

# Policy & Practice

Innovative solutions to help local policymakers and practitioners address today's housing and community development challenges.



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## Repurposing Publicly Owned Surplus Land for Affordable Housing

A scarcity of affordable housing is one of the greatest challenges for many households in America today. State and local officials are responsible for many critical decisions and regulations that affect housing supply, including affordable housing. Most notably, zoning policies and regulatory barriers set by municipalities frequently determine what kind of housing gets built and where it is built. State and local governments have another asset in their toolkit—the land they own—which they can use to develop more housing.

One potential solution to increase the supply of housing is to repurpose surplus, vacant, or underutilized publicly owned land for affordable housing development.<sup>1</sup> This issue of Policy & Practice reviews the literature on repurposing land owned by state and local governments for affordable housing development and highlights innovative examples that state and local governments are using today to provide housing opportunities and alleviate the burden on American households.

This issue focuses on four strategies: identifying surplus government-owned land and determining suitability for housing development; prioritizing affordable housing on repurposed public lands; providing funding and incentives to support affordable housing development; and adopting and implementing policies that repurpose surplus land from transportation projects.

### Research Insights

State and local governments can increase the supply of housing by exploring development opportunities

on underutilized sites, including land where existing government facilities are no longer necessary. State and local governments commonly own real estate for government offices, transportation facilities, infrastructure, utilities, and public amenities such as libraries and parks. Vacant or underutilized government-owned real estate presents costs to the public through required maintenance, security, and foregone tax revenue.<sup>2</sup>

Government-owned real estate is often undervalued due to valuation measures that rely on historical costs rather than market rates. Selling such land below market rate would drastically lower the cost of developing housing. Although land values as a share of total costs vary substantially in different areas, one analysis found that land accounted for 5–35 percent of total development costs in Washington, D.C.<sup>3</sup> Other similar analyses confirm this estimate, with a 2020 NAHB survey finding that land accounted for 18.5 percent of total development costs.<sup>4</sup>

Publicly owned land presents opportunities to provide affordable housing developers with a competitive edge to produce affordable housing in high-cost markets. Alternatively, in weaker markets, government-owned land may be used to facilitate the revitalization of places where attracting investment is difficult.<sup>5</sup>

The Biden-Harris Administration's investments in America's energy, water, transportation, and telecommunications infrastructure through the Inflation Reduction Act and Bipartisan Infrastructure Law are also inspiring communities to identify housing development opportunities in locations with increased

access to transit and amenities. For example, the Bipartisan Infrastructure Law provides \$39 billion in new investments to modernize transit, creating opportunities for the development of location-efficient housing that may more effectively and efficiently serve disadvantaged communities.<sup>6</sup> A report by the Urban Land Institute and National Housing Conference notes that, “The joint development of public facilities and housing properties can lead to infrastructure cost savings, better design, and more accessible public services.”<sup>7</sup>

### **Innovative Policies and Practices**

Faced with a national scarcity of affordable housing, local and state governments, regional planning and transportation agencies, and other quasi-governmental entities are examining ways to tap underutilized land assets to increase the development of affordable housing in their communities. State and local governments and transit agencies have already identified land that could build hundreds of thousands of units, but that’s just scratching the surface since many public entities have not conducted land audits to ascertain the housing potential of the land they hold. In addition to inventorying underutilized sites for possible housing development, cities, states, transit agencies, and public utilities are using policies and set-asides to ensure that the housing units developed are affordable for low- and moderate-income households. Those entities are also providing funding or other incentives to catalyze housing development.

#### ***Identifying surplus government-owned land and determining suitability for housing development***

Many cities are making city-owned land available for affordable housing development, a process that starts with taking stock of the public land that is suitable for redevelopment.

The City of Atlanta launched the [Affordable Housing Strike Force](#) to identify viable public land, secure funding, and expedite regulatory processes for development of affordable housing. Since its creation, the Strike Force has successfully identified and launched affordable housing development projects on [40 underutilized public land sites](#).

The City of Cincinnati conducted an audit of city-owned surface parking lots near major transportation corridors to determine the potential to redevelop these parcels as affordable housing. The audit [identified 22 sites](#) with high potential, which the city will now proceed with requests for proposals to develop.

