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# 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



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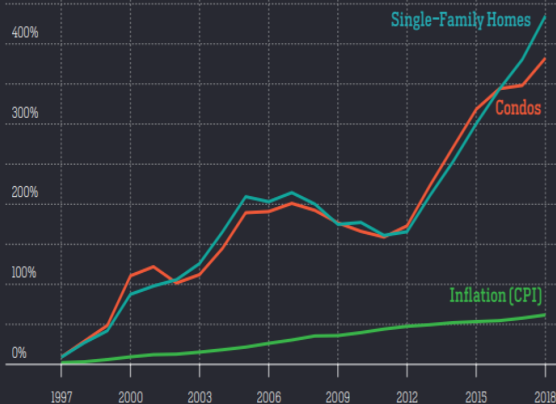
# Why this research?

- Goal is to tie together threads 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

FIGURE 17.  
Percent Change in Single  
Family Home and Condo Prices  
and Inflation, 1996-2018



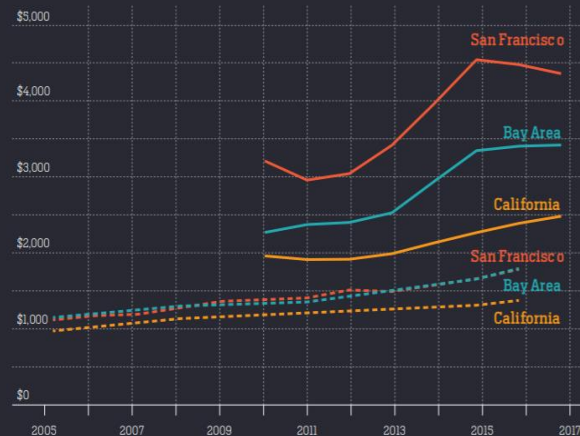
Source: Zillow and Bureau of Labor  
Statistics CPI-U less shelter

FIGURE 16.  
Median Rent and  
Median Asking Rent for  
San Francisco, Bay Area,  
and California, 2005-2017

— Asking Rent  
- - - Median Rent

Source: Zillow (Median Asking Rent) and  
ACS (IPUMS-USA) (Median Rent)

NOTE: Median rent data available from  
the ACS for 2005 to 2016 and median  
asking rent available from Zillow for 2010  
to 2017. Median asking rents from Zillow  
do not include Santa Clara county, which  
is included in the 9-county median rents  
from the ACS.





## The middle class bids adieu

FIGURE 20.

Cumulative Percent Change in Number of Households Since 1990 by Income Group in 2000 and 2015, San Francisco and Bay Area

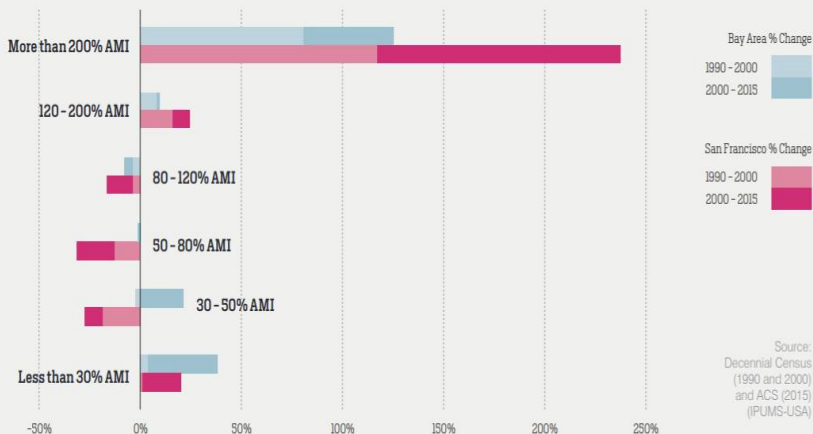


FIGURE 27.

