Congress can help solve the housing affordability crisis

BY SUE ANSEL, OPINION CONTRIBUTOR — 03/06/19 08:30 AM EST

The U.S. affordable housing shortage is worsening as it spreads to previously affordable communities and increasingly affects not just low-income, but also middle-income families. This current state is the result of an underproduction of apartments following the Great Recession, rapidly rising construction costs and stagnant incomes.

There is a serious supply and demand mismatch in the rental housing sector. From 2000 to 2015 alone, 23 states under-produced housing of all kinds to the tune of 7.3 million units according to Up for Growth and ECONorthwest. The U.S. will need 4.6 million new apartments by 2030 just to keep up with demand based on research by Hoyt Advisory Services, the National Multifamily Housing Council and the National Apartment Association. But building those new units is expensive. The Lincoln Land Institute found that land costs have almost doubled since 2000, and hard construction costs are up 57 percent. Meanwhile, Census Bureau data shows that real median renter household income declined by 5.6 percent from 2000 to 2016.

Solving this problem will require action at all levels of government. To begin with, we need serious regulatory reform. According to a recent study, regulation adds an average of 32.1 percent to the cost of an apartment unit, a number that can reach as high as 42.6 percent.

Apartment firms trying to meet the nation's housing needs face outdated zoning and land use laws, time-consuming permitting requirements, inflated parking requirements and more. Working through those, plus neighborhood opposition to new housing under the dangerous umbrella of NIMBY-ism, means it can take more than a decade just to break ground on a new property.

Add in the fees localities impose on new housing, such as impact and inspection fees and inclusionary zoning requirements, not to mention the threat of rent control, and you have a perfect recipe to discourage the production of housing and significantly raise the costs (and thus rents) of the properties that do get built.

The apartment industry stands ready to help America meet the growing demand for rental housing, but it will take a public-private partnership. Importantly, the federal government has a role to play.

Among other things, it can use its power of the purse to help advance state and local regulatory reform. The potentially bipartisan initiative on infrastructure is a great example. Housing should be part of the conversation and any funding allocated via an infrastructure bill could be tied to smart housing reforms. Examples of these include streamlining and expediting approvals, providing density bonuses for properties near transit or those that include middle-income units, enacting "by-right" zoning, deferring taxes in exchange for setting aside some affordable units, creating more entitled land and providing underutilized public land.

In addition, Congress can, and should, expand the Low-Income Housing Tax Credit and enact a comparable Middle-Income Housing Tax Credit. They can preserve and increase funding for programs that address housing affordability, including FHA multifamily loan programs, CDBG and HOME.

Federal officials should also fully fund the Section 8 housing choice voucher program and reform to make it easier for recipients and property owners to participate in it. Right now, the program's success is limited by inefficient, costly and duplicative requirements.

Finally, as lawmakers consider housing finance reform, they should ensure that any new system maintains an explicit federal guarantee for multifamily-backed mortgage securities, recognizes the differences between multifamily and single-family finance and retains the successful components of the existing multifamily programs.

The U.S. hasn't passed truly comprehensive housing legislation since the 1960's. That means we are trying to solve a complex, modern-day problem based a legislative and legal foundation that is over half a century old. It's time for some changes. We are pleased to see the new prominence housing is getting at the federal level. And we are optimistic that the bipartisan interest in an infrastructure package could also expand housing opportunities since housing is clearly a basic part of any community's infrastructure.

Housing is a complex and nuanced challenge with no single solution. But, by working together, federal state and local policymakers and the private sector can make a meaningful difference for communities and Americans across the country struggling to afford their housing.

Sue Ansel, President and CEO, Gables Residential and Chairwoman of the National Multifamily Housing Council.

OUR VISION FOR 2030

Build 4.6 Million New Apartments to Meet Demand and Control the Cost of Housing

We Are Apartments

In communities across the country, apartments work — helping people live in a home that's right for them.

NAA
NATIONAL APARTMENT ASSOCIATION

NMHC
NATIONAL MULTIFAMILY HOUSING COUNCIL

Vision 2030

NATIONAL MULTIFAMILY HOUSING COUNCIL
& NATIONAL APARTMENT ASSOCIATION

Introduction

The number of families renting their homes stands at an all-time high, placing significant pressure on the apartment housing industry to meet their needs. The ever-growing demand is making it challenging for millions of families nationwide to find quality rental housing they can afford at their income levels.

For many families, the shortage of affordable rental housing creates significant hurdles that ultimately hamper future financial success. And the problem won't go away on its own. Unless public and private sector leaders take bold, innovative action today and in the years to come, the affordable housing crisis will become even more desperate.

America needs to build more than 4.6 million new apartment* homes at a variety of price points by 2030, according to new research from Hoyt Advisory Services (HAS), commissioned by the National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA).

The projection of 4.6 million is low, based on estimated demand by new apartment households through 2030. Not included in the number are the supply-demand imbalances that currently exist in some markets, where households are unable to find an apartment at a rent affordable to them. Possibly underestimated are older existing apartments — as many as 11.7 million — that could need renovation by 2030.[1]

* **Throughout this document, apartments are defined as rental apartments in buildings with five or more units.**

Unless we get started today, we'll be short millions of apartments by 2030.

Meeting projected demand means building more than 325,000 new apartment homes each year on average — a number the industry has not been able to hit for decades. From 2012 through 2016, the apartment industry built, on average, only 244,000 new apartment homes per year.[2] The last time the industry built more than 325,000 in a single year was 1989.[3] That history suggests that reaching and maintaining needed growth in new apartments will require a revamp of how we build apartments. It will also require courageous steps by policymakers at the federal, state and local levels who are willing to implement inventive policy ideas, provide incentives and reduce impediments to building apartments that meet demand across all income levels.

The cost to build and operate apartments has increased as barriers to development have worsened over recent decades, exacerbating housing affordability. For many families, the shortage of low and moderately priced housing makes it difficult to pay for basic necessities such as food and transportation, or to save for the future. Housing affordability is not just an issue for low-income families. It is increasingly affecting middle-income families who earn too much to qualify for a subsidy, but not enough to pay market-rate housing costs.

Ultimately, if these issues are left unaddressed, states and cities risk losing workers and driving down economic activity as families seek more balanced housing markets elsewhere. After all, apartments and their residents contribute more than $3.5 billion to the economy every day — about $1.3 trillion each year.[4]

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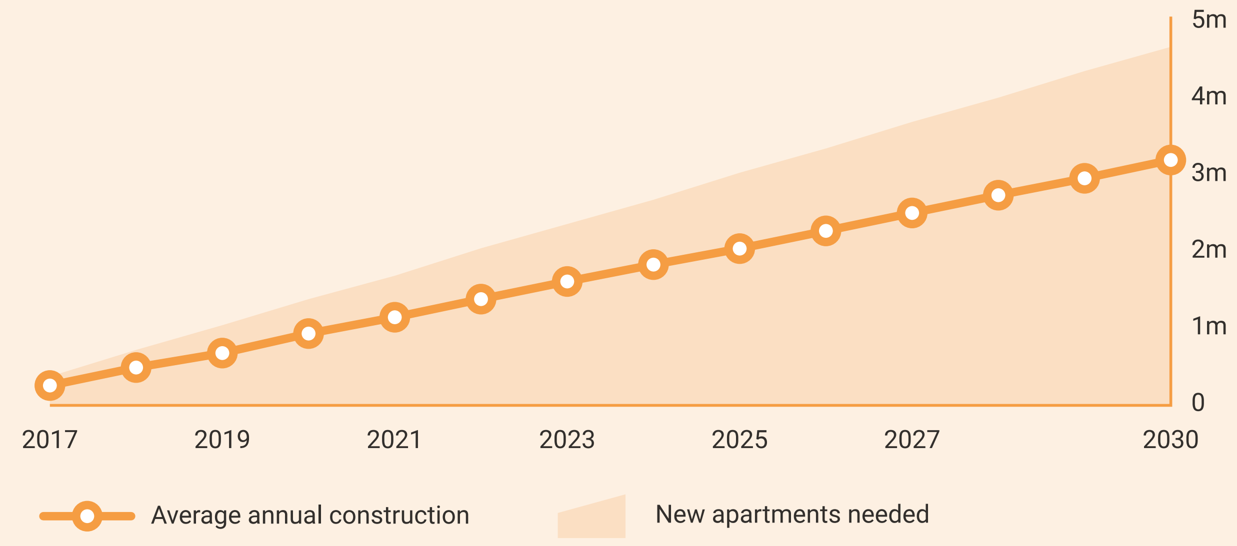

UNPRECEDENTED DEMAND FOR APARTMENTS

The number of renters has reached an all-time high, with nearly 39 million people in the United States — that is almost 1 in 8 — calling apartments home.[5] They are singles, couples and families. They come from all generations and economic backgrounds.

Annual growth in renter households exceeded 800,000 on average since 2010 – and almost as much as 1.2 million, by some measures.[6] Meanwhile, apartment vacancy rates as measured by MPF Research fell or remained the same for seven straight years from 2009 to 2016.

HAS's research shows demand for apartments is projected to grow substantially by 2030. If current policies and population trends continue, many communities will have difficulty meeting demand, an outcome that will make affordability challenges significantly greater and stunt economic growth.

RISING HOUSING COSTS

Millions of people are paying far more than they can afford on all types of housing. They include young adults just starting out in their careers, workers who have not seen a wage increase in years, and even some of our nation's most valued public servants: teachers, firefighters and police officers.

A standard benchmark for housing affordability is that households pay less than 30 percent of their earnings on their rent or mortgage. Since 1985, the share of apartment renters paying at least 30 percent of their income for housing costs (rent and utilities) has increased from 42 percent to now more than half (55 percent).[7] More than one in four (29 percent) spend at least half their income on housing costs, a sign that their housing costs are a significant financial burden.[8]

As housing costs, to rent or to own, have gone up in many parts of the country, student debt and healthcare costs have also spiked, while incomes have stagnated.

While increasing supply is a long-term solution, communities that have made the investment in rental housing stock are starting to see rents moderate. In recognition of this, municipalities are beginning to work with local leaders, developers and citizens to make affordable housing a priority by first recognizing the obstacles to apartment construction and comprehensively looking at ways to minimize steps or processes that artificially increase the cost of housing. This includes everything from creative financing with capital partners and direct municipal investment, to mitigating actions that influence the soft cost of building such as onerous zoning, permitting, taxes, fees and the overall carrying cost of extended approval times — which can increase the total cost of housing by 25 percent to 40 percent.

It is time to take action across the country, in ways that are tailored to the needs of each community. The apartment industry stands ready to work with urban, suburban and rural communities in every region to meet the housing demands of Americans across all income levels.

We can bridge the gap between the cost of building and operating apartments and the amount of rent lower-income and middle-class households can afford.

Policymakers at all levels of government must recognize that addressing local housing needs requires a partnership between government and the private sector. The federal government can ensure sufficient funding of housing programs, enact a pro-housing tax policy and reform regulations that unnecessarily increase housing costs.

