

Are Communities in the Triangle Ready to Do Their Fair Share?
Developing a Regional Affordable Housing Strategy

by

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INTRODUCTION

Like many areas in the United States, North Carolina's Research Triangle region faces a growing and seemingly intractable scarcity of affordable housing. A suitable home, whether owned or rented, is out of reach for an increasing number of families. Even those families that are able to find housing are devoting a larger share of their financial resources toward their rent or mortgage. The problem is particularly acute near employment centers, such as Raleigh, Durham, and Chapel Hill. Many employees who work in these locations are unable to afford housing in the vicinity of their jobs and are forced to move to the fringes of the metropolitan area. This not only impacts their quality of life but also affects other Triangle residents in the form of increased traffic congestion, air pollution, and urban sprawl.

The purpose of this paper is to explore whether implementing a fair share housing program might be an effective strategy for responding to the shortage of affordable housing in the Triangle. It argues that housing policies must be formulated at the regional level in order to overcome the parochialism of local governments in developing land use policies and ensure that the interests of the entire region are addressed. In contrast to other policies for increasing affordable housing, fair share programs emphasize the regional nature of the problem and specifically work to increase the distribution of affordable housing throughout a region. Thus, they have the potential to provide a solution to the spatial mismatch between jobs and housing that is a fundamental problem in the Triangle.

In order to determine whether a fair share approach is right for the Triangle, the analysis begins with an evaluation of the experiences that other communities have had with fair share programs and summarizes some of the lessons learned about successful program design and implementation. The next section looks at whether the essential elements needed to support an effective fair share program currently exist in the Triangle. It concludes with an assessment of the region's readiness for a fair share program and suggestions for the next steps to take to move in the direction of increased regional cooperation in developing affordable housing policies in the Triangle.

THE SCOPE OF THE PROBLEM

Population growth in the Triangle has increased the competition for housing units. According to the U.S. Census, between 1990 and 2000 the population in the Triangle grew 37%, from 922,454 to 1,264,490 residents.¹ This rapid population growth has outpaced housing production and the resulting excess demand has forced prices upward. From 1990 to 1998, rents in the Triangle rose more than 95%, and by the year 2000, the region had the highest rents in the state.² In 2000, the annual income needed to afford the fair market rent for a two-bedroom apartment in the Triangle was \$25,960.³ Sixteen percent of families in the Triangle did not make sufficient income to afford this rent level.⁴ Home prices followed a similar upward trajectory. By the year 2000, only 26% of new homes and 38% of existing homes were affordable to a family making 80% of the area family median income (AFMI).⁵

Rising housing costs are particularly onerous for those in low-wage occupations, such as in services, retail or the public sector. Positions in these sectors, which often pay lower wages than other sectors, make up a growing proportion of the employment base in the Triangle (Table 1). In 1999, the largest proportion of jobs (30%) was concentrated in the service sector, followed by government and retail. The average wages for the services and retail sectors were lower than the average wage for the region (\$34,649 USD), while the government sector was close to the average.⁶ According to the report “Housing Opportunity in the Triangle,” the average wage represented 71% of the 1999 area median household income of \$48,845. This indicates that households with workers in service positions or public employees needed additional sources of income, such as two wage earners, to reach the area median.⁷

¹ Triangle Council of Governments, “Research Triangle Region Population—1950-2020.”

² Triangle J Council of Governments Center for Affordable Living, 11.

³ Triangle J Council of Governments Center for Affordable Living, 3.

⁴ U.S. Census 2000.

⁵ Triangle J Council of Governments Center for Affordable Living, p. 18. For 2000, the HUD estimate of AFMI was \$62,800. Using this estimate, the authors computed that a family making 80% of AFMI could afford a home for \$130,000 or less (page 1).

⁶ Triangle J Council of Governments, “Triangle Region Employment Changes 1989-1999.”

⁷ Triangle J Council of Governments Center for Affordable Living, 4-5.

Table 1: Top employment sectors in the Triangle region and the average wages for each

Sector	Percent of total jobs	Average wage
Government	17.4%	\$34,968
Services	30.0%	\$32,674
Retail	16.9%	\$17,656

Source: U.S. Census 2000.

The relatively high proportion of lower-paying jobs and the increases in housing prices have combined to create a critical shortage of affordable housing. The new homes being constructed focus on the high-end market, and there are not enough homes available at entry-level prices. As indicated above, there are few homeownership opportunities available to most moderate- and low-income families (those that make 80% or less of area family median income).

One result is that 37% of Triangle households pay more than 30% of their income toward housing.⁸ HUD has established 30% as the desired proportion of income that should be devoted to housing so households are able to adequately meet their non-housing needs. The problem of paying a higher proportion of income to housing is particularly acute in Orange County, where 48% of households are affected in this way. Other households that cannot afford to commit more resources to housing are forced into substandard or overcrowded units.

As a consequence of the affordability crisis, many residents must move away from job centers to the urban fringes to find affordable housing. For example, only 17% of Town of Chapel Hill employees live in Chapel Hill, only 40% of UNC-Chapel Hill employees live in Orange County, and only 15% of Raleigh police officers live in Raleigh.⁹ This “spatial mismatch” between housing and jobs means that these individuals must deal with higher transportation costs and lower quality of life from time spent commuting. But the effects of traffic congestion, air pollution from automobile exhaust, loss of open space, and increased infrastructure costs from sprawling development must be borne by the entire

⁸ U.S. Census 2000.

⁹ Triangle J Council of Governments Center for Affordable Living, p. iv.

community. Developing at the edges of the metropolitan area is not a sustainable solution to an inadequate supply of affordable housing.

Underlying Causes

In addition to population growth and changes in the regional economy, there are several other significant factors that influence the affordable housing shortage. The first is the large number of students living in the Triangle. In 2001, there were 17,350 students in Durham universities, 36,260 in Raleigh, and 25,366 in Chapel Hill, for a total student population of over 72,000 at the Triangle's four largest universities.¹⁰

Rents charged in the areas around the universities are based on the assumptions that several students will be sharing the unit and that they can often pay higher rents than low-wage workers in the same area.

These factors combine to force rents up and, in many cases, out of reach of low-income residents.

The decline in funding for low- and moderate-income housing from the Department of Housing and Urban Development (HUD) also has had a negative impact on housing affordability. HUD is no longer creating public housing units, and its HOPE VI projects to replace outdated public housing projects with mixed-income developments often result in a net loss of units. In addition, there is a shortage of Section 8 rental assistance vouchers. Low-income renters can use these to make up the difference between 30% of their income and the payment needed to rent a private unit. However, currently all counties in the Triangle have long waiting lists for Section 8 rental assistance.¹¹

Other causes of the lack of affordable housing are related to the development process and political culture in the Triangle. Many communities have rules to protect open space and environmentally sensitive areas that severely limit allowable densities in new subdivisions and restrict the buildable area in the Triangle, thus forcing up prices for developable land. For example, Chapel Hill is running out of suitable land for

¹⁰ Triangle J Council of Governments Center for Affordable Living, p. 14.

¹¹ Triangle J Council of Governments Center for Affordable Living, p. *iii*.

development because of the constraints imposed by low-density conservation districts and its Urban Services Boundary, which has also driven up the price of land within the boundary. Many communities will not support the higher densities that are necessary to make affordable housing economically feasible for developers. In some communities, these exclusionary zoning policies and regulatory barriers are made more burdensome by the addition of lengthy and complicated development approval processes that also add to developer costs. Although their purposes may be positive (and popular), these regulations ultimately increase the costs of development, making it harder for developers to create affordable housing without the use of government subsidies, which, as noted above, are scarce.

Development of affordable housing projects is hampered further by a political culture in the Triangle that, for many years, has paid little attention to the need for affordable housing. Many people in the region react to traffic congestion and school overcrowding by trying to slow growth and housing development. When new developments are proposed, political leaders have traditionally favored the concerns of existing homeowners over the need for lower cost housing. In an example that has yet to be resolved, residents near a proposed development by Habitat for Humanity in Chapel Hill have opposed the project because it would require higher densities. The homeowners' coalition has expressed support for affordable housing, but only when it is “consistent with the character of the surrounding area’ and complies with existing town standards.”¹² However, many communities in the Triangle primarily consist of low-density, single-family subdivisions. In this context, it is impossible to produce affordable housing that matches the “existing character.”

Stakeholder Analysis

Many groups within the Triangle community are affected by the shortage of affordable housing. Those affected most directly are residents with limited incomes, existing homeowners, and housing developers and builders. Low- and moderate-income households have the fewest housing options available to them,

¹² “Project Opponents Raise Old Argument,” Editorial, 2.

and often must cope by moving to the urban fringe, paying a higher proportion of their income for housing, or living in overcrowded situations. In contrast, existing homeowners benefit because the competitive housing market ensures that their property values remain high. There is also a perception on the part of many homeowners that affordable housing units diminish the property values of adjacent market-rate homes, so the concentration of affordable units on the urban fringe ensures that established neighborhoods are protected from any of the negative effects associated with these types of units.

In addition to existing homeowners, local developers and homebuilders generally benefit, since the competition for housing allows them to charge higher prices for land and homes. This advantage would be available primarily to larger developers, since smaller developers with limited assets would not be able to afford the high land costs. However, smaller builders may still benefit if they are targeting the demand for higher-end homes, where the excessive land costs could easily be passed on to consumers. At the same time, the scarcity of developable land and extensive development regulations in many of the central communities in the Triangle pushes some larger developers to the urban fringe since that is where adequate land is available for large-scale subdivision development. There is also the potential that developers and homebuilders would gain from the increased focus on providing affordable housing if it means development restrictions are softened or previously protected areas are opened to development. However, some communities are trying to hold developers accountable for the shortage of affordable housing by making them pay fees or create housing to remedy the situation.

There are also several groups that are affected indirectly by the lack of affordable housing. All residents of the Triangle are affected by the environmental degradation and increased commute times that results when households are pushed to the urban fringe. Existing homeowners may resist attempts to increase affordable housing in their neighborhoods out of a fear that it will reduce their property values. As noted above, this group also generally benefits from a competitive housing market. Groups committed to environmental protection may also protest affordable housing strategies that might harm the environment,

such as increased densities in certain areas or encroachment into watersheds or other sensitive areas.

Businesses that rely on low-wage employees may also suffer if workers cannot afford housing nearby. In addition, as the lack of affordable housing contributes to a decline in the quality of life in the Triangle (because of high housing costs, long commutes, and environmental decline), the region's businesses and universities will have more difficulty attracting employees to the area.

The negative effects of the scarcity of affordable housing are spreading to an increasing number of the region's residents. Many of its underlying causes, including the shift to lower-wage jobs, the large population of students in the area, and the lack of federal housing assistance, are not going to change in the foreseeable future. As a result, the problem is likely to persist until local governments develop land use and housing policies that make the development of affordable housing easier. More affordable units are needed to keep up with demand, but it is particularly important to consider how they are distributed within the region to address the problem of spatial mismatch and ensure that residents have adequate access to job opportunities. Unless these changes are made, problems that affect all Triangle residents regardless of their housing burden—traffic congestion, increased segregation by income, loss of open space—will continue to erode the quality of life in the region.

EXISTING GOVERNMENT POLICIES

There are a variety of government programs and policies at the federal, state, and local levels to address the provision of affordable housing. In general, these efforts can be divided into those designed to increase the supply of affordable units and those that offer subsidies to make existing housing more affordable to renters and homeowners. The federal government originally took a central role in providing affordable units through the Public Housing Program, but it has increasingly retreated from this responsibility in favor of subsidies for tenants to use in the private market (such as Section 8 vouchers,

described below). In fact, construction of all public housing units was halted in 1994.¹³ Although most assistance is now provided through tenant subsidies, this report focuses primarily on programs aimed at increasing the supply of affordable housing, since these can be pursued through land use and growth management measures.

