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Housing Shortages, Excessive Housing Costs, and Government Planning:

Jobs-housing ratios and the new Fairfax County (Virginia) report

In an extensive new report, the Fairfax County (Virginia) Planning Division has addressed the issue of how much housing an area should have in relation to the number of people who work there.¹ That issue is important in major metropolitan areas across the United States that suffer from shortages of housing affordable to low- and moderate-income workers. Among those areas are Fairfax County and the Washington, DC, region, of which it is a major part.

The Fairfax County Report appears to be one of the few major, published analyses of the subject by local governments, and it may influence other local government policies across the United States. It contains some valuable information on the causes and effects of jobs-housing imbalance, as well as helpful statements about the importance of better jobs-housing ratios in the County.

However, the report also is fundamentally flawed. For example, its central assertion—that the County's growth areas generally should be developed or redeveloped with approximately 2 to 4 times as many jobs as there are workers living in those areas—is unwarranted. Such a policy (entailing jobs-housing ratios between 3.0:1 and 6.0:1) would lead to further major shortages of housing reasonably near jobs in the County, and it is not justified by the national literature or Washington-area experience, contrary to the County's claims.

The County's growth policy is consistent with the common desire among local governments to increase net government revenue from new development—even in areas which already have tremendous wealth (like Fairfax County). Such a policy has disastrous side-effects, however.

For example, it hits low- and moderate-income people hard, increasing poverty and homelessness. It leads to chronic cycles of hyperinflation and deflation in housing markets—the kind that contributed to the recent Great Recession and national financial crisis, from which America still is struggling to recover. And such a policy creates other major problems with which Fairfax County and Northern Virginia are quite familiar, such as:

¹ Fairfax County, Virginia, Dep't of Planning & Zoning (DPZ), Planning Div., *Jobs-Housing Ratios: National Perspectives and Regional and Local Benchmarks* (December 2012) ("County Report"), posted at: <http://www.fairfaxcounty.gov/dpz>.

- extreme commuting times and increasingly congested highways for many workers;
- tremendous amounts of wasted fuel resulting from those conditions; and
- increased suburban sprawl—bulldozing and paving over more and more rural countryside and degrading the environment.

This memo addresses the issues under the following general headings:

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1. PROBLEMS CAUSED BY INADEQUATE HOUSING SUPPLY NEAR JOBS

a. Housing shortages in America’s major job markets generally

In many major American metropolitan areas, flawed planning and zoning by local governments has led to shortages of housing affordable to the average worker—especially low- and moderate-income workers—reasonably near employment hubs. Federal commissions created under both Democratic and Republican Presidents have found that suburban zoning often has been a major barrier to production of affordable housing.² The Millennial Housing Commission appointed by the U. S. Congress reached a comparable conclusion.³

² *E.g.*, William A. Fischel, *Does the American Way of Zoning Cause the Suburbs of Metropolitan Areas to Be Too Spread Out?* 151, in ALAN ALTSHULER, *ET AL.*, *GOVERNANCE AND OPPORTUNITY IN METROPOLITAN AMERICA* (National Academies Press, 1999), available at <http://www.nap.edu/catalog/6038.html> (“Fischel (1999)”):

The National Commission on Urban Problems (1969), chaired by Senator Paul Douglas and commissioned by a Democratic president, regarded local, exclusionary zoning as a major barrier [to low-income housing]. The Advisory Commission on Regulatory Barriers to Affordable Housing (1991), commissioned by a Republican president more than two decades later, came to the same conclusion. . . . That such similar conclusions should be reached more than two decades later indicates the staying power of localism in zoning.

“Affordable housing” means *any* housing that is affordable to low- and moderate-income people—with or without government subsidy. The amount of affordable housing would be greatly increased, with no new government subsidies, if local governments simply dropped their unnecessary planning and zoning barriers to private-sector development of market-rate housing (mostly multi-family) in or near employment hubs. That new housing would help stabilize supply and demand in housing markets and reduce housing costs for people generally. And local governments could foster units specifically affordable to low- and moderate-income people within such market-rate developments, through inclusionary housing programs such as Fairfax County’s ADU (Affordable Dwelling Unit) Program (see generally below, p. 14).

Zoning regulations generally are based on prior policy decisions by local government planners, such as Fairfax County’s Planning Division. Some states require that zoning and related land use decisions conform to the local government’s comprehensive plan.⁴ Even in states where the comprehensive plan technically is advisory (such as Virginia), a zoning action significantly inconsistent with the comprehensive plan is vulnerable to reversal in court.⁵ Thus, local government planning decisions have a major, long-term influence on housing opportunities throughout a locality.

Zoning has undermined housing affordability by creating “a man-made scarcity of housing in the sense that the housing supply has been constrained by government regulation as opposed to fundamental geographic limitations.”⁶ Since 1970 there has been a growing disconnect in major American job markets between housing prices and the basic, underlying cost factors—construction costs and the intrinsic value of land to homeowners.

For example, between 1970 and 2000 the average purchase price nationwide for a basic, single-family house rose 72% (in constant dollars) in metropolitan areas, while construction costs actually fell 3% nationwide during that period.⁷ Most jobs now are in the suburbs, most new jobs are being created

Id. at 157 (citing National Commission on Urban Problems, *Building the American City* 19 (New York: Praeger 1969); Advisory Commission on Regulatory Barriers to Affordable Housing, *Not in My Back Yard: Removing Barriers to Affordable Housing* 2-6 (Washington, D.C.: U. S. Dep’t of Housing and Urban Development 1991) (“U. S. Regulatory Barriers Commission”).

³ Bipartisan Millennial Housing Commission *Meeting Our Nation’s Housing Challenges*, 20 and n. 18 (2002) (confirming that exclusionary zoning artificially restricts the supply of land and leads to higher housing prices).

⁴ *See generally, e.g.*, ERIC KELLY, ED., ZONING AND LAND USE CONTROLS § 1.03[1][f] (2011).

⁵ *Id.*

⁶ Edward L. Glaeser, *et al.*, *Why have housing prices gone up?* NBER Working Paper 11129, pp. 8-9 (2009).

⁷ More specifically, the average (mean) purchase price nationwide for a lower-quality, one-story house without a basement, that meets building code requirements, rose from \$80,556 to \$138,601 (inflation-adjusted), among the nation’s 316 primary metropolitan statistical areas (PMSAs) between 1970 and 2000. During the same period, construction costs actually fell from \$63.60 to \$61.60 per square foot nationwide, for such housing. Edward L. Glaeser, *et al.*, *Why have housing prices gone up?* NBER Working Paper 11129 (2005), Table 1.

Based on their analysis of various possible explanations for those facts, the authors conclude: “The key to understanding the rise in housing prices relative to construction costs is that new construction has declined sharply in high price locations.” *Id.* at 6.

there, and jobs and economic development have tended to follow the workforce to outlying areas where they can afford to live.⁸

The disconnect between housing prices and the basic underlying cost factors leads to increased poverty and homelessness. For example, lack of affordable housing in America's cities is a leading cause of homelessness, and it has been by far the most common cause of family homelessness nationwide.⁹ Other forms of poverty are aggravated by excessive housing costs. The 2010 census revealed that:

- 42 million American households (37% of the total) had excessive housing costs (more than 30% of household income); and
- 20.2 million American households (18% of the total) spent more than *half* their income on housing — up by 6.4 million from 2001.

Housing market volatility related to housing shortages has rocked the nation's—and the world's—economies. For example, housing prices in metropolitan areas soared during the late 1990's and early 2000's.¹⁰ The hyperinflation made risky financing schemes such as subprime mortgages increasingly

⁸ On average, in the 45 American metros with more than 500,000 jobs in 2006, more than 80% of jobs were more than 3 miles from the area's traditional central business district (CBD), and about half were more than 10 miles from that CBD. Elizabeth Kneebone, *Job Sprawl Revisited: The Changing Geography of Metropolitan Employment*, p. 7, Table 1 (Brookings Inst., April 2009).

Nationwide, jobs shifted away from the city center during that period in almost every major industry, and in 95 of 98 of the nation's largest metropolitan areas. *Id.* at 1. On average, job growth more than 10 miles from downtown increased 17 times as much as downtown in those metros during that period. (The Washington, DC region experienced rapid decentralization of jobs between 1998 and 2006. *Id.*, p. 12, Table 5.) Both the national and local shifts were part of long-term trends. *Id.* at 4.