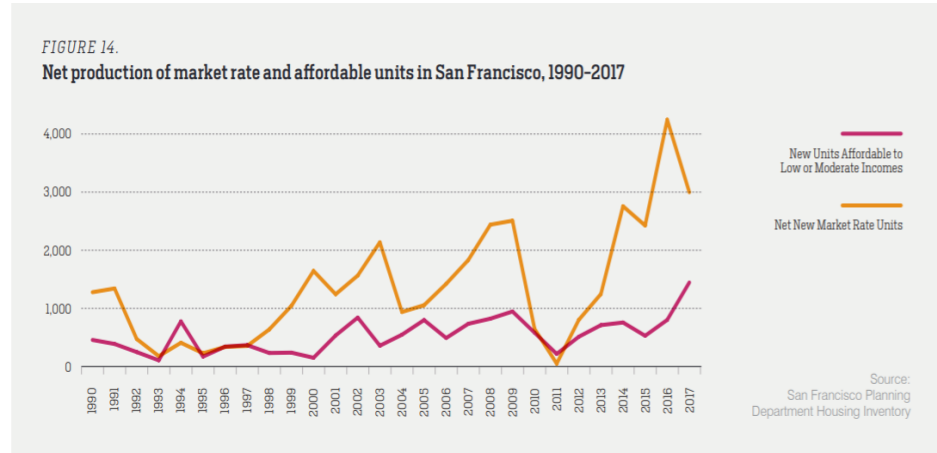
Net Migration as a Percentage of Population by Income Group in San Francisco, 2006-2015





# 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

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# There is some low income requirement *--for larger developments*

## *Project Size*

*21–200 units*

## *Inclusionary Requirement*

*15% lower income; or*

*8% very low income; or*

*6% extremely low income*

*201–350 units*

*17% lower income; or*

*10% very low income; or*

*8% extremely low income*

*351 or more units*

*25% lower income; or*

*15% very low income; or*

*11% extremely low income*





as of May 1, 2019

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High resolution PDF at  
[tinyurl.com/sb50zones](http://tinyurl.com/sb50zones)

## HZ

### Hazardous Areas

Very High Fire  
Hazard Areas,  
Floodplains, and  
Coastal Zone in  
small cities.

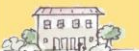


No Change to Zoning.

## 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 additions allowed  
on lots with existing houses.

## JR/B<sup>1</sup>/<sub>4</sub>

### 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.**

Not Applicable in  
small counties.

## RR<sup>1</sup>/<sub>2</sub>

### 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.

## RR<sup>1</sup>/<sub>4</sub>

### Quarter Mile from Rail/Ferry



55' Height and any  
number of homes allowed.

### Large counties:

Population over 600,000

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%.

No parking required in  
large counties or cities  
with over 100,000 people.  
0.5 cars/home elsewhere.

No demolition of existing  
rental housing allowed.

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

### Major Bus Stop

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

No demolition of existing  
rental housing allowed.

Parking requirements reduced to  
no more than 0.5 cars per home.

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

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

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

## NR Non- Residential

No change to zoning.

## S Low Income / Sensitive Community

5-year community process to  
determine zoning changes.