Federal Housing Policies and Programs

The most important contributor to the supply of affordable housing is the **Low-Income Housing Tax Credit (LIHTC)**. Created in 1986, the program allows investors to receive tax credits for ten years in return for contributing money to the construction or rehabilitation of affordable housing. The properties must meet this requirement for a minimum of 15 years.¹⁴ Each state receives credits based on its population, and the credits are awarded to developers through a competitive process administered by the state's housing finance agency. In addition to funding provided by the federal government, most states now offer a similar tax credit to be used against state taxes. The LIHTC program has helped finance 8,268 affordable apartments in the Triangle during the 1990s.¹⁵ In general, these tax credits have been popular with developers and investors, and the application process has been very competitive. However, the units may remain affordable for only a short period of time.

Although the federal government has stopped adding new units, the **Public Housing Program** accounts for 4,389 affordable units in the Triangle.¹⁶ Many of these units were constructed decades ago and are in need of significant renovation and improvements. Public housing has traditionally served the households with the lowest incomes and the greatest need, but this is changing with the introduction of the **HOPE VI** program. The program, which was implemented to improve conditions at the most distressed public housing developments, provides funding for physical improvements (including demolition, construction,

¹³ Department of Housing and Urban Development (HUD), "Public Housing Development."

¹⁴ National Association of Housing and Redevelopment Officials (NAHRO), "Resources for Affordable Housing."

¹⁵ Triangle J Council of Governments Center for Affordable Living, 36.

¹⁶ Triangle J Council of Governments Center for Affordable Living, 38.

and rehabilitation), development of replacement housing, and increases in supportive services for residents.

In particular, HOPE VI grants promote mixed-income developments and the deconcentration of poverty.¹⁷ Although these are worthy goals, the policies also lead to fewer total units and reduced affordability of those units. For example, the HOPE VI grant to redevelop Halifax Court in Raleigh led to the loss of 109 units, and almost half of the replacement homes available to non-elderly tenants are rented at market rates.¹⁸ Although Durham's HOPE VI project to replace Few Gardens will increase the total number of units, many of these will not be affordable to the population of very low-income tenants previously served by public housing.¹⁹

The **Section 221(d)(3) and 221(d)(4) Programs** insure mortgage loans for construction or rehabilitation of multifamily rental housing for moderate-income, elderly, or physically challenged tenants. The programs' goal is to ensure private capital is available for these projects by protecting lenders from risk.

In addition to these programs, the federal government also has several programs that offer loans and grants for increasing affordable housing supply or assisting low-income households to purchase or rent housing. The goal of the **HOME** and **CDBG** programs is to provide flexibility to local jurisdictions in determining housing needs and solutions. The HOME program is targeted to affordable housing and requires a local match of 25 cents for every federal dollar spent. In contrast, CDBG funds do not require a match and can be used for programs other than housing as well. The **USDA** also offers loans and grants for use in rural, small town, and suburban communities.²⁰

¹⁷ Department of Housing and Urban Development (HUD), "HOPE VI."

¹⁸ Allison Hapgood, personal communication.

¹⁹ Triangle J Council of Governments Center for Affordable Living, 40.

²⁰ Triangle J Council of Governments Center for Affordable Living, 41-42.

The **Section 8 Rental Assistance Voucher Program** is the primary form of tenant-based subsidy offered by the federal government. It is administered by local Public Housing Authorities (PHAs) and is open to very low-income families, the elderly, and those with physical disabilities. With this program, voucher holders are free to choose any housing that meets their needs that is available to them in the private market. The voucher holder is responsible for finding the unit and HUD provides a subsidy directly to the landlord so the rent will not exceed 30% of the household's income. The subsidy amount is based on the Fair Market Rent that HUD has established for an area. In general, the voucher holder's income may not exceed 50% of area median income (AMI), and the PHA must provide 75% of available vouchers to families whose incomes do not exceed 30% of AMI.²¹

One of the main problems with the Section 8 program is that the supply of vouchers cannot keep up with demand. There are approximately 8,900 vouchers in use in the Triangle, but, as noted earlier, PHAs throughout the Triangle have long waiting lists for rental assistance.²² For example, there are 4,800 people on the list in Raleigh (with an expected wait of two to three years) and another 2,200 in Durham (where the list has been closed to all but households with special needs).²³

The effectiveness of the program is also limited because it is dependent on the willingness of landlords to accept vouchers. In a competitive rental market such as the Triangle, landlords have many potential tenants from which to choose, and many will avoid Section 8 voucher holders because of the stigma attached to public housing assistance or because they do not want to deal with the extra regulatory burden of participating in the program (which includes extra inspections and paperwork). Even after aggressive efforts by the Raleigh Housing Authority to recruit landlords, 20% of families with a voucher could not

²¹ Department of Housing and Urban Development (HUD), "Housing Choice Vouchers Fact Sheet."

²² Triangle J Council of Governments Center for Affordable Living, 37.

²³ Triangle J Council of Governments Center for Affordable Living, 37-38.

find housing after looking for four months. Similar problems exist in other parts of the Triangle, including Orange County and Durham.²⁴

State Housing Policies and Programs

The primary program designed to increase the supply of affordable housing is the **State Low-Income Housing Tax Credit (LIHTC)**. The North Carolina Housing Finance Agency (NCHFA) changed the structure of this program for 2004, so the benefits are no longer assigned to investors in the same way that they are in the federal program. However, the goal of the program is still to use tax credits as a method for encouraging investment in the production of affordable housing units. The North Carolina Housing Finance Agency (NCHFA) also contributes to the production of affordable rental housing by selling tax-exempt bonds and offering below-market-rate loans through its **Rental Production Program (RPP)**. These bonds and loans helped produce 2,521 homes in the Triangle in 2002.²⁵

The efforts of the NCHFA are supported by the **North Carolina Housing Trust Fund**. Although the fund is administered by NCHFA, it has its own board that determines its policy direction. The fund is used to leverage additional funding and to provide gap financing for projects that otherwise would not be completed. For this reason, the fund offers greater flexibility in the provision of affordable housing units. Although the fund has won awards for its activities, a major drawback is that it does not have a dedicated funding source and relies on the state legislature for annual allocations.²⁶ Housing advocates have lobbied the general assembly to change this situation, but without success because of intense opposition from the North Carolina Homebuilders' Association.²⁷ In the past decade in the Triangle, the fund has contributed to 542 new homes, 199 renovated homes, and 471 new units for residents with special needs.²⁸

²⁴ Triangle J Council of Governments Center for Affordable Living, 37.

²⁵ Triangle J Council of Governments Center for Affordable Living, 43.

²⁶ Connecticut General Assembly OLR Research Report.

²⁷ Lanier Blum, personal communication.

²⁸ Triangle J Council of Governments Center for Affordable Living, 43.

With the exception of these programs, most of NCHFA's efforts are devoted to helping homeowners and renters afford existing units. To achieve this goal, NCHFA provides **low-interest home loans** and down payment assistance to first-time homebuyers whose incomes are below a maximum threshold. In Orange County, for example, the maximum income threshold for a 2-person household to receive assistance with a first mortgage is \$69,000.²⁹ There is also a limit on the home price, which in Orange County is \$165,000 for a new home and \$150,000 for an existing home.³⁰ In order to maintain the affordability of the home, the program has established some procedures to control the price of the home if it is resold within 10 years of purchase. The **Mortgage Credit Certificate Program** is a similar program that has been created to serve buyers who do not qualify for the low-interest loans. Participants receive a federal income tax credit for 20% of their mortgage interest payment each year.³¹ Over the past 10 years, these programs have assisted nearly 14,000 Triangle buyers.³²

As part of the **New Homes Program**, nonprofits and local governments can apply for money to provide deferred second mortgage loans of up to \$20,000 for the purchase of new or rehabilitated homes in pre-approved projects. The **Self-Help Housing Program** offers funds to nonprofit organizations who use buyer sweat equity and volunteer help to reduce the costs of home construction by at least 30%. For both programs, assistance is intended for buyers with incomes below 80% of AMI.

Local Housing Policies and Programs

At the local level, much of the activity related to affordable housing is simply the administration of federal programs and grants, such as Public Housing, Section 8, CDBG, and HOME. It is also common for local governments to issue **bonds** for housing production or mortgage and rental assistance. Bonds are an important source of funding, because it can be committed for multiple years, it is flexible, and it can

²⁹ North Carolina Housing Finance Agency (NCHFA), "Income Limits for Homebuyers."

³⁰ North Carolina Housing Finance Agency (NCHFA), "Home Sales Price Limits."

³¹ North Carolina Housing Finance Agency (NCHFA), "Mortgage Credit Certificates."

³² Triangle J Council of Governments Center for Affordable Living, 43.

often be used to leverage additional funding.³³ Some localities, such as Durham, have created their own **housing development corporations** to produce affordable housing.

Many Triangle communities are including provisions in their zoning ordinances to encourage development of affordable housing. One general tactic is to create **special zoning districts** based on the principles of “traditional neighborhood design” that promote higher-density, mixed-use areas that encourage public transit use and increased affordable housing. These districts are often created near city centers to encourage infill development near employment. More direct approaches include **density bonuses** and **inclusionary housing policies**. Durham offers a density bonus that allows a developer to increase the density of a residential development by as much as 20% if 15% of the units are affordable to households that make 50% or less of the area median income.³⁴ Several communities, including Chapel Hill, Carrboro, and Cary now either require or negotiate with developers to include affordable housing in their developments.³⁵ The success of these programs has led a group of 50 public officials from across the Triangle to study more closely the potential benefits of inclusionary zoning.³⁶

The use of **impact fees** is another area where policy changes to promote affordable housing are being explored. Municipalities charge developers impact fees in an attempt to ensure that the costs of providing public facilities to new developments are paid for by the homeowners or businesses that occupy them, rather than the community as a whole. Although they are an effective way to ensure that the public facilities needed by a development are provided without excessive cost to existing residents, there is some criticism that they inflate housing costs and reduce the ability of developers to create affordable housing. In response to this situation, impact fee regulations have been tailored to encourage development types and locations that would create more affordable housing. For example, “the Orange Water and Sewer

³³ Triangle J Council of Governments Center for Affordable Living, 45.

³⁴ City of Durham, Durham Zoning Ordinance.

³⁵ Triangle J Council of Governments Center for Affordable Living, 44.

³⁶ Stradling, B1.

Authority, having documented that smaller homes use less water, adjusted impact fees to reduce the burden on builders and buyers of small homes.”³⁷

At the same time, some existing zoning policies and proposed changes have detrimental effects on the availability of affordable housing. Many Triangle communities have zoning policies that prohibit or severely restrict **manufactured housing**. Manufactured housing costs significantly less than traditional construction methods, and improvements in its design and quality could make it an important tool for providing affordable housing.³⁸ There are also proposals in several communities, including Raleigh, Durham, and Chapel Hill to **restrict the number of unrelated people that may live in a dwelling unit**. These policies are primarily directed at reducing the number of students in a neighborhood. However, this type of constraint would also affect many low-income individuals who do not have other affordable housing options. A counter proposal is to focus on the problems that critics associate with units that have more than two unrelated individuals in them, such as excessive noise or too many cars. Chapel Hill has decided on this approach by requiring landlords to register their properties so they can be contacted in the event of neighborhood complaints.³⁹

CURRENT POLICIES ARE NOT KEEPING PACE WITH DEMAND

Although some of these individual policies and programs have been successful, as a whole they have failed to keep pace with the demand for affordable housing. This situation has largely been caused by the federal government’s retreat from providing affordable housing directly. It has stopped adding to the public housing stock and, through the HOPE VI program, is actually reducing the number of available units. There is also insufficient funding for federal programs, such as Section 8 vouchers and the low-income housing tax credit (LIHTC), that operate through the private delivery system to make existing units more affordable or increase the affordable supply.

³⁷ Triangle J Council of Governments Center for Affordable Living, 44-45.

³⁸ Lovin, A20.

³⁹ Hall, A1.

The emphasis on using the private market to provide affordable housing also reduces the government's control over the outcomes. Investors will only participate in the LIHTC when the tax credits provide a benefit to their business' bottom line, and landlords need only accept Section 8 vouchers when vacancy rates are high and other tenants are hard to find. In addition, since private developers expect a market return on their investments, it is difficult for them to provide housing that is affordable to those with the greatest need—the population that had traditionally been served by public housing.

