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THE CALIFORNIA SHIMBY MOVEMENT: SOCIAL HOUSING IN MY BACKYARD

JULIE GILGOFF*

ABSTRACT

The social housing movement represents a powerful coordinated effort to create publicly owned and permanently affordable housing. Social housing provides the most democratic, cost-effective, and sustainable solution to the housing crisis by permanently recycling public subsidies through resale restrictions on newly constructed and rehabilitated homes, while avoiding racially segregated patterns often associated with traditional public housing. Part of a larger international movement, California Senate Bill 555 (SB 555): Stable Affordable Housing Act of 2023 aims to address California’s housing shortfall through a resale-restricted, rather than market-based model. With documented success internationally in Vienna, Austria, and Singapore, as well as domestically with policies like the 1937 Housing Act, SB 555 marks a divergence from decades of government housing strategy to stimulate private sector production of low- and moderate-income units rather than creating publicly owned housing removed from the speculative market. As a complement to Yes in My Backyard (“YIMBY”) development, Americans should familiarize themselves with the newest and yet-to-emerge acronym, Social Housing in My Backyard (“SHIMBY”), that embraces both new construction and rehabilitation strategies, and holds the potential to transform the U.S. housing system.

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INTRODUCTION

California’s housing shortfall is the second worst in the nation, ranking 49 out of 50 for housing units per capita.\(^1\) More than 97% of cities and counties in California have fallen short of affordable housing requirements despite the legislature passing nearly one hundred innovative housing bills since 2016 to address that need.\(^2\) When a new affordable housing development recently opened in San Francisco in 2018, more than 6,500 people applied for only ninety-five available apartments.\(^3\) This housing shortfall is widespread in California.\(^4\)

In order to prevent a further surge in the homeless population, government funding should be targeted to affordable housing owned and controlled by nonprofit or public agencies, which house residents of the lowest-income brackets. A June 2023 state-wide homelessness study conducted by University of California San Francisco (“UCSF”) revealed that a major underlying cause of homelessness in California is the inability to afford housing.\(^5\) This study debunks the myth that

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1. According to the California Department of Housing & Community Development (“HCD”), in the last ten years, California built an average of 80,000 new homes per year though the housing need is roughly 180,000 homes per year. CALIFORNIA’S HOUSING FUTURE: CHALLENGES AND OPPORTUNITIES, CALIF. DEP’T OF HOUS. & CMTY DEV. 3 (Feb. 2018), https://www.hcd.ca.gov/policy-research/plans-reports/docs/sha_final_combined.pdf. As of 2018, the gap in affordable rentals for extremely low- and very low-income households stood at roughly 1.5 million. Id. at 29-30.

2. See CALIFORNIA SOCIAL HOUSING, https://www.californiasocialhousing.org/ (last visited Sept. 21, 2023); see also Marisa Kendall, California has nearly 100 new housing laws. Are they fixing the affordability crisis?, MERCURY NEWS (Mar. 6, 2023, 6:20 AM), https://www.mercurynews.com/2023/03/05/california-has-nearly-100-new-housing-laws-are-they-fixing-the-affordability-crisis/.


4. Proposition 13 is also responsible for slowing housing construction in California by locking in decades-old property tax rates for homeowners less diverse than California’s current population. See Shayak Sarkar & Josh Rosenthal, Exclusionary Taxation, 53 HARV. C.R.-C.L. L. REV. 619, 631 (2018). Also, by limiting potential revenue from residential property taxes, the state government is further incentivized to prioritize retail over residential development. Id. at 631-32.

5. See Toward a New Understanding: The California Statewide Study of People Experiencing Homelessness, BENIOFF HOMELESSNESS & HOUS. INITIATIVE (2023),
California homelessness is primarily fueled by mental illness or addiction. In order to address this trend, the government must prioritize subsidizing housing units for extremely low-income earners (earning less than 30% of the Area Median Income). This would slow cycles of eviction that push renters onto the street. Rather than wait for new private development to trickle down to society’s poorest, future legislation needs to prioritize publicly owned housing for society’s most vulnerable.

The National Low-Income Housing Coalition ranks California among the worst of any state in providing affordable housing to extremely low-income renters. A mere twenty-four homes are available for every 100 extremely low-income households. While the need for new development is glaring, private development—with limited “set aside” requirements and expiring affordability terms—will not close the housing gap. Instead of funding tax subsidies to private
developers, funding social housing should be embraced as a strategy to confront California’s affordable housing crisis.

Part I of this Article will critique the “YIMBY” (Yes In My Backyard) movement as falling short in producing swift enough production of affordable housing. The YIMBY movement is backed by supply and demand economic theories with the logic that more housing of any type will improve the market: older housing stock is freed for low-income communities as new market-rate construction is completed. This approach correctly identifies exclusionary zoning and regulatory barriers as an impediment to the creation of new housing, but does not sufficiently distance itself from the speculative model treating housing as a commodity rather than a human right. Inclusionary housing policies that incentivize or require a set percentage of affordable housing units often have temporary rather than permanent affordability requirements, or allow for off-site construction of inclusionary units that reinforce segregation. Although inclusionary zoning has produced positive results, the program needs to be drastically improved, or alternatives must be implemented to have the desired effect.

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11. As of September 2023, both AB 309 and SB 555 were approved by the California legislature and awaiting Governor Gavin Newsom’s approval. See AB-309 The Social Housing Act, CAL. LEGIS. (last modified Sept. 18, 2023, 9:00 PM), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB309 [hereinafter AB-309]; SB-555 Stable Affordable Housing Act of 2023, CAL. LEGIS., https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=202320240SB555 (last visited Sept. 21, 2023) [hereinafter SB-555].

12. Contrast the ten to nineteen percent of affordable units that must be included in new development under most United States inclusionary housing policies with Vienna’s mandate that at least two-thirds of any private land sold be dedicated to rent-limited housing. GROUNDED SOLS. NETWORK, The Set-Aside Requirement, INCLUSIONARY HOUSING, https://inclusionaryhousing.org/designing-a-policy/onsite-development/theset-aside-requirement/ (last visited Sept. 23, 2023); Fran Quigley, We Should Look to
Part II of this Article highlights the social housing model’s potential to combat California’s housing crisis. By comparing two social housing bills that were considered during the 2023–2024 legislative session—SB 555 and AB 309—this Article discusses why SB 555 was eventually passed as the preferable option.\textsuperscript{13} In its first iterations, SB 555 explicitly dedicated thirty percent of all new housing to California’s most vulnerable—individuals considered very low- and extremely low-income—who may otherwise be at risk of homelessness. In the version signed by the Governor, SB 555 mandates a state-wide study about how the implementation of SB 555 would unfold, with community input. SB 555 was the preferable option over AB 309 because the latter would have necessitated large expenditures in the creation of a statewide agency to manage social housing. SB 555 was backed by the California Community Land Trust Network,\textsuperscript{14} and allowed nonprofit housing developers with a proven track record to assume that role. An examination of the social housing bills proposed in California’s 2023–2024 legislative session can provide other states considering social housing policies with a helpful case study of first steps toward adapting this model.\textsuperscript{15}

Part III expands on the importance of preserving and rehabilitating existing affordable housing stock (termed “Naturally Occurring Affordable Housing”)\textsuperscript{16} as a complement to the construction of new units. Although AB 309 proposed a statewide housing authority to own


13. See \textit{AB-309, supra} note 11; \textit{SB-555, supra} note 11.


15. See also H. Jacob Carlson & Gianpaolo Baiocchi, \textit{Social Housing: How a New Generation of Activists Is Reinventing Housing}, SHELTERFORCE (June 30, 2023), https://shelterforce.org/2023/06/30/social-housing-how-a-new-generation-of-activists-are-reinventing-housing/ (describing the various social housing initiatives being considered around the country including municipal campaigns in Los Angeles, Washington, D.C., Seattle, Kansas City, and San Francisco, as well as the statewide movements in California, New York, and Rhode Island).