The recession of the late 2000s stalled those trends, leaving the overall distribution of employment relatively unchanged between 2007 and 2010. Elizabeth Kneebone, *Job Sprawl Stalls: The Great Recession and Metropolitan Employment Location*, pp. 3-4 (Brookings Inst., April 2013). However: "Even with these late-decade trends, by 2010 jobs remained markedly more decentralized than in 2000. In 2010, more than three quarters of jobs within 35 miles of a downtown in the nation's 100 largest metro areas located outside of the urban core." *Id.*

⁹According to the U. S. Conference of Mayors:

City officials cited the lack of affordable housing as the leading cause of homelessness among families with children. This was followed by poverty, unemployment, eviction, and domestic violence. Lack of affordable housing also led the list of causes of homelessness among unaccompanied individuals, followed by unemployment, poverty, mental illness and the lack of needed services, and substance abuse and the lack of needed services.

U. S. Conference of Mayors: *2012 Status Report on Hunger & Homelessness*, p. 2. That report was based on a survey of 25 of the cities which comprise The U. S. Conference of Mayors' Task Force on Hunger and Homelessness. *Id.*, p. 1. Those cities include Boston (MA), Chicago (IL), Dallas (TX), Denver (CO), Los Angeles (CA), and other major cities. About 17% of homeless adults reportedly were employed. *Id.*

¹⁰ For example, in 2005—after a decade of rapid housing price increases—49 of the nation's 145 largest metropolitan areas had a median house-price-to-income ratio of at least four. That ratio is considered unduly burdensome. And 14 of those metros had a ratio of at least six. Joint Ctr. for Housing Studies, Harvard Univ., *State of the Nation's Housing 2006*, p. 7. (In the Washington area, by 2004 the average professional or accountant purchasing an average-priced home in Northern Virginia would have had to pay 50% or more of monthly income on housing alone. Metropolitan Washington Council of Governments (COG), *Who Can Afford to Purchase a Home in Northern Virginia?* p. 1 (2005).)

common across America.¹¹ When the housing bubble burst in 2007-08, major Wall Street investment companies failed and a huge wave of foreclosures and bankruptcies followed. The United States and much of the world went through a Great Recession—from which they still are struggling to recover.

b. Housing shortages in Fairfax County

Fairfax County has a long history of policies that prevent many low- and moderate-income people who work there from living there. Fairfax County was the first jurisdiction in America found by its state's highest court to be practicing illegal "exclusionary zoning" by name (1959).¹² (Exclusionary zoning has been defined as "land use control regulations which . . . tend to exclude persons of low or moderate income from the zoning municipality.")¹³

In the 1970's, various additional zoning decisions by Fairfax County were invalidated as exclusionary by Virginia's highest court (its Supreme Court). In one case, that court stated that Fairfax's zoning policies had the effect, if not the intent, "to elevate the cost of building sites and housing and thus tend to exclude from portions of Fairfax County those persons who do not have the 'substantial means' to 'afford to move into the County.'" ¹⁴

More recent County policies have had the same effect. A 2004 investigative report by the Washington Post found that:

The largest single housing-jobs gap in the region exists in Fairfax County, which spends \$7 million a year to bring in jobs. It's part of the county's objective of drawing 25 percent of its real estate taxes from commercial properties instead of homes. . . .

"We've been phenomenally successful at attracting jobs to this county," said Fairfax Board of Supervisors Chairman Gerald E. Connolly (D). "That creates a tax base to finance the kinds of services we want to have."¹⁵

Those rapid price increases actually are part of a longer-term trend. "According to the Federal Reserve Board, residential land costs have grown about 250 percent more quickly than inflation since 1975, although land costs do vary regionally and did fall during the recent recession." U. S. Dep't of Housing & Urban Development (HUD), *Evidence Matters: Preserving Affordable Rental Housing* (Summer 2013), posted at <http://www.huduser.org/portal/periodicals/em/summer13/highlight1.html#title> (citing Joseph B. Nichols, *et al.*, *Commercial and Residential Land Prices Across the United States*, p. 21 (Federal Reserve Board, Washington, DC, 2010)).

¹¹ For example, the subprime share of new residential mortgages grew from 6% to 21% nationwide, between 1994 and 2004 and remained high through 2007. Joint Ctr. for Housing Studies, Harvard Univ., *State of the Nation's Housing 2008*, p. 4, Figure 4, available at <http://www.jchs.harvard.edu/publications/markets/son2008/index.htm>.

¹² *Board of Supervisors of Fairfax County v. Carper*, 200 Va. 653, 660, 107 S.E.2d 390, 395 (1959) (County Board's downzoning of western two-thirds of County to two-acre minimum lots per dwelling was invalid "exclusionary zoning.").

¹³ *Suffolk Housing Services v. Town of Brookhaven*, 397 N.Y.S.2d 302, 306 (Sup. Ct. 1977) (citing 2 ANDERSON, AMERICAN LAW OF ZONING § 8.02 (2d ed.)), *aff'd as modified*, 405 N.Y.S.2d 302 (App. Div. 1978).

¹⁴ *Board of Sup'rs of Fairfax County v. Williams*, 216 S.E.2d 33, 216 Va. 49, 60 (Va., 1975) (invalidating Fairfax County denial of residential rezoning application as arbitrary and capricious).

¹⁵ Peter Whoriskey, *Space for Employers, Not for Homes*, Wash. Post, Aug. 4, 2004, p. A1, A8.

The number of workers in Greater Fairfax County rose over 170 percent between 1980 and 2005, while the number of households rose only 75 percent, according to George Mason University's Center for Regional Analysis (hereinafter "GMU").¹⁶ The County's overall jobs-housing ratio rose during that period from 1.39:1—which already was out of balance, because about half of the workers who lived in the County worked elsewhere—to 2.15:1.¹⁷

The County Report gives a much lower ratio (approximately 1.6:1),¹⁸ but its figures do not include all the cities and towns within the traditional boundaries of the County that do their own planning and zoning. Most of those cities and towns have predominantly commercial development.¹⁹ GMU's figures include all those cities and towns and give a more accurate picture of the realities with which Fairfax County workers and residents must deal. GMU's expert analysis of housing issues is relied on by local jurisdictions throughout the Washington metropolitan area.

The 2.15:1 jobs-housing ratio in Greater Fairfax County meant that more than 200,000 of the 820,200 people who worked there in 2005 could not have lived there, even in theory.²⁰ And of course, roughly half of Fairfax County's working residents commuted to other jurisdictions.²¹ As of 2008, Fairfax, Arlington and Loudoun Counties were "jobs rich" rather than jobs/housing balanced, according to the Virginia Secretary of Transportation.²² Thus, although the County notes its increasing focus on mixed-use developments during the last 20 years, housing development in the County has fallen seriously behind and commute times have climbed during that period.²³

¹⁶ GMU, *Issues Fairfax 2030: More Jobs Than People*, pp. 6-7 (April 26, 2007). In 1980, the County's jobs-housing ratio was 1.39:1. Given the great number of Fairfax County residents who worked elsewhere (such as Washington, DC), the 1.39:1 jobs-housing ratio hardly gave it enough housing for those who worked in the County, even in 1980.

¹⁷ GMU, *Issues Fairfax 2030: More Jobs Than People*, pp. 6-7 (April 26, 2007). GMU's figures include the independent cities of Fairfax and Falls Church, as well as towns within the County that do their own planning and zoning. See, e.g., GMU, *Housing the Region's Future Workforce*, p.26 n. 1 (Oct. 25, 2011).

¹⁸ County Report at 7.

¹⁹ For example, in Fairfax City in 2010, there were 8,680 housing units and 19,877 employees, according to the City's webpage "Demographics and Statistical Profile." Thus, its jobs-housing ratio was 2.29:1. In the Town of Herndon in early 2008, there were 7,762 housing units and approximately 25,260 workers. Town of Herndon 2030 Comprehensive Plan, p. II-3 (August 12, 2008). Thus, the Town's jobs-housing ratio was 3.25.

²⁰ GMU, *Issues Fairfax 2030: More Jobs Than People*, pp. 6-7 (April 26, 2007) (roughly 820,200 people worked in Fairfax County in 2005, and there were roughly 382,100 households there then). Because the average number of workers per household in the area in 2005 was 1.6, only about 611,400 workers were housed in the County in 2005.

