EQUITABLE HOUSING INSTITUTE

Promoting housing stability, fairness and affordability by combating exclusionary practices

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The fundamental right to establish a home

"Housing is a necessary of life," as the U.S. Supreme Court stated over a century ago, through Justice Oliver Wendell Holmes, Jr.[1] That view is fully consistent with public opinion in the United States[2] and around the world.[3]

But do Americans have a fundamental right *under the law* to the opportunity for adequate housing? Actually, they do, on several grounds--although the judicial precedents bear some explanation.

Supreme Court decisions declaring the right to establish a home

The U.S. Supreme Court has declared numerous times that the Constitution protects all those liberties "long recognized . . . as *essential to the orderly pursuit of happiness by free [people]*"—

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[1] *Block v. Hirsch*, 256 U.S. 135, 156 (1921) (*per* Holmes, J.); *see also id.* at 161 (McKenna, J. dissenting, agreeing that "[h]ouses are a necessary of life," and joined by the other three dissenting Justices).

[2] For example, a national opinion poll conducted in mid-2021 found that 92% of Americans polled believe that having stable, affordable housing is important to people's security and wellbeing *Fact Sheet, Public Opinion Polling on Housing Affordability and Policy in June/July 2021*, Opportunity Starts at Home Campaign (Sept. 2021), posted at https://www.opportunityhome.org/wp-content/uploads/2021/09/Tarrance-NLIHC-Poll-Fact-Sheet.pdf?utm_source=OSAH+Email+List&utm_campaign=881d8e1665-EMAIL_CAMPAIGN_2021_02_01_06_49_COPY_01&utm_medium=email&utm_term=0_d681dedc60-881d8e1665-. The Tarrance Group, which conducted the poll, is a Republican strategic research and polling firm. *See, e.g., The Tarrance Group: Our Team,* posted at https://www.tarrance.com/

An even higher percentage (94%) of the 1,000 Americans polled believe that having stable, affordable housing is "important to achieving a secure, middle class life." *Fact Sheet.*

[3] Around the world, adequate housing is recognized as one of the most basic human needs. *See, e.g.,* United Nations, *Fact Sheet No.21, The Human Right to Adequate Housing*, p. 2; posted at https://www.un.org/ruleoflaw/files/FactSheet21en.pdf (accessed Sept. 13, 2021). According to the United Nations, people are entitled fundamentally to a place to live in "security, peace and dignity." Office of the UN High Commissioner for Human Rights, *The Right to Adequate Housing*, p. 3 (Rev. 1, May 2014), posted at: https://www.ohchr.org/documents/publications/fs21_rev_1_housing_en.pdf.

including the right to "*establish a home* and bring up children."[4] Those rights are protected through the Due Process Clause of the Fourteenth Amendment. [5]

Both practically and logically, the right to establish a home includes access to the means of building or otherwise accessing a proper home (by one's own efforts, and/or with help offered by others). The Supreme Court has ruled that such a Constitutional right does not entitle a person to government assistance in fulfilling it;[6] but that it protects the person's efforts to fulfill it from unwarranted government interference.[7]

A recent law review article by Prof. John Sprankling is the first comprehensive analysis of the fundamental right to establish a home.[8] The article concludes, based on Supreme Court precedent, that a zoning regulation infringes on that right when it "imposes a serious financial burden on the exercise of the right."[9] A key Supreme Court decision it discusses, *Zablocki v.*

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[4] *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923) (emphasis added) (statute invalidated where it prohibited teaching of languages other than English to children who had not passed eighth grade). That passage also is quoted in Supreme Court decisions such as *Zablocki v. Redhail,* 434 U.S. 374, 384 (1978) (state statute invalidated where it prevented parent from marrying if behind in child support obligations); and *Moore v. East Cleveland*, 431 U.S. 494, 501 (1977) (plurality) (constitutional right to live together as family not limited to nuclear family).

[5] "No State shall . . . deprive any person of life, liberty, or property, without due process of law." U.S. CONST., amend. XIV, § 1. The Due Process Clause of the Fifth Amendment protects against the same deprivations by the federal government.