16. Naturally Occurring Affordable Housing (“NOAH”) refers to residential rental properties that offer low rent without federal subsidy. See \textit{NOAH IMPACT FUND}, https://noahimpactfund.com/ (last visited Sept. 21, 2023). NOAH represents the most common affordable housing designation in the United States. \textit{Id}. 
and manage social housing units in a rental and limited equity model, this Article argues that Community Land Trusts (“CLTs”) are the preferred entity to assume this role. CLTs are a trusted developer of statewide housing initiatives and Request for Proposal (“RFP”) winners to develop housing on state-owned vacant land. They have successfully partnered with community groups in local initiatives with grassroots ties representing grassroots interests. Additionally, CLTs accomplish key goals of the social housing model: rehabilitating distressed and abandoned properties and incorporating community voices in adopted housing plans.

Part IV discusses funding strategies to ensure the success of social housing models. Because permanently affordable housing saves money in the long run by recycling public subsidies for generations to come, social housing is a sound option for governments seeking to address the housing need while dealing with budgetary shortfalls. Creative strategies employed in the social housing model—building on government-owned vacant land and employing the sweat equity of residents and community land trust staff—also save money in the long-run as compared to the private development model.

This Article concludes by addressing opposition to social housing in the United States. An education campaign to clarify the significance of the term would help increase understanding about how this model differs


19. CLTs utilize a tripartite governance model with residents of CLT housing serving on the Board of Directors. See Lucero Mondragon, Community Land Trusts (CLTs) as a Strategy to Promote Affordable Housing in California, 3(1) RADICAL HOUS. J. 109, 111 (May 2021), https://radicalhousingjournal.org/wp-content/uploads/2021/05/RHJ_Issue-3.1_12_Updates_Garcia-Mondragon_109-113.pdf. Further, CLTs have a track record of taking the community’s lead in supporting existing housing initiatives, serving as a steward of the land rather than a landowner. See also discussion infra Section III.
from traditional public housing and yields benefits over YIMBY development. Hopefully, before long, a new movement standing for “Social Housing In My Backyard” will outnumber its YIMBY or NIMBY counterparts.

I. THE YIMBY MOVEMENT

The YIMBY movement emerged as a pro-development offshoot to NIMBYism (“Not in My Backyard”), and attempts to solve the housing crisis through the construction of new development.\(^{20}\) Supported by supply and demand theory, YIMBYs purport that increased housing

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\(^{20}\) See Conor Dougherty, Golden Gates: Fighting for Housing in America, 35–36, 126 (2020) (describing the emergence of the YIMBY movement and its first official gatherings). NIMBYs are known for protesting and blocking housing proposals due to a fear that increased density will change the neighborhood makeup, attract lower-income residents, and reduce existing home values. For example, during the COVID-19 pandemic, vocal neighborhood residents blocked California initiatives to convert hotels into housing for the homeless. Residents also opposed development plans to create additional student housing. See Trisha Thadani, Japantown hotel will not turn into homeless housing, following months of backlash, S.F. CHRON. (Oct. 19, 2021), https://www.sfchronicle.com/sf/article/Japantown-hotel-will-not-turn-into-homeless-16546819.php; see also, A YIMBY and a “Left NIMBY” Duke it Out, CURRENT AFFAIRS (Nov. 11, 2022), https://www.currentaffairs.org/2022/11/a-yimby-and-a-left-nimby-duke-it-out (differentiating between subsections of YIMBYs—the “left YIMBYs” who focus on the development of affordable housing, and “neoliberal YIMBYs” who are fundamentally pro-developer). Dougherty further elaborates on the divergence of political beliefs within the YIMBY movement. “YIMBY Socialists” oppose market rate developments while “YIMBY Market Urbanists” are rooted in free-market economic ideas and stand against regulation such as mandatory inclusionary policies. Dougherty, supra at 210. See also Zoie Matthew, You’ve Heard of the NIMBYs— but Who Are the PHIMBYs?, L.A. MAG. (Apr. 1, 2019), https://lamag.com/featured/who-are-the-phimbys (summarizing an interview with Tracy Jeanne Rosenthal, co-founder of the Los Angeles Tenants Union). Rosenthal’s critique is primarily directed at pro-developer YIMBY factions that do not adequately address racial integration, displacement of existing residents, and construction of affordable units for low-income households, while acknowledging many segments of the YIMBY movement stand for rent protections and affordable housing. Id. Rosenthal further critiques that the YIMBY movement has not distanced itself from the speculative model in favor of publicly owned, permanently affordable housing. Id. In order for social housing to succeed in destigmatizing mixed-income, integrated housing at the level of Vienna, Austria, where one-half of all housing is social housing, governments need to prioritize and subsidize the creation of social housing rather than subsidize private developments.
supply lowers housing prices for all, and eventually benefits lower-income individuals through a process called “filtering.” As higher income residents move into new construction, older housing stock is freed for low-income communities.

To pave the way for increased construction, YIMBY proponents assert that regulatory barriers and single-family zoning restrictions should be eliminated. While eliminating single-family zoning does


Rosenthal, a proponent of PHIMBYism, offered anecdotal evidence to counter YIMBYs’ belief that greater supply leads to lower rents. In an interview with Los Angeles Magazine, Rosenthal stated:

[W]hen you build a ton of market rate units, what you end up seeing is that the price of those units falls a little, but the price for everybody else stays the same or goes up. As we’ve seen in . . . San Francisco, and Los Angeles—in Echo Park, in Koreatown . . . when local property values rise, it triggers rent increases, evictions, and displacement. And that’s gentrification—the displacement and replacement of people for profit.

Matthew, supra note 20. However, a 2018 study conducted by the NYU Furman Center shows new market rate construction does eventually lower housing costs even for lower-income housing subsections. Vicki Been et al., Supply Skepticism: Housing Supply and Affordability, NYU FURMAN CTR. 1, 3 (Aug. 20, 2018), https://furmancenter.org/files/Supply_Skepticism_-_Final.pdf. The study also reveals that the very lowest-income bracket may still not enjoy the benefits of new construction if housing is not affordable. Id.

22. Flint, supra note 21, at 11. YIMBY proponents claim that when luxury high rises are constructed, leased, or sold for market rate, older housing is freed for lower-income populations, thereby producing a net positive in addressing the housing gap. Id. A simple supply and demand theory further supports the proposition that greater supply leads to lower prices. Indeed, research conducted at “the Hudson Institute and Econometrica Inc. found that from 1985 to 2013, nearly half of rentals affordable to low-income families existed previously as homes owned or rented by higher-income residents.” Id. at 13. “[T]his filtering occurred over roughly the same time period at a steady rate of 2.5 percent per year.” Id.

often lead to higher density and racial diversity, upzoning by itself will not incentivize construction of affordable housing. In fact, the recent repeal of single-family zoning restrictions in California through the California H.O.M.E. Act, Senate Bill 9 (S.B. 9 of 2021), which streamlined the process for new construction on single-family lots, has produced “limited or non-existent” results across thirteen California cities. When a fifty-story high-rise was proposed in a residential San Francisco neighborhood consisting of mostly one- to three-story homes earlier in 2023, development plans were halted due to fierce opposition by planners and community groups. Thus, changes in legislation can only go so far without the support of neighborhood residents affected by new development.

