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Housing Costs and Zoning Laws: Arizona's Unaffordability Problem

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“In the last analysis, the result to be accomplished is to classify the population and segregate them according to their income or situation in life.”¹ Judge Westenhaver penned these words over a century ago as he opined about what he believed to be the true purpose of zoning regulations: race and class-based segregation.² His belief was not shared amongst fellow jurists, however, as the United States Supreme Court reversed his decision to strike down the zoning ordinance at issue in the now seminal *Ambler Realty* case.³ Almost one hundred years later, many people continue to believe that zoning has the effect, whether intended or not, of segregating people on the basis of race and class.⁴ This belief finds support in a growing body of evidence that shows that zoning regulations tend to increase the cost of housing, leading to a sort of incidental race and class-based segregation.⁵ Predictably, these effects become more pronounced over time as poorer families, who are disproportionately minority, are relegated to buying cheaper housing, thereby leading to the creation of “minority neighborhoods.”⁶

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¹ *Ambler Realty Co. v. Village of Euclid*, 297 F. 307, 316 (N.D. Ohio 1924), *rev'd*, 272 U.S. 365 (1926).

² *Id.*

³ *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926).

⁴ Joshua Braver & Ilya Somin, *The Constitutional Case Against Exclusionary Zoning*, THE ATLANTIC: IDEAS, (June 12, 2024), <https://www.theatlantic.com/ideas/archive/2024/06/constitutional-case-against-exclusionary-zoning/678659/>.

⁵ Allison Hanley, *Rethinking Zoning to Increase Affordable Housing*, J. HOUS. & CMTY. DEV., (Dec. 22, 2023), https://www.nahro.org/journal_article/rethinking-zoning-to-increase-affordable-housing/.

⁶ Cecilia Rouse et al., *Exclusionary Zoning: Its Effect on Racial Discrimination in the Housing Market*, THE WHITE HOUSE: CHAIR OF ECONOMIC ADVISORS BLOG, (June 17, 2021),

This trend is seen here in Arizona, where housing costs have increased dramatically over the last fifty years. In 1970, the home price-to-income ratio was 1.99.⁷ In 2020, this ratio increased to 5.7, making Arizona one of the most expensive housing markets in the United States.⁸ To be sure, this phenomenon is partially due to supply-and-demand economics; since the early 2000s, Maricopa County has been one of the most popular relocation destinations for Americans, growing from approximately 3.8 million residents in 2010 to approximately 4.5 million residents in 2023.⁹ But supply-and-demand is not the whole story. According to a recent policy report by the Morrison Institute, “[i]n much of the Phoenix area, zoning and development codes promote lower density development [*i.e.* single-family housing], effectively discouraging the creation of lower cost housing.”¹⁰ And like Phoenix, many of the cities in Maricopa County zone as much as half of their land for single-family home development.¹¹ Unfortunately, this trend of single-family home zoning (commonly referred to as exclusionary zoning) in Arizona has been linked, albeit incidentally rather than intentionally, with class and race-segregated neighborhoods.¹²

It is precisely because of this confluence of factors that the Arizona legislature passed HB 2570, known as the Arizona Starter Homes Act (“the Act”), as a means to reform the land-use regime in Arizona.¹³ In its legislative findings, the Arizona State House (“the House”) noted that Arizona’s housing shortage had made it almost impossible for a large number of residents to own a home.¹⁴ One of the chief contributing factors the House cited was land-use regulations imposed by Arizona cities and counties.¹⁵ To address this shortage, the Act imposed several zoning regulatory reforms, including (1) prohibiting municipalities from mandating home-owner associations and (2) prohibiting municipalities from imposing minimum lot sizes of more than 1,500 square feet for single-family home

<https://www.whitehouse.gov/cea/written-materials/2021/06/17/exclusionary-zoning-its-effect-on-racial-discrimination-in-the-housing-market/>.

⁷ *Housing Affordability: USA States: 1970 to 2000*, DEMOGRAPHIA, <https://www.demographia.com/db-usafford1970.htm> (last visited Dec. 22, 2024).