In 2022, the City of Boston released its [Public Land for Public Good Citywide Land Audit](#), which is an inventory of all property owned by the City of Boston and quasi-city agencies that includes vacant or underutilized property that could be used for affordable housing. The city is now using those data to make [250 city-owned parcels](#) available for income-restricted homeownership development through the [Neighborhood Homes Initiative](#).

In California, an executive order spurred multiple state agencies to identify excess state-owned property. In January 2019, Governor Gavin Newsome [issued an executive order](#) that outlined a plan for multiple departments to create an inventory of excess state-owned land for development. The executive order directed the California Department of General Services to also solicit requests for proposals from developers interested in low-cost, long-term ground leases of these identified parcels.<sup>8</sup> By early 2024, [nearly twenty projects were awarded as a result of this executive order](#), and some have been placed in service.<sup>9</sup> This executive order is similar to existing [Florida Statutes 125.379 and 166.0451](#), which direct each county in the state to inventory their land for potential housing development every 3 years.<sup>10</sup>

#### ***Prioritizing affordable housing on repurposed public lands***

The potential benefit of repurposing publicly owned land for affordable housing development is particularly significant in Washington, D.C., a city with high land values and limited space for new development. In 2014, the District of Columbia [passed an act](#) prioritizing the development of affordable housing when repurposing government-owned land. This D.C. law authorizes the mayor to repurpose surplus District-owned property with a stipulation that at least 20 percent (30 percent if proximate to transit) of housing units built on land previously sold by the District

must be affordable and available to income-qualified households.<sup>11</sup>

The Washington state legislature passed [House Bill 2003](#), which encourages the leasing of lands owned by the state’s Department of Natural Resources to develop affordable housing units.<sup>12</sup> The State of Washington has over 7,000 acres of “transition land”—land near human developments that cannot be used for logging or forestry activity. House Bill 2003 provides a 12-year leasing state tax exemption to developers as long as they commit to renting and/or leasing at least 20 percent of the housing units developed to low- and moderate-income households. Developers can increase the period of exemption to 20 years if they commit to leasing more units to low- and moderate-income households.<sup>13</sup>

In addition to Governor Newsome’s executive order discussed above, California law requires government agencies repurposing surplus land to prioritize affordable housing and to lower the cost of the land to incentivize development. [AB 2135](#) was signed into law in 2014 and requires government entities using the preference to set aside a quarter of all units developed for households earning 70 percent of Area Median Income (AMI) or below.<sup>14</sup>

### ***Providing funding and incentives to support affordable housing development***

In addition to inventorying publicly owned property and ensuring the development of affordable housing on this property, units of government can provide funding and incentives to prioritize affordable housing development. Based upon the success of California’s aforementioned executive order, New York Governor Kathy Hochul signed [a similar executive order](#) in July 2023 to facilitate the increased development of affordable housing in the Empire State.<sup>15</sup> A year later, Governor Hochul bolstered this executive order by [securing funding](#) in the state’s 2025 budget for a \$500 million capital fund to develop 15,000 units of housing on state-owned sites.<sup>16</sup>

Some states and localities are providing incentives for the development of surplus, public land to nonprofits and private developers by waiving costs or awarding

local tax credits. For example the [City Lots for Working Families](#) program in Chicago allows developers to access vacant, city-owned parcels for \$1 as long as the developers build homes that are available to qualified buyers making no more than 140 percent AMI. Similarly, New York City’s 2015 Qualified Allocation Plan awarded priority points to projects seeking the 9 percent Low Income Housing Tax Credit (LIHTC) that involved the development of surplus city land.<sup>17</sup>

### ***Adopting and implementing policies that utilize surplus land from transportation projects***

Transportation agencies are often major landowners in metropolitan areas and sometimes hold land that is not needed for transit operations. [Sound Transit](#), the Seattle metropolitan area’s regional transit authority, has aggressively pursued transit-oriented affordable housing development on its surplus property. Sound Transit’s policies are grounded in state law, which requires that 80 percent of its surplus property be offered to local governments, housing authorities, or nonprofit developers to build housing with at least 80 percent of units for low-income households.<sup>18</sup>

Transit agencies do not need to always wait for state law, however. The Metro Atlanta Rapid Transit Authority (MARTA) and the Los Angeles County Metropolitan Transportation Authority (LA Metro) have both made policy commitments to pursue the development of affordable housing on underutilized properties they own.