24. See Stephen Menendian et al., Single-Family Zoning in Greater Los Angeles, OTHERING & BELONGING INST. (Mar. 2, 2022), https://belonging.berkeley.edu/single-family-zoning-greater-los-angeles [Hereinafter Single Family Zoning in LA]; see also Stephen Menendian et al., Single-Family Zoning in the San Francisco Bay Area, OTHERING & BELONGING INST. (Oct. 7, 2020), https://belonging.berkeley.edu/single-family-zoning-san-francisco-bay-area [Hereinafter Single Family Zoning in SF]. In the greater Los Angeles area, 77.7% of residential land was reserved for single family homes, and in the San Francisco Bay area, 85% of residential land was reserved for single-family-only housing, leading to a greater concentration of whiter and wealthier homeowners than the general California population in these areas. Single Family Zoning in LA, supra; Single Family Zoning in SF, supra.

25. Hannah Wiley, A new California housing law has done little to encourage building, report says, L.A. TIMES (Jan. 18, 2023, 11:28 AM), https://www.latimes.com/california/story/2023-01-18/new-california-duplex-law-housing-sb9-homeowners. Although roughly 700,000 new homes would be feasible upon the passing of SB 9, development goals have not yet been achieved. . . .” David Garcia & Muhammad Alameldin, California’s HOME Act Turns One: Data and Insights from the First Year of Senate Bill 9, U.C. BERKELEY TERNER CTR. FOR HOUS. & INNOVATION (Jan. 18, 2023), https://ternercenter.berkeley.edu/research-and-policy/sb-9-turns-one-applications/. A U.C. Berkeley Turner Center report found that homeowners face multiple barriers in leveraging “SB 9 to split lots and create new homes, including high construction costs and/or lack of expertise in homebuilding. Id. The report also found that local government restrictions limit the potential of SB 9, including ordinances that set “maximum unit size, height limitations, and other design rules.” Id.


27. Because development plans adhering to local zoning, density, and other requirements are halted for a variety of reasons, YIMBY Law—the legal arm of YIMBY Action’s 501(c)(3) affiliate—prepares volunteer YIMBY activists to monitor
Other California legislation attempts to relax residential zoning restrictions for development in commercial zones.\(^{28}\) Although this approach holds potential, especially with COVID-related business closures,\(^ {29}\) its implementation faces significant political pushback.\(^ {30}\) Local governments—required to pay for social services like public education—take on greater tax liability with residential developments. Since the passage of Proposition 13, residential property taxes have been limited to one percent of 1975 market value levels for many households.\(^ {31}\) Property taxes no longer account for a major source of city revenue:

\[\text{city and county compliance with pro-housing laws. See Who We Are, YIMBY L.,}\]
\[https://www.yimbylaw.org/who-we-are (last visited Sept. 23, 2023); see also A. B. 309, 2023-2024 Leg., Reg. Sess. (Cal. 2023) (describing how The Social Housing Act would prohibit California cities or counties from denying social housing development that is otherwise state-authorized).}\]


\(\text{29. See Sameea Kamal, California Small Business Owners Suffered During COVID, But Many Don’t Blame Newsom, TIMES OF SAN DIEGO (Aug. 22, 2021),}\)

\(\text{30. Some consider the rezone an override of carefully considered decisions intended to benefit local residents by keeping businesses out of residential neighborhoods. See Adam Beam, California Gov. Newsom signs laws to boost housing production, PBS NEWS HOUR (Sept. 28, 2022, 4:44 PM),}\)
\[https://www.kqed.org/news/11700683/too-few-homes-is-proposition-13-to-blame-for-californias-housing-shortage. Despite the urgent need for housing, cities welcome commercial development over new residential construction to increase city coffers and avoid the tax liability that comes with an influx of families and associated social services, perhaps because retail developments provide a significant revenue stream for local and state taxes without the accompanying social services. See id.}\]

\(\text{31. See Levin, supra note 30 (explaining that Proposition 13 limited long-time residents’ real estate assessments to 1975 market value, fixed the property tax rate to one percent plus modest increases to fund local voter-approved bonded indebtedness, and limited future property tax increases to a maximum of 2% per year); see also}\)
such revenue dropped from ninety percent before the passage of Proposition 13 to less than two-thirds today, replaced by sales and hotel taxes.32 Thus, local California governments may find it more strategic to attract commercial rather than residential developments even if legislation permits increased residential construction.

Increased high-density residential development in areas formerly zoned for single-family neighborhoods and commercial use may be achieved over time, but California needs more immediate results.33 A 2018 projection from the California Department of Housing and Commerce found that California needed to build 1.8 million housing units between 2015 and 2025 to keep up with population growth; a pace which the State is not projected to meet.34 Although new market rate construction has a role in filling this housing shortfall, tax incentives to support this type of development can be better utilized in supporting permanently affordable social housing, recycling public subsidies with deep affordability terms that do not expire.35

A. Inclusionary Housing Policies

Inclusionary housing (also called inclusionary zoning) increases affordable housing stock at a minimal cost to the city by incentivizing

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32. Levin, supra note 30; History and Impact of Proposition 13, supra note 31.
34. CALIFORNIA’S HOUSING FUTURE, supra note 1, at 5-6.
private developers to set aside a specified square footage or set percentage (usually ten to nineteen percent) of units to be rented or sold at affordable prices. In exchange for participation in the program, participants receive incentives like density bonuses, accelerated approvals, parking reductions, and tax breaks. Some inclusionary housing policies are voluntary, offering incentives to private developers to participate, while others are mandatory, requiring any new developments within a jurisdiction to include a set percentage of affordable units. As an alternative to constructing affordable units within the new proposed construction project (also known as “on-site” building) developers in most jurisdictions have the option to pay an “in-lieu fee,” donate a separate plot of land to the city for the purpose of affordable housing, or build affordable units “off-site.”

Mandatory inclusionary housing policies were passed in San Francisco, San Diego, San Jose, and elsewhere in California. In San Francisco, developers who voluntarily surpass the minimum threshold

36. GROUNDED SOLS. NETWORK, supra note 12.
38. See Inclusionary Zoning, POLICYLINK, https://www.policylink.org/resources-tools/tools/all-in-cities/housing-anti-displacement/inclusionary-zoning (last visited Sept. 23, 2023) (discussing which type of inclusionary housing policies—mandatory or voluntary—are deemed more effective); see also Antonio Bento et al., Housing Market Effects of Inclusionary Zoning, 11 CITYSCAPE 7 (2009).
39. See POLICYLINK, supra note 38; see also MAYOR’S OFF. OF HOUS. & CMTY. DEV., Inclusionary Housing Program, S.F.GOV, https://sf.gov/information/inclusionary-housing-program (last updated Nov. 17, 2022) (discussing options available to developers under San Francisco policy).
40. See Jason Ward, Affordable-housing production needs more sugar, less vinegar, CALMATTERS (May 13, 2022), https://calmatters.org/housing/2022/05/sugar-works-better-than-vinegar-to-encourage-affordable-housing-developers/.
of required affordable units when building new developments are offered additional incentives.\textsuperscript{41} According to a recent study, 170 California jurisdictions have implemented inclusionary housing policies that have created affordable housing units in centrally located neighborhoods.\textsuperscript{42}