²¹ As of 2011, at least 48% of Fairfax County's working residents worked elsewhere. Fairfax County, *Economic and Demographic Information*, posted at: <http://www.fairfaxcounty.gov/demogrph/gendemo.htm> (last accessed September 8, 2013).

²² Virginia Sec'y of Transportation, *Transportation Performance Report*, p. 2 (2009).

²³ For example, the County Report states (at p. B-2) that "the issues of concentrating employment locations, reducing commute time, and encouraging mixed-use development have been part of the county's planning objectives for over 20 years." Also, throughout the report the County gives examples of policies Fairfax County has adopted recently that can help improve jobs-housing ratios. It points to its plan to transform Tysons Corner as a "remarkable achievement." However, the County still lags in housing policy compared to the other suburbs nearest to Washington, DC (Arlington County and Alexandria City, and Montgomery and Prince George's Counties).

Looking ahead, Fairfax County likely will surpass the District of Columbia soon in total jobs (it rivaled the District as the region's biggest business district by 2007).²⁴ The County Report anticipates an increase of nearly 200,000 jobs in Fairfax County between 2007 and 2025--a 29 percent rise.²⁵

c. Housing shortages elsewhere in Washington, DC, region

Similar exclusionary practices are in effect in other localities around the DC region. A 2004 *Washington Post* investigative report found: "Attracting workers -- but not the homes for all of them to live in -- is not official policy just in Clarksburg and Montgomery County; it has increasingly become the practice across the region."²⁶

Local governments believe this makes financial sense because workplaces pay more taxes and use fewer government services than homeowners do. And governments maintain this imbalance through zoning and other development controls.²⁷

"But by creating housing shortages, the policies push developers, home buyers and renters farther and farther away to find available land and more reasonably priced houses."²⁸

This migration, in turn, produces longer commutes to work, more road congestion and the destruction of remote natural habitats, planners say. The extra auto travel contributes to other troubles, including air pollution and the "dead zones" in the Chesapeake Bay. And, most of all, sprawl.²⁹

"It's a vicious cycle," according to John McClain, a senior fellow at the Center for Regional Analysis at George Mason University. "Every county, it seems, is trying to load up on jobs but not houses."³⁰

Even aside from the effects on sprawl and housing prices, critics blame such policies in Fairfax and Montgomery for, in effect, shifting the burdens of providing housing to neighboring jurisdictions. Some planners call this a "beggar thy neighbor" approach. Its use by the region's most affluent counties strikes some as particularly galling.³¹

²⁴ Lisa A. Fowler, PhD, and John McClain, AICP, *Linking Job Growth and Housing: Forecasts of the Demand for Workforce Housing in Fairfax County*, p. 1 (June 25, 2008).

²⁵ County Report at pp. E-12, E-13, citing Lisa Fowler & John McClain, *Need for Affordable/Workforce Housing in Fairfax County*, Fall 2007.

²⁶ Peter Whoriskey, *Space for Employers, Not for Homes*, Wash. Post, Aug. 4, 2004, p. A1, A8.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* at 9.

³¹ *Id.*

About half of all renters in the Washington, DC, region were "housing cost burdened" in 2010—meaning that they spent at least 30 percent of their household income on housing costs. About 83 percent of renters with household incomes below \$50,000 were in that category. As mentioned, most renters are in the low- and moderate-income categories. Also, nearly one-third of the region's homeowners spent more than 30 percent of their incomes on their mortgages.³²

GMU reached the following conclusions about Washington area housing needs in its major 2011 analysis:

1. Local jurisdictions are planning for an insufficient amount of housing to accommodate future workers.
2. More housing is needed closer to jobs, in existing and growing regional employment centers.
3. There is a need for more multi-family housing and smaller, more affordable owner and renter homes in the region.
4. A lack of a sufficient supply of housing contributes to worsening traffic and quality of life and threatens our region's economic vitality.³³

To accommodate all the future workers in the Washington region, without increasing the already huge number of workers who must commute from one jurisdiction to another, area jurisdictions need to add a combined total of more than 730,000 net new housing units between 2010 and 2030. However, the region is on pace to produce about 28 percent less than that.³⁴

d. Wasted commuter time and fuel, and environmental degradation, due to jobs-housing imbalances

Among the other effects of housing shortages near employment hubs is unnecessary traffic congestion due to long-distance commuting.³⁵ The Washington region perennially has some of the nation's most congested roadways and commuting times. The average commuter in the Washington region spent 67 extra hours commuting due to unnecessary traffic congestion in 2011—highest in the nation among the largest 15 urban areas, and much higher than the average for those areas (52 hours).³⁶

³² Lisa Sturtevant, Ph.D., and Agnès Artemel, *DC area incomes fall behind skyrocketing housing costs*, Greater Greater Washington (October 4, 2012).

³³ GMU, *Housing the Region's Future Workforce*, p. 3 (Oct. 25, 2011).

³⁴ GMU, *Housing the Region's Future Workforce*, p.2. At the rate of about 28,600 residential building permits annually (the average for 1992-2011), the region would produce about 572,000 units between 2010 and 2030—about 28% less than the forecast need of 731,457 units. (During 2008-2011, only about 14,000 housing permits were issued annually, region-wide. *Id.*, p. 13, Fig. 4.)

GMU gives a lower forecast of 348,282 new units needed, if the new jobs have the same in-commuting rates as current jobs. But GMU notes: "This low estimate implies that a half a million new workers will commute to their jobs from places outside the region, creating unsustainable levels of traffic congestion over the next two decades." *Id.*

³⁵ *E.g.*, Texas Transportation Institute, *Urban Mobility Report 2012 ("UMR 2012")*, p. 54, Table 9 (congestion trends for auto commuters, 1982 to 2011), available at: <http://d2dtl5nnlpfr0r.cloudfront.net/tti.tamu.edu/documents/ums/congestion-data/national/national-table9.pdf>.

³⁶ *UMR 2012*, p. 54, Table 9.

Nationwide, the costs of urban congestion for 2011—in terms of extra worker time spent commuting, and extra fuel consumption—have been estimated to be \$121 billion. That figure is five times the comparable costs for 1982 (adjusted for inflation).³⁷

As to effects on the environment, scientists have concluded that it is very likely that greenhouse gas emissions due to increased traffic have contributed to global climate change.³⁸ Among those emissions is nitrogen oxide, which creates acid rain.³⁹ Fairfax County ranked last (132nd) among Virginia jurisdictions in air quality, in surveys released in 2010 and 2011, because of its traffic pollution.⁴⁰

Also, as “more land has been paved over to make way for development, leaving less green space to absorb rainwater and chemical runoff, soil erosion and water pollution have also increased.”⁴¹ And most experts recognize sprawling development “as the primary factor in the destruction of natural habitats and wildlife and reductions in the abundance and diversity of bird species.”⁴²

2. WHAT JOBS-HOUSING BALANCE IS—AND IS NOT

An extensive advisory report published in 2003 by the American Planning Association, *Jobs-Housing Balance* (“APA Report”) describes that concept as “a planning tool that local governments can use to achieve a roughly equal number of jobs and housing units (or households) in a jurisdiction.”⁴³ The County quotes from the APA Report and notes that the “academic studies reviewed in the report found

³⁷ *UMR 2012* at 5.

³⁸ Michael M. Maya, *Transportation Planning and the Prevention of Urban Sprawl*, 83 N.Y.U. L. Rev. 879, 884 (2008); see also Intergovernmental Panel on Climate Change, *Climate Change 2007: Synthesis Report 5* (2007), available at http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr_spm.pdf. In 2011 there were “56 billion pounds of additional carbon dioxide (CO₂) greenhouse gas released into the atmosphere during urban congested conditions (equivalent to the liftoff weight of over 12,400 Space Shuttles with all fuel tanks full).”

³⁹ Jeremy R. Meredith, *Sprawl and the New Urbanist Solution*, 89 Va. L. Rev. 447, 447 (2003) (referencing Craig N. Oren, *Getting Commuters Out of Their Cars: What Went Wrong?*, 17 Stan. Envtl. L.J. 141, 151-57 (1998)).

⁴⁰ Lena H. Sun, *Washington area counties reflect health disparities*, Wash. Post, March 30, 2011 (even though the County has the highest overall health rating of any county in Virginia). The surveys were by County Health Rankings & Roadmaps—a collaboration between the Robert Wood Johnson Foundation and the University of Wisconsin Population Health Institute.

