

Making a Home in the Garden State: Housing Policy Issues and Opportunities¹

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Residential Segregation & Lack of Affordable Housing

New Jersey is amongst the most segregated states in the nation, both in terms of housing and public school segregation. Data for the 2009-2010 school year from the National Center for Education Statistics show that New Jersey's school system ranks in the top 10 of most segregated state school systems in the country.² According to data from the 2005-2009 American Community Survey, New Jersey is the 6th most segregated state for Hispanic-White segregation and the 12th most segregated state in the nation for Black-White segregation. At a metro level, Newark ranks among the six most segregated cities in the country according to the 2010 Census (New York City and Philadelphia are also in the top six).

This pattern has been exacerbated by New Jersey's long history of exclusionary land use regulations, which continue to the present day. A 2011 study by Rowan Professor John Hasse, conducted in conjunction with Fair Share Housing Center, shows that municipal land-use zoning statewide "has resulted in a land use pattern that is substantially more segregated and more sprawling than it was in 1970."³ The study concluded that the situation, though mitigated by the resulting activities of the Fair Housing Act of 1985 and the Mount Laurel decisions, is continuing to worsen. These dynamics create communities where poverty is concentrated, educational and economic opportunities are scarce, and upward mobility is limited.

Compounding this pattern is New Jersey's culture of local control, manifested in "multiple municipal madness" – 565 municipalities and 603 (590 operating) school districts. This hyper-segmentation magnifies residential segregation. Paul Tractenberg and colleagues note that 8% of New Jersey schools are so-called apartheid schools, which contain 0-1% white students:

[These schools] hold 26% of all black students and almost 13% of Latino students. New Jersey has the highest fraction of its black students in apartheid schools, following only Illinois and Michigan, where most blacks are concentrated in the Chicago and Detroit

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² Greg Flaxman, John Kuscera, Gary Orfield, Jennifer Ayscue, Genevieve Siegel Hawley: "A Status Quo of Segregation: Racial and Economic Imbalance in New Jersey Schools, 1989-2010."
<http://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/a-status-quo-of-segregation-racial-and-economic-imbalance-in-new-jersey-schools-1989-2010>

³ John Hasse: "Evidence of Persistent Exclusionary Effects of Land Use Policy within Historic and Projected Development Patterns in New Jersey: A Case Study of Monmouth and Somerset Counties."
http://gis.rowan.edu/projects/exclusionary/exclusionary_zoning_final_draft_20110610.pdf

metropolitan areas... Segregation of Latinos is severe, but not quite as extreme. New Jersey ranks fifth in concentration of Latinos in apartheid schools. ... Black students in New Jersey are more than twice as likely as those in the South to attend such schools.⁴

Housing patterns are not alone to blame for this outcome, but they certainly contribute. Residential segregation and struggling schools are connected in a negative cycle of reinforcement.

Housing affordability continues to be a significant problem for the state, as New Jersey ranks among the top five states with the highest housing costs, a fact that is compounded by having the nation's highest property taxes. Estimates of affordable housing need in NJ have been highly politicized because of the resulting implications for municipalities' COAH obligations, but analysis from census data suggests that there is a need for over 1 million affordable homes in the state.⁵ New Jersey has the second highest percentage of cost-burdened households in the nation, behind only California, with 30.8% of New Jersey households spending more than 50% of their income on housing⁶. The rental market is particularly tight in NJ with a severe mismatch between demand and supply. New Jersey has only 49 affordable rental units per 100 households at or below the threshold for extremely low income households (30% area median income), and only 57 affordable rental units per 100 households at or below the threshold for very low income households (30% - 50% area median income).⁷

Lack of adequate supportive housing is another component of the affordable housing challenge. While a reliable count is difficult, the Supportive Housing Association estimates that there are tens of thousands of people with special needs in need of permanent supportive housing, including 18,000 people living in rooming houses, boarding homes and residential health care facilities statewide, 8,000 people with developmental disabilities on state waiting lists, 4,000 individuals living in institutions, 1,500 chronically homeless (as well as several thousand more homeless individuals and families who don't fit the "chronically homeless" definition), and many adults with disabilities living with their aging parents waiting for supportive housing opportunities. In short, when considering both the affordable housing need among the general population in NJ and the need for supportive housing for special needs populations, there are simply not enough houses and apartments that residents can afford in NJ, and they are often not located in high-opportunity areas.