State and local governments have a toolbox of approaches they can take to address the apartment shortage and help reduce the cost of housing. They can:

- **Adopt local public policies and programs that harness the power of the private sector to make housing affordability more feasible.**
- **Increase public-private partnerships.**
- **Leverage state-level authority to overcome obstacles to apartment construction.**
- **Collaborate with business and community leaders to champion apartments.**

1

Changing Housing Dynamics Drive Apartment Demand

The country is in the midst of an unprecedented rise in renting. Since the current upswing began in 2010, the number of renter households has increased by an average of more than 800,000 annually – almost as much as 1.2 million a year, by some measures.[9]

Renting an apartment offers many advantages to working- and middle-class Americans. Apartment residents say they appreciate mortgage-free living, the ability to follow work opportunities across town or across the nation, and amenities that fit their lifestyles.

These choices drive economic growth. Apartments and their residents contribute more than $3.5 billion to the economy every day — about $1.3 trillion each year.[10] That impact could be even greater if more apartments were built to meet the needs of households at all income levels.

DEMOGRAPHIC SHIFTS

According to HAS research, three major demographic shifts will continue to have a strong impact on the demand for rental housing: The rise of young adults, the aging of the baby boomers, and immigration's increasing contribution to population growth.

At more than 75 million strong, young adults ages 18 to 34 — the age group most likely to rent – have become the largest generational demographic group in the U.S.[11] Their sheer numbers, as well as long-term and short-term social and economic trends that affect them, are having a profound impact on demand for apartments.

Historically, Americans have bought their first houses around the same time they get married. But people are getting married later. Today, both women and men get married for the first time five years later, on average, than they did in 1980.[12] A recent Census Bureau report found that in the 1970s, 80 percent were married by the time they were 45 years old; in 2016, 80 percent hadn't been married until they were 45 years old. Their homeownership rate is slightly lower, too. Only 35 percent own homes, compared to 41 percent of young adults in 1981, according to the U.S. Census Bureau.

These trends suggest more young adults are renting than did previous generations at the same stage in life. But high unemployment rates of the past 10 years, just now ticking down for young adults, as well as the growing burden of student debt, have kept many from forming their own households. Nearly a third (31.5 percent) of young adults live at home with their parents, a statistic that suggests pent-up demand for housing options that match their stage in life.[13]

There has also been a dramatic change in the number of households with children, the kinds of households that have typically driven demand for single-family houses. In 1960, 44 percent of all households in the U.S. were married couples with children. Today, such families make up only 19 percent of households.[14]

More and more, renting is not just for the younger generations. Once the nation's largest demographic group, baby boomers (those born between 1946 and 1964) now number 73 million people.[15] Over half (58.6 percent) of the net increase in renter households from 2006 to 2016 came from boomer households.[16]

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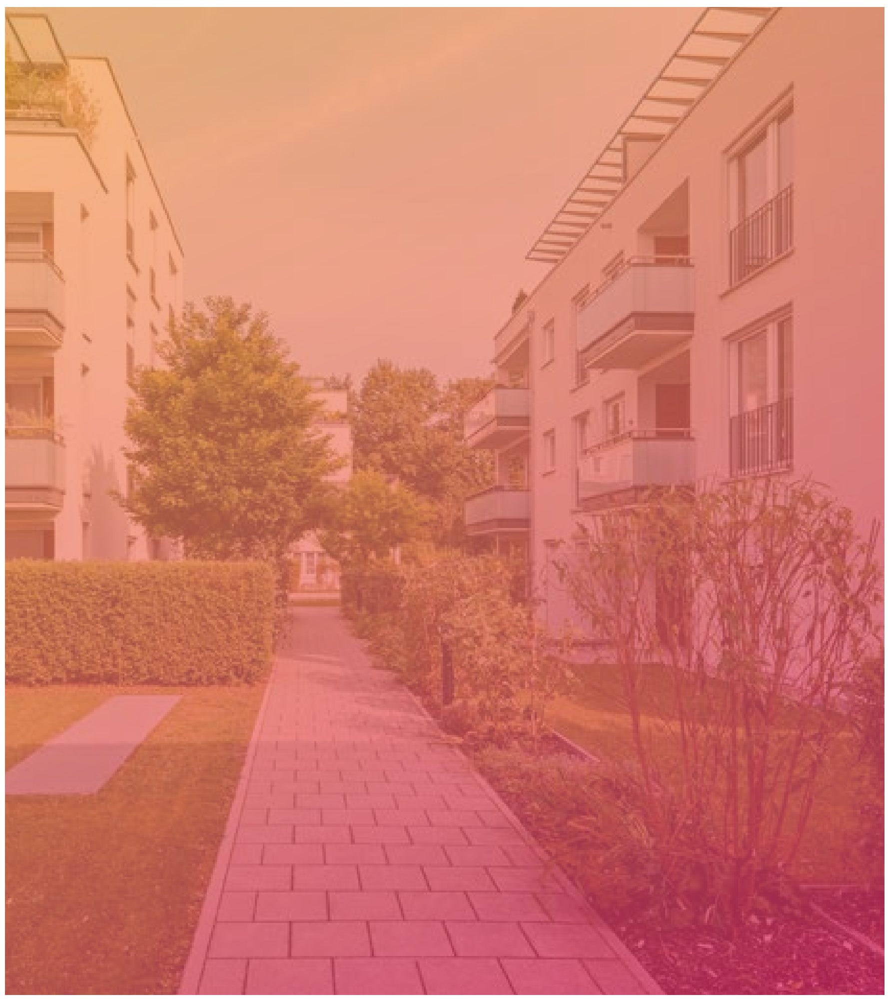
Immigration is also a driver of demand for apartment homes, and may become even more of an influence if it eclipses natural population growth over the next decade and a half, as estimated by HAS researchers. That is because immigrants are more likely to rent, and more likely to rent longer.[17] In states with slow-growing populations, like Michigan, West Virginia and Maine, immigration has in recent years accounted for a bigger chunk of population growth than in faster-growing states.

According to HAS research, Hispanic households alone will account for more than half (55 percent) of all U.S. population growth through 2030.



INCOME STAGNATION

America's affordable rental housing shortage is more than just a housing problem. Underlying the shortage is an income problem. As rental housing has gotten more expensive to build and operate, other economic factors have suppressed household income growth, making it harder for people to pay for housing.

In 2015 dollars, the median income of an apartment household has fallen by $3,000 since 1985.[18] Since 2001, renters' real median incomes have fallen 9 percent. Nearly a third (31 percent) of renters earn less than $20,000, according to HAS research.

As a result, in many areas where demand is strongest, even if, hypothetically, developers agreed to take no profit when building new apartments, the cost would still exceed what people can afford to pay.

HAS researchers also found the proportion of renters living under the poverty line is highest in Mississippi and West Virginia, but it is also high in states such as Kentucky, Ohio, New Mexico, Arkansas and Alabama. Stagnating renter incomes leads to households that are increasingly rent burdened.

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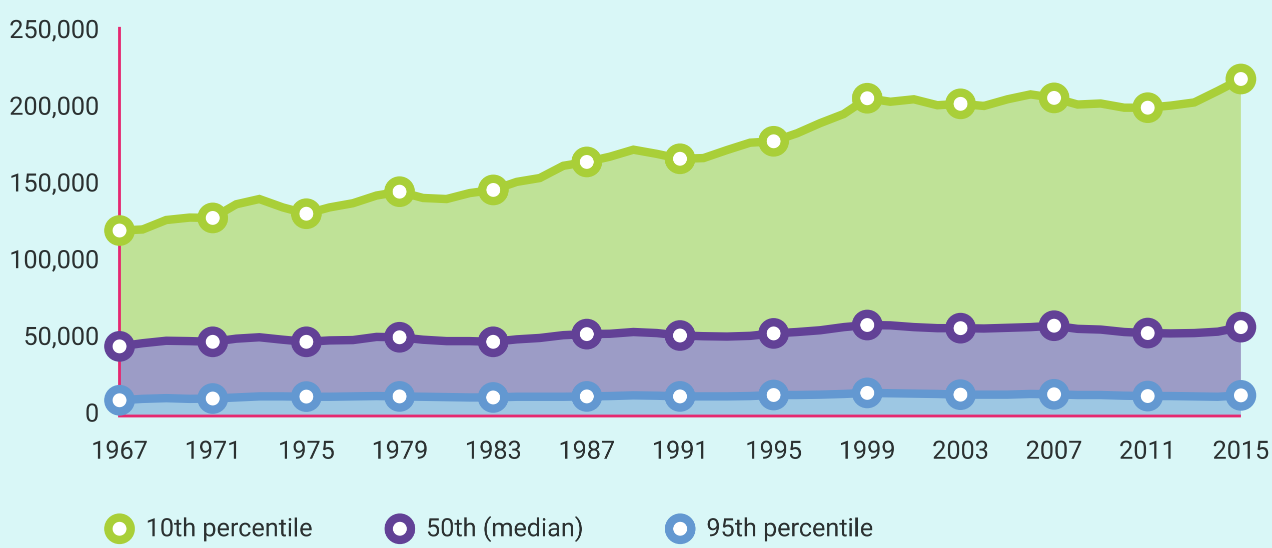
Income Levels Flat for Households Near or Below the Median Level



2

Why We Can't Just Build More

Recent history — specifically the lingering effects of the Great Recession — has complicated the apartment industry's ability to meet rising demand. The collapse of U.S. financial markets in 2008 virtually shut down new apartment construction for a number of years.

According to HAS, we need to build on average at least 325,000 apartments a year to meet demand. The nation hit a low of completing 129,900 new apartments in multifamily buildings of five or more units in 2011 and has only now begun to reach 300,000 a year[19].

Still, the current rate of growth hasn't been enough to meet current demand and make up for the shortfall in the years following the recession.

The challenge is delivering more units each year and over a sustained period of time. But steep barriers keep the apartment industry from being able to do that. And there's a strong connection between the difficulty of building and affordability. HAS research found that rents tend to be particularly high in cities with the greatest barriers to new development.

The 5 most difficult metro regions in which to build apartments

1 Honolulu

EASE OF ADDING SUPPLY RANK: **19.5**

82% OF RENTS ARE $1K+

49.9% OF RENTERS PAY 35%+ OF THEIR INCOME ON RENT

2 Boston

EASE OF ADDING SUPPLY RANK: **13.1**

69.2% OF RENTS ARE $1K+

40.0% OF RENTERS PAY 35%+ OF THEIR INCOME ON RENT

3 Baltimore

EASE OF ADDING SUPPLY RANK: **11.9**

65.5% OF RENTS ARE $1K+

40.7% OF RENTERS PAY 35%+ OF THEIR INCOME ON RENT

4 Miami

EASE OF ADDING SUPPLY RANK: **9.3**

68.1% OF RENTS ARE $1K+

54.2% OF RENTERS PAY 35%+ OF THEIR INCOME ON RENT

5 Memphis

EASE OF ADDING SUPPLY RANK: **8.7**

31.6% OF RENTS ARE $1K+

41.8% OF RENTERS PAY 35%+ OF THEIR INCOME ON RENT

Over the last three decades, **regulatory barriers** to apartment construction have increased significantly

COST, TIME AND REGULATORY BARRIERS

For many reasons, building apartments has become costlier and more time-consuming than necessary. Over the last three decades, regulatory barriers to apartment construction have increased significantly, most notably at the local level.