[6] The Supreme Court has held that there is no "guarantee of access to dwellings of a particular quality" under the Constitution. *Lindsey v. Normet*, 405 U.S. 56, 74 (1972) (involving Due Process and Equal Protection Clauses of Fourteenth Amendment). In that case, impoverished housing tenants argued that they were entitled under the Constitution to hold over after the term of their month-to-month lease expired, and to withhold the rent until the landlord remedied serious violations of the city's housing code. Those violations had caused the city to declare the housing unit unfit for habitation. *See id.* at 58; *see also id.* at 83 (Douglas and Brennan, JJ, dissenting in part) (appellant tenants were "already destitute").

The Court's subsequent decisions consistently have rejected arguments that, as in *Lindsey,* the Constitution requires governments to provide affirmative aid to persons in need, but who are not in government custody. *E.g., Town of Castle Rock v. Gonzales*, 545 U.S. 748 (2005), citing *DeShaney v. Winnebago County Department of Social Services,* 489 U.S. 189, 196 (1989).

[7] *See, e.g., DeShaney*, 489 U.S. at 196 ("the liberty protected by the Due Process Clause affords protection against unwarranted government interference") (quoting *Harris v. McRae*, 448 U.S. 297, 317–318 (1980)).

[8] John G. Sprankling, *The Constitutional Right to "Establish a Home,"* 90 Geo. Wash. L, Rev. 632 (2022). An e-copy of that article is available to the public without charge, at https://scholarlycommons.pacific.edu/facultyarticles/623/. The specific right to establish a home has not yet been raised in litigation before the Supreme Court.

[9] *Id.* at 684, citing, *inter alia*, *Zablocki v. Redhail*, 434 U.S. 374, 387 (1978). *Zablocki* invalidated a statute that required a noncustodial parent with a child support obligation to obtain court permission, in order to marry. To get permission, the parent had to show: (1) compliance with the support obligation, and (2) that the children covered by the support order "are not then and are not likely thereafter to become public charges." *Id.* at 375.

Redhail,[10] states: "When a statutory classification significantly interferes with the exercise of a fundamental right, it cannot be upheld unless it is supported by sufficiently important state interests and is closely tailored to effectuate only those interests."[11]

A virtual consensus has emerged, across the political spectrum—among housing policy experts, economists, and even Presidents of the United States—that major reform of land use regulations is needed to combat exclusionary zoning and other government-imposed barriers to the opportunity to establish a proper home.[12]

Examples of exclusionary zoning are (1) inadequate amounts of urban land where housing is permitted; (2) excessive amounts of residential land reserved for single-family lots only—often with unnecessarily large minimum lot size or home size requirements; and (3) other unjustifiable restrictions on multi-family housing. Examples of non-zoning regulatory barriers to housing opportunities are: (1) unjustified growth controls (unnecessary housing construction moratoriums, etc.); (2) gentrified subdivision controls, and (3) unnecessarily high development impact fees and exactions. Among other things, those unjustified practices:

- Play a primary role in Americans' crisis-level problems with housing supply and affordability; [13]

The Court pointed to its previous statements that the rights "to marry, establish a home and bring up children" are central liberties protected by the Due Process Clause. *Id.* at 384, citing *Meyer v. Nebraska*, *supra,* n. 4. The Court then observed that noncustodial parents such as the appellee will not be able to obtain the necessary court order, because they either lack the financial means to meet their support obligations or cannot prove that their children will not become public charges. *Id.* at 387.

[10] 434 U.S. 374 (1978).

[11] *Id*. at 388 (citing Supreme Court precedents). In our view, a person deserves an opportunity to establish a home in, or as close as feasible to, the community where the person (or a close family member) works or resides, or where the person's primary, physical support system is located. *See, e.g.,* EHI, *Discussion Draft Economic Fair Housing Act (EFHA), annotated*, Sec.806A (c) *Opportunities For Suitable Housing* (Sept. 2023), posted at https://www.equitablehousing.org/images/PDFs/PDFs--2021-/EFHA--EHI_draft_9-2023-anno-S-web.pdf.

[12] *See, e.g.,* Equitable Housing Institute (EHI), *Emerging consensus recognizes importance of removing regulatory barriers to housing affordability* (Dec. 2017), posted at https://www.equitablehousing.org/images/PDFs/Emerging-consensus-on-RBHAs.EHI-memo-final-2.pdf. A wide array of non-zoning regulatory barriers also interfere unjustifiably with the ability of ordinary Americans to find housing they can afford. *See, e.g.*, EHI, *Can the vast range of regulatory barriers to housing opportunity be deterred by an Economic Fair Housing Act?* (2023), posted at https://www.equitablehousing.org/images/PDFs/PDFs--2021-/EFHA_v_vast_range_of_RBHOs-EHI-web.pdf.