The absence of federal leadership on the affordable housing issue has forced state and local governments to step in to address the problem. These levels of government have fewer resources available to them, so their ability to improve the affordable housing situation is limited. In addition, placing control over affordable housing in the hands of local governments means that there is little or no coordination between jurisdictions about the amount or location of affordable units. Given the option, many communities choose not to provide affordable housing in their area, since many local leaders and voters view it as undesirable and more expensive than other land uses.

There is wide variation among counties in the Triangle in the amount of affordable housing that is available. It is in the best interests of each community to provide a balance of employment and housing opportunities for its residents. However, as shown in Table 2, Chatham, Johnston, and Moore Counties have a greater proportion of the region's housing units than regional employment. This represents a burden to these counties because housing generally requires more public services and brings in lower tax revenues than commercial and office uses. Wake and Durham, which have a disproportionate share of the region's jobs, have a smaller share of housing units, while Lee and Orange Counties are relatively balanced between employment and housing. Considering that Orange County has the highest housing costs in the Triangle (Table 3), it has a higher number of housing units than might be expected. However, this is likely a result of the large student population at UNC-Chapel Hill.

Table 2: Triangle overview				
	Percent of region's total employment	Percent of region's housing units	Percent of housing units in rural areas	Median household income, 1999
Chatham	2.3%	4.0%	82%	\$42,851
Durham	23.2%	18.0%	7%	\$43,337
Johnston	5.0%	9.5%	68%	\$40,872
Lee	3.9%	3.8%	50%	\$38,900
Moore	4.4%	6.6%	55%	\$41,240
Orange	8.0%	9.3%	33%	\$42,372
Wake	53.3%	48.8%	11%	\$54,988
Region Total	100.0%	100.0%	25.2%	\$43,509

Source: U.S. Census 2000.

Table 3 shows that the three counties that account for 84.5% of the region's employment—Wake, Durham, and Orange—have the lowest homeownership rates and, in particular, the lowest percentages of sales of affordable homes. The homeownership rates for these three are 65.9%, 54.2%, and 57.6% respectively. The other four counties in the Triangle all have homeownership rates above 71%. Orange County had the lowest percentage of homes under \$130,000 sold in 2000 with 18.9%. According to the Triangle J Center for Affordable Living, a household with an income of at least 80% of the area family median income (AFMI) could afford a home priced at \$130,000.⁴⁰ Wake (27.1%), Durham (40.3%) and Chatham (41.8%) follow close behind. Johnston and Lee are more affordable, but this is probably a result of the higher proportions of owner-occupied mobile homes in those counties (21.9% and 17.9%, respectively). A more extensive picture of affordable home sales is presented in Table 4.

As noted above, Orange County has the highest housing costs based on both price per square foot and average sales price. Interestingly, Johnston County has the second-highest building cost (price per square foot), but its average home price is the most affordable. This is likely because of the smaller average home size in the county and the greater availability of mobile homes. Wake County has the third highest average sales price, behind Orange and Chatham, as well as the third highest building cost. Chatham

⁴⁰ Triangle J Council of Governments Center for Affordable Living, 19.

County has a very high average sales price compared to its price per square foot, but the sample size is so small (195 homes) that it is difficult to know whether this represents an accurate picture of the county's overall trends or simply a higher-end subdivision constructed in 2002.

	New single-family detached (SFD) units, 2002 ¹	Average price, new SFD units, 2002 ¹	Average size (sq. ft.), new SFD units, 2002 ¹	Price per sq. ft., new SFD units, 2002 ¹	County-wide Homeownership rate, 2000 ²	Percent of total home sales under \$130,000, 2000 ³	Mobile homes as percent of owner-occupied units, 2000 ²
Chatham	195 ⁴	\$246,400 ⁴	3,314 ⁴	\$74.36 ⁴	77.2%	41.8%	19.0%
Durham	1,494	\$188,162	2,622	\$71.75	54.2%	40.3%	2.0%
Johnston	1,269	\$151,145	1,741	\$86.80	73.4%	61.8%	21.9%
Lee	—	—	—	—	71.7%	64.1%	17.9%
Moore	—	—	—	—	78.6%	—	17.3%
Orange	596 ⁴	\$327,357 ⁴	3,127 ⁴	\$104.69 ⁴	57.6%	18.9%	12.6%
Wake	6,512	\$230,128	2,734	\$84.16	65.9%	27.1%	5.9%
Region Total					65.2%	32.9%	9.6%

¹ Source: Market Opportunity Research Enterprises, as reported in "2003 Chapel Hill Data Book," Town of Chapel Hill, 4.6.

² Source: U.S. Census 2000.

³ Source: Market Opportunity Research Enterprises, as reported in "Housing Opportunity in the Triangle," Triangle J Council of Governments Center for Affordable Living, p. 19.

⁴ Data for 12 months ended 09/30/2002.

	New homes				Existing homes				Total sales			
	Under \$80,000		\$80,000-\$130,000		Under \$80,000		\$80,000-\$130,000		New	Existing	Under \$130,000	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent			Number	Percent
Chatham	4	2.8%	35	24.1%	89	18.3%	136	28.0%	145	486	264	41.8%
Durham	64	4.5%	264	18.5%	409	13.9%	1,021	34.8%	1,425	2,937	1,758	40.3%
Johnston	21	1.8%	573	49.6%	263	21.8%	604	50.0%	1,156	1,209	1,461	61.8%
Lee	3	3.7%	44	53.7%	115	23.6%	203	41.7%	82	487	365	64.1%
Orange	2	0.3%	37	6.2%	64	5.5%	231	19.8%	598	1,165	334	18.9%
Wake¹	38	0.5%	1,690	22.8%	331	3.4%	2,570	26.6%	7,422	9,663	4,629	27.1%
Region Total	132	1.2%	2,643	24.4%	1,271	8.0%	4,765	29.9%	10,828	15,947	8,811	32.9%

¹ In Raleigh, 19% of new homes sold for less than \$130,000, in Cary, 4%, and in Apex, 11%. In the rest of Wake County, 37% of new homes sold for less than \$130,000.

Source: Adapted from "Housing Opportunity in the Triangle," Triangle J Council of Governments Center for Affordable Living, p. 19.

With such high ownership costs in the Triangle, many households must turn to the rental market to obtain shelter. However, the situation is not much better for the region's renters. For the region as a whole, 39.8% of renters are paying more than 30% of their income for rent,⁴¹ while 18.8% are paying more than

⁴¹ HUD has established this threshold for determining when a household is paying more than is desirable for housing costs.

50% of their income for rent. The problem is particularly acute for renters in Orange County, where over half are paying excessive costs. Throughout the region, the situation is most severe for renters whose incomes are below \$35,000.

Table 5: Excessive housing cost burden for renters

	Paying more than 30% of income for rent		Paying more than 50% of income for rent		Percent of renters with incomes less than \$35,000 paying more than 30% of income for rent
	Number	Percent	Number	Percent	
Chatham	1,196	33.5%	580	16.2%	55.7%
Durham	15,351	40.4%	7,270	19.1%	65.9%
Johnston	3,851	37.1%	1,904	18.3%	54.5%
Lee	1,549	33.1%	699	14.9%	49.6%
Moore	1,923	36.0%	1,021	19.1%	53.7%
Orange	9,219	51.5%	5,302	29.6%	77.7%
Wake	29,736	38.0%	12,942	16.6%	69.9%
Regional Total	62,825	39.8%	29,718	18.8%	67.0%

Figures based on gross rent, which includes utilities.
Source: U.S. Census 2000.

Table 6 shows that all counties within the region are suffering from severe overcrowding. HUD defines overcrowding as a unit that has more than 1.01 persons per room.⁴² This problem arises when housing costs become so high that a household cannot afford to rent its own unit and is forced to “double up” to make the rent affordable.

Table 6: Overcrowding in rental units

	Number of residents in overcrowded units, 2000 ¹	Percent of renters in overcrowded units, 2000 ¹	Percent change in units that are overcrowded, 1990-2000 ²
Chatham	479	10.6%	255%
Durham	3,947	9.7%	191%
Johnston	861	7.0%	71%
Lee	553	10.6%	118%
Moore	374	5.7%	82%
Orange	1,849	9.5%	398%
Wake	5,827	7.1%	129%
Total Region	13,890	8.1%	159%

¹ Source: U.S. Census 2000.

² Source: “Housing Opportunity in the Triangle,” Triangle J Council of Governments Center for Affordable Living, p. 13.

⁴² Triangle J Council of Governments Center for Affordable Living, 13.

The extent to which local governments are taking action to address the need for affordable housing varies widely in the Triangle (Table 7). Many of the more rural counties, such as Johnston, Lee, and Moore have not developed specific policies for increasing affordable housing. Even though there are some indications that these counties are developing affordability problems, since they currently represent the affordable options for Triangle residents, many planners in these areas do not perceive the need for affordable housing as a pressing issue.⁴³ The involvement of governments in these counties in responding to the need for affordable housing is limited primarily to administering the Section 8 program and allocating federal CDBG and HOME funds.

Table 7. Local government strategies for increasing affordable housing							
	Chatham	Durham	Johnston	Lee	Moore	Orange	Wake
Adopted strategies to increase affordable housing	Yes ¹	Yes	No	No	No	Yes	No
Density bonus	No	Yes	No	No	No	Yes	No
Inclusionary housing	Yes ¹	NA	No	No	No	Yes (Chapel Hill)	No
Impact fee waiver	No	Yes	No impact fees	NA	No impact fees	Yes	No impact fees
Affordable housing bonds	No	NA	No	No	No	1997: \$1.8m 2001: \$4m	NA
Public Housing units	0	1,706	0	457	0	336 (Chapel Hill)	1,775 (RHA) ² 345 (Wake) ³
Section 8 vouchers	<ul style="list-style-type: none"> • 410 • Waiting list closed 	<ul style="list-style-type: none"> • 2,569 • Waiting list closed (2,200 people) 	<ul style="list-style-type: none"> • 619 • Waiting list closed • Estimated wait of 1-3 years 	<ul style="list-style-type: none"> • 377 • Waiting list closed • Estimated wait 3 years 	<ul style="list-style-type: none"> • 561 • Waiting list closed (850 people) • Estimated 5-year wait 	<ul style="list-style-type: none"> • 623 • Waiting list closed (6,497 people) • Estimated wait of 2-3 years 	3,494 (RHA) 193 (Wake)
LIHTC units (projects funded by NCHFA 2000-2003)	48	143	0	96	76	24	714
Percent of total LIHTC units in region	4.4%	13.0%	0%	8.7%	6.9%	2.2%	64.9%

¹ Chatham County is currently considering adoption of a Compact Communities Ordinance. The proposed ordinance includes a provision for an inclusionary housing policy.

² RHA: Administered by Raleigh Housing Authority

³ Wake: Administered by Wake County

NA: Not ascertained.

⁴³ Steven Finn, personal communication.

Other counties that have been feeling the negative effects of rapid growth for a longer period of time have been more aggressive in addressing the affordable housing shortage. Many municipalities in Orange, Durham, and Wake counties have been experimenting with innovative approaches, such as density bonuses, impact fee waivers, and inclusionary housing policies. However, most government policies during the past decades when these counties were expanding have favored low-density, single-family suburban sprawl, rather than more compact development with an emphasis on a range of housing choices. Although the more developed counties in the Triangle have finally begun to address the shortage of affordable housing, the effectiveness of these policies is limited in areas that are primarily built out, such as Chapel Hill. Attention to the need for affordable housing has come at a point where land use patterns have already been established and are difficult to change.

FAIR SHARE HOUSING PROGRAMS

What is Fair Share?