Inclusionary housing policies have resulted in a greater supply of affordable housing units in California. According to one study, nearly 30,000 affordable units were constructed during a nine-year period as a result of successful affordable housing programs.\textsuperscript{43} It appears, however, nearly impossible for inclusionary housing “set asides” to create the necessary number of affordable housing units to meet the demand by this method alone.\textsuperscript{44} Too few of the “affordable units” are dedicated to the lowest income communities.\textsuperscript{45} For instance, of the 30,000 affordable units analyzed in the study, almost no inclusionary units housed extremely low-income households (those earning less than 30\% of Area Median Income (“AMI”)), approximately one-in-four units housed very low-income residents (earning 30-50\% of AMI), nearly half housed low-income residents (earning 50-80\% of AMI), and 21\% housed moderate-income households (earning 80\% of more of the AMI).\textsuperscript{46}

\textsuperscript{41} Affordable Housing Bonus Plan (AHBP), S.F. PLAN., https://sfplanning.org/ahbp (last visited Sept. 23, 2023).


\textsuperscript{43} According to a 2016 U.C. Berkeley study, inclusionary housing programs generated 29,281 affordable units, just 2\% of total units authorized for construction in the state during a nine-year period. See Crispell et al., supra note 37, at 2 (citing AFFORDABLE BY CHOICE., supra note 42).

\textsuperscript{44} See id.

\textsuperscript{45} See Flint, supra note 21, at 9, 16. YIMBYs would boast the success of inclusionary housing requirements in new developments that mandate a certain number of units be maintained as affordable. Id. However, critics point to the slow results of rezoning and complain that similarly, if cities require fifteen percent of new residential development, the number of affordable homes will never catch up to satisfy the demand. Id.

\textsuperscript{46} See AFFORDABLE BY CHOICE, supra note 42, at 8, 14–15; Memorandum from Megan Kirkeby, supra note 7.
With Area Median Incomes in San Francisco and other California cities as high as $175,000, rents are still unaffordable to society’s most vulnerable. Further, the “off-site” option that developers often take instead of building affordable units “on-site” reinforces segregated housing patterns rather than creating mixed-income buildings, subverting the original intent of the policy. Critics maintain that there is little enforcement to monitor whether mandated affordable units continue to be rented or sold as affordable after the initial construction, highlighting the importance of creating publicly-owned permanent affordability requirements found in social housing.48

Inclusionary zoning is a successful strategy for the creation of affordable housing units when complimented with permanent affordability requirements, and the elimination of off-site construction options. The success of robust inclusionary zoning policies such as that found in Montgomery County, Maryland have been widely documented, and may be replicated elsewhere.49 However, even proponents of inclusionary zoning acknowledge that with only 12.5% to 15% of required set-asides, as exists in many jurisdictions, the program is insufficient by itself to “address the need for housing that a larger segment of County residents and workers can afford.”50

B. Does YIMBY Housing Construction Lead to Gentrification and Displacement of Low-Income Communities?

Another criticism of YIMBY development is that market-rate construction may promote gentrification and related displacement of
low-income communities. Although the movement stands in opposition to “Not in my Backyard” resistance to development that may threaten the “character” of white wealthy communities, YIMBY development has been criticized as causing more harm than good to low-income communities of color. Many community groups believe that new market-rate construction in low-income communities without guarantees that most or all of the new housing will be affordable to current residents increases the risk of displacement. In a public critique of YIMBYism, the co-founder of the Los Angeles Tenants Union stated:

[When] Los Angeles approved a 725-unit all market-rate development in Chinatown . . . one of the things that we saw from YIMBY groups was a celebration, where they said, “We don’t know who is going to live here, but isn’t it wonderful that new people are going to move in? Isn’t it wonderful that more people can live in L.A.?” But we know very well who’s going to live there. It’s rich people. You have to earn eight thousand dollars a month in order to be able to afford a market rate apartment.

Family- and community-based coalitions in low-income communities have denounced the pro-growth approach and in some transitioning

51. See Tanvi Misra, Mapping Gentrification and Displacement in San Francisco, BLOOMBERG (Aug. 31, 2015), https://www.bloomberg.com/news/articles/2015-08-31/mapping-which-san-francisco-bay-area-neighborhoods-are-at-risk-for-gentrification-and-displacement (discussing the difference between the terms gentrification and displacement by explaining that “[g]entrification” is a demographic or physical change in a neighborhood, such as a rise in wealthier residents or in neighborhood investment, whereas “displacement” is a loss of low-income residents). But see Taylor, supra note 21; Income Californians Afford Housing, CAL. LEGIS. ANALYST OFF. (Feb. 9, 2016) (finding construction of market rate housing was associated with a lower probability that low-income residents in the neighborhood would experience displacement, when examining low-income neighborhoods in the Bay Area between 2000 and 2013).

52. See CONOR DOUGHERTY, supra note 20.

53. See Flint, supra note 21, at 9; see also Been et al., supra note 21, at 1–2 (Aug. 20, 2018) (describing how opposition to new development has, in some instances, been successful).

54. Ana Aguirre et al., CityViews: For East New York’s Housing Crunch, Supply is not the Solution, CITYLIMITS (Feb. 18, 2016), https://citylimits.org/2016/02/18/cityviewsfor-east-new-yorks-housing-crunch-supply-is-not-the-solution/.

neighborhoods have successfully advocated for a halt of new development considering anticipated displacement.56

Some studies, however, suggest that new development of any type benefits low-income communities through filtering. A 2016 report documents the effectiveness of filtering, stating that “23.4 percent of the rental units that were affordable to very low-income renters in the U.S. in 2013 had filtered down from higher rent categories in 1985.”57 The 2016 study indicates that luxury apartment construction eventually benefits lower-income renters. In California, half a million people have moved out-of-state due to rising housing costs.58 Increased housing production can slow this trend. YIMBY legislation governing construction of smaller homes, accessory dwelling units, and higher density buildings also plays a significant role in providing housing for the middle class and maintaining the state’s diversity.59

Although new construction has its part in alleviating California’s housing shortage, even studies attesting to the effectiveness of filtering have stated that “allowing more market-rate construction will not address the housing needs of . . . the lowest-income households . . . . [T]he moderation of rent increases that results from expanded supply will likely be insufficient to make homes affordable to them.”60

56. See Flint, supra note 21; CITY OF BERKELEY, OFF. OF THE CITY MANAGER, Opinion Letter on Rental Housing Created Through the Below Market Rate and Housing Trust Fund Programs (Feb. 21, 2023), at 5, https://berkeleyca.gov/sites/default/files/documents/2023-02-21%20WS%20Item%2002%20Referral%20Response%20Affordable%20Housing.pdf (highlighting an example in Berkeley where proposed housing construction close to the Ashby and North Berkeley [Bay Area Rapid Transit] stations was heavily protested until Housing Preference Policies were incorporated into development plans).


58. Marc Cota-Robles & Grace Manthey, California’s population drops by more than half a million people in span of 2 years, ABC7 (Feb. 16, 2023), https://abc7.com/are-people-leaving-california-where-should-i-move-to-housing-in-moving/12826300/.

