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Say It Ain't So, Joe: Biden's Ill-Advised Plan to Eliminate Exclusionary Zoning

A counterintuitive argument contends that from a housing justice perspective, the Biden administration's attack on exclusionary zoning is imprudent.

By **David Imbroscio** - January 28, 2021



Photo from the State Historical Society of Missouri, via Housing.Wiki

Joe Biden is now the 46th president of the United States. I join many, likely most, of those in the community of scholars and reflective practitioners concerned with the sorry state of American housing policy in saying “good riddance” to our former president. And breathing an enormous sigh of relief.

YIMBYs, as well as many advocates for housing justice, have cheered a key provision in **Biden's housing plan** that targets “exclusionary zoning” (EZ) for elimination. EZ, according to his plan,

must go because it “perpetuate[s] discrimination” that “for decades [was used] strategically ... to keep people of color and low-income families out of certain communities.”

In a recent **article** in *Urban Affairs Review* (UAR)—under the Strangelovian title “Rethinking Exclusionary Zoning or: How I Stopped Worrying and Learned to Love It”—I counterintuitively contended that, from a housing justice perspective, the attack on EZ is imprudent. In my choice of title I was, as I said at the outset of the article, of course being “deliberately provocative and more than a bit facetious.” Overly restrictive zoning can certainly be a source of harms. Rather than “love” EZ, my central claim was that we should simply come to accept it—and thus stop worrying about it *so much* compared to other much more virulent and insidious forces that militate against housing justice in drastically more significant ways.

UAR editor [Jered Carr](#) solicited [responses](#) from three smart housing experts with contrasting viewpoints—Katherine Levine Einstein, Edward Goetz, and Rolf Pendall. These, along with [a reply](#) from me, will appear in print just as the new Biden administration, with its plan to eliminate EZ in hand, assumes office. To mark the occasion, *Shelterforce* invited me to revisit my argument here.

I contend that the effort to eliminate EZ—what I dub the Anti-EZ Project—embraces a worldview whose actualization would be far more detrimental to the cause of housing justice (and social justice more broadly) than the actual impacts of EZ. While it is clear that EZ measures often (though not always) both reflect and perpetuate the ubiquitous racism and white supremacy that profoundly corrupt the promise of America, the project to eliminate them inflicts a greater degree of racialized suffering upon those disadvantaged by both class standing and skin color. In short, the Anti-EZ cure is worse—much worse, in fact—than the EZ disease.

Why? My argument boils down to this: The Anti-EZ Project seeks to usurp governmental (regulatory) control of local land use via the imposition of greater market-based allocation (sometimes called “[neoliberalism](#)”). And it does so especially by weakening the ability of inhabitants to determine democratically how urbanized spaces are “produced” (as embodied by [the Right to the City ideal](#) asserting “that everyone ... not only has a right to the city, but as inhabitants, have a right to shape ... design ... and operationalize an urban human rights agenda [around these spaces]).”

As I say in my original article and the Urban Affairs Forum [follow-up](#), “my findings might be hard to swallow for many inculcated by more than a half century of writing calling out EZ for severe condemnation (a list that includes close colleagues whom I greatly respect).” This is a condemnation, I should add, that has been [supercharged of late by the rise of the YIMBY movement](#) and the wildly popular, even if [perhaps deeply flawed](#) book, *The Color of Law* by [Richard Rothstein](#). So, for all who are understandably incredulous, I write here with an invitation to read my full *Urban Affairs Review* articles, asking only that you do so with an open, level-headed mind, given that discussions of EZ among housers normally resemble an Orwellian exercise in the [Two Minutes Hate](#).

I sketch some of the salient points below. This sketch is fragmentary and should be understood as such. For the full discussion of my views, read the [full article](#).

Some Considerations

Let me begin by pointing out upfront that part of the reason the Anti-EZ Project is so pernicious—and why my claims seem almost jarring—is that it deceptively focuses on the image of a bunch of rich, privileged (mostly white) homeowners walling themselves off from the encroachment of poorer people (often of color). All of us deeply committed to housing justice rightly find such an image morally vile. Our visceral impulse, in turn, is to want to stick it to these excluders, by stripping the power of their local governments to fend off unwanted growth through the regulation of land use. Yet the cost to imposing such a land use regime on local communities is enormous.

For starters, it opens the door for the “**growth machine**” to run roughshod over *all* communities—rich and poor alike. Those poorer neighborhoods struggling to “exclude” gentrifiers and speculators in the fight against displacement and dispossession are equally disempowered by the domination of private market forces over democratically controlled public/community institutions. More generally, the disingenuous representation of this rich/white-excluder image as the face of local land use control is manipulative. It serves to delegitimize both the broader idea that inhabitants of communities can rightfully resist market (or growth machine) forces via collectively determined government regulation and the very notion of grassroots, community-level democracy itself.