Fair share housing programs are similar to other housing policies in that the ultimate goal is to expand housing choices, especially for low- and moderate-income households, by increasing the supply of affordable units. However, unlike other programs, fair share specifically addresses the spatial distribution of affordable housing within a region. Its purpose is to change the existing pattern of development in order to disperse affordable units to all communities in a region in a rational and equitable manner.⁴⁴

The basic principle of these programs is that all communities within a region should accommodate their “fair share” of the low- and moderate-income housing needed within the area. The New Jersey courts developed the rationale for fair share in their ruling in *Southern Burlington County NAACP v. Township of Mount Laurel*. They reasoned that the state constitution requires the state government to act to promote the “general welfare” of its residents. Since the state grants local governments the right to implement zoning ordinances, these jurisdictions also have the obligation to enact policies that serve the needs of all

⁴⁴ Listokin, 1.

residents of the state—not just the residents of a particular municipality. As a result, local governments must provide the opportunity for development of housing options that are affordable to residents of all income levels. Sharing responsibility for affordable housing fairly does not mean that all communities need to accept an equal number of affordable units. Instead, they are assigned a share of the regional housing need based on allocation criteria that consider suitability for building and the areas of greatest need.

Underlying the concept of fair share is the recognition that, with the expansion of the suburbs over the past few decades, housing and employment markets now extend beyond the borders of individual cities and counties to encompass entire metropolitan areas. As Harmon notes, “We have found it easy to get people to understand that we live in a regional economy. Many people live in one community, work in another, and shop in a third.”⁴⁵ However, this reality is not reflected in the land use decision-making process, since local governments control land use policy choices. According to Katz, “America has a fragmented maze of local governments and special districts that prefer fierce competition or splendid isolation to regional cooperation.”⁴⁶ By focusing on the regional need for affordable housing, fair share programs try to overcome the inherent parochialism of decision-making in this situation.

The fair share idea was developed in response to the exclusionary zoning practices of suburban governments that make it almost impossible to build affordable housing. As noted above, a number of communities in the Triangle have exclusionary policies, such as minimum lot sizes or density restrictions, which increase the costs of construction to a point where it is not feasible to develop affordable units. There are two main theories for why communities choose to implement these types of policies. The first is based on the idea that, since local governments derive most of their revenue from property taxes, they are in competition with one another to attract land uses that will provide the highest taxes while requiring the

⁴⁵ Harmon, “Portland Oregon: Who Pays the Price for Regional Planning?”

⁴⁶ Belsky, 17.

lowest level of services. In this situation, local governments want land uses that provide higher tax revenues, including commercial property and high-end homes, and try to avoid uses such as affordable housing that have minimal benefits or may even cost the municipality money.⁴⁷ The second reason for exclusionary zoning policies is simply that existing residents do not want it. In some cases they are concerned that lower-income households have different values and may bring problems, such as crime, into the neighborhood. Residents are also often concerned that the introduction of affordable units will lead to a decline in property values.

Exclusionary policies adopted by the suburbs mean that low-income households' only options are to live in the central cities. This can create situations of concentrated poverty and related problems such as lack of access to services and jobs, poor schools, and high crime rates.⁴⁸ In many regions, the inaccessibility of housing in the suburbs also restricts the ability of low-income residents to take advantage of employment opportunities, which are growing most rapidly at the fringes of the metropolitan area. Development patterns in the Triangle are slightly different than most metropolitan areas in the U.S. Most employment opportunities are still concentrated in the core of the region, including Raleigh, Durham, Research Triangle Park, and Chapel Hill. However, the area must still contend with the problem of spatial mismatch because affordable housing options are primarily available at the fringes of the metropolitan area. And there are some areas within Raleigh and Durham that have concentrated poverty. Thus, the primary motivations for fair share programs—to avoid or alleviate the problems associated with high-poverty areas and to ensure that affordable housing is located near employment opportunities—are important goals within the Triangle.

⁴⁷ Belsky, 18.

⁴⁸ Bollens, 634.

Evaluation of Fair Share Programs

In his book, Fair Share Housing Allocation, published in 1976, David Listokin outlined the necessary steps and underlying questions involved in designing a fair share program. His framework, shown in Table 8, provides the foundation for evaluation of the structure of fair share housing programs in the U.S. The four programs assessed—New Jersey, California, New Hampshire, and Portland—were chosen because they were included in the report “Regional Approaches to Affordable Housing” written by Stuart Meck, Rebecca Retzlaff and James Schwab. The information about the design and effectiveness of the four programs contained in their report forms the basis for further analysis. A comparison of the programs based on Listokin’s criteria is displayed in Table 9. Information about the allocation formulas used in each of these four programs was not included because the specific formulas are derived based on the unique characteristics of the state or region, and would not be particularly instructive to other locales.

Table 8. Anatomy of fair share⁴⁹

Initial steps	
Steps	Options
Determining who formulates the plan	<ol style="list-style-type: none"> 1. States 2. Councils of government 3. Counties 4. Other regional bodies 5. Localities
Determining the boundaries of the allocation region	<ol style="list-style-type: none"> 1. State (or multistate) 2. SMSA 3. Multicounty area 4. County 5. Locality <p>Allocation subareas</p> <ol style="list-style-type: none"> 1. County 2. Local unit of government, e.g., municipality 3. Planning-designated areas, e.g., census tract
Determining allocatable housing	<ol style="list-style-type: none"> 1. Needed low- and moderate-income housing 2. Public housing units 3. Other <i>subsidized</i> low-and moderate-income housing 4. Overall housing units
Allocation process	
Steps	Options
Determining allocation criteria	<ol style="list-style-type: none"> 1. Equal Share 2. Need 3. Suitability 4. Distribution 5. Mixed Criteria
Determining allocation factors	(Operational Indicators of Allocation Criteria—Some Examples) <ol style="list-style-type: none"> 1. Substandard, overcrowded housing (need) 2. Residential land availability (suitability) 3. Inverse of existing subsidized housing (distribution)
Determining allocation formulas	<ol style="list-style-type: none"> 1. Averaging formula 2. Weighted averaging formula 3. More sophisticated techniques
Allocation output, implementation, and refinement	
Steps	Options
Determining the allocation output	<ol style="list-style-type: none"> 1. Numerical 2. Priority 3. Mixed
Determining allocation implementation strategy	<ol style="list-style-type: none"> 1. Persuasion 2. Coercion 3. Mixed
Refining the allocation process	(Some Examples) <ol style="list-style-type: none"> 1. Refining the housing need projection 2. Refining the allocation criteria and formula 3. Specifying the allocation output

⁴⁹ Listokin, 29.

Table 9: Structure of existing fair share programs

	New Jersey	California	New Hampshire	Portland, OR
Who formulates plan	State	State and regional Councils of Governments (COGs)	Regional planning commissions	Portland Metro (elected regional government)
Boundaries of allocation region	State	State	State	Portland Metropolitan Area
Boundaries of allocation subareas	Cities and counties (grouped in 6 regions of 3-4 counties)	Cities and counties	Cities and counties	Cities and counties
Allocatable housing	Needed low- and moderate-income housing	All housing need, divided into 4 categories: very low, low-moderate, moderate, and above-moderate	Housing need for all incomes and ages	Needed low- and moderate-income housing
Allocation criteria	Need, suitability, and distribution	<ul style="list-style-type: none"> Each COG determines own formula (as long as it meets HCD's goals) Some combination of need, distribution, and suitability 	<ul style="list-style-type: none"> Each regional planning commission determines its own formula Some combination of need and distribution 	Need and distribution
Allocation factors	<ul style="list-style-type: none"> Population growth Household growth Substandard housing units occupied by low- and moderate-income households Changes in housing stock (demolitions, filtering, conversion, and spontaneous rehab) Undeveloped land Equalized nonresidential valuation Change in equalized nonresidential valuation Aggregate household income differences 	<ul style="list-style-type: none"> Existing and projected households Employment trends Commute patterns Market housing demand Availability of sites for residential development Public facilities Type and tenure of existing housing Loss of existing affordable housing Housing needs of farm workers⁵⁰ Sites of existing low-income housing (to avoid over-concentration) 	Depends on region	<ul style="list-style-type: none"> Projected household growth, by income group Existing supplies of affordable housing
Allocation output	Numerical goal	Numerical goals established for each city or county	Depends on region	Numerical goal
Allocation implementation procedure	<ul style="list-style-type: none"> Voluntary "Substantive certification" offers presumption of validity for community against lawsuits 	<ul style="list-style-type: none"> Mandatory "Substantial compliance" offers presumption of validity for community against lawsuits 	Voluntary participation	Voluntary participation

⁵⁰ Field, 40.

New Jersey

The fair share program in New Jersey was developed in 1975 in response to the *Southern Burlington County NAACP v. Township of Mount Laurel* court case. The plaintiffs argued that Mount Laurel's land use ordinances unlawfully excluded low- and moderate-income families. The New Jersey Supreme Court ruled in their favor and found that "each municipality has a constitutional obligation to provide a realistic opportunity for a *fair share* of the region's present and future housing needs for low and very low income households."⁵¹ In a second case in 1983, this doctrine was expanded to all communities in the state, whether developing or not. The underlying rationale for the court's decision is that, when municipalities accepted the authority to implement zoning laws granted to them by the state, they took on the state's obligation to legislate for the "general welfare" of the entire state.⁵² Thus, each community had a responsibility to create zoning ordinances that made it possible for construction of housing that could meet the needs of residents of all income levels.

To counter widespread noncompliance by local governments, the courts took on the role of enforcing the Mount Laurel doctrine. As Field states, "In the absence of executive or legislative action to satisfy the constitutional obligation underlying the Mount Laurel doctrine, the court believed it had no choice but to enforce the obligation itself."⁵³ The primary enforcement mechanism established by the courts was the "builder's remedy," which enabled a builder or developer to petition the court to grant it authority to proceed with an affordable housing project when a community had previously refused to authorize such housing. This provision was very controversial because the court was taking an extremely activist role and intervening in decisions about land use policies, which were traditionally controlled by local governments.

⁵¹ Connerly, 84.

⁵² Meck, 32.

⁵³ Field, 64.

However, in practice, court enforcement of the fair share principle turned out to be an ineffective remedy. This was in part because housing policies mandated by the courts did not have political legitimacy.⁵⁴ The courts also recognized that these decisions are often based on political and policy considerations that are beyond the scope of judicial review. However, the most fundamental problem with judicial enforcement was that most justices lacked the technical expertise to analyze the merits of a local government's housing element. As Field states, "the judges lacked the time, the staff, and the necessary technical expertise in planning to bring each locality in New Jersey into compliance with the statute."⁵⁵

The court's struggles with enforcing the fair share doctrine made it clear that an administrative agency would be better able to handle disputes about fair share obligations. In 1985, the New Jersey State Legislature created the Council on Affordable Housing (COAH) to oversee development of fair share plans by local governments. COAH is responsible for defining housing regions, quantifying the current and prospective low- and moderate-income housing need for the regions and the state, and establishing the criteria for allocating a fair share to each municipality. COAH has also developed a mediation process for any jurisdiction that disagrees with its assigned fair share goals. Participation in the program is voluntary and local governments receive "substantive certification" for creating a housing plan that realistically addresses how it plans to meet its fair share obligation. The primary benefit to jurisdictions is a "presumption of validity" for their zoning ordinances if they are subjected to a builder's remedy lawsuit. To ensure continued compliance with fair share housing goals, the certification has a specific end date, and can be withdrawn by COAH if a municipality is not meeting its obligation.⁵⁶

One of the unique elements of New Jersey's fair share plan is the inclusion of regional contribution agreements (RCAs) as one method for municipalities to meet their affordable housing goals. An RCA enables a sending municipality to transfer up to one half of its affordable housing obligation to a receiving

⁵⁴ Payne, 369.

⁵⁵ Field, 65.