⁴¹ Michael M. Maya, *Transportation Planning and the Prevention of Urban Sprawl*, 83 N.Y.U. L. Rev. 879, 884 (2008). Ultimately, suburban development consumes agricultural land and green spaces. See also generally Nicole Stelle Garnett, *Trouble Preserving Paradise?*, 87 Cornell L. Rev. 158, 161 (2001) (referencing Robert W. Burchell & Naveed A. Shad, *The Evolution of the Sprawl Debate in the United States*, 5 Hastings W.-Nw. J. Envtl. L. & Pol’y 137, 141 (1999) (“Another of sprawl’s distinguishing traits is its consumption of exurban agricultural and other frail lands in abundance, since these are the types of land found at the periphery of development”).

⁴² Jeremy R. Meredith, *Sprawl and the New Urbanist Solution*, 89 Va. L. Rev. 447, 447 (2003) (referencing Bradley C. Karkkainen, *Biodiversity and Land*, 83 Cornell L. Rev. 1, 7 & n.24 (1997)).

⁴³ County Report at ii, 1, quoting APA Advisory Service Report No. 516, *Jobs-Housing Balance*, p. 4 (2003), posted at: <http://www.planning.org/pas/reports/subscribers/pdf/PAS516.pdf> (“APA Report” or “Weitz”).

that acceptable ranges of jobs-housing ratios were between 1.3:1 to 1.7:1.”⁴⁴ The APA Report also states:

The notion of balancing jobs and housing goes well beyond trying to attain numerical equality. Ideally, the jobs available in a community should match the labor force skills, and housing should be available at prices, sizes, and locations suited to workers who wish to live in the area.⁴⁵

What jobs-housing balance is not

Sometimes local officials and others describe developments as “balanced” even where they actually are quite *unbalanced* between residential and nonresidential components.

i. “Balanced” square footage

Areas with roughly equal amounts of residential and nonresidential square footage are described at times as “balanced.” However, it generally takes much more square footage to house workers (and their families) than to provide offices or other workplaces for them.

Equal square footage results in four or more office jobs for every housing unit.⁴⁶ Office development is the predominant form of commercial development in Fairfax County and the Washington region. Other job categories average somewhat more square footage per worker than office development, but they still involve multiple workers compared to the same amount of residential square footage.⁴⁷

⁴⁴ County Report at ii, 3, citing APA Report.

⁴⁵ County Report at 1-2, quoting APA Report, p. 4. The County notes that a mismatch in the types of jobs vs. the types of housing available for the workforce in an area—known as a qualitative imbalance—heightens congestion and housing issues. However, the County appears to consider all four “typologies” of jobs/housing imbalance discussed in the APA report as fundamentally qualitative. (County Report, p. D-3, italics added)

That interpretation would seriously understate the significance of the APA report. The typologies APA discusses emphasize overall housing shortages and surpluses in a community—that is, *quantitative* imbalances. APA Report at 5-6. Fairfax County employment hubs generally have Type 1 *quantitative* imbalances (“the area is job-rich and needs more housing for low-wage workers”). *Id.* at 5. A Type 1 imbalance is “probably most likely to occur in suburban job centers. The provision of affordable housing within or close to the job center is needed to address this imbalance.” *Id.*

⁴⁶ The County continues to estimate the average square footage per office worker for future development along Metrorail’s Silver Line to be 300 sf/worker. For new residential development there, the County estimates an average square footage of 1,200. *E.g.*, DPZ, *Development potentials for jobs and housing*, posted at: http://www.fairfaxcounty.gov/dpz/projects/reston/steering_sub-committee/06-07-2011_devpotential_jobshousing.pdf (“DPZ June 1, 2011”)

However, others have given much lower estimates of office space per worker. Montgomery County, MD, uses an estimated 250 sf/worker. The Town of Herndon also uses the 250 sf/office worker estimate for its Metrorail area planning. There are indications that square footage per office worker recently has been much reduced—to about 200 sf/worker or less. *E.g.*, Reston Citizens Ass’n (RCA) letter to Sharon Bulova, Chairman, Fairfax County Board of Supervisors (July 9, 2013), posted at: http://www.fairfaxcounty.gov/dpz/projects/reston/communitydocs/07-09-2013_reply_to_chairman_bulova_re_ospw.pdf.

⁴⁷ The County has been using 450 sf/worker for retail and industrial development, 750 sf/worker for hotel development, and 300 sf/worker for institutional development, with 1,200 sf/unit for residential development.

So, “balance” between residential and non-residential development generally means much more square footage for residential than for non-residential development. “Predominantly residential” development contains more than one housing unit for approximately every 1.5 jobs in the community. Development that contains more than approximately 1.5 jobs per housing unit is “predominantly commercial.”⁴⁸

ii. “Balanced” in a different context

The term “balance” is used in different land use contexts which should not be confused with jobs-housing balance. For example (as discussed more fully below, pp. 17-18), the Center for Transit-Oriented Development (CTOD) uses the term “balanced” to describe a transit-oriented development (TOD) in which there is a roughly equal number of workers and total residents. That is a quite different concept from jobs-housing balance and should not be confused with it. CTOD does not attempt to define jobs-housing balance.

iii. Housing supply “balanced” with low “market demand” in job-rich area

Sometimes people speak of “balancing” housing supply with low “market demand” for housing near an employment hub. But the reason for that low “demand” generally is the unduly high cost of housing near those jobs, due to inadequate housing supply. And that inadequate supply usually is the result of the local government’s planning and zoning decisions.⁴⁹ Thus, “balancing” housing supply with low housing “demand” in such a community does not create jobs-housing balance.

Montgomery County has been using 400 sf/worker for retail, 450 sf/worker for Industrial, 670 sf/worker for hotel, and 500 sf/worker for other commercial development, with 1,250 sf/ unit for residential. The Town of Herndon has been using uses the following conversion rates for its Metrorail area planning: 500 sf/worker for retail; 625 sf per worker for hotel, and 1,200 sf/housing unit.

⁴⁸ In the Washington area the average number of workers per household was about 1.6 before the recent recession —doubtless due in large part to the high cost of housing.

⁴⁹ As mentioned, leading housing economists have concluded that the primary reason for high housing costs in major metropolitan areas is excessive “government regulation as opposed to fundamental geographic limitations.” Edward L. Glaeser, *et al.*, *Why have housing prices gone up?* NBER Working Paper 11129, pp. 8-9 (2009).

Houston, Texas, illustrates the crucial role that zoning and related planning decisions play in housing prices. One of the largest metropolitan areas in the United States, Houston has been growing rapidly. Yet, Houston’s housing prices historically have been well below those in other thriving, major metropolitan areas. *See, e.g.*, Edward L. Glaeser and Joseph Gyourko, *The Impact of Building Restrictions on Housing Affordability*, p. 30, Table 4 (FRBNY Economic Policy Review, June 2003) (“Glaeser and Gyourko 2003”), posted at:

<http://www.ny.frb.org/research/epr/03v09n2/0306glae.pdf> (average (“mean”) house price in Houston in 1999, for an lower-quality, one-story house meeting building code requirements,, with no basement, was \$108,463—lowest among the 26 major cities studied, except for the slower-growing cities of Tampa and Pittsburgh; by contrast, average house prices in other, representative metros in same year for comparable houses were: Atlanta, \$150,027; Baltimore, \$152,813; Boston, \$250,897, Chicago, \$184,249; Minneapolis, \$149,267; Dallas, \$117,805; Los Angeles, \$254,221; and San Francisco, \$461,209.)

The key difference between Houston and other major, metropolitan job markets is that Houston is the only one that does not engage in zoning or comprehensive government planning for land uses. That fact does not require the conclusion that government regulations inevitably will stifle housing affordability. However, the government role in restricting housing opportunities in job-rich areas tends to be excessive and needs to be corrected.

iv. “Better balanced”—referring to jobs-housing ratios that are not actually balanced

Sometimes the term “better balanced” is used to describe a jobs-housing ratio that is better than another—even though neither ratio is balanced.⁵⁰ A pertinent definition of “balance” in this context is “stability produced by even distribution of weight . . .” or “equipoise between contrasting, opposing, or interacting elements.”⁵¹

Although jobs-housing balance is an imprecise estimate, it should be determined by whether or not a particular mix of jobs and housing achieves certain goals, such as minimizing to the extent feasible:

- the commuting time and fuel required for people to get between home and work; and
- the cost of housing in a healthy job market.

