The public good of middle class housing

Why we should care that San Francisco is losing residents because it's too expensive for nearly everyone
Why this research?

• Goal is to tie together theads from housing policy, land economics local government law
• Provide a more robust discussion of changing nature of local/state policy relations
• Understand the impact of the public good of regulation when private interests benefit
Both rental and purchase price have skyrocketed
The middle class bids adieu
Production lags demand for both market rate and affordable housing

- From 2010 to 2019 750,000 new jobs created in Bay Area but permits for only 167,200 new housing units were issued.

- Housing crisis has intensified as the region’s high-wage employment base has grown while regional housing production has not kept pace.
SB 50 - introduced May 2019

• Housing crisis is not limited to San Francisco
  • By 2025 California will be short 3.5 million homes according to a McKinsey study

• By-right legislation that upzones municipalities

• Will permit density increases in “transit rich” areas
  • Excludes “sensitive neighborhoods”

• Made a “two-year bill” by the Senate Appropriations Committee, delaying a full vote on the contentious legislation until 2020

• Amended January 2020
  • Needs to be passed out of committee by January 31 or it will die
Density bonus

• Triplexes and fourplexes in single family zoned
• Six story in “transit rich” areas
There is some low income requirement --for larger developments

<table>
<thead>
<tr>
<th>Project Size</th>
<th>Inclusionary Requirement</th>
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<tr>
<td>21–200 units</td>
<td>15% lower income; or 8% very low income; or 6% extremely low income</td>
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<tr>
<td>201–350 units</td>
<td>17% lower income; or 10% very low income; or 8% extremely low income</td>
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<tr>
<td>351 or more units</td>
<td>25% lower income; or 15% very low income; or 11% extremely low income</td>
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HZ
Hazardous Areas
Very High Fire Hazard Areas, Floodplains, and Coastal Zone in small cities.
No Change to Zoning.

CA
California Standard Residential Zone
Fourplexes allowed in most zones statewide.
Up to 4 homes per lot. Existing height and yard requirements still apply.
Limited add-ons allowed on lots with existing houses.

JR/B¼
Jobs Rich or Major Bus Stop
High opportunity areas and areas 1/4 mile from major bus stop.
No change to height or yard requirements, but any number of homes allowed.

RR½
Half Mile from Rail/Ferry
45' Height and any number of homes allowed.
In small counties, height limit near rail/ferry is raised by 1 story / 15 feet above existing zoning in cities with population greater than 50,000.

RR¼
Quarter Mile from Rail/Ferry
55' Height and any number of homes allowed.

Large counties:
Population over 400,000
Alameda, Contra Costa, Fresno, Kern, Los Angeles, Orange, Riverside, Sacramento, San Bernardino,
San Diego, San Francisco, San Joaquin, San Mateo, Santa Clara, Ventura

Small counties: all others.

Affordable Housing
Projects with 11 or more units required to provide affordable housing or pay fee, and can get a density bonus increasing number of homes by up to 35%.

Coastal zones excluded only in cities with population under 50,000.

No demolitions allowed. Maximum 15% increase in square feet for conversions of existing houses.

Buildings constructed on vacant land may be any size allowed by existing zoning.

No demolition of existing rental housing allowed.

Major Bus Stop
Rush hour bus frequency of at least 1 bus every 10 minutes; 20-30 minutes at other times.

No parking required in large counties. 0.5 car/home elsewhere.

No demolition of existing rental housing allowed.

No parking required in large counties. 0.5 car/home elsewhere.

No demolition of historic buildings.
No change to zoning in historic districts in small counties or to contributing parcels in districts created in 2010 or earlier.

NR
Non-Residential
No change to zoning.

L Low Income / Sensitive Community
5-year community process to determine zoning changes.