Outdated zoning laws, unnecessary land use restrictions, arbitrary permitting requirements, inflated parking requirements, environmental site assessments, and more, discourage housing construction and raise the cost of those properties that do get built.

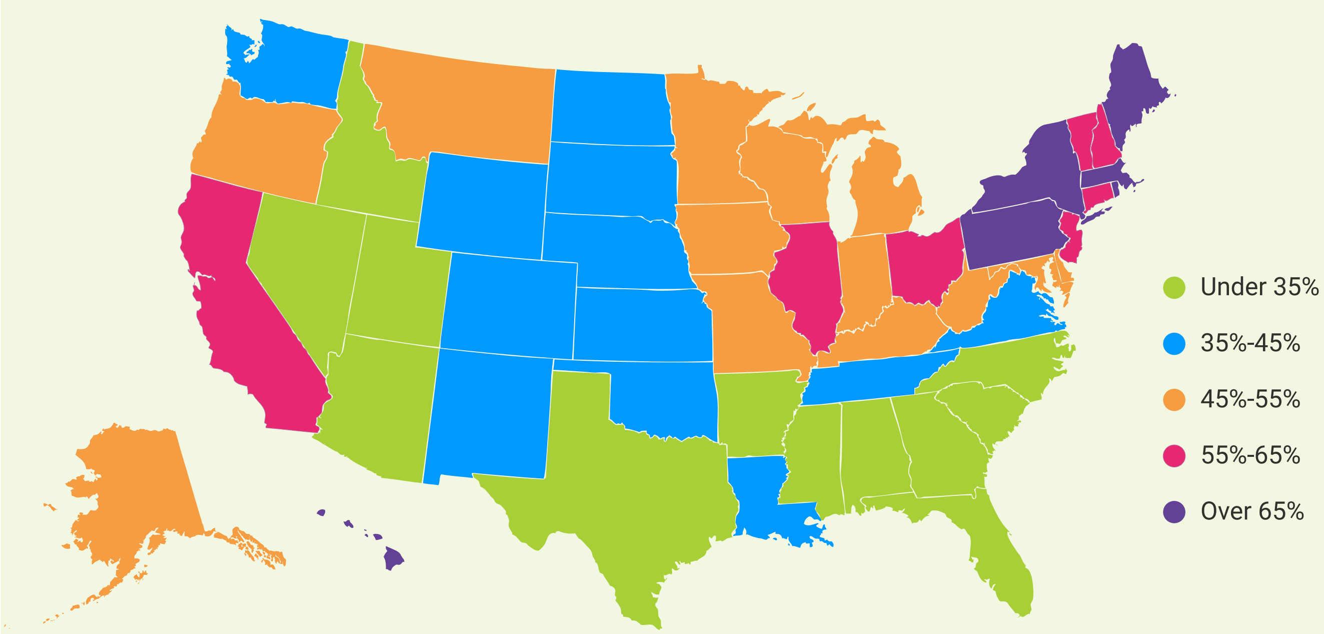
Developers navigate many steps to get projects approved. The whole process can take two to 10 years and require an upfront investment of $1 million or more before a project breaks ground.

There are also financial factors pushing housing costs up. Land, labor and construction costs have all been rising significantly in recent years. In many areas, there is limited land zoned for apartments or just little undeveloped land. Competition for what land is available drives the cost up, too. Labor costs have increased well above inflation because of a shortage of skilled workers. Following the economic downturn, many workers left the construction industry and have yet to return.

Finally, localities impose a variety of fees on new housing, including impact fees, inspection fees and property taxes. Inclusionary zoning mandates and rent control further discourage housing investment.

These time and cost burdens lead to fewer apartment homes being built, which further squeeze already tight rental markets. Apartments that do get built tend to have higher rents to cover the high cost of development.

Percentage of apartments built before 1980



"NOT IN MY BACKYARD"

In many communities — even ones with a deep gap between supply and demand — residents often say, "Not in my backyard" to new apartments, an attitude known as NIMBYism. Their opposition is often fueled by misperceptions about renters and the impacts of apartments on traffic, property values, school overcrowding and community character.

Even though these perceptions are largely false, NIMBYism persists and keeps apartments from being built where they are needed most and at prices many people can afford. Even when building proceeds, NIMBY opposition to apartments can add additional time and expense to an already long and costly process.

Lost Apartments

Adding to the apartment shortage is the fact that every year, the nation loses between 75,000 and 125,000 apartment units to obsolescence and other factors.[20] Most lost units are likely at the lower end of the market, disproportionately hurting the affordable supply that exists.

This situation is likely to worsen going forward since more than half (51 percent) of the nation's apartment stock was built before 1980, and without resources dedicated to support rehabilitation efforts, more stock will continue to leave the available pool.[21] Rehabilitation and preservation are vital to maintaining the stock of apartments that are affordable to the broad middle class.

3

Policy Recommendations

If government and private developers come together to take action, we can build 4.6 million apartments by 2030 to meet demand and control the cost of housing. Solutions that help supply meet demand and reduce the cost of developing apartments are out there but need to be more broadly adopted across the country.

There are things states and localities can do to **meaningfully reduce the cost** of producing housing.

Unfortunately, the current regulatory framework, whether intentional or not, has limited the amount of housing being built and increased the cost of what is produced. States and localities are now struggling to address this serious threat to their economic vitality. They must balance the dwindling resources they have for housing with the need to "do something" to meet growing demand. Fortunately, there is much they can do outside of their budgets to make it easier for the private sector to build more housing and to help reduce the cost of the housing that is produced.

Most importantly, they can reduce barriers to apartment construction. Land-use restrictions, zoning restrictions, parking requirements, slow permitting, and much more, add significantly to the cost of construction. Many of these rules and processes are well-meaning, but collectively they serve as real barriers to housing production. Even worse, some laws are specifically designed to prevent apartment construction, usually in response to NIMBY opposition.

In the following pages we present a toolbox of approaches states and localities can take to address the apartment shortage and help reduce the cost of housing.

1

Adopt local public policies and programs that harness the power of the private sector to make housing affordability more feasible.

The most common barriers to apartment construction are enacted at the local level, which means local governments have a lot of levers they can pull to create healthy housing markets. They also have no-cost resources they can bring to the table to reduce the cost of housing production. They can do the following:

ESTABLISH "BY-RIGHT" HOUSING DEVELOPMENT

Most developments go through a discretionary review process such as public hearings or legislative review by the local land use authority or board of zoning appeals. Public review is certainly important, but it's often duplicative, arbitrary and inefficient. Reviews also increase the cost of housing by slowing down its production or even preventing it from being built.

"By right" development allows projects, both new construction and rehabs of existing properties, to be approved by local administrators without discretionary reviews as long as they comply with current zoning rules and community development plans. Municipalities retain control and can deliver the housing the community has already decided it wants, while loosening restrictions that keep new apartments from being built.

In addition to establishing "by right" rules, municipalities can also relax restrictions related to density, building height, unit size and parking minimums. All of these require developers to seek waivers, variances or rezoning, which trigger the review process.

This strategy for expanding the supply of affordable rentals, has been gaining traction across the country. Fairfax, Virginia, has implemented by-right development and flexible zoning in seven districts where they want to encourage housing construction.

States can also play a role. Massachusetts, for example, provides incentives to municipalities that allow by-right development. These development incentives have cut in half the nine years it otherwise takes to develop a property.

EXPEDITE APPROVAL FOR AFFORDABLY PRICED APARTMENTS

Lengthy permitting processes add cost, time and uncertainty to housing construction. Fast-tracking review and permitting of housing that includes affordable units is a no-cost way for local jurisdictions to expand their supply.

Several cities are embracing this approach. San Diego's "Expedite Program" fast tracks permit processing for affordable housing and sustainable building projects with an initial business review that takes just five days.

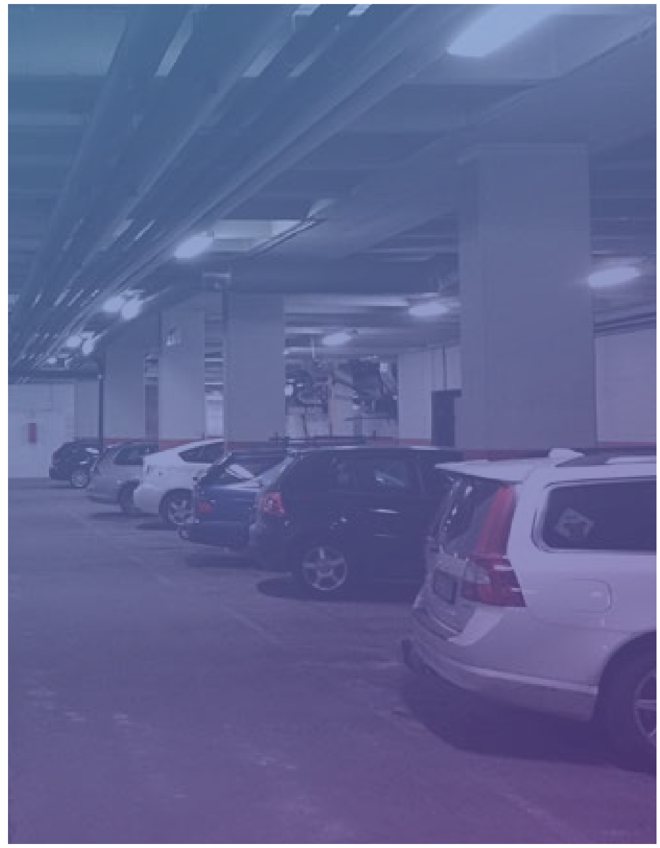
Austin's S.M.A.R.T. Housing program gives affordable housing builders an expedited development review, and it waives development fees. Since 2005, more than 4,900 apartments have been built through the initiative.[22]

REDUCE PARKING REQUIREMENTS

Parking requirements are one of the biggest costs for a development, particularly in urban environments, ranging from $5,000 per spot for surface parking to $60,000 for underground parking.[23] The Urban Land Institute found that parking minimums were the number one barrier to building affordable rentals.[24]

Many cities can significantly reduce or even eliminate parking requirements, particularly in transit-oriented or urban infill development. This approach will become increasingly valuable as ride-sharing increases and automated vehicles become adopted, dramatically reducing parking demand.

In 2012, Seattle voted to reduce parking requirements by 50 percent in some neighborhoods and to eliminate them completely in downtown areas readily served by transit. Other cities such as Denver, Minneapolis, Boston, San Francisco and New York are revising parking requirements to reduce the cost of housing. In 2015, California enacted a law overriding local parking requirements for all transit-adjacent housing developments that include affordable housing units.



