HOUSING AFFORDABILITY IN PLAN 2040

LAWRENCE
Board of REALTORS®

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WHAT IS AFFORDABLE HOUSING?

Often, when we think of “Affordable Housing” we think of low or moderate-income housing initiatives which receive support in the form of grants or government subsidies from a variety of housing programs. These are the homes that we often see built by Tenants-to-Homeowners or Habitat for Humanity.

However, the Federal Government defines “Affordable Housing” much more broadly – as housing for which the occupants are paying no more than 30% of their income for gross housing costs, including utilities. Families who pay more than 30% of their income for housing are considered cost burdened and may have difficulty affording other necessities such as food, clothing, transportation or medical care.

This broader definition takes into consideration that there is more to housing affordability than just a manageable purchase price. Homeowners and renters alike have ongoing monthly expenses such as utilities, maintenance and insurance. Homeowners have the additional expense of property taxes.

THE CURRENT PROPOSAL

For several years, the Horizon 2020 Steering Committee has been working on Plan 2040, a comprehensive plan for unincorporated Douglas County and the City of Lawrence. Chapter 2 of Plan 2040 includes a policy proposal that requires new developments outside current city limits to provide a community benefit as a condition of annexation into the City to receive city water, sewer and sanitation service. The policy defines the required community benefit as

- Creation of permanently affordable housing or provision of a land donation to the Housing Trust Fund
- Provision of land, amenities and/or facilities for a public purpose such as parks, public safety, facilities, education facilities, cultural and arts amenities, utility enhancements, etc. above that required to serve the development
- Preservation of significant amounts of environmentally sensitive lands above that minimally required by code
- Creation of primary employment opportunities

A requirement of developers of new single-family or multi-family neighborhoods to set aside a certain percentage (generally between 10% and 30%) of any newly constructed housing units at below market sales prices or rents, for households with a household income below a certain threshold, is called “inclusionary zoning.”

WHAT'S WRONG WITH THAT?

The Lawrence Board of REALTORS® has several concerns with this proposed policy and the effect that it will have on housing affordability and development in Lawrence. We have tried through written submissions to the Steering Committee and in-person communications with some of the committee members to express these concerns. We are concerned that these policies are being established without full consideration of the consequences to the real estate market, development trends, and overall housing availability and affordability in Lawrence. These are the reasons we think this is a bad policy:

Mandating Affordable Housing in Private Development is Price Fixing in Violation of Law

As a basic premise, private property ownership and land use are fundamental rights enshrined in the United States Constitution and the Kansas Constitution.

More specifically, this policy is a violation of K.S.A. § 12-16,120. That statute (1) prohibits governmental entities from controlling the amount of rent charged or the purchase price agreed upon between parties for the lease or purchase of privately owned property and (2) prohibits governmental entities from forcing upon a property owner any requirements which would control the rent charged or purchase price of privately owned property as a condition for consideration or approval of building permits or plats or zoning requests.

This statute is intended to preserve private property rights and protect from government intrusion. Requiring private development of rent-controlled or below market priced housing as a condition of receiving city services is akin to requiring price controls for a building permit. The practical effect is the City extorting low income housing from developers in order for them to develop market properties. This is exactly what the Kansas legislature intended to avoid.

This policy would have the effect of permanently impairing the value of privately owned property regardless of market conditions. This also artificially caps your property tax base.

Mandating Affordable Housing as Part of Private Development is Bad Policy

(1) Adding requirements on new development results in passing additional costs on to market buyers or renters, effectively creating <u>LESS</u> overall housing affordability.

A study conducted by economists at New York University found that inclusionary zoning requirements in Boston and San Francisco "constrain new development, particularly during periods of regional price appreciation." Moreover, the study found "there is also strong evidence that implementation of region-wide inclusionary zoning put upward pressure on single-family home prices in the Boston-area suburbs between 1987 and 2008." "*Silver Bullet or Trojan Horse: The Effects of Inclusionary Zoning on Local Housing Markets in the United States*," Schuetz, Meitzer and Been, Furman Center, New York University, June 2010.

CASE STUDY: Madison, Wisconsin

In February 2004, the City of Madison, Wisconsin enacted an ordinance requiring new developments with ten or more rental dwelling units to provide no less than 15% of its total number of dwelling units as "inclusionary dwelling units." For the purpose of that ordinance an "inclusionary dwelling unit" was defined as a "dwelling unit for rent to a family with a median income at or below sixty percent (60%) of the Area Median Income (AMI) and capped the monthly rent and utilities for those units at no more than thirty percent (30%) of the monthly income for the applicable AMI.

