AFFORDABILITY ROADBLOCKS

Environmental NIMBYism

Housing Affordability Institute's Affordability Roadblocks series highlights housing policy issues adversely impacting housing affordability and access.

ENVIRONMENTAL REVIEWS AND HOUSING

Environmental reviews, according to the United States Department of Housing and Urban Development, are the process of reviewing a project and its potential environmental impacts to determine whether it meets federal, state, and local environmental standards.

While the level and number of environmental reviews will vary from state to state and project to project, the goal is to, at the minimum, categorize potential environmental impacts of a development project. Some reviews may result in mandated alterations and modifications to a project, while others will be used simply to categorize and inform policymakers and government entities with the power to approve or deny a project.

Stormwater runoff, water quality, air quality, and carbon emissions are categories commonly tracked by environmental reviews. However other forms of impacts may be brought into the approval of new housing, such as traffic, noise, and light.

Often, environmental reviews are viewed as an environmental policy, not a housing policy. As noted below, those seeking to block new housing are gravitating toward environmental reviews as a tool to block a project from approval.

ENVIRONMENTAL NIMBYISM

The expansive list of categories for environmental reviews has attracted NIMBYs (not in my backyard) who are seeking to block development or changes in their neighborhoods.

Environmental NIMBYism is the term given to the practice of blocking housing based on environmental impacts – actual or perceived – and can impact housing affordability and supply in several ways. The first is to use an environmental review to block a project from being allowed to proceed. This will negatively impact the housing supply by the loss of units that would otherwise be built within that same timeframe.

The second is to use environmental review to delay or modify a project, with the end result varying based on the type and outcome of the environmental review. A project that is delayed due to these reviews may still proceed forward unchanged, with the delays and cost of any additional reviews adding to the costs of each unit. A project may be modified with additional features to offset an identified environmental impact and/or see the project's scope reduced. Either of these would also increase the cost of each unit, and possibly decrease the number of units, resulting in lower housing supply.

CHALLENGING PROJECTS

California and Minneapolis, which have been at the forefront of the movement to adopt better housing policies, provide examples of how and why environmental reviews are increasingly becoming part of a housing policy discussion.

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EXAMPLE I: CALIFORNIA'S CEQA

Reforming environmental reviews is one of several areas in which California is showing that states are open to reexamining their housing policies. The Golden State has an environmental review law called the California Environmental Quality Act (CEQA), which requires government entities approving projects to evaluate and disclose the environmental impacts of development projects or other major land use decisions.

Enacted in 1970, this law paved the way for groups opposed to new housing to file lawsuits to block new developments based on the environmental impacts of the land use change.

According to a report by the Center for Jobs and the Economy, nearly half of new housing built in California in 2020 (48%) was targeted by CEQA lawsuits. This same study also found that only 13% of lawsuits challenging new housing were from parties of such lawsuits were filed by environmental organizations that existed before the development or proposed project was challenged [1].

EXAMPLE II: MINNEAPOLIS 2040

Minneapolis made headlines when Minnesota's largest city implemented one of the nation's first modest densification proposals in 2019. The proposal, a part of the city's 2040 Comprehensive Plan, adopted every 10 years, saw triplexes allowed by right in single-family zoned areas, among other reforms.

Less than five years later, the plan would be tossed out by the court because of the lack of an environmental review under the Minnesota Environmental Review Act, leaving the city to revert to its 2030 Comprehensive Plan. The legal challenge was brought by Minneapolis for Everyone, a group formed to stop or significantly alter the 2040 Plan.

ADDRESSING ENVIRONMENTAL NIMBYISM

There are two ways to address environmental NIMBYism. The first would be to exempt all new housing projects from environmental reviews altogether.

The second, which is more likely to find support of policy makers, would be to place guardrails around environmental reviews to ensure that environmental reviews occur on certain projects and have clear relevance and connection to actual resource questions in a given project.

1 Hernandez, Jennifer. "Anti-Housing CEQA Lawsuits Filed in 2020 Challenge Nearly 50% of California's Annual Housing Production." Center for Jobs and the Economy. August 2022.