ESTABLISH DENSITY BONUSES TO ENCOURAGE DEVELOPMENT OF AFFORDABLE HOUSING

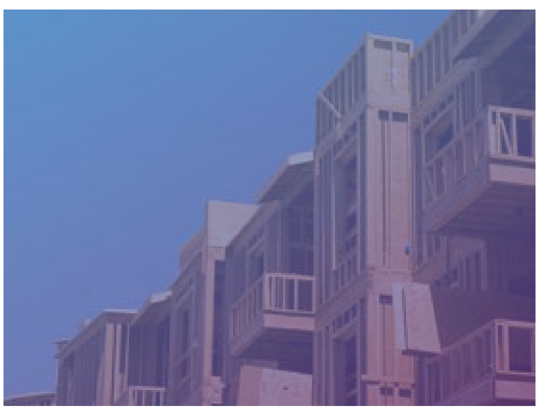
Density bonuses make building affordable housing more cost-effective for developers. In return for including a certain number of affordable units in a building, the developer is allowed to build more market-rate apartments than are normally allowed.

Fairfax, Virginia, and Denver both allow for taller buildings near transit centers if they include affordable units. Massachusetts also provides incentives to local governments that adopt zoning laws encouraging denser development near transit.

ADOPT SEPARATE REHABILITATION BUILDING CODES

Maintaining the stock of older apartments — which tend to have lower rents — and improving them so they remain habitable is essential to ensuring affordability across the income spectrum. But because many jurisdictions require developers to bring a building up to the current building code when they want to substantially rehab it, upgrading properties is often prohibitively expensive.

Localities can overcome this by adopting separate building codes for rehabilitation projects that balance the need to ensure safety and structural integrity, but don't sacrifice affordability. They can also offer tax abatement, for properties that include affordable housing, when property taxes rise because of improvements.



CREATE AN EFFICIENT PUBLIC ENGAGEMENT PROCESS

New developments benefit from community input. But the public engagement process can also result in NIMBY opposition that creates long delays, and even lawsuits, that increase construction costs. There is no single model that works to strike a balance, but localities should examine their process to ensure it's not one-sided and doesn't create uncertainty.

The Reality of Rent Control

Some lawmakers are revisiting rent control as a strategy to control housing costs. New efforts are underway in California, Illinois and Washington to challenge and ultimately change decades-old state laws and best practices restricting and/or prohibiting rent control in local jurisdictions.

To some, rent control would seem a fast and easy fix — a local jurisdiction sets limits on how much property owners and managers can raise rents on residents, theoretically making units more affordable. But it's not the panacea some lawmakers seem to think it is.

Economists on both sides of the political spectrum agree that rent control is not effective policy. Forbes Magazine calls it one of the 10 worst economic ideas of the 20th century: "Here we have a policy initiative that has done huge damage to cities around the globe. It is very hard today to find an economist supporting rent control."

While the laws' intent is positive, research shows that the real impact of rent control policy is a decline in property maintenance, stifled development activity, shrinking affordability and a chronic undersupply of rental homes. Rent control also encourages owners to convert buildings from residential to non-residential use.

Without profitability as an incentive, investment capital is directed to other markets and maintenance on existing properties is deferred. Subsequently, the affordable housing shortage is exacerbated.

2

Increase public-private partnerships.

Policymakers at all levels of government can provide incentives and share risk with the private sector to produce the necessary units at price points households can afford. They can do the following:

LEVERAGE UNDERUTILIZED LAND

Federal, state and local governments should prioritize affordable housing when disposing of public land. Land accounts for approximately 10 to 25 percent of an apartment project's cost, and even more in high-cost areas.[25] Developers also often struggle to find developable land in urban areas. Yet many localities own underused or abandoned land that could be used for affordable housing. Under-utilized buildings, which can be renovated, are another resource.

Making good use of these lands and buildings requires strong public-private partnerships. The private sector contributes the investment dollars and expertise, and the locality provides the land and helps facilitate a streamlined approval process. In the end, such partnerships produce affordable apartments while also boosting economic development.

Land banks — government-created nonprofit corporations that manage and repurpose tax-delinquent and vacant properties — are another option. More than 140 land banks have already been created across the country.

USE PROPERTY TAX ABATEMENTS

Tax incentives and abatements are another way to spur development. While they do reduce public revenues, they are often more politically palatable than direct subsidies. The Seattle Multifamily Tax Exemption (MFTE) program gives a 12-year tax exemption to new apartments that include a certain percentage of affordable units. By 2018, more than 200 properties are expected to participate.[26]

In 2017, New York passed a program that gives 35-year property-tax exemptions to apartment developments of at least 300 units in certain areas if 25 to 30 percent of units are set aside for low- to moderate-income renters. The program is expected to generate 2,500 units a year.[27]

Philadelphia abates 100 percent of the value of residential building improvements for up to 30 months during the construction phase. Oregon offers tax abatement to affordable housing as well as vacant land intended to be developed into affordable housing.

WAIVE FEES FOR PROPERTIES THAT INCLUDE AFFORDABLE UNITS

Housing developers often pay significant fees to expand public infrastructure or to support the creation of city amenities such as schools and parks. Because fees add to the cost of housing, many jurisdictions waive impact fees for properties that include affordable units.

3

Leverage state-level authority to overcome obstacles to apartment construction.

Forward-thinking states recognize that their economies suffer from a lack of housing supply. They are taking action to enact laws that override local zoning restrictions that inhibit apartment construction, whether intentionally or not.

Massachusetts, for example, has an "Anti-Snob Zoning Law" (Chapter 40 B Comprehensive Permit Law) that allows developers to build with more density than local zoning laws allow if the proposed apartment property has a certain percentage of affordable units and the community has an affordable housing shortage. Since it was enacted in 1969, more than 42,000 rental units have been built.[28]

Rhode Island approved the "Expedited Permitting for Affordable Housing" Act that sets strict approval deadlines for permitting agencies if a development is large enough to increase the amount of affordable housing in their communities.

States can also make some state financing contingent on a locality meeting a minimum affordable housing threshold or adopting policies that support housing production.

Forward-thinking states recognize that their economies suffer from a lack of housing supply.

Leveling the Playing Field for Renters

People choose to live in apartments for many reasons, and their choice should not limit their ability to enjoy financial security. We should promote policies that give people flexibility to build wealth without owning real estate and through incentivized savings. We should also adopt public policies that promote affordability in all housing.

4

Collaborate with business and community leaders to champion apartments.

Local communities are stronger and more vibrant when there is a mix of rental and owned housing. Without a diversity of housing options to meet a variety of lifestyle needs and price points, local economies are held back. We need local leaders in government and business to work together to bring a range of housing types to their communities by crafting creative solutions to ease existing hurdles.

One of the best ways to accomplish this is to make the connection between a sufficient supply of housing and a community's economic health and economic development. Insufficient housing causes workers to leave an area or lose productivity because of long commutes. Companies relocate or stagnate when they cannot hire the workers they need because their employees can't find housing.

In other words, ensuring a community has enough housing isn't just the concern of those who struggle to find housing. It's an important issue for everyone in the community whose employer might move to another market where housing is more readily available. Several areas have successfully made that connection and have generated political support for regulatory changes or even vocal support for specific projects.

Local employers can be a powerful force against NIMBY opponents. For example, the Silicon Valley Manufacturing Group recognized that a housing shortage was affecting their members, so they formed a Housing Action Coalition. The group goes to planning commissions and city councils to actively support smart growth developments. They also help educate lawmakers about the importance of affordable housing. They say their intervention works 98 out of 99 times and has resulted in 26,000 new homes in 18 Silicon Valley towns.

Federal Solutions

It's not up to states and localities alone to ensure that people have access to housing that fits their needs. The U.S. Congress can take the following steps:

- **Enact a pro-development tax policy that incentivizes investment in rental housing.**
- **Support housing finance reform that preserves the multifamily mortgage liquidity provided by the Government Sponsored Enterprises.**
- **Support funding for the FHA Multifamily Programs, which are an important source of capital supporting apartment construction and redevelopment.**
- **Expand the Low-Income Housing Tax Credit.**
- **Create a Middle-Income Housing Tax Credit.**
- **Increase funding for subsidy programs that address housing affordability such as the Section 8 Housing Choice Voucher Programs, Project-Based Rental Assistance, Rental Assistance Demonstration, HOME and Community Development Block Grants.**
- **Reform overly burdensome regulations that contribute to making housing less economically feasible to develop and operate.**

What's good for renters is good for everyone.

CONCLUSION

In 2030, today's fifth-grader may be renting her first apartment. Her grandmother may be downsizing into apartment living, too. A city lot that sat vacant for decades or a long-neglected suburban downtown may now be a vibrant place to live, eat and work because local leaders had a vision for revitalization that included apartments.

Every American should be able to choose to live in a place that fits his or her stage of life and budget and to choose the community in which he or she wants to live. To make that vision a reality, we must build more apartments at all price points. Building 4.6 million apartments by 2030 will go a long way toward meeting the demand for apartments, stabilizing rents and helping to boost the U.S. economy.

With the right mix of policies and strong partnerships between local governments and independent developers, we can bridge the gap between the cost of building and operating apartments and the amount of rent lower-income and middle-class households can afford. It helps that a growing number of people in communities from San Francisco to Boulder, Colorado, to New York are already recognizing the value of moving from "Not in my backyard" to "Yes, in my backyard."

They are seeing that it is not only renters who benefit when communities build more apartments. Communities benefit, too. When people are able to affordably live where they work, the volume of traffic is reduced. When a community has a diverse housing stock, it can attract a diverse population of people with different incomes, skillsets and professions. And apartments can help the tax base and boost the local economy through mixed-use development that revitalizes communities and creates jobs.

What's good for renters is good for everyone. It's time to take action to ensure every household at every income level has an affordable place to call home.

Resources

There are a number of resources policymakers can consult to inform their efforts to address the affordable housing shortage. These are just a few.

CALCULATORS

- Urban Institute/National Housing Conference's Cost of Affordable Housing Calculator. Interactive tool that shows why affordable housing deals don't pencil out.
- U.C. Berkeley Terner Center for Innovation's Development Calculator. Estimates the probability that a given development project will be built, given a particular set of policies and economic conditions.
- U.C. Berkeley Terner Center for Innovation's How Much Housing Will Be Built? Policy Gauge Calculator. Using four example cities, shows how local policies impact total potential housing production.