Prior to the enactment of the inclusionary zoning requirements, from 2001 to 2003, developers in Madison had constructed 3,257 housing units of varying types. Following the enactment of the ordinance, from 2004 to 2006, developers constructed only 1,954 housing units. As a result, there was a 40% reduction in the number of housing units constructed in Madison following the enactment of the inclusionary zoning requirements.

In 2006, the City of Madison issued only 143 permits for market-rate apartment units, compared to the 660 market-rate apartment unit permits issue in 2003 (a 78% reduction). According to one study on the Madison inclusionary zoning requirements, the drastic downturn in new housing construction caused vacancy rates to decline in existing rental units and led to an increase in net rents, thereby achieving the opposite effect of what the city had intended in enacting the requirements. "How Inclusionary Zoning Backfired on Madison," Terrence Wall, Madison Isthmus Weekly, March 15, 2007.

Following this downturn in development and a 2006 Wisconsin Court of Appeals decision that the ordinance violated the state's rent control prohibition, the City of Madison abandoned the inclusionary zoning program when it came up for renewal in 2009.

Similarly, a study by economists at San Jose State University found that these kind of inclusionary zoning programs in California led to a 20 percent increase of market rate housing costs and a seven percent decrease in the number of market rate housing units constructed between 1990 and 2000. Although the introduction of inclusionary zoning does lead to an increase in the construction of below market rate housing units, at the same time it leads to a decrease in the number of market rate housing constructed and an increase in the cost of market rate units. "*Unintended or Intended Consequences? The Effect of Below-Market Housing Mandates on Housing Markets in California*," Means and Stringham, Journal of Public Finance and Public Choice, Vol. XXX 1-3/2012.

2) Neighboring Communities Are More Development Friendly

Neighboring communities like Topeka and Kansas City DO NOT have similar mandates for housing development. As a result, this kind of government strong arming can disincentivize development in our community and send that development – and the jobs and tax collection that come with them – to other communities.

Housing costs in Lawrence are already higher than in neighboring communities due to years of government mandates in excess of industry standards. Cost of land, material, and labor costs, along with increased costs of utility hookups and compliance with local building codes have all contributed to an ever-escalating cost of the dollar per square foot of new construction and remodeling. Newer and updated Energy Efficiency Codes, Fire Codes, Plumbing & Electrical Codes, Wind Load Requirements, etc. have all added to the cost of building in Lawrence. Required sidewalks, round-a-bouts, traffic calming and speed bump devices add to infrastructure cost and must be maintained once built.

CASE STUDY: Home values in Lawrence v Topeka v Kansas City, Kan.

Lawrence	**Topeka**	**Edwardsville, KS**
3 bdrm	3 bdrm	3 bdrm
2.5 bath	3 bath	2 bath
2 car garage	2 car garage	2 car garage
1,873 sq ft	1,965 sq ft	1,893 sq ft
(built 2003)	(built 2013)	(built 2006)
$214,950	**$179,950**	**$184,500**

*Taken from listings on Realtor.com as of April 10, 2018

(3) Mandating affordable housing as part of private residential development encourages the development of more expensive market rate housing than the community needs to offset development expenses. Saddled with rising construction costs and with caps on rent or sales price of some units, some developers may opt to offset their loss by focusing on "higher-end" market rate houses with a higher profit margin even if those properties may not be meet the community need or demand. This further depletes an already insufficient inventory of modestly priced homes.

> [Affordable Housing Advisory] Board member Thomas Howe, who represents the Lawrence Board of REALTORS®, said there is less than a month's worth of inventory of houses under $200,000, and that those houses are selling quickly and for more than their asking price.
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> "Buyers at that lower price point are frustrated by their inability to find properties that work for their budget and that they can actually buy," Howe said.
>
> "*Responses from housing survey indicate starter homes in short supply in Lawrence*" Rochelle Valverde, Lawrence Journal-World, April 9, 2018

Development Friendly Incentives are the Better Approach

Rather than mandate development of affordable housing units without regard to who ends up shouldering the cost of the mandate, the City should incentivize the outcomes it hopes to achieve to encourage more development.