⁴ Paul Tractenberg, Gary Orfield, Greg Flaxman: "New Jersey's Apartheid and Intensely Segregated Urban Schools: Powerful Evidence of an Inefficient and Unconstitutional State Education System."

<http://ielp.rutgers.edu/docs/IELP%20final%20report%20on%20apartheid%20schools%20101013.pdf> pages 5-6

⁵ Alan Mallach, Together North Jersey and Housing and Community Development Network of New Jersey, "Housing Baseline Assessment Report." <http://togethernorthjersey.com/wp-content/uploads/2013/12/Baseline+Housing+Report-December2013small1.pdf>

⁶ Center for Housing Policy, "Housing Landscape 2014." <http://www.nhc.org/media/files/Landscape2014.pdf>

⁷ National Low Income Housing Coalition, "Housing Spotlight: America's Affordable Rental Housing Shortage, and How to End It." http://nlihc.org/sites/default/files/HS_3-1.pdf

Desired Outcomes: Decreased residential segregation, with consequential increases in educational, social, and economic opportunity for residents. Increased supply of affordable housing units in areas of opportunity as a means to provide stable housing and access to quality services and infrastructure for low- and moderate-income individuals and families. Expanded supply of permanent supportive housing. Increased investment in jobs, public safety, quality educational opportunities, and public infrastructure in New Jersey’s cities.

Strategies: The groundbreaking Mount Laurel doctrine provides a foundation for New Jersey’s path to a more equitable future, as it “prohibits economic discrimination through exclusionary zoning and requires all towns to provide their ‘fair share’ of their region’s need for affordable housing.”⁸ Thus, affordable housing could be developed in New Jersey’s areas of growth and opportunity, mitigating some of the racial and economic segregation that persists.

This doctrine requires near-constant and vigorous defense and advocacy in support of full identification and allocation of affordable housing need in NJ. Several recent NJ Supreme Court decisions have reaffirmed the Mount Laurel decisions. The opportunity now is to provide the legal, organizing, and advocacy capacity so that pressure may be mounted to hold government decision-makers accountable for implementing and enforcing the Mount Laurel doctrine. This requires developing compliant third-round regulations, providing a check on political interference with the Mount Laurel doctrine, and making sure that there remains consistent funding for affordable housing through municipal housing trust funds, development fees, the Special Needs Housing Trust Fund, and other means. Organizations in New Jersey that are central to this work are Fair Share Housing Center (FSHC) and the Housing and Community Development Network of NJ (HCDNNJ), and the Supportive Housing Association (SHA).

In order to advance racial and socioeconomic diversity, it is important that affordable housing be provided in areas of market demand and economic opportunity, which includes transit-oriented development projects. These are traditionally developments located within a 5-minute walk of a transit hub and provide access to transportation networks around the state. Transit-oriented developments are also frequently located in dense, walkable neighborhoods with a significant number of services nearby. Placing affordable housing in these areas is important as it reduces the cost of living for low- and moderate-income individuals while increasing their access to jobs, services, and public transportation.

A bolder proposal (one that goes well beyond what the Mount Laurel decisions require) comes from Tractenberg et al: “the state and local governments should not build or subsidize more low-income housing in areas where students must attend apartheid schools and often live in apartheid neighborhoods. Indeed, all state and local legislation, regulations and policies should

⁸ Fair Share Housing Center, www.fairsharehousing.org/about

be screened to ensure that they promote, rather than impede, racial and socioeconomic diversity of communities and their schools.”⁹

Opportunities for The Fund to make a difference: Both sides of the integration issue need attention. Energetic and creative attention must be paid to defend the Mount Laurel doctrine, and vigorous advocacy for the location of affordable housing in areas of opportunity as a means to decrease housing and education segregation in NJ. Persistent advocacy is required for funds for affordable housing and permanent supportive housing, which are regularly siphoned off to plug state budget deficits or alternately, mismanaged (as was the case with federal foreclosure funds). At the same time, The Fund should explore opportunities to stimulate creating more sustainable, integrated cities.