TOOLKITS AND OTHER RESOURCES

- ULI's "Bending the Cost Curve-Solutions to Expand the Supply of Affordable Rentals"
- Washington Area Housing Partnership's "Toolkit for Affordable Housing Development"
- Obama White House's "Housing and Development Toolkit"
- McKinsey Global Institute's "Toolkit to Close California's Housing Gap: 3.5 Million Homes by 2025"
- Mortgage Bankers Association's "Affordable Rental Housing and Public Policy"
- California's Legislative Analyst's Office's "Considering Changes to Streamline Local Housing Approvals"
- ULI's "The Economics of Inclusionary Development"
- The Family Housing Fund's "The Space Between: Realities and Possibilities in Preserving Unsubsidized Affordable Rental Housing"
- HUD's "Regulatory Barriers Clearinghouse"
- ULI's "Developing Housing for the Workforce: A Toolkit"
- ULI's "Workforce Housing: Innovative Strategies and Best Practices"

Footnotes

1. Hoyt Advisory Services.
2. U.S. Census Bureau, New Residential Construction.
3. U.S. Census Bureau, New Residential Construction.
4. National Multifamily Housing Council and National Apartment Association, "The Trillion Dollar Apartment Industry."
5. American Community Survey, 1-Year Estimates.
6. American Community Survey, 1-Year Estimates and NMHC tabulations of Current Population Survey microdata.
7. NMHC tabulations of American Housing Survey microdata.
8. U.S. Dept. of Housing and Urban Development, American Housing Survey.
9. American Community Survey, 1-Year Estimates and NMHC tabulations of Current Population Survey microdata.
10. National Multifamily Housing Council and National Apartment Association, "The Trillion Dollar Apartment Industry."
11. U.S. Census Bureau, Current Population Estimates.
12. U.S. Census Bureau, Current Population Survey.
13. U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplement.
14. U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplement.
15. U.S. Census Bureau, Annual Population Estimates.
16. NMHC tabulations of Current Population Survey, Annual Social and Economic Supplement.
17. NMHC tabulations of American Community Survey microdata.
18. NMHC tabulations of American Housing Survey microdata.
19. U.S. Census Bureau, New Residential Construction.
20. NMHC tabulations of American Housing Survey and CINCH microdata.
21. NMHC tabulations of American Community Survey microdata.
22. "Housing and Development Toolkit." White House, September 2016.
23. "Parking." Association of Bay Area Governments, N.d.
24. "Bending the Cost Curve: Solutions to Expand the Supply of Affordable Rentals," Urban Land Institute, 2014.
25. Based on evidence provided by NMHC members.
26. Ibid.
27. "Affordable Housing Program Gives City Tax Break to Developers," New York Times, April 10, 2017.
28. "Fact Sheet on Chapter 40B; The State's Affordable Housing Zoning Law," Citizens' Housing and Planning Association, November 2011.

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NATIONAL MULTIFAMILY HOUSING COUNCIL

NATIONAL APARTMENT ASSOCIATION

BACKGROUNDER | June 2018

Regulation: Over 30 Percent of the Cost of a Multifamily Development

Paul Emrath, National Association of Home Builders
Caitlin Walter, National Multifamily Housing Council

Regulation imposed by all levels of government accounts for an average of 32.1 percent of multifamily development costs, according to new research released today by the National Association of Home Builders (NAHB) and the National Multifamily Housing Council (NMHC). In fact, in a quarter of cases, that number can reach as high as 42.6 percent.

Apartment and condo development can be subject to a significant array of regulatory costs, including a broad range of fees, standards and other requirements imposed at different stages of the development and construction process. However, until now there had been no previous research done to analyze the extent of this regulation. This joint research effort surveyed NAHB and NMHC members to quantify how much regulation exists and how much it is adding to the cost of developing new multifamily properties.

About NAHB Multifamily

NAHB Multifamily represents the interests of builders, developers, owners and managers of all sizes and types of multifamily housing, including affordable and tax-credit housing, market-rate rental apartments, condominium housing, student housing and mixed-used multifamily communities. NAHB Multifamily strives to ensure that multifamily housing functions as a strong sector within a thriving housing and real estate industry, and effectively serves the housing needs of a broad range of American families and households. For more information, please visit NAHB Multifamily at www.nahb.org/en/members/committees-and-councils/councils/multifamily-council.aspx.

About NMHC

Based in Washington, DC, the National Multifamily Housing Council (NMHC) is a national association representing the interests of the larger and most prominent apartment firms in the U.S. NMHC's members are the principal officers of firms engaged in all aspects of the apartment industry, including ownership, development, management and financing. NMHC advocates on behalf of rental housing, conducts apartment related research, encourages the exchange of strategic business information and promotes the desirability of apartment living. Nearly one-third of Americans rent their housing, and almost 15 percent live in an apartment (buildings with five or more units). For more information, contact NMHC at 202/974-2300, e-mail the Council at info@nmhc.org, or visit NMHC's Web site at www.nmhc.org.

Introduction

Many Industry experts have become concerned about affordability of rental housing in America, and how difficult it has become to address the problem through new construction. According to the report on America's Rental Housing 2017 published by the Joint Center for Housing Studies at Harvard University, "The lack of new, more affordable rentals is in part a consequence of sharply rising construction costs, including labor and materials." The Harvard report goes on to say, "Tight land use regulations also add to costs by limiting the land zoned for higher-density housing and entailing lengthy approval processes."

Recently, the National Association of Home Builders (NAHB) and the National Multifamily Housing Council (NMHC) undertook a joint research effort to find out how much government regulation adds to the cost of building new multifamily housing. Results show that well over 90 percent of multifamily developers typically incur hard costs of paying fees to local jurisdictions, both when applying for zoning approval, and again when local jurisdictions authorize the construction of buildings.

However, government regulation can impose costs in other ways as well. Over 90 percent of multifamily developers also incur costs of delays caused by sometimes lengthy approval processes, development standards that go beyond what would ordinarily be done, changes to building codes over the past decade, and OSHA requirements. Other regulations, such as requiring developers to dedicate land to the government, are somewhat less common, but can be quite costly when they are encountered. The bottom line is that regulation imposed by all levels of government (whether local, state or federal) accounts for 32.1 percent of the cost of an average multifamily development.

A substantial amount of regulation is well intentioned and some of it undoubtedly serves a worthwhile purpose. Few would argue, for example, that basic safety standards for structures and workers are unnecessary. But regulation that exceeds 30 percent of a project's development costs raises questions about how thoroughly governments are considering the consequences of their actions. Are they aware of how much regulation currently exists? Do they realize how multiple regulations with conflicting standards can cause delays and increase costs? And do they understand the extent to which these increased costs translate into higher rents and make it difficult to build new housing that families with modest incomes can afford?

Survey Design

While the assertion that regulations increase the cost of multifamily development is commonly heard, the extent to which this happens is not easy to measure, and currently does not exist on a national scale. The only way to gather data that is at all comprehensive is from multifamily developers, as they are the only ones who experience a wide range of the various forms regulation can take. NAHB and NMHC set out to accomplish this through a survey of both memberships. The purpose of the survey was to quantify how much regulation exists and how much it is adding to the cost of developing new multifamily properties.

Multifamily developers do not, in general, have accounting systems designed to tease out these regulatory costs, so NAHB and NMHC crafted questions that most developers would be able to answer. The questions asked developers about the typical projects they build. The questions covered various delays and costs incurred at different stages of the development process. Developers were asked to provide all hard costs as a percent of total development cost for their typical projects (see Appendix 2).

The survey was conducted in the fourth quarter of 2017. A total of 40 usable responses were received from multifamily developers, evenly split between NAHB and NMHC members (with no duplication). The developers who responded reported building multifamily projects in all regions of the country, and the typical projects they build vary widely: from fewer than 5 apartments to more than 400, and from under $2 million in total development costs to more than $100 million.

NMHC and NAHB combined the results with information from other survey collections and public data sources, such as typical terms on construction loans and the average time it takes to complete different phases of a project, to estimate the final costs (see Appendix 1).

Types of Regulation

Regulatory costs fall into several categories—fees, development standards, building codes, land dedicated to public purposes, etc. The range of these regulations can be broad, and the cost of complying with them substantial. Figure 1 shows the incidence of different types of regulations imposed on multifamily developers, as well as the average cost of complying with those regulations when they do exist.

Figure 1: Incidence and Typical Magnitude of Regulatory Costs

Type of Cost	Share of Developers' Projects Subject to the Cost	Average Cost When Present (as a Share of Total Development Costs)
Cost of applying for zoning approval	98%	4.1%
Interest costs on refundable fees charged when site work begins	50%	0.5%
Other (non-refundable) fees charged when site work begins	93%	4.5%
Development requirements that go beyond the ordinary	95%	6.3%
Land dedicated to the government or otherwise left unbuilt	50%	4.3%
Fees charged when building construction is authorized	93%	4.2%
Cost of complying with affordability mandates (e.g., inclusionary zon-	30%	5.7%
Cost increases from changes to building codes over the past 10 years	98%	7.2%
Cost of complying with OSHA requirements	90%	2.6%
Pure cost of delay (i.e., even if regulation imposed no other type of cost)	98%	0.7%

The first significant interaction between a multifamily developer and the government usually occurs when the developer applies for zoning approval to allow multifamily housing to be built on a particular parcel of land. The U.S. Constitution gives states the authority to regulate land use; and, although states sometimes try to influence land use patterns in various ways, they most often leave this up to local governments. Local governments, in turn, pass zoning ordinances that divide their territories into districts and specify how land in each district can be used (single-family versus commercial versus multifamily, for example). It's not impossible for a developer to acquire land that allows multifamily structures to be built on it without going through a rezoning process or obtaining some type of exemption to an existing ordinance, but this is the exception rather than the rule.

The typical projects of almost all the respondents (98 percent) were subject to costs at the zoning approval stage. When they exist, these costs average 4.1 percent of the total development costs. Regulatory costs incurred at this stage can include fees paid directly to a government but may also include other types of costs. For example, the developers may have to pay for environmental impact, archeological or other types of studies.

Although local governments have the authority to approve development, existing environmental laws also give a role to the federal government. A developer may need to obtain a wetlands, stormwater and/or endangered species-critical habitat permit, each of which is overseen by a different federal government agency. Many states manage the wetlands permits under federal guidance, and states and local jurisdictions may have their own sets of requirements. Indeed, it can be difficult to identify which level of government is ultimately responsible for some regulation and trying to reconcile conflicting requirements is one factor that can drive up the cost of compliance.

It is also common for governments to impose fees on a multifamily development when site work begins. Many communities charge impact, utility hook-up and other fees at this point. Impact fees are fees that are charged only on a new development and are supposed to be used only for capital improvements. State legislation establishes the types of impact fees local governments can charge. Examples are impact fees for the construction of new schools, roads, water facilities, sewer facilities, stormwater management, parks, fire, police, libraries, solid waste management, and general government. Some states allow all of these, while a select few of states do not allow them, such as Virginia. There are consultants who travel the country and specialize in calculating the maximum impact fees local governments can legally charge. Moreover, as a recently published University of California, Berkeley paper documented, cities often charge additional fees, negotiated on a case-by-case basis at different points in the development process, to allow a project to be built.

According to the 2012 Census of Governments, there are roughly 90,000 local governments in the U.S., and a particular development may be subject to fees from more than one of them—for example, from a municipality, a water district, and a school district with overlapping jurisdictions. The overwhelming majority (93 percent) of the typical projects of multifamily developers in the NAHB-NMHC survey pay fees at this stage of the process. When they exist, these fees average 4.5 percent of total development costs.

Some local governments charge developers guarantee or other fees that are refundable when the project is completed. Although these fees are also usually imposed when site work begins, the survey treats them separately, due to the different cost implications. If the fee is eventually refunded, the developer ultimately pays only the interest that accrues on the development and construction loans until that happens. Half of respondents' typical projects were subject to these fees; which, when present, averaged half a percent of the total development cost.

Many local governments require new development to conform to community design standards. This may include standards for streets and sidewalks, parking, height of buildings, landscaping and the architectural design of individual buildings. These standards impose little extra cost if they don't significantly exceed the developer's ordinary practices. In the absence of regulation, for example, developers will still ordinarily provide spaces for walking and parking, landscaping, and employ architects who attempt to design buildings that are attractive to potential tenants. The NAHB- NMHC survey asked multifamily developers specifically about the cost of standards that go beyond what they would otherwise do.