⁵⁶ Meck, 34.

jurisdiction within its region. Both municipalities must agree to the transfer, and the sending municipality must pay a negotiated per-unit fee for each of the units transferred to the receiving community. Most often RCAs have involved payments by suburban communities to inner-city jurisdictions. Supporters of RCAs say that they enable affordable housing to be built where it is most needed. However, opponents argue that they undermine the basic principles of fair share—that employment and housing should be developed together and that low- and moderate-income housing should be available in all communities. As Belsky notes, the inclusion of this provision has meant that the fair share program has not had much success at improving inequality between cities and suburbs.⁵⁷

New Jersey's fair share plan has also been criticized because it primarily relies on inclusionary housing to provide affordable units. As Connerly notes, "inclusionary developments account for nearly half of all units produced under the *Mount Laurel* obligation."⁵⁸ The concern is that this mechanism is only effective when the real estate market is doing well.⁵⁹ If there is very little residential development occurring, then few affordable units will be created. One way of improving production under these circumstances would be to increase the percentage of affordable units developers are required to include as part of inclusionary developments.⁶⁰

Another problem with the program is that many of the affordable units constructed have not been occupied by low-income households. According to Payne, "Mount Laurel units are occupied almost exclusively by non-minority families who previously lived in the suburbs fairly close to the inclusionary development site. Very few households earning less than 40% of the median income have benefited from Mount Laurel."⁶¹ This may be, in part, because COAH does not encourage affirmative marketing and leaves outreach to the developers, which means that many people in the target population do not hear

⁵⁷ Belsky, 22.

⁵⁸ Connerly, 87.

⁵⁹ Lovejoy, 10.

⁶⁰ Meck, 41.

⁶¹ Payne, 369.

about units when they are available.⁶² This problem could be addressed by establishing income requirements that more accurately reflect the needs of low-income households.

California

In California, the state Department of Housing and Community Development (HCD) estimates current and projected housing need in the state and allocates shares to regional Councils of Governments (COGs). The COGs then apportion the housing need to each city and county in the region. State law requires that local governments incorporate their share into a housing element included in a comprehensive plan. The housing element must contain:

- An identification of the housing need (a numerical figure of existing and future need).
- An assessment of resources available to assist in creation of affordable housing and barriers to development.
- An inventory of sites where new housing can be located. The sites need to have appropriate zoning and development standards to promote a full range of housing options. It is particularly important to have sites where multifamily housing can be developed by right.
- The community's goals and policies for the development of housing.
- A five-year program of action detailing how community will achieve goals.

HCD reviews the housing elements to see if they “substantially comply,” but this review is not binding. Even if HCD finds the element does not comply, the local government can adopt the element if it includes a resolution indicating why it believes the element is substantially compliant.

California's fair share program has been criticized for “focusing on planning, not performance.”⁶³ HCD reviews housing elements to ensure they contain all of the required components listed above, but does not assess the substance or merits of the proposed plans. In addition, local governments are required only to

⁶² Lovejoy, 12.

⁶³ Meck, 46.

show that there are adequate sites available to build housing in all income ranges—there are no requirements that the housing is actually built. Each jurisdiction is required to provide an annual progress report, but it does not have to include data about the number of units constructed, and neither HCD nor the regional COGs track this information.

Thus, the heart of the fair share statute is the designation of available sites for housing development. However, as Augusta points out, this statute does not require local governments to provide the information necessary to determine whether the sites really are adequate for housing production. For example, they do not need to include any specifics about the location, size, or site characteristics of the land. Instead, it is just an aggregation of the vacant land zoned for a particular type of residential development.⁶⁴ The lack of details about the parcels makes it impossible for observers to determine whether the jurisdiction is really meeting the goals of the statute and laying the groundwork for construction of affordable housing.

The effectiveness of California’s program is also limited by the lack of any penalties for non-compliance or a significant enforcement mechanism. Although HCD and the regional COGs establish the allocations of housing need for each jurisdiction, neither has the power to compel jurisdictions to comply with the statute. The only action required of local governments is the annual progress report, and HCD is not even able to adequately enforce this provision.⁶⁵ As Field states, “localities treat the fair share targets set by their region’s COG as advisory, because the statute does little to punish localities that fail to incorporate fair share targets and does not reward localities that comply with fair share requirements.”⁶⁶

Since the statute does not grant the administrative agencies any enforcement powers, litigation is the only option available to force a municipality to meet its obligations outlined in the housing element. However,

⁶⁴ Augusta, 531.

⁶⁵ Meck, 45.

⁶⁶ Field, 39.

as in New Jersey, court enforcement of fair share principles has been ineffective. Most legal challenges have been undertaken by housing advocacy groups, but the costs of litigation pose a significant barrier to these organizations. Private developers are often reluctant to pursue legal action out of fear that they might jeopardize their relationship with local officials.

Even when cases are brought to court, the courts in California have shown more deference to the right of local governments to make land use decisions and have been reluctant to interfere. In addition to the judges' technical limitations mentioned above, the courts may also be hesitant to get involved because they do not have the capacity to enforce any requirements they might impose on a jurisdiction.⁶⁷ For the most part, this has meant that when legal challenges have been brought, the courts have limited their review to procedural issues, rather than a substantive review of whether local governments have met the objectives of the fair share statute.⁶⁸

The effectiveness of California's program will continue to be limited until enforcement power is transferred from the courts to HCD. However, considering the limitations inherent in the structure of California's fair share program, a number of improvements have been recommended. The most important is to place greater emphasis on housing production rather than procedural compliance. One step in this direction would be to require more detailed information from local governments regarding the parcels of land included in their inventories. Additional data about the sites would enable HCD to determine whether the land identified is truly adequate for meeting the community's housing needs. In order to assist local governments in creating housing elements that focus on housing construction, HCD could provide a model housing element that shows the types of information and analysis needed.

⁶⁷ Field, 47.

⁶⁸ Field, 60.

The state must also take a more active role in requiring and enabling participation by local governments. A fundamental change that is needed is the addition of meaningful penalties and incentives to encourage participation by local governments. As noted above, although participation in the fair share program is mandatory, the lack of any consequences enables jurisdictions to treat HCD's requirements as advisory recommendations. To be most effective at meeting the state's housing goals, the penalties and incentives should be linked to housing production, rather than simply meeting planning goals. In order to accomplish this, HCD needs to track the number of affordable units created by each jurisdiction. However, many local governments lack the staff, time, and money to be able to implement tracking procedures. Thus, the state could play a significant role in enabling local governments to carry out this task by providing additional funding and technical assistance. The state could also encourage participation by creating a more uniform allocation methodology, since the different strategies used by each COG undermines the legitimacy of the fair share requirement.⁶⁹ A final step that the state should take is to ensure that there is consistency throughout its statutes and policies with regard to housing and what is expected from local governments.⁷⁰

New Hampshire

Every five years, regional planning commissions (RPCs) in New Hampshire are required to compile an assessment of regional housing needs based on population and households at all income levels. The figures are provided to local governments to help them develop a housing element as part of their master plan. However, creation of a housing element is optional and a municipality has no obligation to plan for affordable housing needs in its community.

New Hampshire's program is based on a State Supreme Court ruling in *Britton v. Town of Chester* that stated that each zoning ordinance should provide the opportunity for low- and moderate-income housing.

⁶⁹ Field, 42.

⁷⁰ Meck, 47.

Although based on the same idea of legislating for the general welfare used in the *Mount Laurel* case, the New Hampshire court focused on that purpose as a requirement of the zoning enabling legislation instead of establishing a state constitutional mandate for the fair share principle.⁷¹

Each RPC establishes its own guidelines for how local governments might use the housing data it compiles. The lack of consistent approaches and outcomes is one drawback of the program. A uniform methodology might provide greater legitimacy to housing goals developed as a result of the regional assessment. The program would also have a greater impact on reducing the need for affordable housing if it took future housing needs into account in addition to its assessment of current needs.

The effectiveness of New Hampshire's program is also limited by its voluntary nature and the RPCs' lack of enforcement powers. Since there is no administrative agency with the authority to compel action by local governments, the addition of an expedited relief process similar to the builder's remedy has been proposed as a way to encourage participation (although this would suffer some of the shortcomings associated with judicial enforcement noted above).⁷² Financial incentives are another method for making involvement in the program more attractive to municipalities. Also, some jurisdictions might be persuaded to take part if the state or RPCs provided more technical assistance to help them develop effective housing plans.

Portland, Oregon

In Oregon, efforts to address the need for affordable housing are promoted by the state's land use planning law enacted in 1973. The statute requires local governments to develop land use plans that are reviewed by the state to ensure they comply with the principles and goals outlined in the law. One of the goals in the statute is that local governments must provide for the housing needs of the citizens of the

⁷¹ Meck, 77.

⁷² Meck, 87.

state.⁷³ As a result, the local plan must include a housing element that estimates expected housing demand at a variety of rent ranges and cost levels.

Portland's elected regional government, Metro, has taken these requirements a step further. It mandates that municipalities include minimum density standards in their zoning ordinances. In addition, all jurisdictions except small, developed cities must zone land so that one-half of all newly constructed residences are attached single-family housing or multifamily housing.⁷⁴ This provision has succeeded at increasing densities throughout the area, which is believed to be a necessary part of creating affordable housing.⁷⁵

Metro strengthened its commitment to affordable housing in 2000 with adoption of the Regional Affordable Housing Strategy (RAHS). RAHS recommends that local governments voluntarily adopt the affordable housing production goals set for them by Metro and suggests tools they should implement to reach these goals, such as density bonuses and no-net-loss policies for affordable units.⁷⁶ Local governments are also asked to provide periodic progress reports that show the tools they are using and their success at developing units.⁷⁷

Although the RAHS has raised awareness about the shortage of affordable housing in Portland, Metro's fair share proposal suffers from some of the same limitations found in other voluntary programs. There is no clear enforcement mechanism, and Metro has struggled to get local governments to comply with its reporting requirements. In January 2002, only eight municipalities submitted progress reports. Without this information, it is impossible to know how well the program is succeeding.

⁷³ Meck, 69.

⁷⁴ Meck, 69.

⁷⁵ Connerly, 100.

⁷⁶ Meck, 69.

⁷⁷ Meck, 70.

Members of the Coalition for a Livable Future, which helped pressure Metro to look at the need for affordable housing, are concerned that Metro is not as committed to inclusion of affordable housing as part of its responsibility as it should be. Metro does not have funding or staff time dedicated to affordable housing.⁷⁸ As Metro Councillor Rex Burkholder states, “there is a lot of dispute over what role Metro should play. The regional affordable housing strategy is a first attempt to assert a regional role and is very limited due to concerns by local jurisdictions of the expansion of Metro’s power to a new area.”⁷⁹

What Can Be Learned From Existing Fair Share Programs

Overall, these fair share housing programs have had only partial success at promoting development of affordable housing. One of the primary factors limiting their effectiveness is that most of the programs are voluntary—either by design or, in the case of California, because the administering agency does not have the power to enforce the requirements. Oregon’s state growth management statutes have been able to get local governments to create housing elements that provide affordable housing options, but Metro has had less success in getting municipalities in the Portland region to choose to adopt the fair share allocations it has devised. The potential impact that any of these programs might have is constrained because none of the programs includes meaningful incentives or penalties.

These programs’ results lead to the conclusion that a mandatory fair share program is likely to have a more significant impact on the creation of affordable housing. Most local governments appear to be reluctant to voluntarily change their development patterns to introduce more affordable housing into their communities. For this reason, a program would likely need to be established at the state level. To ensure participation, the state agency administering the program should be given the power to assess significant monetary penalties or incentives (or some combination of the two) based on how well communities perform.

⁷⁸ Meck, 75.

⁷⁹ Meck, 75.

The problem with implementing a mandatory fair share housing program is that local governments will resist any attempt to infringe upon their right to determine land use policies. Fair share programs represent a significant change in the way that housing policies are made, and municipalities have the power to undermine the program if they are not convinced of the benefits to their community. Even in a mandatory program, communities could comply with the requirements, but subvert the overall goal of providing a range of housing options for people of all incomes by choosing poor locations, concentrating the housing in one area, or otherwise providing substandard housing.⁸⁰

The experiences that other locales have had with fair share programs have demonstrated that political support is essential to effective implementation. One of the fundamental flaws of the four existing fair share programs is that, because their involvement in housing policies lacked political legitimacy, they were structured in ways that attempted to minimize interference in local land use policy making. However, this approach represents an unworkable compromise, since the underlying goal of fair share programs is to change land use patterns.