Homelessness

Estimates of homelessness in New Jersey vary, but they range from 12,000 to more than 25,000 people; about 1,500 of these are considered chronically homeless. The number of homeless individuals in New Jersey declined by about eight percent since last year and is at its lowest level in five years, according to HUD data (although it is worth noting that homelessness has declined unevenly across New Jersey, with places such as Ocean County actually experiencing a doubling in its homeless count from 2012). In addition to social factors such as poverty and high housing costs, some policy choices contribute to homelessness in New Jersey, including: limited post-incarceration opportunities, declining public supports, domestic violence, lack of affordable health care and resulting reliance on a crisis-driven delivery system, and a continuum of care system that traditionally created a long path (shelters to transitional housing to permanent housing) with many conditions (work requirements, substance abuse program participation, etc.) required to access permanent housing.

Desired Outcome: End chronic homelessness in New Jersey. Address the policies that exacerbate the problem. Increase the supply of permanent supportive housing.

Strategies: Utah has recently made national headlines with its advancement of a Housing First model, which the Supportive Housing Association (SHA) seeks to advance here in NJ. Utah gives homeless people apartments and matches them with social services, but does not condition the provision of an apartment upon acceptance of those social services. The result has been a 78% decline in homelessness in eight years, with Utah on track to eliminate chronic homelessness by 2015. Utah calculated that the costs of imprisoning homeless people and providing them with emergency room care far outweighed the cost of providing affordable housing. While NJ has not yet adopted a Housing First model, the Mercer Alliance to End Homelessness has been at the forefront of developing solutions to homelessness through the pioneering of a Rapid

⁹ Tractenberg et al, page 23

Rehousing model, which provides for the rapid placement (within 30 days) into permanent housing of those who have recently become homeless, rather than the traditional model of emergency shelters, followed by transitional housing with the eventual placement after two or more years into permanent housing.

Foreclosure

New Jersey has a particularly high rate of foreclosures and underwater mortgages. The foreclosure rate in New Jersey and nationally began to increase significantly in early 2008, precipitated by predatory lending practices by banks, which created a widespread housing and economic crisis from which the nation – and New Jersey – is still recovering. The state currently ranks second behind Florida in the number of foreclosed homes, and is poised to become first over the next few months as Florida clears foreclosures quickly. [In the third quarter of 2015, however, New Jersey reached first in the nation in its foreclosure rate.] Paradoxically, this ignominy is at least in part due to the comparatively good court protections for homeowners in NJ facing foreclosure. The state has judicial foreclosure laws that require lenders to go to court in order to repossess homes where mortgages have entered default. This protection allows homeowners to stay in their homes and protects their due process rights while the foreclosure process plays out.

Foreclosures generate two dimensions of harm. First is the suffering experienced by homeowners, and the disproportionate loss of wealth that has resulted, particularly among minority and low-income households. Some steps have been taken. The New Jersey Supreme Court required the six largest banks in the state to review their lending procedures, and as a result the number of foreclosure filings in New Jersey fell from a high of 66,717 in 2009 to 6,000 by July 2011, although new foreclosure filings have since increased by about 70%.¹⁰ However, recent reporting by the New York Times has revealed that mortgage lending abuse is on the uptick again, as mortgage servicers take over loans that were previously owned by banks.¹¹

Second is the ravaging of low- and moderate-income neighborhoods decimated by the foreclosure crisis and the resulting abandoned homes and blighted blocks. This harm is compounded by municipalities that often lack capacity, skills, and regulatory tools to respond effectively.

Desired Outcome: Reduce the number of individual foreclosures, stabilize community real estate markets, and increase home occupancy rates.

¹⁰ Tom De Poto, The Star-Ledger, “NJ may soon lead nation in foreclosures.”

http://www.nj.com/business/index.ssf/2014/01/nj_may_soonlead_nation_in_foreclosures.html

¹¹ Jessica Silver-Greenberg and Michael Corkery, The New York Times, “Loan Complaints by Homeowners Rise Once More.” http://dealbook.nytimes.com/2014/02/18/loan-complaints-by-homeowners-rise-once-more/?_php=true&_type=blogs&_r=0