If the jobs-housing ratio in a community does not achieve those goals, that ratio cannot be considered “balanced.” Jobs-housing balance is not as flexible and subjective a concept as, say, aesthetic balance.

3. COUNTY’S RECOGNITION OF NEED FOR BETTER JOBS-HOUSING RATIOS

The County Report confirms many of the points we have made above. It recognizes that in order to handle Fairfax County’s prodigious job growth, “the County will need to make a concerted effort to meet housing demand from the entire spectrum of the labor force, to include affordable housing.”⁵²

The [County’s] past growth contributed to an escalation in housing prices and put a severe strain on the transportation infrastructure. This in turn has increased congestion not only in the county but in the region as a whole. . . . [O]ther metropolitan areas and jurisdictions across the country, large or small, also need to address the jobs-housing issue, especially as the current economy recovers.⁵³

The County also reaffirms statements in its Comprehensive Plan (CP), such as:

Opportunities should be available to all who live or work in Fairfax County to purchase or rent safe, decent, affordable housing within their means. Affordable housing should

⁵⁰ For example, the County’s report states: “A local government’s comprehensive plan should address the jobs-housing balance, and new or revised zoning ordinances should be adopted to permit higher density development in order to provide a *greater balance* in jobs and housing.” (County Report at p. E-1 (emphasis added)) But the implication that housing within Fairfax County is already somehow “balanced” with jobs and commercial growth is unjustified.

⁵¹ Merriam-Webster Unabridged Dictionary, available at: <http://www.merriam-webster.com/>.

⁵² County Report, pp. E-12, E-13, citing Lisa Fowler & John McClain, *Need for Affordable/Workforce Housing in Fairfax County*, (GMU CRA, Fall 2007)

⁵³ County Report, pp. B-1 & -2.

be located as close as possible to employment opportunities... It should be a vital element in high density and mixed-use development projects...⁵⁴

Further, the County quotes GMU's warning that:

In recent years, firms have relocated or expanded outside of Fairfax County, and households, particularly with families and children, have moved elsewhere in response to the high cost of living. If Fairfax County is not able to meet the demand for affordable housing for its workforce, its economic vitality will be undermined and it will lose its economic leadership in the region.⁵⁵

The County also notes that "as a jurisdiction or region achieves a more balanced jobs-housing ratio, the price of housing tends to moderate. As a result of these efforts, people are given the opportunity to live closer to where they work, increasing the sustainability of a community."⁵⁶

The County's report also contains a useful discussion of the causes of, and solutions to, jobs-housing imbalance. It notes that the causes include:

- Mismatch in quantity of jobs vs. housing available;
- High housing prices;
- Job growth with lack of zoned capacity of land for sufficient residential growth;
- Outdated zoning restrictions;
- Jurisdictions not addressing their own jobs/housing imbalance; and
- Jurisdictions not considering regional transportation needs.⁵⁷

⁵⁴ County Report, p. E-2 quoting DPZ, *Comprehensive Plan for Fairfax County*, Policy Plan, Preface, 2011, pp. 2-3, 13-14.

⁵⁵ County Report, p. E-2, quoting Lisa Fowler and John McClain, *Linking Job Growth and Housing: Forecasts of the Demand for Workforce Housing in Fairfax County*, p. 1 (GMU CRA, Fall 2007).

⁵⁶ County Report, p. E-4. The County specifically mentions the Washington Research Council's finding that in subareas of King County (Seattle area) "where an increase in the jobs-housing balance was accomplished, it actually moderated the price of housing in the South County area. Conversely, where the jobs-housing balance decreased, it more steeply increased the price of housing in the Westside and Eastside sections of the county." County Report, pp. E-4, E-5, citing APA Report at p. 11.

⁵⁷ County Report, pp. D-1 to D-8. The report notes other causes of jobs/housing imbalances, including sudden changes in a local job picture, the lag time to build housing, and voluntary decisions by some workers not to live close to their jobs, for strictly personal reasons. It also notes that even where a community has a balanced jobs/housing ratio, most people who live in that community may not work there, and most people who work there may not live there. (*Id.*, pp. D-5 and -6)

However, those facts do not negate the need to cure the problems of mismatch, high housing prices, inadequate residential zoning capacity and outdated zoning restrictions, which are primary causes of long-term housing affordability problems.

State and local regulations are among the principal culprits behind the nation's persistent affordability problems. By limiting the land available for and density of new development, as well as imposing impact fees and subdivision requirements that raise production costs, state and local governments make it difficult to build affordable housing.

All those factors usually lead to unduly high housing costs and insufficient housing supply. They have been major issues in Fairfax County for a long time. Solutions to jobs-housing imbalance include:

- Adequate land development and zoning policy;
- Mixed-use development;
- Affordable housing programs; and
- Density bonuses, incentives and flexibility in land development.⁵⁸

Fairfax County has created a number of affordable housing programs.⁵⁹ However, the County does not claim that those programs will solve the overall problem—and they won't. They are designed and funded only to offset a small part of the problem.

The County's substantial efforts at transparency—reflected in its lengthy, published report, its acknowledgement of the need for improvement in jobs-housing ratios, and its extensive website resources—are laudable. However, the County's bottom-line policy conclusion that there should continue to be predominantly nonresidential development in the County's major growth areas would undermine affordable housing efforts—as further discussed below.

Joint Ctr. for Housing Studies, Harvard Univ., *State of the Nation's Housing 2007*, p. 28, available at <http://www.jchs.harvard.edu/publications/markets/son2007/index.htm>. Over time, more people who work in a particular community predictably will move there, and more people who work elsewhere will move nearer their jobs—if sufficient opportunities are available.

⁵⁸ “In addition, local governments can revise other zoning policies to encourage opportunities to locate jobs near housing and to spur more residential development.” (County Report, p. E-1). Those remedies include:

- Revising home occupation regulations to allow people to work at home, to telework, or to allow rental units within the home.
- Streamlining review processes or simplifying the acquisition of permits for residential development.
- Revising planning and zoning policies to encourage housing, including affordable housing, in employment centers. (*Id.*)

⁵⁹ County Report, pp. E-3 to E-6. Those measures include:

- Language in the CP seeking to ensure that redevelopment of existing neighborhoods provides affordable dwelling units or a contribution to the Fairfax County Housing Trust Fund, equal, at a minimum, to the replacement value of all affordable units displaced;
- An Affordable Dwelling Unit (ADU) program, created in 1990;
- A Workforce Dwelling Unit (WDU) program, which began in 2007;
- The Comprehensive Plan guidance for Tysons provides that projects with a residential component should provide 20% affordable and workforce dwelling units; and
- A “linkage policy” that requires large employers to provide housing for a certain percentage of the new workforce being added, aimed at low to moderate income levels (the new Tysons Plan provides for nonresidential development to contribute \$3 per square foot for affordable and workforce housing. *Id.*, and *Area II, Tysons Corner Urban Center*, p. 35.)

4. COUNTY'S CONTINUING PREFERENCE FOR PREDOMINANTLY NONRESIDENTIAL GROWTH

Given the County's awareness of the importance of jobs-housing balance and of the need for affordable housing for all the workers and residents in the county, its policy conclusions are hard to fathom. For example, its central policy position is that "based on the review of national literature and experience in the Washington region, future transit station areas [TSAs] and other mixed-use centers should generally be planned for a jobs-housing ratio between 3.0:1 and 6.0:1."⁶⁰

But adopting those ratios would increase the problems the County says it wants to solve. As discussed, those ratios would create two to four times as many new jobs per household as the APA Report generally recommends for a community.

Most future jobs and housing in Fairfax County and the Washington region will be in mixed-use centers. Thus, the County's position would prevent jobs-housing balance in Fairfax County communities, and that position is not adequately supported by the national literature or regional experience.

Also, the County seems to suggest at one point that Fairfax County, and perhaps the entire region, doesn't actually have a jobs-housing ratio problem. For example, it states:

Such ratios are appropriate for large geographic areas, such as the region or an entire county. Since the late 1990s, the Metropolitan Washington Council of Governments (COG) has advocated a jobs-housing goal for the region of 1.6 jobs per household. Fairfax County has consistently achieved this regional goal.⁶¹

However (as explained below):

1. COG does not suggest that it is sufficient that the overall jobs-housing ratio of the Washington region or Fairfax County be 1.6:1—its advice is to the contrary; and
2. Fairfax County has not achieved the regional goal, because (1) it is merely a goal for the region overall, and (2) as mentioned, the County has not included the figures for all the cities and towns within the County's traditional boundaries that do their own planning and zoning (most of those cities and town have predominantly commercial development).

