

Texas Public Policy Foundation

Property Rights

Legislator's Guide to the Issues | 2017-18



Housing Affordability



The Issue

Residents in Texas have an easier time realizing the American Dream. This includes having the opportunity to rent or buy a place to call their own. A combination of low taxes and minimal regulations encourage the economic efficiency that keeps housing costs low but salaries high. As a consequence, the Real Estate Center at Texas A&M observes that the state's housing market is historically among the most affordable in the nation. It scored an average affordability index value of about 20% higher than the nation as a whole from 1999 to 2014. More recently, in second quarter 2015, the Real Estate Center calculated that the state's median income was 1.71 times higher than the income required to qualify for a mortgage on a median-priced home.

Although safe and adequate housing is within the reach of most Texans, state and local governments have promulgated several policies, which make securing and maintaining a place to live much more difficult than it otherwise need be. These policies fall into two main camps.

The first are the regulations and restrictions that artificially tighten the supply of available units, driving up demand and subsequently the price. Zoning codes represent a good example. Over the last few years, Texas cities have reacted to population growth by enacting a number of detailed ordinances that strictly control development and construction within their borders. Research shows that overzealous zoning codes can have a damaging effect on a city's housing market, specifically because they remove tracts of land from prospective development and because they can add delay and expense for the project to come into compliance. There is therefore wide acceptance of the fact that many of the increased housing costs seen in major urban centers in Texas are a direct result of that city's land-use policies.

The second camp, in contrast, pertains to those regulations that add, post construction, to the purchaser's burden in procuring and maintaining a residence. These policies do not touch the housing supply per se but instead act as a barrier between prospective residents and their desired unit. Property taxes, for example, are an inescapable part of owning real estate, but they can also put an otherwise affordable unit out of reach. Another example is the overregulation of Texas' title insurance market, which artificially inflates the cost of closing on a piece of real property. State law forces residents to pay a fixed rate for the most comprehensive type of coverage regardless of need; as a consequence, Texans pay among the highest rates in the country for title insurance. The extra burden may seem trivial on its own, but when considered in the context of all the "regulatory taxes" imposed on residents, the miscellaneous bars and weights can prove too much to carry.

The Facts

- Adequate accommodations represent a basic human necessity, whose absence has a documented, corrosive effect on mental, physical, and emotional health.
- The National Association of Homebuilders (NAHB) surveyed hundreds of single-family home builders nationwide. It found that government regulations represented 25% of a unit's final sales price.
- Two academic studies scrutinizing the California and New York markets corroborated NAHB's conclusions, observing that stringent restrictions inflated housing costs by as much as 50%.
- As the only major U.S. city without a formal zoning regime, Houston consistently ranks as among the most affordable metropolitan markets in the country.

continued on back

- The breadth of land-use regulations in Texas extends far beyond what is needed to defend against nuisances. Frisco's zoning ordinance, for instance, spans 336 pages and includes, among other constraints, a masonry requirement, landscaping standards, a set procedure for tree removals, and specified minimums for the dwelling area as well as the front, side, and rear yards.
- The U.S. Census Bureau notes that the 2011 to 2013 average annual tax paid by an owner-occupied dwelling in Texas was \$2,493. Households forfeited 9.8% of their median income to meet their property tax.
- According to a LBJ School of Public Affairs report, Texas has the highest title insurance rates for a \$200,000 home among states that require comprehensive coverage.

Recommendations

- Have Texas cities respect the right to use private property and roll back the number and complexity of their land use restrictions. Zoning codes should only be used in the event of a genuine public nuisance.
- Provide a clear and final appeals process when local ordinances contradict as well as when public actors offer conflicting interpretations.
- Ensure that all impact fees share a close and rational relationship to the burden the government seeks to avoid.
- Keep Texas' property tax burden to a minimum by reining in public spending and granting taxpayers more control over their tax obligation either through a rollback provision, greater transparency, and/or unrestricted access to tax lien transfers. Ultimately, the state should replace the property tax with a broad-based consumption tax.
- Relax the regulatory scheme governing title insurance by introducing a file-and-use system similar to that of the one used to determine home insurance rate.

Resources

[*Bringing Down the Housing Restrictions*](#) by Kathleen Hunker, Texas Public Policy Foundation (May 2016).

Do Property Rights Help the Poor? Affordable Housing in Texas, policy panel, Texas Public Policy Foundation (Jan. 2016).

[*The Freedom to Own Property: Reforming Texas' Local Property Tax*](#) by Vance Ginn, Kathleen Hunker, and James Quintero, Texas Public Policy Foundation (Oct. 2015).