59. See SB 684—Building Homeownership, CAL. YIMBY, https://cayimby.org/sb-684/ (last visited Sept. 21, 2023) (touting the benefits of construction on new and smaller homes in California, enabling moderate wage earners, including African Americans impacted by redlining, to buy a home.)

60. See Been et al., supra note 21, at 7.
California does not have decades to wait for the effects of filtering to take effect. The creation of social housing that is explicitly affordable for the lowest-income demographic, and whose permanent affordability is publicly enforceable is the best use of government funds to slow California’s housing and homelessness crisis.

II. SOCIAL HOUSING HAS THE POTENTIAL TO SOLVE THE HOUSING CRISIS IN CALIFORNIA AND BEYOND

In contrast to market-rate development with affordable set-asides through inclusionary policies, or the eventual filtering effect of new construction, social housing offers a pathway for California to create enough affordable housing within a more viable timeline. The social housing model utilizes several strategies, including rehabilitating older housing stock rather than relying on new construction to fill the state’s housing requirement, which also makes it a more fiscally feasible solution.61

Social housing is defined a number of ways, but commonalities of each definition include:62 (1) permanent affordability through decommodification (removing the land and housing from the speculative market),63 (2) the promotion of racial and economic


63. Most affordable housing has limited terms of affordability that eventually expire; for example, housing built with the Low-Income Housing Tax Credit ("LIHTC") “must remain affordable for at least 30 years” (raised from the fifteen year previous requirement). PROGRAM OVERVIEW, CAL. TAX CREDIT ALLOCATION
equality through the creation of mixed income housing in central, transit-accessible locations rather than segregated locations, and (3) democratic control of residents over the terms and conditions of their housing. Domestically, social housing policy has been implemented

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64. A goal of social housing is creating social equality through the reduction of segregation by race and income. Social housing also avoids concentrating poverty by creating mixed-income neighborhoods. Alex Lee, Bill to Pursue Social Housing in California Introduced, CAL. STATE ASSEMB. DEMOCRATIC CAUCUS (Jan. 26, 2023), https://a24.asmdc.org/press-releases/20230126-bill-pursue-social-housing-california-introduced. This strategy fosters economic opportunity in accessible locations while preserving affordability to low-income households. Id.

65. Many existing housing models incorporate tenant control of essential housing terms, including limited equity housing cooperatives where tenant members own a share in the housing and can only resell their share for modest return. Green, supra note 63. In exchange for living in these affordable units, member residents are often required to contribute to the governance of the housing and volunteer a certain number of hours to care for and maintain the housing, demonstrating more active participation on behalf of tenants when compared to tenants in a typical landlord-tenant or public housing relationship. See id. In keeping with democratic principles, government programs like the Community Development Block Grant aim to create housing and economic opportunities to empower low-income communities and help them achieve self-sustainability. See Audrey McFarlane, When Inclusion Leads to Exclusion: The Uncharted Terrain of Community Participation in Economic Development, 66 BROOK. L. REV. 861, 864 (2001). Furthermore, greater tenant participation increases the value of property. See Carol Rose, The Comedy of the Commons, 53 U. CHI. L. REV. 711, 769–70 (1986). The promotion of tenant control and decision-making is further articulated by William H. Simon’s theory of social-republican property which states that when property is held by private individuals, the holder “should bear a relation of potential active participation” to the land to limit inequality among the members of a group or community. William H. Simon, Social-Republican Property, 38 UCLA L. Rev. 1335, 1336 (1991). Further, “[a]mong the
in government support for limited equity housing cooperatives,66 community land trust and tenant-owned housing,67 public housing for low-income individuals and veterans,68 and in many other programs. The term “social housing” is generally used abroad to refer to government-owned or regulated affordable housing,69 bearing resemblance to the U.S. “public housing” system. However, in contrast to some low-income “projects” of the U.S., social housing attempts to avoid racial and economic segregation by choosing central locations close to public transit,70 aspiring to create a mixed-income composition

more familiar forms of social-republican property are . . . limited equity housing cooperatives.” Id.


67. Local and state governments have supported “Opportunity to Purchase Policies” so that tenants and nonprofit organizations can afford to purchase market-rate housing and then maintain it as permanently affordable. See Tenant Opportunity to Purchase Act (TOPA) of 1980, D.C. CODE ANN. § 42-3404.02 (West, Westlaw through Apr. 26, 2023); D.C. CODE ANN. § 42-3401.01 (West, Westlaw through Apr. 26, 2023); see also Community Opportunity to Purchase Act (COPA), SF.GOV, https://sf.gov/information/community-opportunity-purchase-act-copa (last updated Jan. 31, 2023).


69. Vienna’s Unique Social Housing Program, PD&R EDGE, https://www.huduser.gov/portal/pdredge/pdr_edge_featured_article_011314.html (last visited Sept. 12, 2023). The South African government, which has enshrined the right to housing in their national constitution, subsidizes social housing by setting rent at a reasonable percentage of a resident’s gross monthly income. See South African Social Housing in a Nutshell, INT’L OBSERVATORY ON SOC. HOUS. (June 1, 2017), https://internationalsocialhousing.org/2017/06/01/south-african-social-housing-in-a-nutshell/. Brazil also has a constitutional right to housing, although this right has been criticized for choosing remote locations that reinforce segregation. See Clarisse Cunha Linke, Shortcomings of Brazil’s Minha Casa, Minha Vida Programme, URBANET (Sept. 27, 2018), https://www.urbanet.info/brazil-social-housing-shortcomings/.

of residents, and incorporating democratic control in its governance in order to encourage tenant participation and investment. Proponents of social housing in the U.S. have previously advocated for the growth of the model nation-wide, yet the market-based housing model has prevailed. Although the model is gaining momentum with municipal campaigns in San Francisco, Washington, D.C., Seattle, Kansas City, and statewide legislative proposals in Rhode Island and New York, this Article focuses on California’s proposals.

71. The Section 8 voucher program also attempts to integrate low-income residents with higher-income residents, yet lower-income residents are often singled out as the minority rather than integrated into decision-making bodies. See generally SOURCE OF INCOME FAQ, DEP’T OF FAIR EMP. & HOUS. FOR THE STATE OF CAL. (Feb. 2020), https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2020/02/SourceofIncomeFAQ_ENG.pdf. Additionally, source of income discrimination reinforces social hierarchies, making it difficult for the poorest residents to obtain housing security and integrate within buildings. See generally id.


78. Social Housing, HOUSING JUSTICE FOR ALL, https://housingjusticeforall.org/our-platform/social-housing/
California proposed two housing bills in the 2023-2024 legislative session: Assembly Bill 309 ("AB 309"), and Senate Bill 555 ("SB 555"). There were several commonalities between the bills, including public management of land and housing to achieve mixed-income, democratically governed, and permanently affordable housing. Both bills attempted to satisfy California’s housing shortage through “social housing,” but strategies to accomplish its goals diverged significantly.

A. AB 309 Versus SB 555

AB 309 was introduced by Democratic Assembly Members Lee, Carrillo, and Kalra, and was endorsed by the California YIMBY movement. It proposed the creation of the California Housing Authority that would own and manage its social housing developments, and seek a mixed-income composition of residents. The bill proposed to maintain housing as affordable for higher, middle, and low-income residents, with rent capped at not more than thirty percent of a resident’s income, and higher-income individuals subsidizing the rent of lower-income residents. The bill did not specify how many units would be reserved for low-income and extremely low-income households, leaving the composition of mixed-income projects unknown. The statewide agency would have “prioritized bids that demonstrate long-term revenue neutrality,” when choosing sponsored projects, if passed.