One possible solution for generating support from local officials is to use negotiation or mediation to develop the housing goals for each community. Ideally, including local governments in the decision-making about how to allocate the needed affordable units in the region would increase their support for the process and provide legitimacy for the obligations assigned to each municipality. It would also allow for local factors and context to be considered in the allocation process. However, the key would be to establish parameters for the negotiations that would limit the influence of parochial interests or the ability of local governments to evade their responsibility for providing affordable housing. While it is important to offer local governments some flexibility in how the plans are developed, this cannot be done at the expense of achieving the overall goals of the program.

⁸⁰ Chris Estes, personal communication.

Another drawback of the four fair share programs evaluated was that they focused on creating the opportunity for the development of affordable units, rather than actual production of those units. Local governments should be required to develop housing elements that include detailed, parcel-by-parcel information about sites identified as suitable for affordable housing as well as the strategies they will use to promote its development. However, to ensure that a fair share program leads to a real increase in the number of affordable units, local governments should also be required to submit progress reports about the number of units that have been constructed as well as the steps they are taking to promote development of affordable housing. To enable local governments to comply with this requirement, the state would have to develop uniform standards for calculating the number of units constructed. With these standards in place, the focus would be on housing production, not just procedural compliance.

In addition to these changes, there are several other structural elements affecting performance and outcomes that need to be considered. Providing each municipality with a numerical goal for the number of affordable housing units that they must develop seemed to be an effective way to distribute the regional housing need. Estimates of housing need should include both current and future demand for all income levels, but with an emphasis on low- and moderate-income households. In deriving these estimates, local governments should include as many criteria as possible to get the most accurate and detailed perspective on housing, employment, and transportation trends in the allocation region. Once the forecasts have been completed, instead of allowing each region to determine its own approach, a uniform allocation formula would be better because it provides more support for the principle of fair share and legitimacy for the method of assigning each community a share of the housing need. Finally, regional contribution agreements (RCAs) should not be allowed. Although some may argue that RCAs have persuaded some municipalities to contribute to affordable housing when they might not have otherwise, allowing these communities to pay to satisfy their obligations undermines the goal of dispersing affordable housing throughout a region. It is better to focus on effective enforcement of the fair share housing program's requirements than to compromise on one of its fundamental objectives.

Another problem is that fair share programs are hard to implement because of the large amounts of data required to determine the housing need and the complexity of the formulas used for allocating need to each community. To be executed effectively, a fair share program requires significant staff time, technical expertise, and money. None of the programs evaluated here had committed the resources needed to make the programs successful. However, it would be difficult to significantly reduce the data needed or the staff time devoted to enforcement without compromising the success of the program. As a result, local governments must be given more financial and technical assistance in developing plans for meeting their fair share obligations.

Evaluation of the four existing fair share programs reveals some important insights into how they might be designed more effectively. There is no question that the goal of fair share housing programs—to ensure that all communities are open to people at all income levels—is an extremely equitable objective. In addition, the *Mount Laurel* case in New Jersey provided a solid legal foundation on which to base a fair share program. However, one of the critical elements necessary for the success of a fair share program is obtaining the support of the local governments that will be affected by it. The next section addresses whether the local political and social context in the Triangle is prepared to support the fair share idea.

IS THE TRIANGLE READY FOR A FAIR SHARE HOUSING PROGRAM?

In general, the fair share programs that have had the most success have been implemented statewide or have been created as part of other growth management activities. Although there has been increased interest in and discussion about smart growth principles at the state level in the past several years, beyond the coastal zone North Carolina has not undertaken any significant growth management efforts. In 1999, the North Carolina General Assembly established the Commission to Address Smart Growth, Growth Management and Development Issues. The commission spent almost two years studying the issue and drafted a series of recommendations focused on Community and Downtown Vitality, Farm and Open Space Preservation, and Transportation. Although housing issues were not a primary emphasis of the

commission's work, one of the goals it adopted was to "expand funding to increase the supply of housing that is affordable to low-income people, and located near jobs, transportation, and services, but not over-concentrated."⁸¹ It recommended providing additional funding for the North Carolina Housing Trust Fund and nonprofit affordable housing developers, expanding the LIHTC in high-cost areas, and directing state agencies that fund housing to establish criteria that favor mix-income developments located near employment centers, transportation and services.⁸²

However, the North Carolina General Assembly has not followed up on these policy proposals.

According to Lanier Blum, formerly the head of TJCOG's Center for Affordable Living, the leaders of the Smart Growth Commission chose not to introduce any legislation in support of the recommendations in the next legislative session because they did not think they would be able to get any bills passed. One of the barriers to implementation of development guidelines based on smart growth principles is the strength of the North Carolina Homebuilders Association, which opposes these policies.⁸³ Efforts to promote smart growth policies are also stymied by the state's budget crisis, since it would be difficult to introduce a major state planning effort at a time when many services and programs are being cut.

The end result is that the general assembly has not taken any steps to try to directly influence housing development patterns. There is no attention paid to trying to locate housing where it will best serve the needs of an entire region. State programs to increase the supply of affordable housing include minimal examination of where the housing will be built. For example, the selection criteria in the Qualified Application Plan (QAP) for the state Low-Income Housing Tax Credit (LIHTC) program include issues such as the concentration of affordable housing, the suitability of surrounding development, and the similarity of the scale and architecture of the proposed development to the existing area. There is also some consideration of a few of the basic smart growth principles (although not described as such),

⁸¹ North Carolina Commission on Smart Growth, Growth Management and Development, 40.

⁸² North Carolina Commission on Smart Growth, Growth Management and Development, 40

⁸³ Lanier Blum, personal communication.

including the development's access to services, jobs, and mass transit.⁸⁴ However, since each development proposal is evaluated separately, there is no coordinated effort to assess the overall impact on housing, employment, and traffic patterns or to establish a regional vision of where affordable housing should be located.

Another fundamental barrier to the implementation of a fair-share program in the Triangle is the absence of strong regional cooperation. Several organizations, including metropolitan planning organizations (MPOs) and a council of governments (COG), have been established to handle regional issues, but these have had only limited success. This is in part because the communities included in each group are different, which makes it harder to generate a consistent set of regional goals (Figure 1).

The difficulty organizations in the Triangle have had in defining a regional vision and coordinating policies among local governments is exemplified by the fact that the Triangle actually has two Metropolitan Planning Organizations (MPOs). The federal government established these groups to handle long-term transportation planning in urban areas. The Capital Area MPO (CAMPO) serves Raleigh and surrounding areas while the Durham-Chapel Hill-Carrboro MPO (DCHC) governs the western part of the region. There have been proposals to join the two together to improve coordination of planning efforts, since the transportation network, in reality, spans the entire region. However, DCHC has resisted this change out of fear that it would be subsumed by CAMPO and lose resources and control.⁸⁵ In general, these organizations also have been reluctant to consider related land use planning issues, such as trying to increase residential density in order to support public transit, when developing transportation plans.⁸⁶

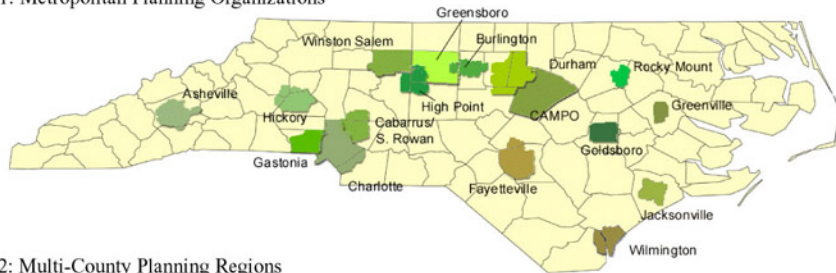
⁸⁴ North Carolina Housing Finance Agency (NCHFA), "2004 North Carolina Qualified Application Plan."

⁸⁵ Lanier Blum, personal communication.

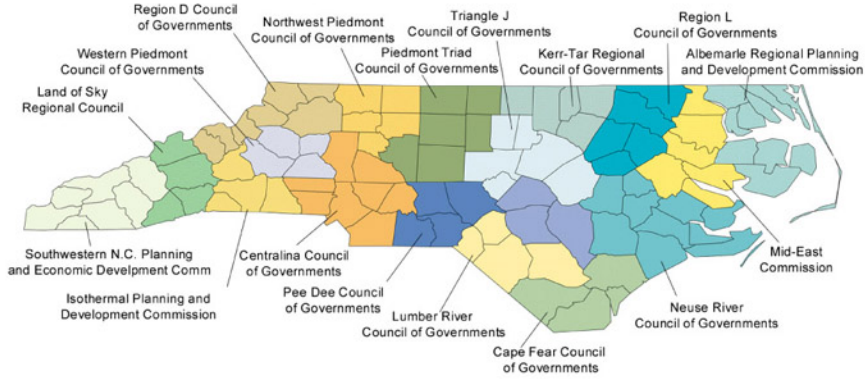
⁸⁶ Lanier Blum, personal communication.

Figure 1: Boundaries of regional organizations in North Carolina

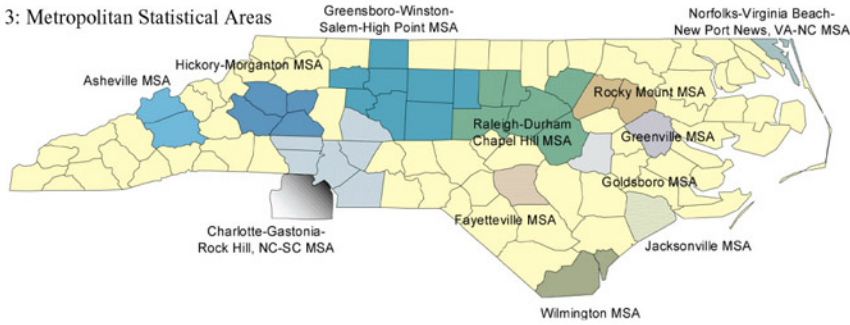
Map 1: Metropolitan Planning Organizations



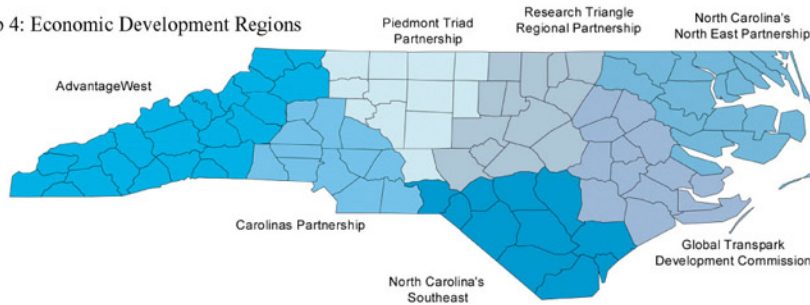
Map 2: Multi-County Planning Regions



Map 3: Metropolitan Statistical Areas



Map 4: Economic Development Regions



Source: Brookings Institution Center on Urban and Metropolitan Policy, "Adding it Up: Growth Trends and Policies in North Carolina. Report prepared for the Z. Smith Reynolds Foundation, p. 22.

In addition to the two MPOs, the other major regional organization in the area is the Triangle J Council of Governments (TJCOG), a voluntary organization made up of municipal and county governments in the region. It was created by the state legislature in 1972 to assist local governments with a variety of regional

issues, including land use planning, economic development, and environmental protection.⁸⁷ With regard to land use policies, TJCOG has primarily limited its activity to infrastructure-related issues (especially solid waste and water resources) and to encouraging coordination of transportation policies by member governments. Beyond these concerns, it has not taken an active role in trying to influence broader land use policies for the Triangle.

Since the mid-1990s, TJCOG has initiated discussions about the region's future among stakeholders in the area. The Regional Development Choices Project, which took place from 1996-1999, presented possible growth scenarios as a way to encourage communities to generate a set of principles that should guide future development. In order to encourage implementation of the principles that had been identified, this project was followed by the Regional Principles Project. According to TJCOG, the ultimate goal of these initiatives was to “change the region's current pattern of development from a conventional suburban expansion model to one based more on principles supportive of compact urban form with walkable neighborhoods, transit orientation, and greenspace and environmental conservation.”⁸⁸

Although this call for more compact development represents a significant departure from current land use policies, it is difficult to determine whether it will have any real impact on the ground. TJCOG's role in directing regional planning efforts is limited by the fact that it is a voluntary membership organization. Without any authority over local governments, which control land use decisions, TJCOG only has the ability to advise them about how they might integrate their policies with those of other communities in the region. The conflict inherent in its organizational structure—between the needs of its members and the goals of regional planning—are evident in this statement from its 2001-2002 Annual Report:

Triangle J prides itself as the regional representative of local government in Region J. The interests of cities, towns and counties are always the first concern of Triangle J as we work to advocate for local government issues on a regional basis. The mission of

⁸⁷ Triangle J Council of Governments, “What is Triangle J Council of Governments?”