Almost all (95 percent) of the typical projects of the developers surveyed were subject to design standards that that go beyond what the developer would otherwise do. When these beyond-ordinary requirements were present, they accounted for an average of 6.3 percent of the overall development cost. Energy efficiency is a worthwhile objective, but NMHC and NAHB have argued that the up-front cost needs to be kept within reasonable bounds. NMHC and NMHC have supported some recent changes to the IECC but opposed others as not cost-effective. Not surprisingly, manufacturers of building products advocate for code changes that mandate more use of their products and tend to be less concerned than NMHC and NAHB about costs. Past analysis by NMHC on previous code cycles (which remain in effect in many states) has shown that changes to the IECC have the potential to drive up construction costs by over $3,000 per apartment (depending on type of building and climate zone) and argued that subsequent savings on utility bills come nowhere near justifying the cost.

Half of the typical projects required developers to dedicate land to the government or otherwise leave it unbuilt. This requirement can take many forms, such as creating a park on the property or reserving part of the property for the government to use in some way. In these cases, the developer must pay for the land but is not allowed to derive revenue from it, driving up the cost per unit for the housing that can be built. For those projects subject to this regulation, it represented an average of 4.3 percent of total development cost.

Almost all of respondents (93 percent) paid some sort of fee when construction in their typical project was authorized. This could be limited to a building permit fee, but additional impact, hook-up or other fees may also be charged at this point. When they exist, the fees charged at this point average 4.2 percent of development costs, large enough to suggest that they often encompass more than the building permit fees.

Local jurisdictions are increasingly beginning to consider imposing affordability mandates to attempt to create new affordable housing. These mandates without any offsetting incentive like a tax exception typically create few units and effectively tax some housing units (and their occupants) to subsidize others. The easiest way to see this is in cases where developers pay a fee to avoid the requirement—that amount gets added to the overall amount the developer must pay, thus raising the rents required. But even if they don't pay a fee, the regulation may require them to lose money on some of the housing they build, which is effectively a tax, resulting in higher rents on non-subsidized apartments. Almost one-third (30 percent) of developers who responded indicated that their typical projects incurred costs related to complying with such mandates. These costs, when they exist, averaged 5.7 percent of total development costs, enough to result in substantially higher rents.

The NAHB-NMHC survey also asked developers about the cost implications of changes to building codes over the past ten years. Most jurisdictions have been enforcing building codes for decades, and the codes have been updated and refined many times over that span. Most have adopted a version of national model codes, which have been in widespread use since the 1950s. These are updated every three years, and the number of refinements considered and voted upon during each three-year cycle runs into the thousands.

Virtually no one would argue against public standards for basic soundness and safety of residential structures, but over the decades codes have expanded well beyond this and are increasingly being used as a vehicle to advance various policy objectives. A leading example is energy efficiency. There is now a model International Energy Conservation Code® (IECC).

Energy efficiency is a worthwhile objective, but NMHC and NAHB have argued that the up-front cost needs to be kept within reasonable bounds. NMHC and NMHC have supported some recent changes to the IECC but opposed others as not cost-effective. Not surprisingly, manufacturers of building products advocate for code changes that mandate more use of their products and tend to be less concerned than NMHC and NAHB about costs.

This is another area where the federal government has become increasingly involved. The Environmental Protection Agency, the Federal Emergency Management Agency, and the Department of Energy (DOE), all actively participate in the development of national model codes, proposing changes to national model codes and testifying in favor of them during code hearings. DOE also has a share of its budget set aside for persuading state and local jurisdictions to adopt more stringent codes. Representatives from NAHB who witnessed all of the recent code hearings have criticized federal agencies for supporting certain code changes that removed flexibility and limited builders' options, driving up costs without improving energy efficiency, to the benefit of specific product manufacturers.

Nearly all (98 percent) of developers said changes in building codes over the past 10 years increased development costs in their typical projects, and these costs, when they exist, average 7.2 percent of total development costs.

Nine out of ten developers said complying with requirements of the Occupational Safety and Health Administration (OSHA) increased costs in their typical projects, and these costs, when present, average 2.3 percent of total development costs. Again, few would argue that safety standards for construction workers are unnecessary. In recent years, however, OSHA has issued a substantial number of regulations imposing costly compliance requirements all without providing any evidence that they would actually improve safety in the residential construction industry. In the Beryllium rule, for example, the evidence of a health risk came from workers in manufacturing industries or performing abrasive blasting activities. In the Volks rule, OSHA was criticized as doing little beyond driving up record keeping costs for businesses (and possibly violating the statute of limitations in the process).

Even when regulation imposes no direct costs, it can have a financial impact if it delays the development and construction process. If it takes longer to begin leasing and earning income on a property, it will take longer to pay off any development and construction loans and more interest will accrue.

Some regulatory delay is inevitable, as it will naturally take some time for local building departments to review and approve plans and respond to requests for inspections. Precisely how long it is reasonable for a developer to wait for approvals and inspections is open to debate, but there are examples that clearly seem excessive. One academic study, for example, found that it took an average of 788 days to prepare a submission and receive approval for an individual federal wetlands permit.

Virtually all the developers (98 percent) said complying with regulations caused some sort of delay for their typical projects. For these projects, NMHC and NAHB estimated that average additional interest was 0.7 percent of total development costs. This is a "pure" cost of delay that regulation would cause even if it imposed no other type of cost. It is calculated by subtracting every other type of regulatory cost, then estimating the additional interest accruing on the share of the remaining development cost that is typically financed.

Total Cost of Regulation

To estimate how much in total the government regulations described above add to multifamily development costs, it is necessary to take both the incidence and magnitude of the various types of regulation into account—in other words, to average in the "zeroes" when a particular regulation does not apply. Figure 2 shows that, when this is done, the listed categories taken together on average account for 32.1 percent of development costs for a multifamily project.

Among the listed categories, average cost is highest for changes to building codes over the past 10 years (7.0 percent of total development costs), followed by development standards imposed by government that go beyond what the developer would ordinarily do. It is interesting that government control over how a project is built can be more costly than actual fees charged, but unsurprising given that they can be time consuming and thus cost more.

Figure 2: Government Regulation as a Share of Multifamily Development Costs

Type of Cost	Lower Quartile	Average	Upper Quartile
Cost of applying for zoning approval	1.1%	4.0%	5.3%
Interest costs on refundable fees charged when site work begins	0.0%	0.2%	0.2%
Other (non-refundable) fees charged when site work begins	1.9%	4.2%	5.5%
Development requirements that go beyond the ordinary	1.1%	5.9%	8.4%
Land dedicated to the government or otherwise left unbuilt	0.0%	2.1%	3.3%
Fees charged when building construction is authorized	1.1%	3.9%	5.4%
Cost of complying with affordability mandates (e.g., inclusionary zon-	0.0%	1.7%	2.6%

Cost increases from changes to building codes over the past 10 years	5.2%	7.0%	7.1%
Cost of complying with OSHA requirements	1.3%	2.3%	2.3%
Pure cost of delay (i.e., even if regulation imposed no other type of	0.1%	0.7%	1.2%
TOTAL ESTIMATED REGULATION AS A SHARE OF DEVELOPMENT	**21.7%**	**32.1%**	42.6%

Affordability mandates, when they exist, are nearly as costly as relatively recent changes to building codes and beyond- ordinary development starts, but overall have a smaller average impact on costs because they are encountered less frequently. In contrast, regulatory delays are encountered very frequently, but have a comparatively small average impact on costs because they are limited to the extra interest that accrues on development and construction loans.

Refundable fees have the smallest impact of any of the types of regulatory costs listed, both because they apply only half of the time and because they are limited to the interest that accrues until they are refunded.

To illustrate the variability in regulatory costs, in addition to averages, Figure 2 shows the upper and lower quartiles (costs are below the lower quartile for 25 percent of respondents, and above the upper quartile for 25 percent). While on average regulation accounts for 32.1 percent of total multifamily development costs, the quartiles give a range of
21.7 to 42.6 percent.

Although the cost components sum to the bottom line total for the averages in Figure 2, the components of the upper and lower quartiles do not. The ten components in the "lower quartile" column in particular sum to considerably less than 21.7 percent. The implication is that multifamily developers can minimize some types of regulatory costs depending on where they operate—but not all of them proportionately at the same time.

Costs Not Captured

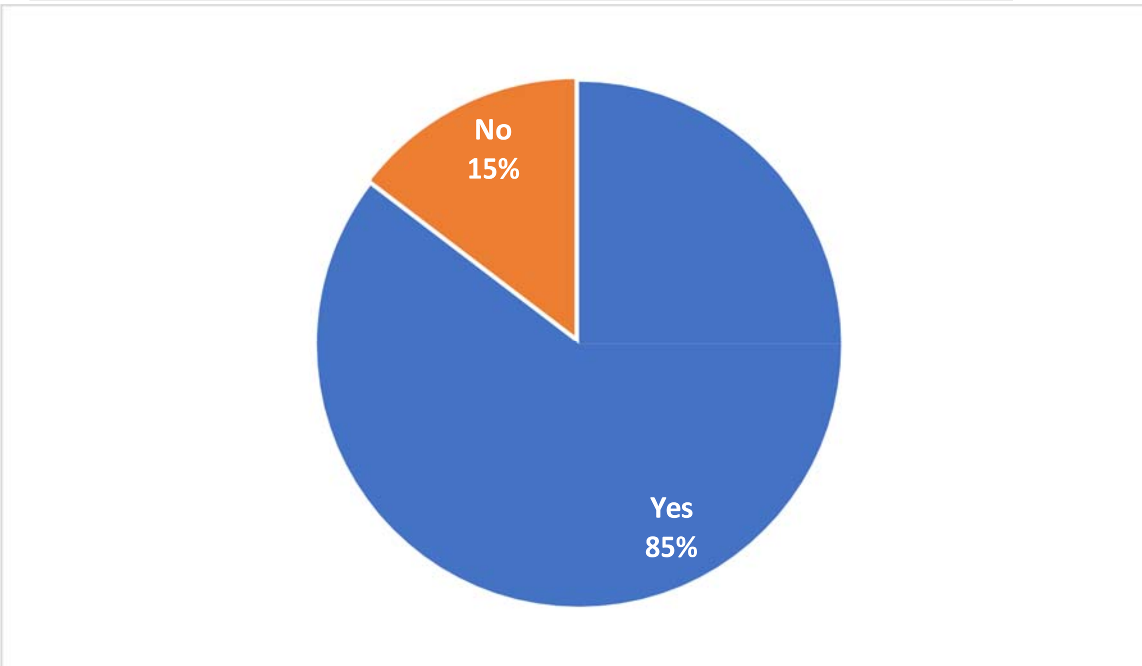
Although the NAHB-NMHC survey sought to be as comprehensive as possible, the above results do not capture everything. Some government actions impact development costs in a way a multifamily developer can't reasonably be expected to quantify. For example, federal immigration policy may affect the supply of construction labor, and tariffs can affect prices of building materials like lumber[1] and steel. Developers do not in general have a way of evaluating how much the prices they pay for labor and materials are influenced by these federal policies.