[13] *See, e.g.,* Emily Badger and Eve Washington, *The Housing Shortage Isn't Just a Coastal Crisis Anymore*, NY Times (July 14, 2022), posted at: https://www.nytimes.com/2022/07/14/upshot/housing-shortage-us.html.); John Infranca, *The New State Zoning: Land Use Preemption Amid a Housing Crisis*, 60 B.C. L. Rev. 823, 829 (2019) ("The breadth and depth of the housing crisis in communities throughout the country has made housing affordability a salient issue for a broader swath of the population, including young professionals and the businesses that seek to employ them."). *See also, e.g.,* EHI, *Can the vast range of regulatory barriers to housing opportunity be deterred by*

- Seriously aggravate the increasing residential isolation of Americans into "rich" and "poor" neighborhoods; [14] and
- Interfere with interstate commerce and the nation's economic growth, by adversely affecting the ability of low- and moderate-income Americans to move to states with better economic opportunities and productivity. [15]

All those problems have increased dramatically in the last 50 years or so.[16] Exclusionary zoning and other unjustified regulatory barriers to housing opportunity interfere with the fundamental right of Americans to establish a proper home and warrant a general ban on those practices. EHI has drafted a legislative proposal to accomplish that, as discussed below.

Right to establish a home is deeply rooted in America's history and tradition

The historic roots of the right to establish a home extend back to the nation's founding and beyond, as the Sprankling article explains. We will add something to his brief discussion of the significance of 17th Century British philosopher John Locke, who was considered the most authoritative exponent of natural rights by our nation's Founders.[17]

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an Economic Fair Housing Act? (2023), posted at https://www.equitablehousing.org/images/PDFs/PDFs--2021-/EFHA_v_vast_range_of_RBHOs-EHI-web.pdf.

[14] *See, e.g.,* EHI, *Toward a comprehensive ban on exclusionary housing practices,* pp. 5-6 (2019), posted at https://www.equitablehousing.org/images/PDFs/PDFs--2018-/EHI-Toward-comprehensive-ban-tech_edits-10-2020.pdf. Such ordinances also impact minority groups disproportionately, because most of their members on the lower end of the income and wealth spectrums. *See, e.g., id.,* p. 6.

[15] *See, e.g., id.,* pp. 7-8.

[16] *See, e.g., id.* , pp. 2-8.

[17] *See generally, e.g.,* BERNARD BAILYN, THE INTELLECTUAL ORIGINS OF THE AMERICAN REVOLUTION 30, 35-36 (enlarged edition, 1992) ("the major figures of the European Enlightenment, and many of the lesser, contributed substantially to the thought of the Americans; but except for Locke's, their influence . . . was neither clearly dominant nor wholly determinative").

See also generally, FORREST MCDONALD, NOVUS ORDO SECLORUM: THE INTELLECTUAL ORIGINS OF THE CONSTITUTION 60 (1985) ("The Patriots . . . turned to Locke rather than to the other great natural-law theorists -- Hugo Grotius, Samuel von Pufendorf, Thomas Rutherforth, Burlamaqui, Vattel -- for the reason that none of the others was so well adapted to their purposes. [N]one of the theorists except Locke furnished a clear-cut rationale for independence"). Sprankling mentions that:

> John Locke's postulate that ownership of property was a natural right strongly influenced colonial thought. "For the preservation of Property being the end of Government, and that for which Men enter into Society," he wrote, "it necessarily supposes and requires, that the People should have Property."

Sprankling, *supra* n. 8, at 642 (quoting JOHN LOCKE, SECOND TREATISE OF GOVERNMENT § 138, *reprinted in* TWO TREATISES OF GOVERNMENT (Peter Laslett ed., 1988) (1690)).