⁸⁸ Triangle J Council of Governments, “Regional Planning.”

*Triangle J is to serve as an intergovernmental organization for local elected officials that works proactively on regional issues in order to sustain and improve the quality of life for our citizens. . . . Our delegates and staff are always attentive to promoting harmony and cooperation among the member governments of Triangle J.*⁸⁹

From this quote, it is apparent that TJCOG is reluctant to push a regional agenda that does not match the interests of local governments. Even as it advocates for a regional vision for the Triangle, it does not believe it is feasible to request major changes or sacrifices from its members.

TJCOG's aversion to pushing for change by local governments is particularly apparent when it comes to affordable housing. "Affordable Living" was one of the development principles identified as part of the Regional Development Choices Project. The goal mentions the need to provide affordable housing to everyone, including those of limited means; the importance of housing choices of different costs, and the desirability of linking housing to transportation, jobs, and goods and services.⁹⁰ With the help of a grant from the Z. Smith Reynolds Foundation, in 2000 TJCOG established the Center for Affordable Living, a resource center for local governments interested in expanding and preserving affordable housing stock.⁹¹ The Center created a task force of area stakeholders that spent two years analyzing the affordable housing shortage in the Triangle and possible responses to it.

In January 2003 the Center published a report, "Housing Opportunity in the Triangle," documenting the scope of the problem and framing it as one requiring regional solutions as well as a commitment to change from local governments. Although committee members were very active in learning about and discussing the issues, when the original funding ended, there was very little support from participating municipalities for continuing the committee's work. TJCOG had not actively pursued buy-in from area local governments, and it chose not to request funding or resources from these communities to dedicate to

⁸⁹ Triangle J Council of Governments, Annual Report 2001-2002, inside cover (emphasis in original).

⁹⁰ Greater Triangle Regional Council, "Which Tomorrow Will We Choose? The Regional Development Choices Project."

⁹¹ Triangle J Council of Governments Center for Affordable Living, Acknowledgements.

further work on housing issues. As a result, TJCOG is no longer devoting resources or staff time to advancing the goals outlined in the Center's report.⁹²

One of the underlying obstacles to regional cooperation on affordable housing strategies is that the communities within the Triangle have very different planning cultures. Unlike many metropolitan areas, the region is not dominated by a single downtown, but instead has several core areas, each with its own cultural identity and sphere of influence. In addition, although the region as a whole has been growing rapidly in the past few decades, individual counties have been affected at different rates. There is a significant division between the more urbanized areas primarily in Wake, Durham, and Orange Counties and the more rural character of Chatham, Johnston, Lee, and Moore Counties. Each county in the Triangle is at a different stage of growth and thus is facing unique challenges as it responds to development pressures.

The wide variety of experiences with growth and development in the region has led to diverse attitudes about land use planning among member counties. The more urbanized counties at the core of the region—Wake, Durham, and Orange—have acquired significant planning expertise as they have attempted to respond to growth pressures. The development patterns for these counties have, for the most part, already been determined. Instead of dealing with the fundamentals of planning for growth, they are able to focus their attention on quality of life issues, such as appearance standards.⁹³ In contrast, the counties at the fringe of the region are just beginning to be affected by rapid growth. Most local governments in these counties do not have many staff or resources devoted to planning, and many do not have extensive experience with how to respond to the challenges that growth poses for their communities. Thus, the attention of their leaders and planners is focused on addressing the immediate needs created by growth pressure, with little time devoted to long-term planning issues. The result of these divergent experiences

⁹² Lanier Blum, personal communication.

⁹³ Lanier Blum, personal communication.

with growth is that there is no shared vision for how the Triangle should develop or about what steps need to be taken to ensure the long-term health of the region, particularly when it comes to affordable housing.

Since there is no consensus that the shortage of affordable housing is a problem that has a significant negative impact on all communities in the Triangle, there is very little support for a fair share housing program in the region. As discussed above, it is often difficult to get the support of local governments since they are reluctant to give up any authority over land use decisions. It is unlikely that local leaders would support this type of policy change unless there was widespread support for the idea by the public. However, popular recognition of the need for affordable housing is only beginning to grow as more residents feel the effects of higher housing costs. In addition, many municipalities feel they are already doing their “fair share” and do not want to take part in a program that would assign them more responsibility for affordable housing.⁹⁴ This is especially true in the more rural areas that currently provide affordable options, but which will likely become more expensive if actions are not taken at this stage to protect and promote affordability. Another significant barrier is that the greatest need in the Triangle is for affordable rental units for those with very low incomes. This is the most difficult population to serve and, in many cases, the least politically involved or visible. As a result, when local governments do take action, it is often focused on more politically acceptable policies, such as increasing homeownership or directing benefits to people with more moderate incomes.⁹⁵

As a result of this assessment of the current situation in the Triangle, it is clear that the region is not yet ready to develop a fair share housing program. There is no state statute or policy directive that might provide the impetus for a regional effort to address the need for affordable housing. Counties within the region are facing very different land use issues, which limits agreement about regional goals and priorities. The region does not have a strong history of intergovernmental cooperation or coordination in

⁹⁴ Lanier Blum, personal communication.

⁹⁵ Lanier Blum, personal communication.

dealing with planning-related matters, and TJCOG has not taken a strong lead in fostering collaboration or in promoting changes in the land use policies or the overall pattern of development in the region. TJCOG has been reluctant to get involved in broad land use policy areas, especially affordable housing. Finally, implementation of a fair share program would require significant changes in how Triangle communities develop and how their residential areas look and feel. To really achieve the goal of providing housing options for people of all income levels in all communities requires the support of local officials and the public. Even if all of the other impediments could be overcome, a fair share program in the Triangle would still be likely to fail without that critical piece.

WHERE DO WE GO FROM HERE?

The experiences that other locales have had with fair share programs have demonstrated that political support is essential to effective implementation. For this reason, the next step in working toward a fair share program in the Triangle, or at least increased regional coordination of housing policies, is to convince local governments and the public that action to increase affordable housing is necessary. One way to begin this process is to increase the availability of data about the issue. Publication of “Housing Opportunity in the Triangle,” by the Center for Affordable Living started the process of educating the regional community about the shortage of affordable housing. However, more detailed information is needed about the extent and geographic location of the demand for affordable housing. It would be most helpful if TJCOG established a procedure for tracking and estimating changes in demand and supply on a regular basis so local governments could develop proactive policies to meet the need. TJCOG could also provide examples of successful strategies that have been used to increase affordable housing. In addition, studies of transportation patterns could be used to identify areas that attract high volumes of commuters and where demand for housing near employment centers is not being met, so that new affordable units could be targeted to these areas.

Efforts to increase support for affordable housing must look beyond the direct impact on those who need better housing options to show political leaders how the problem affects all residents. This should focus on the ways the current spatial distribution of affordable housing negatively impacts the quality of life for everyone by increasing sprawl, traffic congestion, and degradation of the environment, especially in the form of worsened air quality. In addition, local employers are more likely to support affordable housing efforts if they are shown that the hassles of commuting and the diminished quality of life in the region makes it more difficult to attract good employees. It is particularly important that community members realize that the trends contributing to the housing affordability problem, such as the increase in the proportion of lower-paying jobs, are likely to continue into the future. Thus, without direct attention to the affordable housing issue, conditions in the Triangle will only get worse. Also, as rapid growth continues to put pressure on the communities at the urban fringe, people in these areas may be more willing to support the idea that the region as a whole should fairly share the costs and benefits of development.

To be effective, any educational campaign regarding affordable housing in the Triangle must also address fears and concerns about affordable housing. Even though awareness of the need for affordable housing is growing in the region, NIMBY attitudes on the part of residents often makes it difficult to develop affordable units. Many people oppose introduction of affordable housing into their communities because they believe it will lead to reduced property values or increased crime in the area. Some of these fears could be allayed by highlighting examples of affordable units that have been designed to fit in with their surroundings and by providing information about the successes that other communities have had with adding affordable units to their housing mix. Communities need to be made aware that programs that are implemented well—those that have good design standards and that do not concentrate poor people—are not detrimental to the surrounding neighborhoods.

A second strategy for building popular and political support is to join forces with groups that are addressing related issues. Individuals and organizations working to implement smart growth policies in

the state would be natural allies, since both are concerned about land use and planning issues. Although there has been some concern that growth management leads to higher housing costs, this problem can be alleviated as long as measures to ensure affordability are included alongside other smart growth policies.⁹⁶ Although these policies have not yet been widely adopted in North Carolina, the issues are gaining greater visibility. The work done by the state's Commission on Smart Growth, Growth Management and Development has generated a lot of public debate, and the recommendations formulated by the group provide a starting point for continued action. Considering the reluctance of local governments to embrace the fair share concept, it is much more likely that this type of program would come about because of action at the state or federal level. Proponents of affordable housing should push for adoption of statewide planning and growth management policies that would apply to metropolitan regions. By joining together around shared goals, advocates of both smart growth and regional housing policies could form a powerful lobby for fundamental changes in the land use development patterns in the Triangle and the entire state.

Another issue that could push the Triangle toward increased regional coordination of housing policies is the declining air quality in the region. The December 2003 issue of COG Connection, TJCOG's monthly newsletter noted that the U.S. Environmental Protection Agency (EPA) was planning to designate five counties in the region—Chatham, Durham, Johnston, Orange, and Wake—as nonattainment areas for the agency's ozone standards.⁹⁷ The spatial mismatch between affordable housing and the employment centers in the Triangle plays a significant role in increasing traffic congestion and commuting distances for the region's workers. Without addressing this fundamental problem, the air quality in the region is likely to continue to deteriorate. In this light, the need to meet federal environmental standards could provide the impetus for a reassessment of the area's development patterns, with a focus on addressing the need for spatially dispersed affordable housing options.

⁹⁶ Kalinosky, 21.

⁹⁷ Triangle J Council of Governments, *COG Connection*.

It is clear that work needs to be done before local governments and the general public in the Triangle are ready to support the fair share concept. Affordable housing advocates should take the steps outlined above to foster increased attention to the need for affordable housing and the importance of regional coordination of housing policies. If the region continues to grow based on its current patterns, it is likely that quality of life for Triangle residents will continue to deteriorate. This might ultimately provide the catalyst for a broad public debate about the region's future and what sort of community residents want to build for themselves. Action now by those interested in ensuring that all communities in the region play a role in supporting affordable housing and attaining an equitable distribution of it throughout the area, could help shape this debate and lay the groundwork for eventual adoption of a fair share program. Appendix A presents a more extensive framework of actions to promote affordable housing in the Triangle.

**APPENDIX A: ELEMENTS OF A COMPREHENSIVE AFFORDABLE
HOUSING PROGRAM FOR THE TRIANGLE**

Considering the need for a regional response to the shortage of affordable housing in the Triangle, these recommendations are directed to the Triangle J Council of Governments (TJCOG), since they would need to provide leadership in bringing this issue to the forefront of discussions about regional policymaking.

Goals and Objectives

In order to increase the effectiveness of strategies to alleviate the affordable housing shortage in the Triangle, the Triangle J Council of Governments (TJCOG) should work toward comprehensive policies that seek to achieve the following four goals:

- **Goal 1: Create a balance between the supply of and demand for affordable housing in the Triangle.** Existing policies to provide affordable housing in the Triangle are not keeping up with demand. Since the Triangle is a primary job center for the state, it is unlikely that the demand for housing in the area will decrease in the near future. Thus, increasing the supply of affordable housing units is the best method for creating equilibrium between supply and demand. This can be done either by adding to the stock of affordable units or providing subsidies to make existing units more affordable.