The survey asked developers about delays due to government regulation, but there can be multiple reasons for those delays not all unambiguously tied to a government action. One is neighborhood opposition to the development. At the local level, governments may encourage or facilitate local groups who oppose multifamily development. An obvious way to do this is by allowing local groups to sue any developer who proposes to build multifamily housing, but there are many more subtle ways to encourage opposition.

A developer may have to devote time and financial resources to deal with this opposition, by meeting with local groups before seeking zoning approval, for instance. To quiet the opposition, developers may find it necessary to make concessions to local groups, such as reducing size of the buildings so that land costs are allocated to fewer apartments and cost per apartment is increased. In an extreme case, local opposition may be able to cause a local government to reverse its decision to approve a project after the developer has already invested heavily in it. In many of these cases, there is an obvious cost to neighborhood opposition, but how much responsibility the local government bears for it may not always be clear. It is not uncommon for developers to hire consultants to debunk claims made by opposition to a project.

Figure 3 below shows that the overwhelming majority (85 percent) of the developers responding to the NAHB-NMHC survey have experienced added costs or delays due to such opposition.

Figure 3: Have you experienced added costs or delays due to neighborhood opposition to multifamily construction?

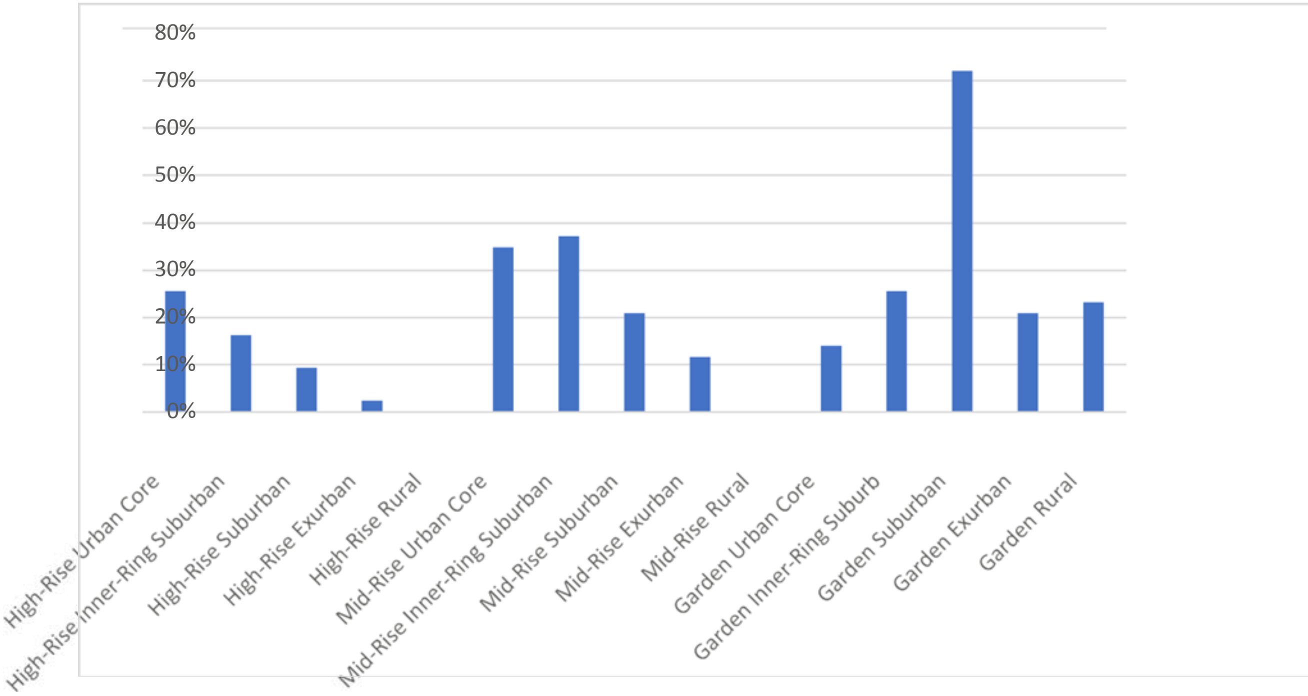


Profile of Respondents and Their Typical Projects

The range of costs highlights that not all development projects are the same. Costs can vary by jurisdiction, as well as by geographic location and type of project—garden apartments on undeveloped land can be much less complicated to build than a high-rise in an urban area, for example. Respondents were able to choose more than one option as to their typical project type.

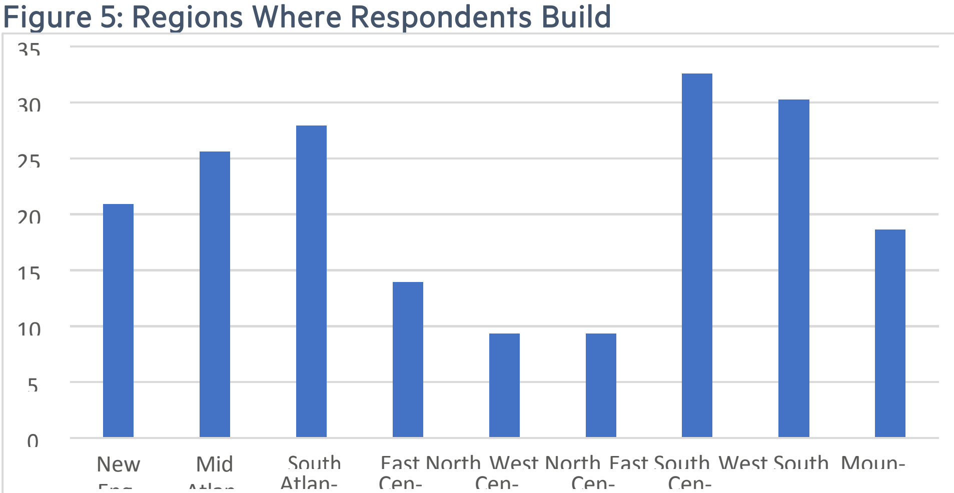
Respondents built a variety of product types that also varied by location (see Figure 4). The most common type of project was a garden development in the suburbs (72 percent). Mid-rise projects were the next common, with 35 percent building mid-rise developments in urban areas, and 37 percent building similar projects in inner-ring suburbs. About one-quarter (26 percent) of developers reported that they typically build high-rise apartments in urban settings.

Figure 4: Type and Location of Multifamily Projects



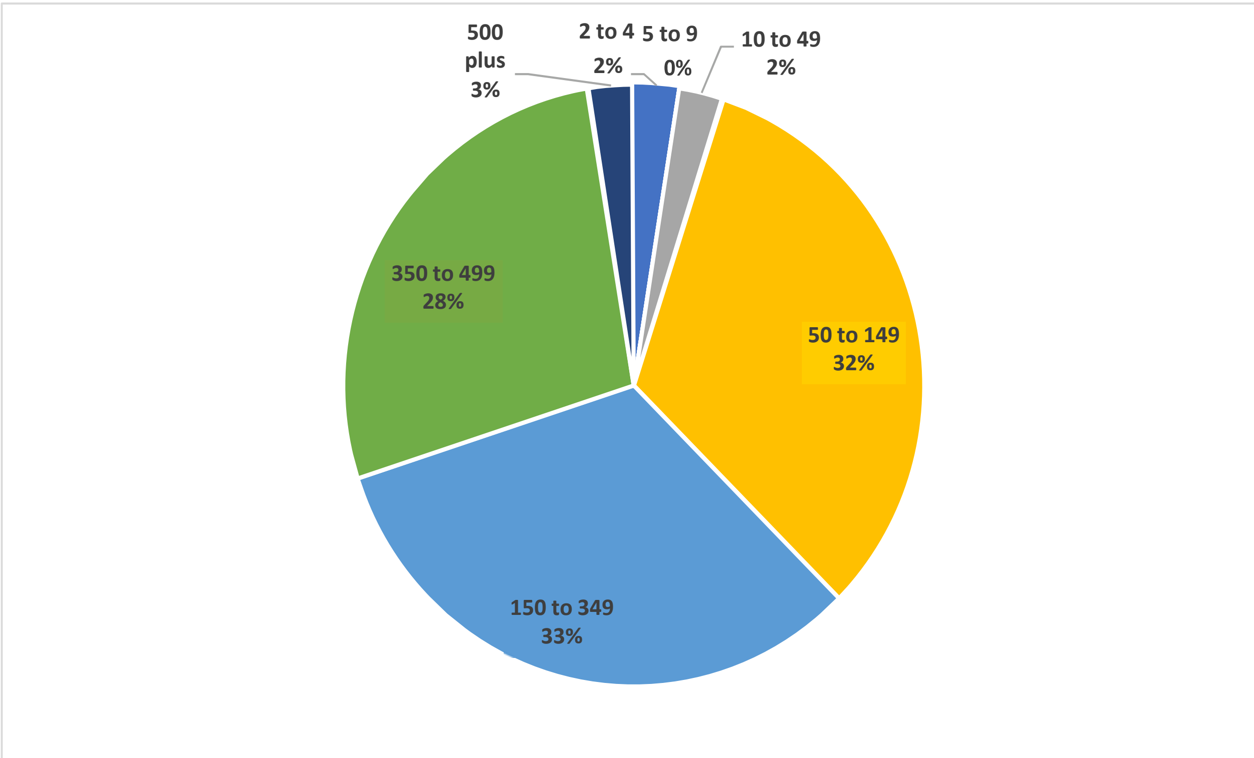
All regions of the United States were represented in the survey sample as well. The largest percentage of developers operated in the West South Central (33 percent) and Mountain (30 percent) regions (see Figure 5). The South Atlantic and Pacific regions featured the highest distribution of multifamily permits in the U.S. in 2017 and had the third and fifth largest distribution of respondents, respectively.