Possible incentives available are:

- Density bonuses to encourage development of current vacant infill
- Zoning variances
- Fee Waivers
- Expedited permitting and inspection processes
- Public subsidy/TIF/CID

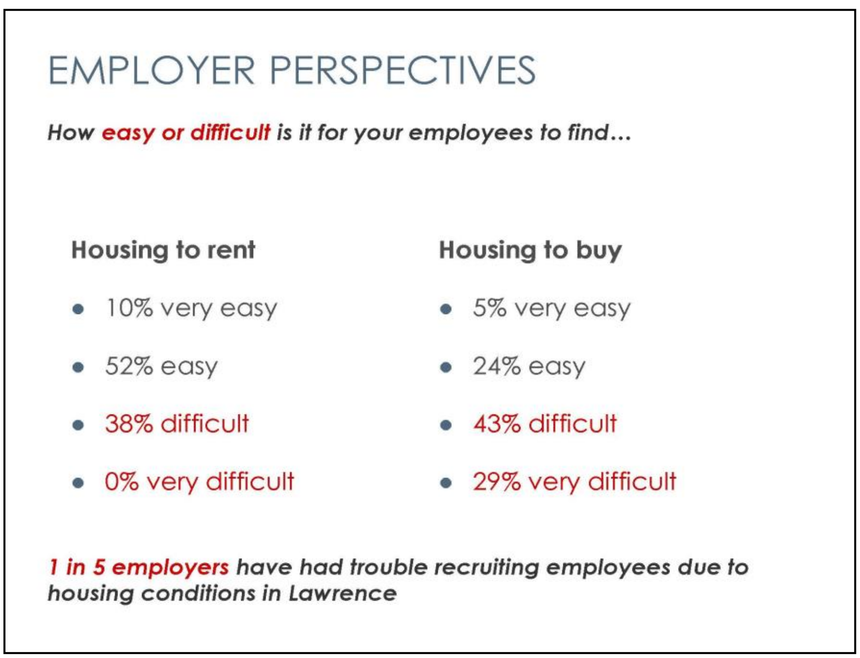
This Policy is Premature!

The Lawrence City Commission wisely undertook a Housing Study to determine factually based information as it relates to housing inventory and affordability. It would be premature to make any decisions until the information from that study is complete, analyzed and made public so that the findings can be taken into consideration.

Please do not put the cart before the horse!

Preliminary survey data presented to the Affordable Housing Advisory Board already shows that **72%** of responding employers reported that their employees have a difficult or very difficult time finding affordable housing to buy and 1 in 5 employers have had trouble recruiting employees due to housing conditions in Lawrence. We need to see the full results of the study to analyze current issues, and consider future issues along with the needs and desires of the public when it comes to housing, and all of the available options.

Census data alone does not justify the urgent need for greater density, and the need for greater density must also be balanced by the realities of what the public actually wants. More data is needed, both quantifiable and anecdotal, and a broader discussion with the public and stakeholders is necessary. What has been developed to date has largely left out those who know the most about what homeowners want … real estate professionals and builders.



LBOR'S COMMITMENT TO AFFORDABLE HOUSING

Commitment to Affordable housing is enshrined in the Preamble to the REALTOR® Code of Ethics:

> "Under all is the land. Upon its wise utilization and widely allocated ownership depend the survival and growth of free institutions and of our civilization. REALTOR® should recognize that the interests of the nation and its citizens require the highest and best use of the land and the widest distribution of land ownership. They require the creation of adequate housing, the building of functioning cities, the development of productive industries and farms, and the preservation of a healthful environment."

LBOR is committed to housing affordability at <u>all levels.</u>

As REALTORS® we live, work and play right here in Lawrence. We are your neighbors. Our children and grandchildren attend Lawrence schools. We are friends and colleagues with the vast network of Lawrencians who make a living in real estate – from construction workers and skilled tradesmen to appraisers and mortgage lenders. We are personally and professionally vested in the success of Lawrence.

We believe that housing affordability and accessibility is just as important for those who are trying to buy their first home, as it is for a retiree who is on a fixed monthly income.

Lawrence Board of REALTORS® is committed to local agencies advocating for and providing affordable housing in Lawrence. In 2017 alone, the LBOR provided time and financial assistance to support Family Promise, Salvation Army, Lawrence & Douglas County Housing Authority and others. We believe that these organizations are in the best position to leverage community support, along with city, county, state and national incentives and subsidies to develop affordable housing and to maintain affordable housing for future use.