



TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations



9

226 Anne Dallas Dudley Blvd., Suite 508

Nashville, Tennessee 37243-0760

Phone: (615) 741-3012

Fax: (615) 532-2443

www.tn.gov/tacir

MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard
Executive Director

DATE: 26 January 2024

SUBJECT: House Joint Resolution 139 (Housing Affordability, Impact Fees, and Development Taxes)—Draft Report for Review and Comment

The attached draft Commission report is submitted for your review and comment. It was prepared in response to House Joint Resolution 139 by Representative Sparks, introduced in 2023, which requested the Commission study the factors affecting housing affordability in the state. The final report will be presented at the next Commission meeting.

The Commission finds that the state already has many programs in place to aid housing affordability and that local governments are already equipped with many policy tools to promote greater housing supply and affordability. There are, however, opportunities for the state to provide local governments with additional tools and resources to better meet their housing needs, while also leaving them the flexibility to find strategies that make the most sense for their own local conditions.

Housing affordability has become a pressing matter for many Tennesseans across the state. Many Tennesseans can no longer afford a home, at least not in the communities where they wish to live and work. Meanwhile, homeowners and renters may struggle to maintain the homes they do have. And where housing prices are lower, it may often be only because many homes are aging and in need of expensive renovations. The problem of housing affordability is thus a multifaceted one, taking many forms and with many distinct drivers behind it. However, the leading issue identified by both research and stakeholders is one of undersupply: that is, the number of homes is not enough to meet the demand. Increasing the supply of homes, even if sometimes at higher price levels, could help to improve affordability for all.

Fortunately, there are several means for local governments to foster greater housing supply, primarily through changes to help make the most of available land. In part, this may mean reforms to zoning regulations to allow more housing to be built. A number of other states have sought to reform zoning via statewide preemptions, requiring local governments to implement a series of discrete reforms. However, given the wide variation between communities across Tennessee in their housing needs, current levels of affordability, existing land use and availability, and many other factors, there is no one-size-fits-all solution. A voluntary and incentives-based approach to zoning reform could help local governments to adopt reforms to benefit their housing supplies while still leaving them with flexibility.

Based on these and other findings, the draft report makes six recommendations, two of which the Commission has made previously in related studies:

- As noted in the Commission’s 2012 report, *Dealing with Blight: Strategies for Tennessee’s Communities*, land banks can be a useful tool for making abandoned or vacant land productive—including by making it available for affordable housing. However, at present only a small number of cities and counties are authorized to establish land banks. Therefore, to assist local governments with both blight and increasing the land available for their housing supply, **the Commission recommends that the General Assembly authorize all local governments to establish land banks.**
- The state and many local governments also possess their own property that could be made available for housing. The Department of General Services currently collects information on state-owned real property, but greater coordination among information sources would be beneficial, and local governments could reach a wider audience by having property information listed on DGS’s website. **As in 2019, the Commission recommends that the state help local governments reach a wider audience of potential buyers for their surplus real properties—including tax-delinquent properties—by allowing those that have websites to post links to the state’s website where the state advertises its surplus real property.**
- Zoning reform can have substantial affordability benefits and is squarely within the power of local governments, but local officials might be reluctant to adopt unfamiliar zoning changes, and rightly point out that new development comes with upfront costs and that financing those costs can create challenges. Further, local governments must balance affordability needs with other priorities. **Thus, the Commission recommends that the state offer an incentive for local**

governments to adopt zoning reforms that support housing development—such as allowing mixed-use development, reducing lot size requirements, or allowing types of missing middle housing—by sharing some of the state’s realty transfer tax or mortgage tax revenue with local governments whose land use regulations meet a minimum number of criteria out of a menu of optional measures. The portion of realty transfer tax or mortgage tax revenue used could be phased in as state revenue growth allows.

- **Additionally, some residents may raise concerns that greater density could lead to other effects on their communities, including the potential to lead to higher property tax bills when nearby areas become more developed. These effects of zoning reform on existing residents could be mitigated by assessing property based on its zoning prior to reform, similar to the way Tennessee’s current Greenbelt law bases property tax assessment on the land’s actual use rather than its highest and best use. If developers were to then later take advantage of the reformed zoning to add more housing and improvements to a property, a rollback provision could ensure that some of the amount of taxes saved would be recaptured by local governments.**
- **The Tennessee Housing Development Authority (THDA) already administers a number of programs to support affordable housing across the state, including through a trust fund, but the fund receives no state appropriations and operates only on revenues from THDA’s mortgage loan program. Therefore, the Commission recommends another possible use of the realty transfer and mortgage tax revenues would be to fund either the existing housing trust fund or a new one from which THDA might make low- or zero-interest construction loans for affordable housing.**
- **The construction industry can be vulnerable to swings in the economy, which, when they lead to lost employment as happened during the Great Recession, can have negative effects on the availability of workers for housing construction. To soften the effects of downturns and forestall the loss of construction employment, the Commission recommends that funding from the realty transfer and mortgage taxes could also be reserved by the state for infrastructure in ways that smooth out the ups and downs of the business cycle.**
- **Additionally, the Commission makes one related finding that the state could authorize local governments to make multiyear funding commitments to affordable housing projects either through existing entities, such as industrial development boards, or by establishing a new entity similar to sports authorities.**

This finding draws on an example from Charlotte, North Carolina, where the preservation of existing units is one of the uses of the city’s housing trust fund. That fund provides funding to developers to subsidize the cost of acquiring and rehabilitating properties for affordable housing. New owners using the funds to purchase housing units commit to keeping prices affordable for 20 years. Because Charlotte’s housing trust fund relies on general obligation bonds, local governments in Tennessee cannot currently copy its exact funding structure. Under the Tennessee State Constitution and state law, cities and counties are generally limited in their authority to provide direct funding to private enterprises—including those developing affordable housing.