the cost of the project. Yet some people hinted at deeper social discomforts.

One man, Richard Caldwell, stepped to the microphone and described a low-income area in Oxnard, Calif., where he had lived previously. The families there, he said, jammed a lot of people into the apartments by subletting rooms.

"They're going to sublet it out, and you won't have any control over it," he said.

In a letter to the federal Department of Housing and Urban Development, one Galleria resident warned that the development would introduce an "unwelcome resident who, due to poverty and lack of education, will bring the threat of crime, drugs and prostitution to the neighborhood."

She had made it to the neighborhood, she wrote, through the hard work and sacrifice of her family.

"I will fight very hard," she continued, "before I give up that privilege and dignity to those who, either from lack of initiative or misfortune, don't deserve to be there."

Mayor Sylvester Turner, who is black and in his first term, vehemently opposed the project and decided not to put it before the City Council for a vote. His opposition was mostly due to the cost, he said, but he acknowledged that race may have motivated other critics.

"I know for a fact that there were some who did not want it because they did not want, quote-unquote, those people coming over there," he said. "I got that. But that is their right to exercise their freedom of speech, even though I fundamentally disagree."

Greg Travis, the city councilman representing the area, said race was not a concern in the community, where about 29 percent of the elementary students are Latino and 7 percent are black. Rather, for some residents it was about how low-income neighbors might fit in, he said.

"People of different socioeconomic status sometimes have different values based on their socioeconomic status," he said. "Some people can afford things that other people can't.

"You go to certain places, their houses would be painted," he continued. "Others, they can't afford that as much, so you don't see it as often. It's not a bad thing, it's just a socioeconomic thing."

Several United States senators reintroduced a bipartisan bill this year that would greatly increase funding for the tax-credit program and prohibit community members from vetoing projects.

"One of the biggest obstacles that has always existed and that remains in building affordable housing in higher-income, higher-opportunity neighborhoods is local opposition," said Diane Yentel, the president and chief executive of the National Low Income Housing Coalition.

Although the Treasury Department administers low-income housing tax credits, each state is left to decide which projects are funded. Ever since Texas made changes to its selection process four years ago, projects have increasingly

gone into neighborhoods that are whiter and more affluent, according to a study by the Texas Low Income Housing Information Service, the fair-housing group that Ms. Palay works for.

Whether that is what's best for low-income families is at the center of a dispute between Houston and the Department of Housing and Urban Development, which is the government's chief enforcer of fair-housing laws.

In January, in the waning days of the Obama presidency, the department sent a scathing letter to Houston, saying that the opposition to the Fountain View project was partly motivated by race. The department had found that 81 percent of tax-credit developments in Houston were in census tracts where eight in 10 people are minorities. HUD threatened to take the city to court if it did not approve the development.

Mr. Turner took exception to the department's demands.

"I don't think the right message to be sending to kids in low-income families is that the only way they can succeed is that they have to move into affluent communities to do that," he said.

Instead, Mr. Turner has strongly advocated investing in black and Latino communities that lack resources, saying new housing could be one tool to help improve them.

"But this is the same thing we have been hearing for years, if not decades," said Gustavo Velasquez, a former assistant HUD secretary who worked on the Houston investigation.

Mr. Velasquez described telling Mr. Turner in a meeting that Fountain View represented a balanced approach to developing affordable housing in both poor and affluent areas.

"This was the opportunity for the city to take that bold step and start reversing Houston's legacy of segregation," he said.

Research suggests that when children from low-income households grow up in affluent communities, they tend to get a better education and earn more money as adults. But a study published last year by two Stanford professors made a case for building tax-credit housing in high-poverty areas, finding that home values around the developments rose by about 6.5 percent and that segregation decreased modestly.

Ben Carson, the secretary of housing and urban development, declined to comment on the Houston project, but he has publicly stressed the importance of investing in low-income communities and questioned government-driven efforts to promote integration.

"The secretary strongly believes that all cities should provide the opportunity for their residents to have a diverse range of housing options," Raphael Williams, a HUD spokesman, said in a statement.

He added that the department was still contemplating what to do about the Fountain View project. The city has asked HUD to withdraw its complaint, and the fate of the project hinges on whether the department complies or tries to force Houston to allow it to be built.

One Houston resident, Katrina Rhodes, wants the development to be built. As she sat in her second-floor apartment one afternoon, holding her 21-month-old daughter, Chassity, Ms. Rhodes had fresh worries about her 9-year-old daughter, Leeah.

Just a day earlier, Leeah, who walks more than a mile to and from school every day because school buses do not come out that way, was chased home by fourth graders in a dispute over someone being sprayed with Silly String, Ms. Rhodes said. Without any extracurricular activities at the school, Ms. Rhodes, 31, worries about what will keep her children busy.

She wants a neighborhood like the Galleria, where, she believes, the schools are better and they will have the best chance to succeed.

"If there was an opportunity for me to move over there, guess what: I would go," she said.

Not everyone thinks it would be a good idea to move.

"No," Erica Ashton, 38, said of whether she would move to the Galleria from her spartan, low-income apartment complex in a predominantly black part of northwest Houston. She was worried about the discrimination she might face.

Her brother-in-law, James Smith, wondered if integration could even work as he bounced his 15-month-old daughter, Jamie, on his lap. If black people moved into the Galleria, white people would flee, he said, adding that it would be more instinctive than intentional.

"Out there," said Mr. Smith, 46, "they were taught: 'This is us. If anything from the outside tries to come in, we shall stop it.'"