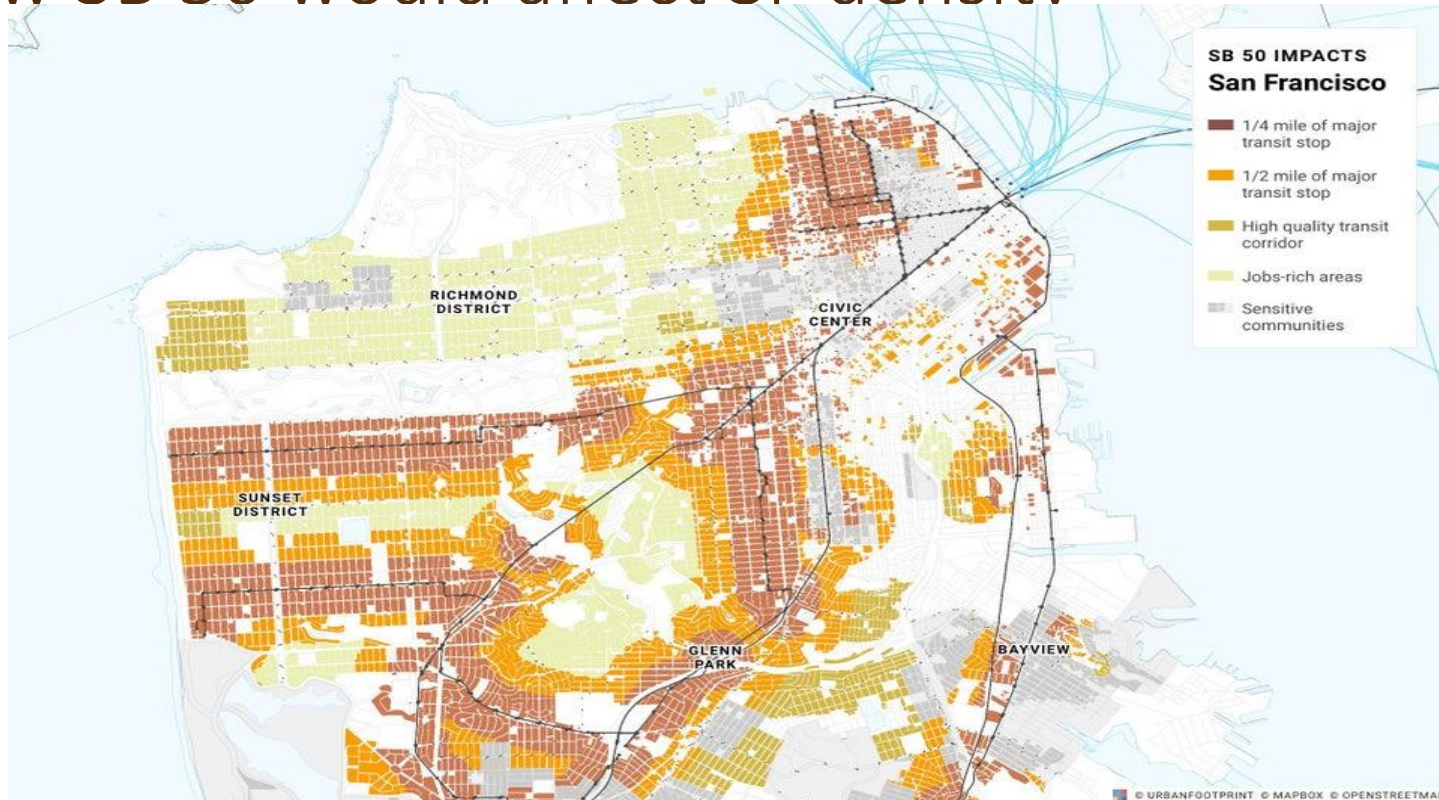
## H Historic

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.

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# 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

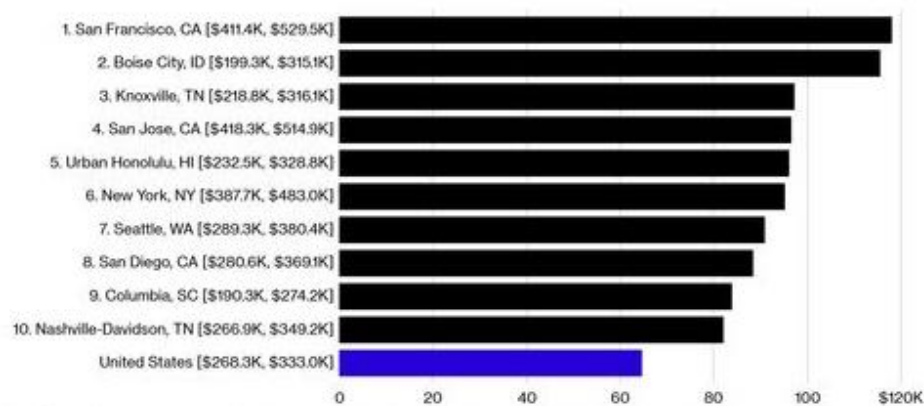
- SB50 has opened up a new avenue of dialog
  - Shift focus on low income to middle income but not abandoning the poor
  - Especially problematic when almost certain windfall to landowner
- While SB50 might be good for California wider applicability may be limited



# 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.



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.

Bloomberg



# What is the tipping point on income inequality

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

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# Thank You



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