In 2010, the MARTA board adopted a policy that requires 20 percent of residential rental units at properties under development at MARTA’s transit-oriented development projects to be affordable to those earning 60–80 percent of Atlanta’s AMI and for-sale units to be affordable for those earning 80–100 percent AMI.

LA Metro’s Joint Development Policy is quite similar. An April 2023 revamp of the policy committed the agency to build 10,000 units of housing on 20 properties identified throughout the county.<sup>19</sup> Of these 10,000 units, one-half have been reserved for households who cannot afford market rate rents.<sup>20</sup>

## Connecting to the U.S. Department of Housing and Urban Development's Efforts

HUD is committed to collaborating with state and local partners to increase affordable housing opportunities for all households, including through repurposing surplus publicly owned land for affordable housing development. Through technical assistance, grant programs, and the dissemination of case studies and best practices, HUD is supporting the effective utilization of publicly owned assets.

HUD's technical assistance (TA) programs include the [Community Compass TA program](#), [Distressed Cities TA program](#), and [Thriving Communities TA program](#). All three programs provide opportunities for HUD grantees, cities, Tribes, towns, territories, and other units of local government to access support from HUD-funded TA providers that have direct experience assisting communities to utilize government-owned land. In addition to accessing technical assistance, HUD grantees may also use certain program funds such as [CDBG](#), [HOME](#), and the [Housing Trust Fund](#) to help repurpose surplus public land for housing. Funds from the Housing Trust Fund and HOME program can be used to develop housing units, whereas funds from the CDBG program can be used to develop the necessary accompanying infrastructure. HUD's Office of Policy Development & Research (PD&R) collects and shares promising case studies of repurposed public land on its website, [HUDUser.gov](#). Recent case studies in [Half Moon Bay, California](#) and [Durango, Colorado](#) demonstrate how communities have used HUD funds

to develop publicly owned land for affordable housing development.

HUD also works with other federal agencies, including the General Services Administration (GSA) and the Department of Health and Human Services (HHS) to identify federal property that is available and suitable for affordable housing. For example, [Title V of the McKinney-Vento Homeless Assistance Act](#) enables eligible organizations to use unutilized, underutilized, excess, or surplus federal properties to assist persons experiencing homelessness.<sup>21</sup> A recent example can be found in Yakima, Washington, where the Yakima Housing Authority used Title V to convert a vacant United States Marine Corps armory into 41 affordable apartment units for veterans experiencing homelessness.<sup>22</sup> In 2023, HUD issued a [proposed rule](#) with GSA and HHS that would improve the Title V program and make it earlier and more efficient to administer.<sup>23</sup>