AB 309 focused on broadly increasing housing supply. While affordability was one of the program’s priorities (limiting the rent to thirty percent of residents’ income), that goal would have been weighed

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79. See AB-309, supra note 11.
80. SB-555, supra note 11.
83. Id.
84. Id.
85. The goal of the bill is to eliminate the gap between housing production and the development targets set by the state’s Regional Housing Needs Allocation ("RHNA"). See Zoe Klingmann, Your Guide to California’s Social Housing Proposals, OTHERING & BELONGING INST. (July 11, 2023), https://belonging.berkeley.edu/your-guide-californias-social-housing-proposals?emci=b1ba8433-7b1f-ee11-a9bb-00224832eb73&emdi=1dbe6a37-c520-ee11-a9bb-00224832eb73&ceid=11740736.
against other objectives, such as increasing overall supply and taking in sufficient revenues to cover the program’s costs for revenue neutrality.\textsuperscript{86} The bill’s aspiration that monetary expenditures made towards the operation and development of social housing be recouped through residents’ rental payment would have likely had the effect of influencing decision makers to offer housing to higher- rather than lower-income individuals.

Instead of leaving ambiguous the socioeconomic composition of residents in its proposed social housing, SB 555 originally reserved at least a third of the proposed 1.2 million social housing units as affordable to extremely low-income (earning less than 30\% of AMI), and very low-income households (earning 30-50\% of AMI).\textsuperscript{87} Both nonprofits and public entities were empowered to own and manage social housing under this model, which also included homes owned by government entities and small-scale collective ownership models such as CLTs and Limited Equity Housing Cooperatives (“LEHCs”).\textsuperscript{88}

The latest version of SB 555 leaves open the possibility of community groups and residents to determine for themselves what type of housing best meets their needs, with an ongoing community role in management and decision making.\textsuperscript{89} According to the amended version of the bill that was passed by the Governor on October 10, 2023,\textsuperscript{90} the California Department of Housing and Community Development (“HCD”) would have until December 31, 2026 to complete an open-ended study about how to reach the bill’s stated social housing goals to provide below-market-rate housing, affordable to households with extremely low, very low, and moderate incomes.\textsuperscript{91}

\textsuperscript{86} Id.

\textsuperscript{87} S.B. 555, 2023 Leg., Reg. Sess. (Cal. 2023). The California legislature defines the level of very low- as earning 30-50\% of AMI, and extremely low-income as earning less than 30\% of AMI. CAL. HEALTH & SAFETY CODE § 50106 (West 2002) (citing to 24 C.F.R. § 5.603 (2016)).

\textsuperscript{88} Klingmann, supra note 85.

\textsuperscript{89} Id.


\textsuperscript{91} S.B. 555, supra note 87.
B. State Subsidies for Social Housing Should Go to Existing Community Land Trusts and Other Qualifying Community Groups Under SB 555

CLTs are a natural fit as developers of social housing since they already have a track record of successfully creating and managing permanently affordable, democratically controlled housing in California and beyond.\(^\text{92}\) California now “has 29 Community Land Trusts in 22 counties with over 1,600 . . . units [housing] over 3,500 residents.”\(^\text{93}\) California CLTs primarily serve low-income and BIPOC populations:\(^\text{94}\) “60% of CLT residents have an annual household income of under $40,000 and 80% of CLT residents are Black, Indigenous, and people of color.”\(^\text{95}\)

While managing limited equity housing cooperatives, developing affordable housing, preserving the land in trust, and issuing 99-year ground leases to residents, CLTs enable their residents to build equity based on a designated formula corresponding with the Consumer Price Index, Cost of Living Allowance increases, or the appreciation of improvements made upon individual units.\(^\text{96}\) Further, CLT property is democratically-governed using a tripartite model with residents serving on the Board of Directors to make decisions affecting their housing tenancy.\(^\text{97}\)

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93. LEO GOLDBERG, KEY FINDINGS FROM THE CALIFORNIA COMMUNITY LAND TRUST NETWORK SURVEY, CAL. CMTY. LAND TRUST NETWORK 3 (2022), https://www.cacltnetwork.org/wp-content/uploads/2022/10/CLT_SurveyFindings_WEB-2.pdf]. The California Community Land Trust Network (“CA CLTN”) is a membership organization representing twenty-nine Community Land Trusts throughout the state of California from Humboldt County to San Diego. \(\text{Id.}\) CA CLTN supports the work of its member organizations and communities through state level policy advocacy, member and community conferences, peer-to-peer training, capacity building through the California CLT Academy, and development of financial and legal tools to enhance CLT development in California. \(\text{Id.}\)

94. \(\text{Id.}\)

95. \(\text{Id.}\)

96. See David Abromowitz & Kirby White, Deed Restrictions and Community Land Trust Ground Leases: Protecting Long Term Affordable Homeownership, 22(1) HOUS. NEWS NETWORK 7, 7–10 (2006).

97. GOLDBERG, supra note 93.
In a survey issued by the California Community Land Trust network, the main obstacles that CLTs in California face in carrying out their mission is funding for the acquisition of land and buildings, construction financing, and staff capacity.\textsuperscript{98} CLTs need initial investment to acquire property, but the money is not lost: public funding is permanently recycled as the affordability terms never expire.\textsuperscript{99} Social housing funding should go to CLTs to acquire and maintain social housing because of their strong community ties and successful track record of rehabilitation of affordable housing, as explained in Section III.

III. REHABILITATION OF DISTRESSED AND ABANDONED PROPERTIES IS A KEY STRATEGY IN THE CREATION OF SOCIAL HOUSING

CLTs have successfully rehabilitated and converted distressed properties into social housing,\textsuperscript{100} and these entities should be further empowered under California’s social housing law to continue in that role. The government can facilitate the creation of social housing by transferring vacant or abandoned buildings over which local governments have jurisdiction to community groups like CLTs to develop and maintain these buildings as affordable.\textsuperscript{101}

A. Donation of Vacant State Property

In 2020, California Governor Gavin Newsom signed Executive Order N-20-23 to redirect government-owned vacant land to nonprofit housing developers to build housing for homeless or very-low-income California residents.

\begin{flushleft}
98. \textit{Id.}

99. \textit{See} Gura, \textit{supra} note 35, at 80, 90 (explaining that when public subsidies attach to the unit, the unit becomes permanently affordable and the subsidizing agency retains some control over the unit or its resale; with temporary or no resale restrictions, purchasers can build more equity upon resale, but the affordability is lost to future generations).


\end{flushleft}
The governor identified 286 state-owned properties to offer local governments to use for innovative and cost-effective housing developments towards homelessness solutions. The land that the state project identified included vacant lots, fairgrounds, armories, and other state buildings. The Saint Joseph Community Land Trust located in Lake Tahoe Basin won the RFP bid for one of the initial affordable housing projects located in South Tahoe.

The above instance of the St. Joseph Community Land Trust developing housing on state-donated land exemplifies a CLT’s potential role in partnering with the state in the rollout of social housing projects. CLTs also have a strong track record of stepping in to help manage land as permanently affordable in “bottom-up” squatting initiatives, as depicted in the examples below. CLTs can assist community members affected by homelessness and displacement to win community campaigns and resist eviction or foreclosure.