H Historic
How SB 50 would affect SF density
Very strange bedfellows

For

- Mayors of San Francisco, Oakland, San Jose, Stockton, and Sacramento
- Three-quarters of residents in San Francisco
- AARP, the California Labor Federation, the California Association of Realtors, CalPIRG, the Natural Resources Defense Council, Habitat for Humanity, Fair Housing Advocates of Northern California, the Non-Profit Housing Association of Northern California, the BART Board of Directors

Against

- Anti-growth activists such as Livable California
- Mayors of Palo Alto, Cupertino, Beverly Hills, Huntington Beach, LA City Council, SF Board of supervisors
- Sierra Club
- Low income advocacy groups
State pre-emption of local law

• Courts generally presume that state law does not preempt local zoning law
• Judicial intervention (eg Mount Laurel) is more targeted
• Legislative impact is more immediate with wider impact
  • Massachusetts Chapter 40B
    • Similar (but less impactful) laws in RI, IL, CT, NH
Can SB50 pre-empt local law?

- Proposed CA SB50 is crisis driven and potentially more impactful
- Express pre-emption of local law
  - Not a review process or financial incentive
- To pre-empt local zoning law California’s “Home Rule” only allows preemption by state law in matters of statewide concern
  - SB50 precisely follows this framework by referring to affordable housing as “a matter of statewide concern rather than a municipal affair.”
Mount Laurel meets Berman v. Parker
--two flavors of public good

“Fair share” of regional poor
• Legality of zoning is based on public good
• Public is not just citizens in township
• Cannot zone in way that shirks fair share of region’s low/moderate income housing
• Difference here is SB50 focuses on market rate housing

Private gain can be public good
• Condemnation based on public good
• As long as comprehensive plan is based on public good sale to private interest does not violate public good
Is legislation to promote market rate housing in the public good?

- Will upzoning increase supply to relieve demand?
- Should private interests benefit from upzoning?
Why middle class housing is important

• Proximity to employment
• Civic engagement-diversity of opinion
• Reduce social polarization
• Important to delineate gentrification from inclusion
Visiting the land of the “supply skeptics”

• Should be an easy answer
  • Clear link between amount of regulation and decreased production
  • Can we show that decreasing regulation actually increases production?

• Recent study by Freemark casts doubt on that assumption
  • Using changes in Chicago zoning laws he finds that upzoning does not produce a supply response within five years after policy implementation
  • BUT his study examined new housing construction in neighborhoods with preexisting low demand
  • Need more research in what happens in neighborhoods with high demand

• Recent study by Been, Ellen, O’Regan comes to different conclusion
Windfalls

• An increase in value of real estate other than that caused by the owner
  • From Berman on, courts have held that possibility of private gain does not eviscerate public good
  • After Kelo, legislative action in CA only prohibits narrow situation when a home owner’s occupied property is taken by eminent domain for conveyance to private person/entity
Givings

• Can (or should) value created by legislative action be recaptured?
  • Parchomovsky: “[e]very time the government ‘upzones,’ or changes a zoning ordinance to the benefit of certain property owners, it has executed a giving”
  • How can this be calculated
    • And if it can’t should “givings” be permitted
The public good of middle class housing

- SB50 has opened up a new avenue of dialog
  - Shift focus on low income to middle income but not abandoning the poor
  - Especially problematic when almost certain windfall to landowner

- While SB50 might be good for California wider applicability may be limited
San Francisco leads the nation in 5% vs 20% income disparity

"Super Rich" vs. "Middle Class" — Class Gaps in America
The gap ballooned from $268K in 2012 to $333K in 2017 in the U.S.

1. San Francisco, CA [$411.4K, $529.5K]
2. Boise City, ID [$199.3K, $315.1K]
3. Knoxville, TN [$218.8K, $316.8K]
4. San Jose, CA [$418.3K, $514.9K]
5. Urban Honolulu, HI [$232.5K, $328.8K]
6. New York, NY [$387.7K, $483.0K]
7. Seattle, WA [$280.3K, $380.4K]
8. San Diego, CA [$280.6K, $369.1K]
9. Columbia, SC [$190.3K, $274.2K]
10. Nashville-Davidson, TN [$266.9K, $349.2K]

United States [$268.3K, $333.0K]

Source: Bloomberg analysis of Census data for the 100 largest metropolitan areas in the U.S.
Notes: One of the three class gaps in the series. The gap between the super rich and the middle class was gauged by the difference between the average income for households in the top 5% and the middle 20%, or third quintile 2012 and 2017 gaps are shown in brackets.
What is the tipping point on income inequality

• Limitations?
  • Litmus test of city income disparity before middle income housing is a public good?

• Ideas?
Thank You