This delegitimization holds strong appeal to a plethora of right-wing organizations and thinkers, which accounts for their near unanimity in the enthusiastic embrace of the Anti-EZ Project. But for those of us deeply concerned with housing justice, the fixation on the rich/white-excluder image is a debilitating and, ultimately, destructive trap. In reality, this fixation, and the hyper-focus on a few exclusive communities it begets, distracts us from the dynamics actually driving our ongoing affordable housing crisis. Similarly, the widely vilified “NIMBYism” of these communities is, as I demonstrate in my article, mostly a red

vilified “NIMBYism” of these communities is, as I demonstrate in my article, mostly a red herring. While that NIMBYism exists, my analysis reveals the phenomenon to be a comparatively less consequential barrier to addressing our deepest problems of race and class than is almost universally believed.

The dirty little secret of the Anti-EZ Project is that the “E” it targets by obsessing over the effects of “Z” is marginal, at best. The true source of exclusion is the radical, almost medieval inequality generated by the American political economy, which has left us with a truly monstrous society where **the top 1 percent holds more wealth than the entire bottom 90 percent combined (almost 300 million people)**. This isn’t just the elephant in the room. It’s a whole herd of elephants stomping out any hope for anything that begins to look like “inclusion.” We are delusional to think otherwise.

Under these conditions, exclusive enclaves are bound to be, well, exclusive. Relaxing zoning might allow some minor income mixing between the rich and merely upper middle class by providing housing for the long-suffering and much-pitied “**missing middle**”—but this is (or should be) pretty far down the long list of current appalling housing injustices. If profit-hungry developers are motivated enough to build highly profitable housing units, some limited inclusionary zoning set-asides might also be possible (often as little as 10 percent of units, paling in comparison to housing needs). Very heavy public subsidization combined with upzoning might allow some of the even less privileged to enter, but this irrationally drains precious resources from more urgent affordable housing needs.

The last point reveals another reason why the Anti-EZ project is so pernicious—it’s just **dispersal** by another name. That is, its goal isn’t just to create affordable housing in any old place, including in poorer neighborhoods where **the need is most acute**. Instead, it’s obsessively focused on white-dominated, privileged places. The key driver of such dispersalist measures is the (**often fervently held**) belief that, to improve their life chances, disadvantaged people, especially of color, must decamp to these “better,” supposedly “high opportunity” white-dominated and controlled areas. This, in fact, is exactly what the Anti-EZ Project aims to do.

We see this blatantly in Biden’s housing plan: Its key idea to eliminate exclusionary zoning comes from the HOME Act touted by Sen. Cory Booker, a darling of the neoliberal corporate wing of the Democratic party, who nonetheless had a spectacularly poor showing in the presidential primaries, which should raise questions about how well his approaches are likely to gain political traction. The “O” in the act stands for “opportunity,” the “M” for “mobility”; hence it embodies a clear embrace of what Ed Goetz astutely identifies as the deeply problematic “**opportunity paradigm**.”

The HOME Act proposes to withhold federal grants from cities that don't adopt neoliberal, market-facilitating zoning "reforms" that allow developers to intensify land use where market demand is already high—e.g., exclusive suburbs or gentrifying urban neighborhoods (by, for example, building additional apartment buildings in such high-demand areas). Such apartments will, in theory, allow the more disadvantaged families (often of color) to move to such areas (i.e., exercise residential mobility) in search of "opportunity," instead of helping to create that opportunity where these families currently live, and **where social and familial ties are often strong and political control less diluted**.

As Booker himself says in the **HOME Act press release**, its key policy goal is "to ensure all kids and families have equal *access* to clean, safe [which can be read as: nice **white**] neighborhoods" (emphasis added)—classic dispersal—when what is instead desperately needed is to ensure that *all of our neighborhoods* for kids and families are clean and safe.

The debate over dispersal is far from settled. But even on its own terms, it is an **extremely limited, impractical strategy** for fighting urban poverty and inequality, starting with the fact that there simply are not enough so-called areas of high opportunity to move people to, and complicated by the fact that **people do not always want to move**. While sticking it to affluent white-dominated localities by greatly reducing their zoning powers might go a long way toward making us feel good and virtuous, expending the enormous amount of political capital it would take to do so makes no sense strategically. Such capital instead could be deployed much more effectually, especially in service of a vigorous effort to revitalize struggling neighborhoods while vastly expanding their stock of quality affordable housing.

Beyond the dispersalist agenda, zoning—exclusionary or otherwise—just doesn't matter as much as we think when it comes to the provision of affordable housing. It is true that, currently, many places zone **large percentages of land for detached single-family housing**. But first, that still leaves a lot of land for multifamily units, which is far from built out, if the financial resources are available to build on it. And second, in many places, perhaps even most, the affordable housing supply (whether existing or prospective) is to a significant degree **made up of modest single-family houses**, even detached ones, especially for working-class, moderate-income residents. This reality mutes the main criticism of single-family zoning – its ostensible hyper-exclusionary nature.