The inconsistency between the County's stated housing aspirations and its policy for growth areas raises a question as to what its underlying agenda is. The County's policy conclusions clearly further the County's well-established policy, discussed above (pp. 5-6), of promoting commercial development well ahead of housing growth.

Commercial development tends to produce more net revenue for local governments than residential development. That reality is reflected in the general practice of Fairfax County and other Washington, DC, suburbs generally to continue pursuing predominantly commercial development (as discussed, pp.

⁶⁰ County Report, p. 9.

⁶¹ County Report, p. ii.

7-8). That practice allows elected leaders to provide enhanced services to their constituents—a high percentage of whom are well-to-do—without raising tax rates.

However, permitting sufficient housing for those who work in the locality has been found to produce net fiscal gains for the local government too.⁶² A policy of not permitting enough housing opportunity for Fairfax County’s workforce, in order to help finance greater government services to those with the “substantial means” to afford its overpriced housing, is an unlawful, exclusionary housing policy.⁶³ It also seems to be self-defeating in the long run because, as mentioned, jobs and economic development tend moved away over time from central business districts that lack sufficient housing, and closer to where the workforce actually lives.

The County’s report asserts no fiscal need for continued, predominantly commercial development in Fairfax County or similar Washington-area jurisdictions, and there is none. The Washington region is among the nation’s wealthiest. It boasts seven of the ten top counties in terms of per-capita income, and Fairfax County ranks second highest among counties nationally (behind only neighboring Loudoun County).⁶⁴

a. Appropriate jobs-housing ratios for mixed-use centers

As to the County’s assertions that future TSA’s and other mixed-use centers “should generally be planned for a jobs-housing ratio between 3.0:1 and 6.0:1,” and that “[c]enters with jobs-housing ratios significantly below 3.0:1 are not true mixed-use centers either, but rather urban residential neighborhoods:”⁶⁵

- The authoritative Center for Transit-Oriented Development (CTOD)— the only national nonprofit organization dedicated to providing best practices, research and tools to support market-based transit-oriented development (TOD)⁶⁶—advises to the contrary; that mixed-use transit-oriented developments (TODs) may contain any appropriate amount of residential and

⁶² See, e.g., Housing Virginia, *The Effects of Housing on the Local Economy* 5 (2011), posted at www.housingvirginia.org. (common assumption that “new housing is a drag on local budgets” is wrong; comprehensive look at all local taxes that new housing stimulate shows the opposite); See also, e.g., Richard F. Babcock, *The Zoning Game* 42 (U. Wisconsin Press, 1966) (residential developments “are popularly believed to add less to the tax base than the cost of municipal services they create, a myth which has been exposed by Ruth Mace in the book she edited, *Municipal Cost-Revenue Research in the United States* [(U.N.C. Press 1961)].

⁶³ See, e.g., *Southern Burlington Co. NAACP v. Mount Laurel*, 92 N.J. 158, 456 A.2d 390, 441-42 (1983) (“*Mount Laurel II*”) (municipalities “at the very least, must remove all municipally created barriers to the construction of their fair share of lower income housing,” such as “subdivision restrictions and exactions that are not necessary to protect health and safety.”)

⁶⁴ Carol Morello and Ted Mellnik, *Seven of nation’s 10 most affluent counties are in Washington region*, Wash. Post, Sept. 19, 2012 (“With a median household income surpassing \$119,000, Loudoun County heads the list. Fairfax County, at nearly \$106,000, is second. Both have held the same positions for several years running” (citing 2011 American Community Survey)).

⁶⁵ County Report at ii, iii, 9.

⁶⁶ CTOD, *Planning for TOD at the Regional Scale*, p. 2 (July 2011). CTOD has received major funding from the federal government.

non-residential development, including a much greater proportion devoted to housing than the County prefers;

- There are many documented success stories concerning predominantly residential TOD's—with jobs/housing ratios less than half of those the County sees as generally appropriate—in many suburban areas and cities, including in the Washington, DC, area; and
- The County's "national literature review" is deficient and does not mention CTOD's work at all.

CTOD's position on residential proportion in mixed-use centers

One of CTOD's three basic "use mix types" is "primarily residential"—places where the number of workers is 0-33 percent of the total number of workers plus residents.⁶⁷ A goodly percentage of places that CTOD has studied are of that type, and we have seen no indication that those TOD's are not generally successful.⁶⁸ the County's attempt to redefine "mixed use centers" to exclude those "with jobs-housing ratios significantly below 3.0:1" is unavailing.⁶⁹

A typical average number of residents per household in TOD's appears to be about two.⁷⁰ Assuming two persons/household, a mixed-use center where the workers were 33 percent of the total of workers plus residents would have a jobs/housing ratio of about 1:1 (as we understand CTOD's somewhat complex methodology). That is, for every 100 workers plus residents, there would be 33 workers and 67 residents, and thus 33.5 households.

CTOD's other "use mix types" are "balanced" (workers constitute between 33 percent and 66 percent of the total number of workers plus residents), and "primarily employment" (workers constitute 66-100 percent of the total number of workers plus residents).⁷¹ In a TOD where workers constitute 50 percent of workers plus residents, there would be 50 workers for every 50 residents. Assuming two residents/household, there would be 25 households for every 50 residents, and the jobs-housing ratio would be 2:1. And in a TOD where workers constitute 66 percent of workers plus residents, there would be 66 workers for every 34 residents. Assuming two persons/household, there would be 17 households for every 34 residents, and the jobs/housing ratio would be about 4:1.

⁶⁷ CTOD, Performance-Based Transit-Oriented Development Typology Guidebook, p. 10 and Table 2 (2010) ("CTOD Typology Guidebook").

⁶⁸ The metros analyzed in CTOD's *Typology Guidebook* include San Francisco, Chicago, Dallas, Pittsburgh, and St. Louis. See, e.g., *id.* at 12-13, 22-23, 32.

⁶⁹ Predominantly residential TODs may be termed "Urban Neighborhoods" or "Transit Neighborhoods." E.g., CTOD, *Station Area Planning*, p. 7 (2010). However, they clearly are mixed use centers, just like predominantly commercial TOD's.

⁷⁰ For example, the average household size in the Hiawatha light rail corridor of Minneapolis "varies significantly from 1.27 to 1.38 persons per household in downtown households to up to 2.63 persons per household in the more residential neighborhoods." CTOD, *Realizing the Potential: Expanding Housing Opportunities Near Transit*, p. 121 (103) (April 2007). In 42 mixed-use districts studied in the Austin, TX, area, the average number of persons per household is 2.29 (versus 2.87 outside those districts). U. of Texas, *CAMPO Transit-Oriented Development Study*, p. 22 (November 30, 2009). In the Seattle area: "With 1.39 persons per household, Downtown Seattle has among the smallest average household size in the region, with household size falling since 2000 (Figure 2). The North Corridor cities [which are served by light rail] also have a smaller household size compared to the region (2.10 compared to 2.48 persons per household, respectively)" Puget Sound Regional Council, *Transit-Oriented Development Market Study*, p. 8 (June 28, 2012).

⁷¹ CTOD, Performance-Based Transit-Oriented Development Typology Guidebook, p. 10 and Table 2 (2010).

As mentioned, CTOD's idea of "balanced" uses should not be confused with "jobs-housing balance." To CTOD, "balanced" TOD's are places where the percentage of workers is fairly similar to the total number of residents. CTOD does not express a position on jobs-housing balance.