⁸ Kayla Zhu, *Mapped: Home Price-to-Income Ratio By State*, VISUAL CAPITALIST: MARKETS, (Nov. 12, 2024), <https://www.visualcapitalist.com/mapped-home-price-to-income-ratio-by-state/>

⁹ United States Census Bureau, *Maricopa County, AZ*, QUICKFACTS, <https://www.census.gov/quickfacts/fact/table/maricopacountyarizona/HSG860222> (last visited Dec. 22, 2024).

¹⁰ *Untangling Housing Affordability & Groundwater Regulation*, KYL CTR. FOR WATER POL’Y MORRISON INST., (Aug. 2023), <https://morrisoninstitute.asu.edu/sites/default/files/2023-11/UntanglingHousingAffordabilityGroundwaterRegulation.pdf>.

¹¹ *Id.*

¹² *Exclusionary Zoning: A Legal Barrier to Affordable Housing*, MORRISON INST. PUB. POL’Y, (May 2022), https://morrisoninstitute.asu.edu/sites/default/files/exclusionary_zoning_legal_barrier_to_affordable_housing.pdf.

¹³ H.B. 2570, 56th Leg., 2d Reg. Sess. (Ariz. 2024).

¹⁴ *Id.*

¹⁵ *Id.*

developments greater than five acres in size.¹⁶ While the Act passed in a bipartisan fashion, Governor Katie Hobbs ultimately vetoed the Act.¹⁷ In a letter explaining her veto, Governor Hobbs stated that the Act went too far in its efforts to decrease land-use regulation.¹⁸ Citing input from the Department of Defense and the Professional Fire Fighters of Arizona, Governor Hobbs noted that the bill lacked the necessary nuance to address the housing crisis in Arizona's major cities properly.¹⁹

To her credit, Governor Hobbs signed two housing reform bills into law a few months later: one that would allow owners of single-family homes to build more than one accessory dwelling unit ("ADU") on their property and another that was aimed at increasing the number of "middle housing" options such as duplexes, triplexes, and townhomes.²⁰ Municipalities had until January 1, 2025, to adopt regulations in line with the ADU bill,²¹ and they have until January 1, 2026, to enact ordinances in line with the "middle housing" bill.²² Whether these reforms will be enough to address Arizona's housing crisis, however, remains to be seen; there is evidence from neighboring states that it may not be enough. California, for instance, enacted a similar ADU reform in 2016.²³ More than eight years later, however, California is still the second least affordable state in the Union.²⁴

If Arizona continues to be a top relocation destination, will these moderate reforms be enough? While zoning certainly has legitimate purposes, does the incidental race and class-based segregation seem to have created a call for more drastic changes? As Arizona's recently enacted housing reforms take effect, answers to these questions will start to appear. When they do, Arizonans should ensure that their elected representatives take seriously the imperative of their office: to provide for the health, safety, and welfare of Arizonans. Only then can Arizonans of any class and race have a reasonable opportunity to live part of the American dream of owning a home.

¹⁶ *Id.*

¹⁷ Daniel Stefanski, *Hobbs Sparks Bipartisan Outrage with Veto of Housing Bill*, AZ FREE NEWS, (Mar. 19, 2024), <https://azfreenews.com/2024/03/hobbs-sparks-bipartisan-outrage-with-veto-of-housing-bill/>.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Bob Christie, *Arizona Gov. Hobbs signs bill to allow casitas and more dense housing in larger cities*, KAWC: CAPITAL MEDIA SERVICES, (May 22, 2024, 9:38 AM), <https://www.kawc.org/news/2024-05-22/arizona-gov-hobbs-signs-bill-to-allow-casitas-and-more-dense-housing-in-larger-cities>.

²¹ H.B. 2720, 56th Leg., 2nd Reg. Sess. (Ariz. 2024).

²² H.B. 2721, 56th Leg., 2nd Reg. Sess. (Ariz. 2024).

²³ S.B. 1069, 2016 Leg., 2nd Reg. Sess. (Cal. 2016).

²⁴ Zhu, *supra* note 8.