And remember, in many of our cities, where problems of poverty and inequality are most grave, the problem is not that zoning is preventing housing construction but rather quite the opposite: houses are being **abandoned** and **demolished at a rapid rate**. Even the complete elimination of single-family zoning can amount to something of a nothingburger. Indeed, when Minneapolis did so recently amid great **hype and hoopla**, **a grand total of three building permits** were requested in the following year.

In fact, the term exclusionary zoning can be understood as a kind of ideologically driven deception. It's not zoning that is so "exclusionary"; it's the **hypercommodification and financialization of housing** under conditions of extreme inequality coupled with massively uneven regional development. I would argue that the term itself functions for neoliberals (and some misguided liberals as well as, most lamentably, even some actual leftists) as a deceitful cudgel in the same way that epithets like the "death tax" or devilishly clever misnomers like "right to work" do for conservatives. Such terms are not, technically, inaccurate; instead, they disingenuously decontextualize. Thus it might be time to dump the EZ label altogether. While zoning rules can (perhaps) make some neighborhoods a bit less accessible—just as closed-shop regulations can make employment a bit less accessible—terms like exclusionary zoning and right to work deceive us by obfuscating the true sources of both housing and employment injustices alike.

Again, the above points are all just introductions to elements of my argument, which is made in full in *the Urban Affairs Review pieces*.

What, Then, Should We Do?

So, if eliminating zoning regulations seen as "exclusionary" should not be a high priority for the incoming Biden administration, what should?

Conceptually and strategically, it is important to emphasize that the Anti-EZers (at least the subset devoted to housing justice) get one big thing exactly right: our central goal must be to attack the highly racialized, place-based inequalities that morally disfigure our metropolitan landscape. But the Anti-EZ agenda of strengthening neoliberalism via deregulation and crippling local democracy is the *polar opposite* of how we should combat these inequalities and the racialized (and ultimately spatialized) privileges flowing from them. We need **greater democratic empowerment of local communities, especially those of color**, not less. And we need more public/community-controlled **regulatory powers over land use** (and related community development matters), not less. Putting both together, empowered local communities can employ these enhanced powers toward the pursuit of serious and highly impactful measures to combat deprivation, disparity, disinvestment, and dispossession.

Much of Biden's housing plan does indeed hold great promise, especially the increased subsidies for the shelter-burdened in the form of expanded Section 8 vouchers and, for those less impoverished, a new renter credit. On the supply side, however, Biden's proposed spending is tragically inadequate. **Bernie Sanders' campaign proposal** to spend \$2 trillion (over 10 years), paid for by a much-needed tax on wealth, is much closer to hitting the mark.

An important question going forward is how to ensure that funding dedicated to housing gets the greatest bang for the buck. For YIMBYs and other Anti-EZers, the aspiration is to push market prices down via the neoliberal deregulation of zoning and other land use rules—the Walmartification of affordable housing policy, a strategy bound to impose a plethora of noxious downstream externalities on local communities (the predictably high costs of everyday low prices). A much better approach is to move in the, again, polar opposite direction: toward the decommodification of market-based housing, via the scaling up of [community land trusts](#) and limited equity co-ops, and even (!) building old-school public housing.

More important than housing policy per se is the need to begin to ameliorate the massive power and resource imbalances in the American political economy. Wrought by the nearly half-century-long hegemony of neoliberal ideology—a hegemony only further fueled by the uncritical embrace of the deregulatory Anti-EZ Project—the bitter fruit of these imbalances has been the [spectacular wage growth](#) (over 160 percent since 1979) reaped by the top 1 percent, who now command a whopping average salary of over \$750,000, compared to only about \$39,000 for the entire bottom nine-tenths of earners. This has left us with an [even greater crisis of income than of housing](#). Biden’s plan for an increase in the minimum wage to \$15 is definitely a good start. But what is much more crucial is the need to [restructure](#) how the political economy is owned and controlled, so that the wealth of disadvantaged communities, especially of color, can be robustly rebuilt and sustained (as called for by the [policy platform](#) promulgated by the Movement for Black Lives).

In sum, to all who care deeply about housing justice (and social and racial justice more broadly), don’t be, [as I have written before](#), “seduced or deluded—or, more precisely, conned—by the false promises of the Anti-EZ Project, with its deregulatory and disempowering pro-market ‘reform’ of housing regulations.” As we move beyond Trump and, hopefully, the phony (and dangerous) populism of Trumpism, let us all learn to stop worrying (so much) about exclusionary zoning. While we certainly don’t need to love it, let’s come to accept it, and instead focus on, [as I have urged](#), “fight[ing] our real enemies: neoliberalism, white supremacy/racial subjugation, elite skepticism of democracy, and the growth machine.”

Read [more discussion and debate](#) on this topic at [Urban Affairs Review](#).

Read the article on-line with active links (in red) at:

[Biden's Ill-Advised Plan to Eliminate Exclusionary Zoning](#)

<https://shelterforce.org/2021/01/28/say-it-aint-so-joe-bidens-ill-advised-plan-to-eliminate-exclusionary-zoning/>