Locke declared that both natural reason and divine revelation tell us that people "have a right to their preservation, and consequently to meat and drink and such other things as Nature affords for their subsistence . . . ."[18] Practically as well as logically, that includes the resources needed for someone to build or otherwise obtain a home, including the willing efforts of other people—free from unwarranted government interference.[19]

Key provisions of the Constitution that incorporate the "Lockean trinity"[20] of natural rights—life, liberty and property—are the Due Process clauses of the Fifth and Fourteenth Amendments.[21] The right to establish a home is a fundamental right of liberty and property[22]—and in some cases, to life itself. That right has deep roots in our nation's history and traditions.[23]

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[18] JOHN LOCKE, SECOND TREATISE OF GOVERNMENT, § 25 (3d. ed. 1698) ("SECOND TREATISE"), *reprinted in* SOCIAL CONTRACT 16-30 (Sir Ernest Barker ed., 1962). *See also Id.*, § 6. In Locke's view, government has a fundamental duty to protect the right of each person, regardless of wealth, to self-preservation through the acquisition of property.

> The great end of men's entering into society being the enjoyment of their properties in peace and safety, . . . *the first and fundamental natural law*, which is to govern even the legislative itself, *is the preservation of the society, and* (as far as will consist with the public good) *of every person in it*

Id. § 134 (emphasis added). *See generally, e.g.,* Thomas A. Loftus, *Reforming Welfare: Are Effective Property Rights a Key?*, 7 MD. J. CONTEMP. LEGAL ISSUES 387, 389-92 (1996).

[19] *See, e.g., Block v. Hirsh, supra* n. 1 ("Housing is a necessary of life"). *See also, e.g.,* Sprankling, *supra* n. 8, at 670 ("Shelter is a necessity for human existence—like food or water. . . . In particular, the shelter of a home allows humans to minimize the loss of heat, which is crucial for survival in many climates"), citing JERRY D. MOORE, THE PREHISTORY OF HOME 3, 45 (2012); Sprankling at 673-676 (discussing home as sanctuary and center for family life).

[20] Leonard W. Levy, *Property as a Human Right*, 5 CONSTITUTIONAL COMMENTARY 169, 172 (1988).

[21] Their provisions are given above, n. 5.

[22] The term "property" was understood by the Founders in a very broad sense, which Locke often used when describing it. For example, at least four times in his most important political work—his Second Treatise of Government—"Locke used the word 'property' to mean all that belongs to a person, especially the rights that he wished to preserve. Americans of the founding generation understood property in this broad Lockean sense, which we have regrettably lost." Levy, *supra* n. 20, at 175.

International human rights documents also derive fundamentally from Locke and other Enlightenment philosophers. One such document, the International Covenant on Economic, Social and Cultural Rights (ICESCR), sponsored by the United Nations and ratified by 171 nations, specifically declares a universal human right to housing. (The United States signed but has not ratified that Covenant.)

[23] *See, e.g., Washington v. Glucksberg*, 521 U.S. 702, 720–21 (1997) ("the Due Process Clause specially protects those fundamental rights and liberties which are, objectively, 'deeply rooted in this Nation's history and tradition,'" quoting *Moore v. City of East Cleveland*, 431 U.S. 494, 503 (1977) (plurality opinion).

Legislation to ban exclusionary zoning and other regulatory barriers to housing opportunities

Legislation is necessary to enact an effective, general ban on exclusionary zoning and other unjustified regulatory barriers that interfere with the right to establish a home. EHI has drafted a proposed statute that would implement such a ban--the Economic Fair Housing Act (EFHA).[24]

Such a ban could be enacted in slightly different forms by states and/or the federal government. It would apply to exclusionary housing practices, across the board, the same extensive remedies that the federal Fair Housing Act[25] now applies to housing discrimination based on race, disability, gender, and certain other non-economic characteristics.[26]

Those remedies include discretionary awards of damages (compensatory and/or punitive), permanent or temporary injunctions, temporary restraining orders, and other appropriate orders.[27] They also include discretionary authority of a court (and the U.S. Dept. of Housing and Urban Development (HUD) in cases before it), to order reimbursement of the legal expenses of proven victims of banned practices. Reimbursement would be the responsibility of the government agency that committed the violation.[28] Such a remedy would give low- and moderate-income people a direct, economically feasible means of having regulatory housing barriers corrected.

Although widespread enactment of such an ambitious proposal may take a long time, we think that such an approach will be necessary to correct the long-term loss of housing affordability across the United States. That crisis is largely the product of a vast array of unlawful, exclusionary zoning ordinances and other local, regulatory barriers to housing affordability. Those practices can continue to stifle needed housing production, even if the number of new units needed is reduced somewhat in the future, due to factors such as declining population.

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[24] The current draft (EHI, *Discussion Draft Economic Fair Housing Act*, annotated (September 2023)) is posted at https://www.equitablehousing.org/images/PDFs/PDFs--2021-/EFHA--EHI_draft_9-2023-anno-S-web.pdf.