Successful, predominantly residential TOD's in Northern Virginia suburbs and others

Predominantly residential TOD's have been successful in Washington suburbs (and elsewhere) and are being planned for certain Montgomery County Transit Station Areas ("TSA's"). These are true mixed-use centers. In the Washington area, for example:

- **Clarendon and Court House:** Those successful, predominantly residential TOD's around Metrorail stations in Arlington (Fairfax County's neighbor to the East), had jobs-housing units ratio below 1.6:1 within a half-mile radius of those stations (as of 2009);⁷² and
- **Shady Grove and Woodmont/Bethesda:** Those Metrorail station areas have been planned for predominantly residential development, and Montgomery County plans for an overall 2.05:1 jobs-households ratio for its Red Line Metrorail station areas in the I-270 corridor.⁷³

The County invokes a different set of data regarding Clarendon and Court House. Its report states that the combined ratio for those "regional activity centers" was 2.8:1 in 2005 and is projected to be 2.6:1 in 2040. It bases that data on the Round 8.0 Cooperative Forecasts by the Metropolitan Washington Council of Governments (COG).⁷⁴

However, COG's figures relate to substantially different areas from the approximately half-mile radii around Metrorail stations that are the focus of the County's current TOD planning generally. The COG forecasts relate to Traffic Analysis Districts (TADs) and Traffic Analysis Zones (TAZs), which clearly are not contiguous with the half-mile area around those Metrorail stations. In fact, the County has recommended concentrating commercial development within the first quarter-mile from a transit station, with a greater proportion of housing being built farther away.

⁷² Robert Brosnan, *40 Years of Transit Oriented Development*, p. 45 (May 15, 2010), posted at: http://www.fairfaxcounty.gov/dpz/projects/reston/presentations/40_years_of_transit_oriented_development.pdf. Clarendon and Court House are integral parts of the Rosslyn-Ballston corridor, which is widely considered an outstanding TOD corridor. See, e.g., Reconnecting America, *Encouraging Transit-Oriented Development: Case Studies That Work*, p. 2 (2010) ("Rosslyn Ballston Corridor . . . illustrates how TOD can accommodate tremendous development in a livable community that provides benefits to both new and existing residents"); Roger K. Lewis, *Lessons of Arlington's Urban Development Needn't Be Just History*, Wash. Post, June 21, 2008 ("The phenomenal metamorphosis of Arlington County's Rosslyn-Ballston corridor [is] Successful urban revitalization . . ."); Roger L. Kemp, ed., *COMMUNITY RENEWAL THROUGH MUNICIPAL INVESTMENT*, p. 205 (2003) ("Rosslyn/Ballston is probably the most successful public/private development corridor in the United States").

⁷³ John A. Carter, *Planning at Metro Stations: Case Studies and Lessons Learned*, p. 26 (Montgomery County, MD, Urban Design and Preservation Division, May 18, 2010); posted at: http://www.fairfaxcounty.gov/dpz/projects/reston/presentations/planning_at_metro_stations.pdf. Appendix A to the County's report notes at least one successful, predominantly residential suburban center—Beauregard Street in Alexandria, which had a jobs/housing ratio of 1.1:1 in 2005 and a projected 1.5:1 ratio for 2040.

⁷⁴ County Report, p. A-1.

As summarized on EHI's website (<http://cswac.org>), another recent report by CTOD discusses flourishing new development patterns within a half-mile of three new light rail lines to suburbs. Two of those development patterns (Minneapolis' Hiawatha line and Denver's Southeast Corridor line) are predominantly residential.⁷⁵ So, the success of predominantly residential TOD's in the Washington area is no fluke. A high percentage of TOD's studied by CTOD nationwide are predominantly residential, and they generally appear to be successful.

The County's flawed "national literature review"

In addition to failing to discuss CTOD's findings, the County appears to give excessive weight to a 2008 report on jobs-housing ratios by the California Planning Roundtable (CPR).⁷⁶ The County quotes approvingly from that report numerous times, even though—like the County's own report—the CPR report departs from the guidance of the American Planning Association's comprehensive 2003 report and literature review without adequate explanation.

Among the credibility problems of the CPR report is that it seems to suggest that jobs/housing balance might be sufficient in "southern California," for example, if the overall jobs-households ratio in that huge region, or its unspecified "sub-regions," were appropriate.⁷⁷ Southern California by CPR's definition extends from Los Angeles to Arizona on the East and to Mexico on the South (except for the San Diego region). Another of CPR's vast analytical regions is the Bay Area of San Francisco, Oakland, Berkeley, and their suburbs.⁷⁸

CPR's analysis had to be modified even before it was published. The first page states:

Since this paper was prepared, the skyrocketing price of oil has encouraged—or forced—changes in Americans' travel behavior . . . Planners and public agencies face the challenge of rethinking the historic relationship between job location and housing location and retooling the urban system in response.⁷⁹

The County's "national literature review" is seriously flawed.

b. Appropriate jobs-housing ratios for other areas

The County states that jobs-housing ratios "are appropriate for large geographic areas, such as the region or an entire county." But as explained below, it is not sufficient that a huge area such as the Washington region, or even Fairfax County, have an overall jobs-housing ratio of about 1.6:1.

Rather, to achieve the purposes of jobs-housing balance—such as minimizing commute times and fuel consumption between home and work, as well housing prices reasonably close to jobs—balance is

⁷⁵ CTOD, *Rails to Real Estate* (March 2011), posted at: http://ctod.org/portal/sites/default/files/CTOD_R2R_Final_20110321.pdf.

⁷⁶ California Planning Roundtable, *Deconstructing Jobs-Housing Balance*, 2008 ("CPR 2008").

⁷⁷ CPR 2008, pp. 8-11.

⁷⁸ CPR 2008, p. 10.

⁷⁹ CPR 2008 at 1.

needed with respect to specific employment hubs. Tysons Corner, Rockville, and downtown Washington are a few examples of such areas. As stated in an analysis of jobs-housing ratios in the Seattle, Washington, area, on which the County relies:

Jobs and housing will, by definition, balance at the regional level. After all, just about everyone who works within an economic region lives somewhere within that region. If there is unmet demand for housing in a region, builders will find someplace to construct it, even if those new neighborhoods are far from the actual employment centers. The entire Puget Sound region is, therefore, an appropriate level to look for a target for the ratio of jobs to housing, but it is not the level to try to strike a balance, since that will happen naturally.⁸⁰

An important theme of that Seattle-area analysis “is the focus on sub-region, or commute-sheds. These rough geographic designations are built around employment centers and encompass an area that can offer commutes of under a half hour to most of the major employment sites in the sub-region.”⁸¹ That report analyzes jobs-housing balance or imbalance in six “sub-regions” of the greater Seattle area.⁸²

Although the APA Report states that there is no generally accepted geographic scale within which to assess the match or mismatch of jobs and housing, it clearly points toward balance in each “community,” or commuter-shed. The report assesses the adequacy of jobs-housing ratios within numerous “communities” that are much smaller than a county like Fairfax.

- **Coburg, Oregon**—“a small, rural *community* approximately seven miles north of Eugene”—had a “*mismatch of jobs and residences*” in 1998 and lacked sufficient affordable housing for its workforce, even though there were numerous, predominantly residential towns in the same county (Lane), within about a 30-minute commute.⁸³
- **Suburban “edge cities”** bring together “a mix of activities at a scale somewhere between central cities and low-density suburbs.”⁸⁴ They are major employment hubs and entertainment nodes and “*are also supposed to be self-contained, allowing people to live, work, and consume in the same place . . .*”⁸⁵ Places such as Tysons Corner, Reston, and Herndon in Northern Fairfax County fit the definition of edge cities—particularly as those Activity Centers are being planned. “Edge city” clearly refers to a much more compact area than a large county like Fairfax.

⁸⁰ Housing Partnership, *Jobs and Housing: Can’t Have One Without the Other*, Seattle, December 2005, p. 7.

⁸¹ Housing Part., p. 1.

⁸² Housing Part. at 17. Appendix C shows that the significant benchmarks for jobs-/housing balance include subareas of a large county, and areas within six miles of a development of regional impact (like a regional activity center). Chart C-1 shows jobs-housing ratios for “Subareas of King County, Washington” as of 1999. The three subareas are South County (1.51:1, which is called “balanced”), Westside (2.04:1, which is called “unbalanced”), and Eastside (1.85:1, which is called “unbalanced”). Those subareas are portions of Seattle and its suburbs.

⁸³ APA Report, p. 6 (emphasis added). Coburg had 1,704 jobs and 388 housing units in 1998; its jobs-to-housing units ratio was therefore 4.39 to 1. Almost all the workers in Coburg’s industrial and highway commercial areas lived outside the Coburg area. *Id.*

⁸⁴ APA Report, p. 7.

⁸⁵ APA Report, p. 7 (emphasis added).