B. Community Land Trusts Have Strong Ties to the Community in Assisting Community Groups Who Reclaim Vacant Homes in Their Neighborhood

1. “Moms 4 Housing” in Oakland, California

“Moms 4 Housing” is a group of homeless mothers who occupied a vacant home in West Oakland, California, in 2019. The property that

102. Off. of Governor Gavin Newsom, supra note 61 (explaining that the state offered “local governments $1 leases on state-owned property, and $650 million in State Emergency Homeless Aid to be used to build out sites.”). As of January 2020, a developer was selected to build on a site in Stockton, and a search for a developer for a site in South Lake Tahoe began pursuant to Governor Newsom’s Executive Order N-06-19. See Agenda Item III: Departmental Updates, CAL. HOMELESS COORDINATING & FIN. COUNCIL, chrome-extension://efaidnbmnnnibcpjdjicgkfronh lcdnej/https://bcsh.ca.gov/calich/meetings/materials/20200325_dept_updates.pdf (last visited Sept. 21, 2023).

103. Off. of Governor Gavin Newsom, supra note 61.

104. Id.


106. See E-mail from Jean Diaz, Executive Director, Saint Joseph Community Land Trust, to Julie Gilgoff, author (July 11, 2023) (on file with author); see also, Site preparation to begin for Sugar Pine Village affordable housing project, supra note 13.

the group of women reclaimed was foreclosed and auctioned the year prior and purchased for $500,000 by Wedgewood, Inc., a massive real estate company. The property then sat vacant in West Oakland for months. Meanwhile, there were few housing options for the mothers to live in with their children. According to Bay Area media outlets, Wedgewood is “one of Oakland’s most prolific house flippers.” The company buys houses, evicts tenants, then eventually remodels the homes to resell them for profit, thereby “displacing longtime working-class Oakland residents, many of them victims of predatory lending.”

The practice of private speculators like Wedgewood purchasing distressed properties and intentionally keeping them vacant was especially troubling in the face of the ongoing homelessness crisis in Oakland. In 2019, there were more vacant housing units than homeless people in the City of Oakland, while the number of homeless residents increased by 47% between 2017 and 2019, according to the City’s biennial point-in-time count.

An attempt to evict these families led to media attention and community campaigns. Because of public and local government pressure, Wedgewood eventually agreed to sell the property to the Oakland CLT which allowed the women and their families to...
continue to live in the home, while preserving the property in trust as permanently affordable for generations to come. 113

2. “Reclaiming and Rebuilding Our Homes” Collective in Los Angeles, CA

CLTs also played a role in a COVID-era occupation movement, “Reclaiming Our Homes.” 114 In March 2020, a collective of activists in Los Angeles began to occupy Caltrans-owned homes in El Sereno. 115 In the 1950s, Caltrans began to plan the construction of several “freeway[s] that never came to be.” 116 “In preparation for the planned freeways, Caltrans began to purchase properties in the construction corridors.” 117 These homes sat vacant for decades while the housing crisis worsened. 118 One “Reclaiming Our Homes” activist told a reporter, “[t]he LA mayor put a shelter-in-place order, but how am I supposed to wash my hands without a house?” 119 In the end, through their persistence and advocacy work, activists were able to stay in more than twenty reclaimed houses while continuing to seek more permanent housing solutions. 120 Through increased public awareness of their struggle, Los Angeles County also dedicated additional funding for CLT acquisition of these formerly vacant homes. 121

113. Holder & Mock, supra note 107. Nonetheless, Wedgewood’s pledge seems to be more aspirational than enforceable.


117. Id.

118. Id.


120. See Douglis, supra note 119; Paulas, supra note 114.

CLTs are an ideal developer and steward of social housing. They have won the trust of community groups and will be able to advise HCD about how to best meet the state’s affordable goals to provide housing for the most vulnerable populations.

IV. FUNDING STRUCTURE FOR SOCIAL HOUSING

Public subsidies are more impactful when directed toward permanently affordable housing initiatives.122 Deep investments in social housing that are permanently recycled can stop the loss of initial investment when affordability terms expire.123 This feature of social housing can be contrasted with traditional forms of affordable housing whose rent restrictions or resale caps expire after a set number of years (fifteen to thirty years federally, and fifty-five years within California) if built with tax breaks from the Low-Income Housing Tax Credit (“LIHTC”) or other government subsidies.124

To resist market pressures, the government must grant not only an initial investment, but ongoing funding to assist the affordable housing provider to maintain the property and thus avoid disrepair.125 AB 309

122. See Gura, supra note 35, at 79 and accompanying text.
123. In order to appeal to investors, affordable housing programs generally require temporary affordability. The Low-Income Housing Tax Credit, which is the main tax break offered to private investors by the government to build affordable housing, requires that units only stay affordable for fifteen to thirty years federally, depending on the year the home was constructed, while California mandates fifty-five years. See What Happens to LIHTC Properties After Affordability Requirements Expire?, EDGE, https://www.huduser.gov/portal/pdredge/pdr_edge_research_081712.html (last visited July 17, 2023) (“From 1987 to 2009, approximately 2.2 million units were developed through LIHTC. During the program’s first 20 years, LIHTC properties represented nearly a third of all newly constructed multifamily rental housing.”); see also Jake Blumgart, Have We Been Wasting Affordable Housing Money?, SHELTERFORCE (Feb. 4, 2016), https://shelterforce.org/2016/02/04/have_we_been_wasting_affordable_housing_money/ (describing how government tax breaks are sometimes lost at the end of a home’s affordability term).
124. Shane Phillips, Increasing the Duration of Affordability Requirements for New Affordable Housing, UCLA LEWIS CTR. REG’L POL’Y STUDS. 1 (2020), https://escholarship.org/content/qt9fs1m0tt/qt9fs1m0tt_noSplash_d2119cd7a2815706b327a55fb40d07dd.pdf?t=q7cj6c.
attempted to solve this problem by higher-income residents subsidizing the rent of low-income communities.\textsuperscript{126} Without guarantees of the number of units to be reserved for extremely low-income residents, however, the government will not be bound to reserve units for extremely low-income households. Had AB 309 passed, economic considerations may have led to a selection of residents skewed toward those who can pay more in rent, thus failing to insulate this social housing model from market considerations.

Funding for SB 555 was unspecified,\textsuperscript{127} with HCD to make recommendations about potential revenue sources for a future social housing fund as a part of their comprehensive study.\textsuperscript{128} California is currently considering three housing bonds to help tackle the housing crisis.\textsuperscript{129} Local jurisdictions have created affordable housing funds that can be replicated: San Francisco created a Small Sites Acquisition Fund for the creation of permanently affordable housing, available to nonprofit groups like CLTs and Community Development Corporations (CDCs).\textsuperscript{130} An abundance of creative ballot measures to fund affordable