[25] 42 U.S.C. §§ 3601-3619 (Title VIII of P.L. 90-284, 82 Stat. 81 (April 11, 1968), as amended).

[26] *E.g.,* 42 U.S.C. § 3604(a) and (c).

[27] 42 U.S.C. 3613(c)(1). *See generally, e.g.,* EHI, *Toward a comprehensive ban on exclusionary housing practices*, p, 12 (2019), posted at https://www.equitablehousing.org/images/PDFs/PDFs--2018-/EHI-Toward-comprehensive-ban-tech_edits-10-2020.pdf.

[28] 42 U.S.C. §§ 3612(p), 3613(c)(2), 3614(d)(2). *See generally, e.g.,* EHI, *Toward a comprehensive ban on exclusionary housing practices*, pp. 11-12 (2019), posted at https://www.equitablehousing.org/images/PDFs/PDFs--2018-/EHI-Toward-comprehensive-ban-tech_edits-10-2020.pdf.

Judicial declarations that exclusionary housing practices exceed regulatory authority

Another basis for banning exclusionary housing practices is that they exceed the regulatory authority of the government (the "police power"). The highest courts of numerous states have declared those practices unlawful for that reason. The long-established "police powers" are over matters of public safety, health, morals, and general welfare.[29]

Although no method for gaining effective, widespread control over exclusionary housing practices has been employed, judicial decisions contain important statements about the unlawfulness of those regulatory barriers. For example, the highest courts of numerous states have declared exclusionary zoning unconstitutional. [30] Those states include:

- Pennsylvania;[31]
- New Jersey;[32]

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[29] *See, e.g., House v. Mayes*, 219 U.S. 270, 282 (1911). There, the "general welfare" was called "the public convenience and the common good". In recent times, certain regulations of aesthetic aspects of land use have been allowed (such as reasonable signboard regulations). *See, e.g.,* 2 ZONING AND LAND USE CONTROLS § 16.02 (2025) (citing authorities). However, aesthetic regulations still must be reasonable in light of the other "police power" categories. So, where a community needs more housing, a denial on aesthetic grounds of a proposal to build housing must be consistent with the general welfare, including meeting housing needs in the community by other means.

[30] Sprankling states that because "Federal courts and most state courts utilize the rational basis test to evaluate the constitutionality of exclusionary zoning ordinances, . . . courts have generally upheld such ordinances against substantive due process attack" Sprankling, *supra* n. 8, at 682-83. The judicial decisions we cite here exemplify the modern trend away from that unduly permissive approach.

In introducing the Standard State Zoning Enabling Act in 1924, Commerce Secretary Herbert Hoover stated: "This standard act endeavors to provide, so far as it is practicable to see, that proper zoning can be taken *without injustice* and without violating property rights." Foreword by Herbert Hoover (1924) to U.S. Department of Commerce, *A Standard State Zoning Enabling Act* (rev. ed. 1926) (emphasis added). The many judicial decisions cited here illustrate that such enabling statutes, as applied by many local governments over the intervening century, have resulted in injustices toward many low- and moderate-income Americans who lack suitable housing they can afford.

[31] If a township "is a place where apartment living is in demand," lack of provision for apartments in its zoning ordinance renders that ordinance unconstitutional. *Appeal of Girsh*, 437 Pa. 237, 263 A.2d 395, 397-98 (1970). That "Court has employed a substantive due process analysis in reviewing zoning schemes and has concluded implicitly that exclusionary or unduly restrictive zoning techniques do not have the requisite substantial relationship to the public welfare," *Surrick v. Zoning Hearing Bd.*, 476 Pa. 182, 382 A.2d 105, 111 (Pa. 1977) (citing *Girsh*).