Figure 5: Regions Where Respondents Build



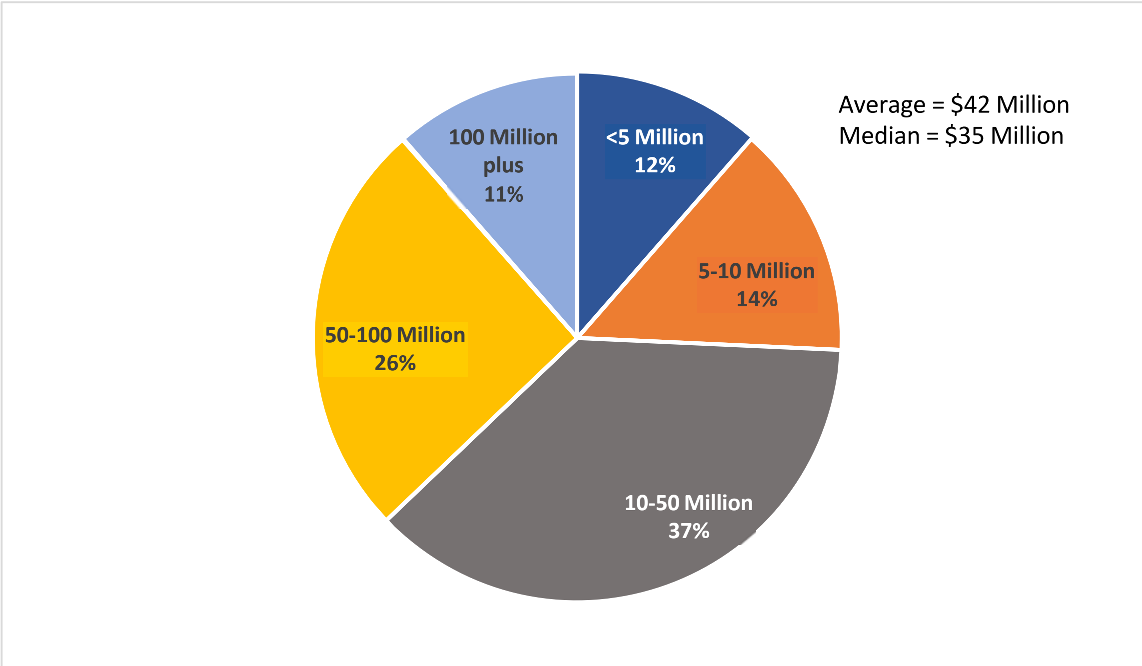
A fairly wide range of typical development size was represented by respondents as well (Figure 6). A small portion of respondents (4 percent) typically built projects fewer than 50 units or greater than 499 units (3 percent), while the remaining respondents were relatively evenly split between 50 to 149 units (32 percent), 150 to 349 units (33 percent) and 350 to 499 units (28 percent).

Figure 6: Typical Project Size (No. of Units)



In terms of financial costs, the cost was even more widely distributed (see Figure 7). The average cost of a typical development project for these developers was $42 million. Over one-third (37 percent) of respondents had a typical project size of $10-$50 million.

Figure 7: Typical Project Size (Development Costs)



Summary and Conclusion

As the above discussion has demonstrated, multifamily development can be subject to a bewildering array of regulatory costs, including a broad range of fees, standards, and other requirements imposed at different stages of the development and construction process. In view of this, it may not be surprising that regulation imposed by all levels of government accounts for 32.1 percent of multifamily development costs on average, and one-fourth of the time reaches as high as 42.6 percent.

Although local governments generally have authority for approving development and adopting building codes, state and federal governments are becoming increasingly involved in the process. Sometimes the federal involvement is readily apparent, as when issuing stormwater permits or enforcing OSHA requirements. At other times, the federal involvement is less obvious. Examples include federal participation in model building codes and attempts to influence local development through conditions for obtaining grants or other sources of funding. Indirect influences like these sometimes make it impossible to untangle which level of government is ultimately responsible for a given dollar of regulatory cost.

The current estimate that government regulation accounts for 32.1 percent of total development costs is almost certainly understated to some extent, as it was not possible to account for items like the effects of tariffs on building materials or the extent to which local jurisdictions may empower their citizens to oppose multifamily housing in their communities. Average costs could be even higher now or in the near future due to regulations taking effect since the multifamily projects in the survey were completed. For example, OSHA's Silica Rule went into effect in late 2017, a regulation that industry groups have criticized as unreasonably onerous and unnecessarily costly. Similarly, local jurisdictions are just beginning to adopt the 2018 versions of the model international building codes. Home Innovation Research Labs has recently estimated that the difference between the 2018 and 2015 versions of the codes can add thousands of dollars onto the cost of a multifamily building. As is typically the case, federal agencies supported several of the cost-increasing changes to the codes.

When the cost of multifamily development rises, it unavoidably translates to higher rents and reduced affordability of rental housing. Multifamily developers can not secure financing to build their projects unless they can demonstrate to lenders that the rents will be sufficient to cover costs and pay off the loans.

The purpose of this report is not to argue that all regulation is bad and should be eliminated, but to raise awareness of how much regulation currently exists, how much it costs, and to encourage governments to do a thorough job of considering the implications for housing affordability when proposing and implementing new directives.

Appendix 1: Assumptions Used in the Calculations

In order to calculate a final effect on development costs, many of the NAHB-NMHC survey responses need to be combined with additional information. Primarily these are assumptions about the terms of development and construction loans, and how long construction typically takes, and how to allocate costs to different stages of the development and construction process. This appendix lists all the assumptions used in the calculations and gives the sources for each.

Loan Terms

1. 1 point charged for all land acquisition, development, and construction (AD&C) loans, based on results from a Quarterly Finance Survey (QFS) that NAHB was conducting in the early to mid-2000s.

A 7.65 percent interest rate on all AD&C loans. The QFS indicates that rates are typically set one point above prime, and 6.65 percent is NAHB's estimate of the prime rate that would prevail in the long run under neutral Federal Reserve policy.

The estimates also assume that three-fourths of any category of costs are financed, based on typical AD&C loan-to-value ratios in the QFS.

Construction Lags

The source for information lags not directly collected in the NAHB-NMHC questionnaire is the Survey of Construction, conducted by the Census Bureau and partially funded by the Department of Housing and Urban Development.

Preliminary estimates are taken from the published annual tables, averaged over the 2001-2016 period:

If project is 2-4 units

- Authorization to start = 1.71 months
- Start to completion = 10.87 months

If project is 5-9 units

- Authorization to start = 1.95 months
- Start to completion = 11.64 months

If project is 10+ units

- Authorization to start = 1.94 months
- Start to completion = 13.21 months

The NAHB-NMHC survey collected data on how much time regulation adds to the development process. To assign this to a particular phase of the development the following assumptions are used.

The regulatory delay is split and attributed half to the lag between applying for zoning approval and the beginning of site work, and half to the period after site work begins. If half of the regulatory delay exceeds the lag between applying for approval and beginning of site work, the excess is also attributed to the period after site work begins. It is first assumed that the resulting regulatory delay is attributable to the period between the start of site work and the start of building construction, minus 3 months (the assumed minimum time it would take to do site work in the absence of regulation, based on conversations with developers). If any regulatory delay remains after being allocated to the zoning approval and site work periods, it is then attributed to the building construction period, and the start-to- completion lag is adjusted upward beyond the SOC-based average, accordingly.

The analysis assumes all loans are paid off when the buildings are completed.

Cost Breakdown

To implement the process described in the paragraph above and calculate a "pure" cost of delay (i.e., the effect regulatory delay would have even if the regulation imposed no other cost), estimates of costs incurred during different phases of the development process are needed.

The breakdown is based on the split between lot and construction costs in NAHB's Construction Cost Surveys (averaged over surveys conducted since 2000) and the Census Bureau's "noncostruction cost factor" for raw land. The calculations also assume three-fourths of these costs are financed, based on typical AD&C loan-to- value rations in the QFS.

Resulting assumptions:

- Only the cost of applying for zoning occurs at the very start of the development process. Financing costs associated with this are charged are to the regulatory cost of the application and not counted in the pure cost of delay.
- 10.2 percent of total development represent costs financed by a land acquisition loan at the start of the site work phase.
- 10.8 percent of total development costs represent costs financed by a development loan during the site work phase, assuming draws on the loan occur on average halfway through this phase.
- 54.0 percent of total development costs represent costs incurred after building construction has started and financed with a construction loan, again assuming draws on the loan occur on average halfway through the site work phase.

Appendix 1: Survey Questionnaire

1. What type of multifamily projects do you typically build in what areas? *Select all that apply*

	Urban Core	Inner-Ring Suburban	Suburban	Exurban	Rural
High-Rise					
Mid-Rise					
Garden/Low-Rise					

2. What regions do you build in? Please select all that apply.

New England (CT, ME, MA, NH, RI, VT)
Mid Atlantic (NJ, NY, PA)
South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)
East North Central (IN, IL, MI, OH, WI)
West North Central (IA, KS, MN, MO, NE, ND, SD)
East South Central (AL, KY, MS, TN)
West South Central (AR, LA, OK, TX)
Mountain (AZ, CO, ID, NM, MT, UT, NV, WY)
Pacific (AK, CA, HI, OR, WA)

3. Including units you may start before the end of the year, how many multifamily units will your company start in 2017?

When answering this survey, please refer all your answers to the typical (most common) multifamily project your company builds.

Respond only for your local office/division, if you are part of a larger company.

4. How many units does your typical project have?

2-4 units
5-9
10-49
50-149
150-349
350-499
500 units or more

5. What is the total dollar amount spent on development costs in your typical project?
$____________________

Land Use & Planning Regulations

6. For a typical piece of land, how much does it cost to apply for zoning approval as a % of total development cost? *(Include costs of fiscal or traffic impact or other studies, and any review or other fees that must be paid by time of application. Please enter "0" if application costs are Zero percent).*

_______%

7. For a typical project , how many months does it take between the time you apply for zoning approval and the time you begin site work?

_____________________months

8a. When you begin site work, do you pay any guarantee or other fees that are refundable when the project is completed?

☐ Yes No

8b. If "yes" in question 8A, how much are those refundable fees, as a % of total development costs?

______________________%

9. Other than the refundable fees mentioned in question 8a, how much does it cost to comply with regulations when site work begins, as a % of total development costs? *(Include costs of complying with environmental or other regulation as well as the cost of hook-up or impact or other fees.) Please enter "0" if cost of complying with these regulations is Zero percent).*

_______%

10. How much do development requirements that go beyond what you would otherwise do (in terms of property layout, landscaping, materials used on building facades, etc.) add to your cost, as a % of total development costs? *(Please enter "0" if the jurisdiction's requirements don't go beyond what you would normally do).*

__________%

11. In the typical case, what is the value of any land that must be dedicated to the local government or otherwise left unbuilt (for parks, open green space, etc.), as a % of total development cost? *(Please enter "0" if dedicating land is required infrequently).*

__________%

12. How many months does it take between the time you begin site work and the time you obtain authorization to begin construction of the apartment building(s)?

_____________________ months

13. How much extra time (in months) overall does complying with regulations add to the development process? *(Please enter "0" if regulations typically cause no delay).*

_____________________months

14. When you obtain authorization to begin construction, how much do you pay in additional fees, as a % of total development costs? *In many cases, this will be only a permit fee, but include any additional impact or hook-up or inspection fees if they kick in at this time. (Please enter "0" if fees paid during or after construction are Zero percent).*

_______%

15a. In the typical case, does a jurisdiction have inclusionary zoning/affordable housing requirements that apply to your project?

Yes No

15b. In the typical case, how much do these requirements (or a fee in lieu of affordable housing) cost as a percent of total development costs? (*Please enter "0" if inclusionary zoning/affordable housing mandates/fees in lieu of affordable housing are encountered infrequently).*

______%

Construction/Building Regulations

16. Over the past 10 years, how much have changes in construction codes and standards added to the cost of building a typical multifamily project, as a % of total development costs? *(Please enter "0" if code changes have had minimal impact on costs).*

_______%

17. How much does complying with OSHA or other labor regulations cost, as a % of total development cost? *(Please enter "0" if labor regulations have no impact on development costs).*

_______%

Don't know/use of subs makes it impossible to estimate

18. Have you experienced added costs or delays due to neighborhood opposition to multifamily construction?

Yes No