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## Endnotes

- 1 Surplus public land refers government-owned land that is no longer required for public purposes, and it often includes vacant or undeveloped properties. Local governments can also consider opportunities to provide housing on public building sites that are still actively being used for other purposes but are underutilized. For a fuller discussion of the range of publicly-owned land that can be used for affordable housing and additional examples from across market types, refer to Local Housing Solutions resources page on “Use of publicly owned property for affordable housing” at <https://localhousingolutions.org/housing-policy-library/use-of-publicly-owned-property-for-affordable-housing/>
- 2 Spotts et al. 2017. Public Benefit from Publicly Owned Parcels: Effective Practices in Affordable Housing Development. Enterprise Community Partners, Inc. Page 8.
- 3 Hickey, Robert, and Lisa Sturtevant. 2015. Public Land & Affordable Housing in the Washington DC Region: Best Practices and Recommendations. Urban Land Institute and National Housing Conference: Washington DC.
- 4 Ford, Carmel. 2020. Cost of Constructing a Home. NAHB Economics and Housing Policy Group. Accessed at <https://www.nahb.org/-/media/8F04D7F6EAA34DBF8867D7C3385D2977.ashx>
- 5 Spotts et al. 2017. Public Benefit from Publicly Owned Parcels: Effective Practices in Affordable Housing Development. Enterprise Community Partners, Inc. Page 5.
- 6 For more information see: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/06/fact-sheet-the-bipartisan-infrastructure-deal/>
- 7 Hickey, Robert, and Lisa Sturtevant. 2015. Public Land & Affordable Housing in the Washington DC Region: Best Practices and Recommendations. Urban Land Institute and National Housing Conference: Washington DC.
- 8 Text of EO: <https://www.gov.ca.gov/wp-content/uploads/2019/01/EO-N-06-19.pdf>
- 9 Property inventory and list of projects available here: <https://www.dgs.ca.gov/RES/Projects/Page-Content/Projects-List-Folder/Executive-Order-N-06-19-Affordable-Housing-Development>
- 10 Florida Housing Coalition. 2018. Florida’s Surplus Land: Statutes for Affordable Housing. <https://flhousing.org/wp-content/uploads/2019/02/Surplus-Lands-Guidebook-WEB-2018.pdf>
- 11 See [https://lms.dccouncil.gov/downloads/LIMS/30743/Signed\\_Act/B20-0594-SignedAct.pdf](https://lms.dccouncil.gov/downloads/LIMS/30743/Signed_Act/B20-0594-SignedAct.pdf). For housing built on land that was sold by the District, statutory affordability restrictions are greater than in the District’s inclusionary zoning law, which applies to all newly constructed housing.
- 12 Bill Text: <https://legiscan.com/WA/text/HB2003/id/2947849>
- 13 The Chronicle. 2024. “Proposed bill seeks to incentivize developing affordable housing on DNR-owned lands.” <https://www.chronline.com/stories/proposed-bill-seeks-to-incentivize-developing-affordable-housing-on-dnr-owned-lands,332809>
- 14 Home for All. 2024. “Public Land for Affordable Housing.” <https://homeforallsmc.org/strategies/public-land-for-affordable-housing/>
- 15 Office of Governor Kathy Hochul. 2023. “Governor Hochul Announces New Executive Action on Housing Crisis to Increase Supply, Create Affordable Housing, and Promote Broader Housing Growth.” <https://www.governor.ny.gov/news/governor-hochul-announces-new-executive-action-housing-crisis-increase-supply-create>
- 16 Office of Governor Kathy Hochul. 2024. “Governor Hochul and Advocates Celebrate Landmark Agreement to Address New York’s Housing Crisis.” <https://www.governor.ny.gov/news/governor-hochul-and-advocates-celebrate-landmark-agreement-address-new-yorks-housing-crisis>
- 17 Family Housing Fund. 2018. Prioritizing Public Lands for Affordable Housing and other Public Benefits.
- 18 See <https://app.leg.wa.gov/rcw/default.aspx?cite=81.112.350>. Washington enacted the law in 2015, though Sound Transit policy supported affordable housing development prior to the statutory requirement.
- 19 LA Metro. 2023. “We’re building more housing near transit; Metro’s 10,000-home commitment.” <https://thesource.metro.net/2023/06/28/were-building-more-housing-near-transit-metros-10000-home-commitment/>
- 20 LA Metro. 2024. “We’re building more housing near transit.” <https://storymaps.arcgis.com/stories/ca751abd323c4382a39175d0aefe6385>
- 21 HUD Exchange. 2024. “Title V Overview.” <https://www.hudexchange.info/programs/title-v/>
- 22 HUD PD&R. 2024. “Yakima, Washington: An Adaptive Reuse Project Provides Supportive Housing for Formerly Homeless Veterans.” <https://www.huduser.gov/portal/casestudies/study-022824.html>
- 23 Federal Register. 2023. “Use of Federal Real Property To Assist the Homeless: Revisions to Regulations.” <https://www.federalregister.gov/documents/2023/03/20/2023-04353/use-of-federal-real-property-to-assist-the-homeless-revisions-to-regulations>