[32] When it is shown that a municipality where growth would be appropriate "has not made realistically possible a variety and choice of housing, including adequate provision to afford the opportunity for low and moderate income housing or has expressly prescribed requirements or restrictions which preclude or substantially hinder it, a facial showing of violation" of due process or equal protection of the laws under the New Jersey constitution has been established. *Southern Burlington Co. NAACP v. Mount Laurel*, 67 N.J. 151, 336 A.2d 713, 730-31, *cert. denied*, 423 U.S. 808 (1975) ("*Mount Laurel I*"), as modified by *South Burlington County NAACP v. Township of Mount*

- California;[33] and
- New York.[34]

Further, the landmark *Mount Laurel II* decision by the New Jersey Supreme Court declared that *all* exclusionary housing practices are unlawful under the New Jersey Constitution, in municipalities designated appropriate for growth by the state.[35]

Also, the highest courts of numerous states have declared exclusionary zoning unlawful on the related basis that it is inconsistent with the state's zoning enabling statute, including those of:

- Virginia;[36]
- New York;[37]
- Connecticut;[38] and
- New Hampshire.[39]

Those zoning enabling statutes generally mirror the requirements of those in other states, regarding the limits on governmental authority to restrict housing rights.

Laurel, 456 A.2d 390, 418 (N.J. 1983) ("*Mount Laurel II*") (extending the housing obligation beyond "developing municipalities" to "every municipality, any portion of which is designated by the State as a 'growth area'").

[33] To be constitutional, a municipal zoning ordinance must reasonably relate to the regional welfare, including the interests of "[o]utsiders searching for a place to live in the face of a growing shortage of adequate housing." *Assoc. Home Bldrs. v. Livermore*, 18 Cal.3d 582, 557 P.2d 473, 488-89 (1976).

[34] "A zoning ordinance will be invalidated on both constitutional and State statutory grounds if it was enacted with an exclusionary purpose, or it ignored regional needs and has an unjustifiably exclusionary effect." *Robert E. Kurzius, Inc. v. Upper Brookville*, 51 N.Y.S.2d 338, 343, 414 N.E.2d 680 (1980), *cert. denied*, 450 U.S. 1042 (1981).

[35] *South Burlington County NAACP v. Township of Mount Laurel*, 456 A.2d 390, 441 (N.J. 1983) ("*Mount Laurel II*") ("regulations that do not provide the requisite opportunity for a fair share of the region's need for low and moderate income housing conflict with the general welfare and violate the state constitutional requirements of substantive due process and equal protection").

[36] A zoning ordinance that downzoned the western two-thirds of a rapidly growing suburban county to two-acre minimum lots per dwelling was invalid because it "is unreasonable and arbitrary and that it bears no relation to the health, safety, morals, or general welfare of the owners or residents of the area so zoned." *Board of Sup'rs of Fairfax Cty. v. Carper*, 200 Va. 653, 107 S.E.2d 390 396-97 (Va. 1959).

[37] *Kurzius, supra* n. 34, 51 N.Y.S.2d at 343 (quoted above).

[38] A town ordinance that required a minimum floor area of 1,300 square feet for new housing was invalid, because it served none of the purposes of zoning set forth in the state's zoning enabling act. *Builders Serv. Corp. v. Planning and Zoning Comm'n of East Hampton*, 208 Conn. 267, 545 A.2d 530 (Conn. 1988).

[39] A municipality's zoning ordinance was "blatantly exclusionary," and thus violative of the state's zoning enabling act requirement that such ordinances promote the general welfare. *Britton v. Chester*, 595 A.2d 492, 495-96, 499 (N.H. 1991).

Conclusions

Exclusionary zoning and other regulatory barriers to housing affordability have played a primary role in Americans' crisis-level problems with housing supply and affordability (discussed above at p. 4 and n. 13). Those practices also have interfered seriously with interstate commerce and the nation's economic growth, and they have increased the residential isolation of Americans into "rich" and "poor" neighborhoods. All those problems have increased dramatically in the last 50 years.

Those regulatory barriers are unlawful for numerous reasons. Recently, their interference with the Constitutional right of Americans to establish a home has been examined extensively. The highest courts of numerous states already had declared that exclusionary zoning exceeds government's Constitutional and/or regulatory authority. One landmark case (*Mount Laurel II*) holds that *all* regulatory barriers to achieving a fair share of regional housing needs in a community are unlawful for the same reasons.

The unlawfulness of exclusionary zoning and other unjustified regulatory barriers to housing opportunity warrants a general ban on those practices. EHI has drafted a legislative proposal (the Economic Fair Housing Act (EFHA)) to accomplish that.

Although widespread enactment of such an ambitious proposal may take a long time, some such approach appears necessary, in order to correct the long-term loss of housing affordability across the United States. It is time to start prohibiting regulatory barriers to housing opportunities by statute, with effective remedies that will solve America's intractable housing shortages and excessive housing inflation.