Objectives:

- *Assess demand for affordable housing.* Data are needed about the extent and geographic location of demand for affordable housing. There are some existing studies of the unmet need for affordable housing, but the information gathered is piecemeal and has significant gaps (as noted in the report *Housing Opportunity in the Triangle*). TJCOG needs to establish a procedure for estimating and tracking demand and supply on a regular basis so proactive policies to meet the need can be developed. The demand estimates should account for current circumstances as well as expected population growth.

- *Identify target areas for increasing supply.* After examining the need for affordable housing, it is important to look at the current supply and determine where more units are needed.

These estimates should be based on areas with existing high demand, but should also consider growth trends as well. Studies of transportation patterns could also be helpful in identifying areas that attract high volumes of commuters and where demand for housing near employment centers is not being met.

- *Focus on increasing supply, which will have a more long-term effect than income subsidies.*

To ensure a lasting solution, efforts should focus on increasing the stock of units that will remain dedicated to low-income households. While income supplements provide relief in the short-term, over the long run these subsidies lead to increased demand for housing, which raises housing prices, and will thus perpetuate the shortage of affordable units. According to the Center for Affordable Living's report, "the region needs to increase production of affordable homes. Otherwise, the need for subsidy to borrowers and renters will be practically unlimited because the scarcer the resource, the more it will cost."⁹⁸ Subsidies are also not a dependable solution, since funding for the programs can vary widely with changes in the political support they receive over time.

- **Goal 2: Assist people with a range of income levels, including those with very low incomes.**

One result of the federal government's shift away from direct provision of affordable housing to a focus on encouraging its creation by private developers has been reduced assistance to those residents with the lowest incomes. In order to ensure the success of its HOPE VI mixed-income redevelopment projects, HUD has retreated from helping tenants with the greatest need in favor of households in the low- and moderate-income categories (those households making between 51% and 100% of area family median income).⁹⁹ In addition, it is difficult for the private sector

⁹⁸ Triangle J Council of Governments Center for Affordable Living, p. 31.

⁹⁹ Triangle J Council of Governments Center for Affordable Living, p. 1.

to serve these households because they can pay so little in rent that developers do not receive enough income to successfully operate the properties without public subsidies. However, cuts in funding for housing programs in the past two decades have decreased the amount of subsidies available to fill in these gaps.

Objectives:

- *Establish guidelines for private development of housing units with government oversight to ensure public goals are met. Most importantly, develop ways to integrate public subsidies for the neediest residents into the development process.* Since the market-based approach adopted by the federal government seems to be efficient and politically popular, it should be continued. However, these programs sometimes have difficulty meeting the needs of all citizens, so steps need to be taken to ensure that the needs of very-low-income residents are not ignored.
- **Goal 3: Spread affordable housing units equitably throughout the region.** Since World War II, American cities have undergone a transformation as the process of decentralization moved population and housing away from central cities and into the suburbs. The result is that housing and job markets increasingly extend throughout a metropolitan region rather than being confined to a single municipality. Distributing affordable housing all over the Triangle will allow low-income residents more choice about where to live and help them to move away from the areas of poverty in which they are often concentrated. This strategy would also ensure they have access to housing near available jobs, which are increasingly located in the suburbs.

Objectives:

- *Create a formula for determining each community's "fair share" of affordable housing.* This would establish targets to help ensure that affordable housing is distributed fairly throughout

- the region. A formula-based approach would help protect the policy from complaints about arbitrariness. Ideally, this would be part of a mandatory statewide fair share housing program. However, even if this type of program is not enacted, establishing these goals can help give communities an idea of how they are doing at meeting the need for affordable housing.
- *Reduce NIMBY (Not-In-My-Back-Yard) attitudes with public education.* Many people oppose introduction of affordable housing into their communities because they believe it will lead to reduced property values or increased crime in the area. Communities need to be made aware that programs that are implemented well—those that have good design standards and that do not concentrate poor people—are not detrimental to the surrounding neighborhoods. TJCOG could assist local governments in minimizing the potential negative effects of affordable housing developments by providing examples of well-designed affordable developments that have been successfully integrated into the neighborhood around them.
 - **Goal 4: Ensure units remain affordable long-term.** Long-term affordability must be a consideration when formulating an affordable housing policy to avoid creating a solution that is essentially a series of stopgap measures. Since most strategies to increase affordable housing involve some type of public subsidy, achieving long-term affordability is important so these investments are not wasted.

Objectives:

- *Increase supply of affordable units instead of providing income supplements.* (See above)
- *Develop income limits for rental units and rules to control resale prices of owner-occupied homes.* Without income limits for rental housing or resale controls for owner-occupied housing, units developed as affordable could be rented or sold at market rates. Establishing income requirements for rental units that will be in place for a number of years helps ensure

that affordable units are not rented to people who are not low-income. Resale controls on subsidized houses ensure that any public money invested in the property is not taken by the first owner as profit, but instead continues to make the property affordable for the next owner.

Principles

The following five principles should be the foundation for achieving the goals and objectives outlined above:

- **People should have access to decent, affordable housing.** The goal of a “decent home and a suitable living environment for every American” was first enshrined in the Housing Act of 1949.¹⁰⁰ The quality and location of housing influences many other aspects of a person’s life, including access to employment opportunities, ability to accumulate wealth through home equity, and the impact of crime and other neighborhood factors. Although this piece of legislation did not specifically mention affordability, later federal policies, such as the Section 8 program, have operated to ensure that program recipients do not pay any more than 30% of their income toward housing payments.
- **Use the private market as long as it serves public goals.** The shortage of affordable housing in the Triangle is an example of a market failure that requires government intervention. Unlike other market goods, there are no good substitutes for decent housing. When a household faces housing prices that it cannot afford, its options are to choose substandard or overcrowded conditions or, in extreme cases, to become homeless. Housing is also different because the consumption of housing not only involves the structure itself, but also the amenities associated with its location and the surrounding neighborhood. In addition, there are significant social and financial transaction costs associated with moving, so it is difficult for owners, in particular, to move in response to high prices. There are examples of market-based programs, such as the LIHTC, that

¹⁰⁰ Legal Information Institute, U.S. Code Collection.

have been successful at fostering development of affordable housing. However, it is important to recognize that private programs cannot reach all of those in need.

- **Increase regional coordination.** As noted above, housing and job markets are not confined by the boundaries of individual municipalities but instead extend throughout entire regions. However, governmental structures and policies have not kept pace with the demographic shifts that have brought about this change. Local governments still make land use decisions independently and without consideration for the strategies adopted by neighboring jurisdictions. The fragmentation of governments at the local level, and the fact that they all rely primarily on property taxes sets up a situation where they compete with one another for the most valuable land uses, such as high-income housing and commercial space. This often leads to wasted resources, a lack of long-term planning, practices that exclude residents on the basis of race and income, and a spatial mismatch between housing and jobs. Regional coordination of land use policies would help to alleviate some of these problems.
- **Work to achieve public support and input.** Widespread public support—from residents, employers, and faith-based groups—will be crucial to increasing the amount of affordable housing created. Although there is widespread support for the idea of affordable housing, it is very difficult to implement these policies because of NIMBY attitudes on the part of residents in many communities. Public education can help to alleviate this problem, but it is also important to give these residents, as well as those who will occupy the affordable housing, the opportunity to participate in the planning process for these developments. Having the buy-in of these groups is essential for long-term success.
- **Take steps to reduce the negative impacts on existing communities.** As noted in the principle above, for affordable housing policies to be effective they must work to change existing attitudes. At the same time, developers of affordable housing must take available steps to create units that fit in with their surroundings and limit any harmful effects to neighboring areas.

Constraints

There are several issues that limit the effectiveness and implementation of affordable housing strategies:

- **Lack of political will.** There have only been minimal efforts to increase the amount of affordable housing in the Triangle. As noted earlier, when a conflict about siting affordable housing arises, political leaders in the region generally favor the concerns of existing homeowners over those in need of the housing. There is also a history of resistance to proposals for regional government in the U.S. Many people want to maintain power in the hands of local government because it is perceived to allow citizens to have the most direct control over decision-making, while others simply oppose the addition of another layer of government on the grounds that it will only increase bureaucratic inefficiency.
- **Insufficient funding.** Since the market often cannot provide housing cheaply enough to meet the needs of many low-income people, government subsidies are often required to make affordable housing projects work. As the federal government has reduced funding for affordable housing, state and local governments have stepped in to try to meet the needs of residents. However, this has not provided enough subsidies to keep up with demand.
- **Misconceptions about affordable housing and its tenants.** As noted above, many people reactive negatively to the idea of having affordable housing in their neighborhood. Often these responses are based on irrational fears and inaccurate perceptions about the housing or its tenants. However, these attitudes are very powerful and difficult to change.
- **Those in need do not hold political power.** Those with the greatest need for affordable housing are often not politically active or united enough to demand what they need from their elected representatives. Politicians do not view them as a critical voting bloc and will choose to cater to the needs of other interest groups, which are often in opposition to affordable housing.

Recommendations

Short-Term Strategies

In the near future, the Triangle J Council of Governments should adopt the following policies:

- **Continue to frame the shortage of affordable housing as a regional problem.** TJCOG should continue the work started by the Center for Affordable Living task force by organizing regular meetings of stakeholders to examine the issues surrounding the need for affordable housing, gather data, and look for ways to develop better working relationships and foster improved communication.
- **Develop model ordinances for zoning changes to promote affordable housing.** These efforts should focus on density bonuses, inclusionary zoning, and linkage policies. These policies would be relatively easy to implement and would have a positive impact in developing areas and even in already developed areas as redevelopment occurs. Fee waivers and elimination of restrictions on the use of manufactured housing should also be explored, even though these policies appear to be less effective and feasible alternatives.
- **Create an educational campaign to change public perceptions of affordable housing and its tenants.** This should inform the public about the need for affordable housing and the benefits it can provide to a community and the region as a whole. It is important to specifically address concerns about the effects of affordable housing on property values with as much empirical evidence as can be gathered. The campaign should also research and publicize affordable housing developments that have been designed well to demonstrate how they can match the character of existing neighborhoods. Depending on what the research revealed, this could lead to a campaign about good design practices aimed at developers of affordable housing. Finally, the publicity effort should attempt to dispel the negative stereotypes of low-income residents by providing personal stories about the individuals and families that live in affordable housing.

- **Lobby for government funding and expansion of successful programs.** Government subsidies are a key component of all strategies for increasing affordable housing. Additional funding is necessary to generate enough new housing units to meet the demand. Although this strategy may have only a limited impact, any funds made available should be devoted to successful programs, including the LIHTC and other construction subsidies as well as housing land trusts.
- **Encourage local universities and other large employers to build more housing or otherwise contribute to meeting the housing needs of their lowest-paid employees.** Considering the number of students in the Triangle, this strategy could have a big impact in the areas surrounding the schools. With the development of Carolina North set to begin soon, it is an opportune time to impress upon the universities the importance of affordable housing and the role they can play in providing adequate housing for students and better housing options for faculty and staff.
- **Establish fair share targets and report cards for Triangle communities.** Additional research is needed to quantify the need for affordable housing and to map the target areas for development. After this information is gathered, the next step would be to develop a formula for assigning development goals to each community and to provide them with specific targets for the number of units developed and a schedule for meeting those targets. This would serve an important public education function and might motivate some communities to take action or, at the very least, spur region-wide discussion about how to approach the shortage of affordable housing.

Long-Term Strategies

TJCOG should consider the following long-term policies in order to move toward a more comprehensive, regional housing plan:

- **Lobby for state mandate for fair share housing, embedded in a statewide growth management program.** Considering the political resistance at the local level to efforts to increase affordable housing, it is unlikely that local governments would voluntarily take on the

responsibility of adopting the fair share approach. For this reason, a mandatory requirement imposed at the state level may be necessary to make municipalities work together at the regional level. However, this situation creates a catch-22, since local officials would have to support the regional concept in order to lobby on its behalf. But if there were support for regionalism, then implementing a state fair share policy would alleviate some of the political pressure on the local officials who would have to implement it.

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