Strategies: There are several avenues of action designed to help individuals, neighborhoods and municipalities affected by foreclosures. First, are a set of policies advanced by the Housing and Community Development Network of NJ (HCDNNJ), which has been at the forefront of developing legislative and regulatory/programmatic proposals. These efforts have been repeatedly frustrated by the Christie administration. Two of HCDNNJ's most significant proposals, which failed were:

1. The state received \$75 million from a federal foreclosure settlement that was intended to be dedicated for foreclosure relief, but despite HCDNNJ's advocacy, the Governor instead used the funds to help balance the budget in 2011.
2. HCDNNJ worked with legislators to advance the Residential Transformation Act, which would have given the NJ Housing and Mortgage Finance Agency the ability to purchase foreclosed homes and dedicate them as affordable housing units; passed both houses in the legislature but was vetoed by the Governor.

Additional strategies that are still being pursued include legislation that would facilitate mortgage modifications, reintroduction of the Residential Transformation Act, early warning system to alert municipalities about properties entering foreclosure process, codification of Judiciary's Foreclosure Modification Program, implementation of the Mortgage Assistance Pilot Program to allow a homeowner with negative equity who is in default modify his/her loan, and creation of a NJ Mortgage Resolution Fund to help community development financial institutions to redevelop foreclosed, vacant homes. Help for individual homeowners can also come in the form of mortgage counseling services which are offered by many agencies, including New Jersey Citizen Action.

Another strategy is the Problem Properties Toolkit, which is a collection of tools developed by HCDNNJ in partnership with affected municipalities to stabilize hard-hit communities struggling to recover from the recession and shore up their tax base. Strategies include development of abandoned properties lists, vacant property registration ordinances, land banking tools, healthy homes strategies to reduce asthma and mold exposure, and tax lien sale changes.

Another approach that has met with some success is the ReStart program administered by NJ Community Capital which, through HUD, assists Newark homeowners who are delinquent and underwater on their homes by purchasing pools of mortgages in targeted areas from the Fair Housing Administration (FHA) and then providing mortgage modifications to the homeowners. Having met with success in Newark, the program is now being expanded to the nine counties most affected by Superstorm Sandy.¹²

¹² Joe Tyrrell, NJ Spotlight, "Restart Shore Salvages Underwater Mortgages in Struggling Counties." <http://www.njspotlight.com/stories/14/01/13/restart-shore-salvages-underwater-mortgages-in-struggling-counties/?p=all>

On a more granular level, local community development corporations (CDCs) have recently employed strategies that focus on ameliorating the negative effects of the worst parcels in a neighborhood. For instance, a CDC will seek to purchase the deed to an abandoned or foreclosed property that is the greatest source of blight on a given block. It will then rehabilitate the home and provide the resources necessary for a family to move in, thus increasing community stability. The goal is a ripple effect that stabilizes the neighborhood and increases the market value of neighborhood real estate. While this approach is more programmatic than policy-driven, it does yield results when given significant financial support. The difficulty is securing enough government and private financial resources for these efforts.

Superstorm Sandy

Superstorm Sandy damaged 87,000 homes in NJ, of which 12,500 were destroyed or substantially damaged, particularly those of working class families¹³. Since that time, families and individuals potentially eligible for federal recovery funds have had a difficult time making their way through the state application process, and investigations by Fair Share Housing Center have found that many applications were improperly denied. Other problems include lack of transparency in allocating funds, inequitable distribution of recovery funds, and a mismatch between geographic areas of greatest need and allocation of funds. The aftermath of Sandy has amplified existing problems in governmental support delivery systems, and highlighted gaps in policymaking and implementation.

Desired outcome: Ensure equity throughout the rebuilding and recovery process, provide stable housing for displaced individuals and families in environmentally sound locations, and increase transparency in federal and state funding allocations.

Strategies: Advocates have been fighting to increase the transparency of the government process and allow space for public input in areas where there has been little to none. This is particularly timely and critical as the next round of \$1.4 billion in CDBG funds has just been allocated to NJ by the federal government.

Other issues not explored herein:

- Sprawl
- Development in environmentally sensitive areas
- Contaminants (such as lead)
- Housing near toxic sites
- Manufactured homes
- Community development and the future of CDCs

¹³ <http://www.njspotlight.com/stories/13/03/14/assessing-damage-from-superstorm-sandy/>