\begin{itemize}
  \item \textsuperscript{126} See AB 2053, \textit{supra} note 81. Other funding plans for AB 309 include the establishment of a Social Housing Revolving Loan Fund as well as the Legislature’s and the proposed California Housing Authority’s ability to issue General Obligation (“GO”) bonds (subject to voter approval). \textit{See also} Klingmann, \textit{supra} note 85.
  \item \textsuperscript{127} The drafters of SB 555 have left open the type of support that might be offered by the government to achieve its goals: “Funding, public lands, and other resources and opportunities . . . .” S.B. 555, \textit{supra} note 87.
  \item \textsuperscript{128} \textit{See} id.; \textit{see also} Klingmann, \textit{supra} note 85 (providing a social housing bill comparison chart).
  \item \textsuperscript{129} \textit{See} Ben Christopher, \textit{California Could Borrow a Record-Breaking $35 Billion to Tackle the Housing Crisis. Will Voters Go Along?} \textsc{Cal Matters} (Aug. 3, 2023), https://calmatters.org/housing/2023/08/california-housing-crisis-bonds/.
  \item \textsuperscript{130} \textit{See} MAYOR’S OFF. OF HOUS. & CMTY. DEV., \textit{About the Small Sites Program}, SF.GOV (Nov. 16, 2022), https://sf.gov/information/about-small-sites-program.) Community Development Corporations are non-profit organizations that are created to support and revitalize communities, especially those that are impoverished or struggling. CDCs often deal with the development of affordable housing. \textit{What is a Community Development Corporation?} NAT. ALLIANCE COMM. ECON. DEV. ASSOC. (Sept. 17, 2014), https://www.naceda.org/index.php?option=com_dailyplanetblog&view=entry&category=bright-ideas&id=25%3Awhat-is-a-community-development-corporation-&Itemid=171#:~:text=Community%20development%20corporations%20(CDCs)%20are,of%20affordable%20housing.
housing like the Los Angeles Mansion Tax have passed.\textsuperscript{131} If prioritized in state and local budgets, California can find a way to fund social housing bills. Further, because of the model’s reliance on state-donated or leased public land, the initial funding required for the acquisition of land should be mitigated. CLT partnerships with government land banks would also facilitate the transfer of distressed properties in its possession to CLTs and other mission-driven nonprofits for rehabilitation and conversion into affordable housing, rather than auctioning these properties to private entities.\textsuperscript{132}

**CONCLUSION**

Social housing is not a new phenomenon. It is a viable housing model that is embraced domestically and abroad.\textsuperscript{133} Over half of Vienna, Austria’s 1.8 million population lives in social housing.\textsuperscript{134} The proliferation of this model removes the stigma associated with moderate income residents living together with lower income residents in government subsidized units. By comparison, the U.S. government has not substantially invested in the creation of social


\textsuperscript{133} See, e.g., *South African Social Housing in a Nutshell*, supra note 69; Simone Barbosa Villa et al., *Lack of Adaptability in Brazilian Social Housing: Impact on Residents*, 3(1) BUILDINGS AND CITIES 378 (2022); Cyrus Vakili-Zad, *Public Housing: A Summary of Major Differences Between the United States and Canada*, 11 J. AFFORDABLE HOUS. & CMTY. DEV. L. 111, 112 (2002). The US and Canada rely primarily on the private market to respond to housing needs, with their social housing stocks at just 2% and 5% respectively. \textit{Id.} This pales in comparison to the Netherlands and the United Kingdom, where social housing accounts for almost 40%, and 25% respectively, of their total housing stocks. \textit{Id.} Vakili-Zad attributes this phenomenon to an American mistrust of government intervention and regulation of the private sector. \textit{Id.} at 111.

\textsuperscript{134} Aitor Hernández-Morales, *How Vienna took the stigma out of social housing*, POLITICO (June 30, 2023, 9:00 AM), https://www.politico.eu/article/vienna-social-housing-architecture-austria-stigma.
housing for decades, preferring to address the affordable housing crisis by offering subsidies and incentives to private developers to build affordable units whose terms of affordability often expire. SB 555 is part of a growing movement in the United States to reverse that trend.

The growth of the social housing movement has also been met with skepticism. American blogger and journalist Matthew Yglesias has tweeted that the specific circumstances that led to the success of the social housing movement in Vienna cannot be replicated elsewhere. Others have insisted that private development, not public subsidies are the way forward, and that social housing would not solve our housing crisis. Critical viewpoints reinforce the YIMBY proposition that lifting the regulatory barriers to new construction will provide enough housing supply to satisfy the demand. This Article rejects the market-based property system that relied on private actors to construct affordable housing, incentivizing its production through substantial tax breaks that need to be reinvested at the end of affordability terms. California’s two social housing proposals in the recent legislative session represent a growing acceptance that the previous model is fiscally unwise and lacks foresight to meet our country’s housing needs. A recent trip of California policymakers to Vienna, Austria to study the social housing model reinforced the viability of financing, building, and maintaining social housing in other parts of the world. Advocates hope that the study conducted by HCD as a part of SB 555 will

135. See Housing Act of 1937, supra note 68.
illuminate the steps to make decommodified, mixed income, and democratically-run housing a larger proportion of all housing in California, instead of a model relegated to the fringe.\textsuperscript{139}

With the homelessness crisis in California at record levels, affecting even non-urban areas\textsuperscript{140} and impacting middle-income professionals who have lost their homes due to lack of tenant protections and affordable housing options,\textsuperscript{141} there is a greater willingness to explore new solutions. Unless California explicitly commits to creating affordable housing for extremely low-income and very low-income populations, the severe need for affordable housing will go unmet and the crisis will worsen.

\textsuperscript{139} Each effort to pass policies that decommodify housing in favor of the creation of permanently affordable housing has been met with staunch opposition in the United States. See e.g., Edward Booth, \textit{Council Halts Proposed \textquotesingle Tenant Opportunity To Purchase\textquotesingle Ordinance}, RICHMOND PULSE (Nov. 20, 2020), https://richmondpulse.org/2019/11/20/council-halts-proposed-tenant-opportunity-to-purchase-ordinance/. When a Tenant Opportunity to Purchase Act was proposed in Richmond, California, which gave tenants the right of first refusal when the owner intended to sell the property, property owners showed up to a City Council meeting to shut it down. \textit{Id.} The Berkeley Tenant Opportunity to Purchase ordinance is currently on hold, in part because of the assertion that these policies take property owners\textquotesingle rights away. \textit{Join the Growing Opposition to TOPA/OPA, STOP TOPA}, https://www.stoptopa.org/. \textit{But see Julie Gilgoff, Opportunity to Purchase Policies: Preserving the Affordability of Manufactured Home Communities, 68 VILL. L. REV. 405 (2023) (arguing that opportunity to purchase policies does not constitute a taking).}

The California Association of Realtors has immense lobbying power to pass or defeat propositions based on whether they further their interests. See generally David Shaw \& David Moore, \textit{Realtors' Lobby Plows Political Cash Into Efforts To Keep Rents Higher}, MORE PERFECT UNION (Nov. 3, 2022), https://perfectunion.us/realtors-lobby-plows-political-cash-into-efforts-to-keep-rents-higher/ (explaining the negative effect the Realtors’ Lobby had on the rental market since the COVID-19 pandemic).


\textsuperscript{141} Alexei Koseff, \textit{She Lost Her Home. She Doesn’t Want To Lose Her City Council Seat}, CALMATTERS (June 22, 2023), https://calmatters.org/politics/2023/06/california-homeless-politician/.
Despite its proven success, there are common misconceptions about social housing that prevent its wider implementation.\(^{142}\) Many Americans equate social housing with other forms of federally subsidized public housing, which in their view has “failed” because of disinvestment, lack of democratic governance, and lack of mixed-income composition.\(^{143}\) With a concentrated education campaign, more Americans can learn about the social housing model’s success abroad, the examples of local victories, as well as its differences from existing models. It is time to popularize social housing through a “Social Housing in My Backyard” movement, paralleling its NIMBY and YIMBY counterparts, but having greater potential to offer a permanent pathway out of our current housing crisis.