- **“Developments of regional impact” (DRI’s) (Atlanta, Georgia, region)**—applicants for developments of more than 400,000 gross square feet of space have been required to:

study the project’s impact in relationship to development in its “Area of Influence” (AOI), or an area extending *six road miles from the development in all directions*. The DRI rules are complex, and the AOI requirements require *elaborate investigations of jobs-housing qualitative relationships*.⁸⁶

COG on jobs-housing ratios

In support of its statement that jobs-housing balance is “appropriate for large geographic areas, such as the [Washington] region or an entire county,” The County asserts that since the late 1990s, COG “has advocated a jobs-housing goal for the region of 1.6 jobs per household.”⁸⁷

COG does not advocate a region-wide ratio of 1.6 jobs per household as sufficient for its member governments. The Washington region has had that overall ratio for many years, and as mentioned, a rough, region-wide balance will occur naturally—if the region is defined broadly enough. A 2004 *Washington Post* investigative report reveals the thoughts of certain key COG officials.

The Metropolitan Washington Council of Governments, which compiles job and housing projections based on reports from each of the local governments, says the number of jobs in the region will increase by 550,000 this decade [2001-2010], while the number of homes will rise by only 312,000.

Assuming the typical 1.5 workers per home, that leaves a shortfall of 82,000 homes. “We already have an imbalance,” said Robert E. Griffiths, director of technical services for COG. “And with these growth trends, the gap gets bigger in the future. More housing development is happening further and further from the center.” . . .

“We’re trying to reduce the number of miles people drive because of the emissions and the congestion, which is spreading so fast,” said Ron Kirby, the transportation director for COG. “But we haven’t been very successful. We have more cars going more miles.”⁸⁸

The solutions, according to COG, include creating improved jobs-housing ratios in the region’s employment hubs (“Activity Centers”), which are the basic growth areas of the region.⁸⁹ They include places such as Tysons Corner, Reston, Herndon and the Dulles area, near the new Silver Line Metrorail corridor in Northern Fairfax County.

⁸⁶ APA Report, p. 29 (emphasis added). Those requirements were applied within the 13-county nonattainment area (for air pollution) of Atlanta by the Georgia Regional Transportation Authority, in 2002. The definition of a DRI is from Smith, Gambrell & Russell, LLP, *Working Your Way Through The Regional Planning Process*, posted at: http://www.sgrlaw.com/resources/trust_the_leaders/leaders_issues/ttl2/597/

⁸⁷ County Report at ii; *see also id.* at 7.

⁸⁸ Peter Whoriskey, *Space for Employers, Not for Homes*, *Wash. Post*, Aug. 4, 2004, p. A1, A8.

⁸⁹ See, e.g., COG, *Scope of work and process to develop a regional transportation priorities plan*, p. 13 (April 20, 2011).

Fairfax County's track record on overall jobs-housing balance

The County also asserts that “Fairfax County has consistently achieved” the regional goal of 1.6 jobs per household.⁹⁰ But as just discussed, COG does not indicate that a region-wide ratio of 1.6 jobs per household is sufficient for its member governments. Further (as mentioned above, p. 20), jobs and housing will balance at the regional level, by definition—because almost everyone who works within an economic region lives somewhere within that region.

Also, the County does not explain why its asserted jobs-housing ratio for Fairfax County is so different from those determined by authoritative sources such as GMU's Center for Regional Analysis and the Virginia Department of Transportation. As discussed above (p. 6), the apparent reason is that the County's figures do not include all the cities and towns carved out of the County that do their own planning and zoning—and most of which have predominantly commercial development.

Of course, the recent recession and related financial problems have affected job growth projections somewhat for the County (and the region). But even accounting for such variations, The County's planning—such as maintaining a jobs-housing ratio between 3:1 and 6:1 in its Activity Centers—would result in job growth continuing well ahead of housing growth in Fairfax County.

c. Proportion of future workers that should have housing opportunity in jurisdiction where they work

The County cites a 2007 GMU report that “suggests a goal of 65 percent of new employees in Fairfax County to be housed in the County.”⁹¹ However, more recently GMU has concluded that to “limit the strain on the region's transportation systems, maintain the region's quality of life, and keep more economic activity in the region,” the best goal is for each Washington-area jurisdiction to supply enough housing for *all* its future workers.⁹² GMU believes that maintaining the current in-commuting rates as the region grows would “create an intolerable level of congestion on the region's roads and transit system.”⁹³

In addition, the County also should do all it can to reduce its huge, existing housing deficit for those who already work in the County. And most future workers who replace retiring workers in the County will have to find a different place to live. In fact, most retirees in the Washington region are projected to

⁹⁰ County Report at 7.

⁹¹ County Report, p. E-12. However, that analysis:

does not address the housing needs of the non-working population, particularly the elderly and disabled, nor does it forecast the demand for housing by Fairfax County residents that work outside the County. Thus, projections of unmet housing demand presented in this report are just a portion of the total future housing demand that will be generated by the entire County population.

Lisa A. Fowler, PhD, and John McClain, AICP, *Linking Job Growth and Housing: Forecasts of the Demand for Workforce Housing in Fairfax County*, p. 1 (June 25, 2008).

⁹² GMU, *Housing the Region's Future Workforce*, pp. 10, 13.

⁹³ GMU, *Housing the Region's Future Workforce*, p. 13.

stay in their homes indefinitely.⁹⁴ About 1.8 million workers in the Washington area are expected to retire between 2010 and 2030. To house its share of replacements for those workers, Fairfax County would have to produce in excess of 131,000 housing units by 2030, because it had about 23% of the region's employment in 2010 (and its share actually is expected to rise).⁹⁵

Of course, the County can't control whether someone who works in the County chooses to live there. Some will live elsewhere, because their spouse or other worker in their household works in a different jurisdiction—or simply because they choose a different environment, even though they could afford to live in the County.

But even considering such factors, GMU finds that Fairfax County should be planning for the production of about 110,947 housing units for workers in new jobs, plus more than 131,000 units for replacement workers, between now and 2030—as well as tens of thousands of units for those who work there now but cannot find housing that they can afford in the County. However, the County is projected to produce less than 102,000 new housing units between 2010 and 2030—much less than half the estimated need.⁹⁶

5. CONCLUSIONS

Fairfax County deserves credit for providing an extensive, published report on jobs-housing ratios—and for creating a good deal of transparency concerning its land use policies generally, through its website and open procedures. Further the County Report pushes forward the cause of adequate housing supply in the County in certain ways, by indicating the need for improvement and identifying barriers to achieving it.

However, the County Report's bottom-line policy position in favor of continued, predominantly commercial development in growth areas would only increase the problems the County says it wants to solve. The underpinnings of its policy are a "national literature review" that omits authoritative guidance on the subject, and "experience in the Washington region," which on examination actually contradicts that policy. The policy will have unacceptable side-effects—such as increased poverty and homelessness, chronic hyperinflation and deflation in the housing market, undue amounts of wasted commuter time and fuel due to extreme traffic congestion, and aggravated environmental problems.

The County's growth policy is inconsistent with its stated housing aspirations and with the needs of its residents and workforce. However, that policy *is* consistent with the County's long-term pattern of promoting revenue-enhancing commercial development well ahead of housing growth. The County

⁹⁴ GMU 2011 at 32, citing RCLCO, *Generation Y in the Marketplace*, available at www.rclco.com.

⁹⁵ GMU, *Housing the Region's Future Workforce*, p. 4, Table 1 (in 2010, 633,450 out of the region's 2.759 million workers worked in Fairfax County). The County's 23% share of the 1.8 million workers who will retire between 2010 and 2030 is 414,000 workers. Assuming an average of 1.6 workers per household, there will be more than 258,750 new "retirement" households in the County by 2030. If 51% of retiring workers stay in their homes, Fairfax County would have to produce in excess of 131,000 new housing units by 2030 just because of replacement workers.

⁹⁶ GMU, *Housing the Region's Future Workforce*, p.22, Table 11 (Fairfax County is projected to produce 101,869 housing units between 2010 and 2030, according to the MWCOG Round 8 Forecasts).

Report asserts no financial need for continued, predominantly commercial development in wealthy Fairfax County, and there is none. The County's growth policy is an unlawfully exclusionary, and ultimately self-defeating, housing policy. The County should move forward on its stated goal of providing housing affordability for its workers and residents generally, and it should leave behind policies that make that goal unattainable.