Qualified Allocation Plans as an Instrument of Mixed-Income Placemaking

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In the American economic and political context, housing—mixed-income or otherwise—does not blossom organically; it must be financed. However, the profit maximization inherent in traditional financing vehicles naturally steers housing development toward serving the highest-income residents possible. Too frequently, reasonable investor returns and project sustainability are incompatible with not just affordability but also broader inclusion and equity objectives like community development, population health, and resident growth.

State housing finance agencies, or HFAs, are uniquely situated to resolve this contradiction through their administration of the Low-Income Housing Tax Credit (LIHTC) program. Governed by locally written Qualified Allocation Plans (QAPs), states have substantial latitude to distribute tax credit resources in an equitable manner that promotes integrated communities.

Our experience in affordable housing, particularly in crafting policy at the Ohio Housing Finance Agency (OHFA), has shown that HFAs are organizations with sufficiently reliable resources and mission motivation—providing safe, decent, and affordable housing for all—to lead the mixed-income housing movement. OHFA policy changes illustrate how HFAs can help advance policies that promote mixed-income, racially diverse, and welcoming spaces. In this essay, we describe four existing HFA methods for achieving income integration, all of which can be used independently or through a multifaceted approach. Then, we theorize about prospects for future policy implementations to further drive mixed-income development. A plethora of challenges stand in the way: regulatory capture, institutional inertia, and political constraints, among others. But success is achievable. It just requires inciting a minor revolution in housing and development mentality and inspiring a newfound respect for the integral and innovative role of HFAs.

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[1] Disclaimer: Both authors were previously employed by the Ohio Housing Finance Agency. Views expressed in this essay are those of the authors alone and not necessarily those of the Ohio Housing Finance Agency, the State of Ohio, or their current employers.

Background

Each state, as well as New York City, the District of Columbia, and four U.S. territories, has an HFA. Most HFAs were created by states to issue public activity bonds, established in the Tax Code of 1954, to support low- and moderate-income homeownership. Later, this role was expanded to allocating LIHTCs upon their creation in the Tax Reform Act of 1986.[2] Distinctively structured, HFAs have a wide range of responsibilities and spheres of influence. HFAs in some states are intricately woven into the political process, with leadership appointed by and responsive to governors. Others are highly independent and operate akin to socially conscious corporations. The vast majority of HFAs are members of the National Council of State Housing Agencies (NCSHA), which enables them to share best practices, learn from others in the field, and develop tools of self-governance.

While all HFAs have different roles and responsibilities, as noted above, nearly all have two core programmatic tasks: (1) issuance of mortgage revenue bonds and other financial instruments to support low- and moderate-income homeownership, and (2) administration of the federal LIHTC program. LIHTCs are indispensable for the development and preservation of affordable rental housing;[3] a 2012 report noted that the number of units financed using LIHTC was more than all public housing and federally assisted private housing combined.[4] Furthermore, LIHTC was responsible for nearly all rent-restricted units that had been placed into service in the prior 25 years. According to federal data, over 3.05 million affordable housing units were produced via the LIHTC through 2016.[5] A state HFA's competitive allocation authority is determined by population, ranging in 2018 from $31 million in small states and U.S. territories to $1.07 billion in California, totaling $9.09 billion nationally.[6]

To distribute these resources, the Internal Revenue Code requires LIHTC allocators to establish a QAP that "sets forth selection criteria to be used to determine housing priorities […] which are appropriate to local conditions." Not only must states have a QAP, federal law mandates that this plan must give preference to projects serving the lowest-income tenants,

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[2] National Low Income Housing Coalition, *Advocates' Guide to Housing and Community Development Policy* (Washington: National Low Income Housing Coalition, 2019).; Corrianne Scally, "States, Housing, and Innovation: The Role of State Housing Agencies" (PhD diss., Rutgers University-New Brunswick, 2007).
[3] LIHTCs come in two varieties. The more valuable "9 percent" credits support approximately 70 percent of development costs but are capped by federal law and, therefore, are awarded to affordable housing developers on a competitive basis. The ancillary "4 percent" credit provides a less potent subsidy, offsetting only about 30 percent of development expenses, but is only limited by the availability of tax-exempt bonds.
[4] Jill Khadduri, et al., "What Happens to Low-Income Housing Tax Credit Properties at Year 15 and Beyond?" (Bethesda, MD: Abt Associates Inc., 2012). https://www.huduser.gov/portal/publications/what_happens_lihtc_v2.pdf.
[5] "Low-Income Housing Tax Credits," U.S. Department of Housing and Urban Development, accessed June 21, 2019, https://www.huduser.gov/portal/datasets/lihtc.html.
[6] Notice 2018-45, 2018-21 I.R.B 620. Credits allocated to a project are awarded in 10 installments once units are placed in service.

preserving affordability for the longest periods, and serving qualified census tracts as part of a concerted community reinvestment plan.[7] Additionally, projects must be evaluated on 10 criteria ranging from the length of local housing waiting lists to the energy efficiency of the project.

Notably, the Internal Revenue Code is silent on a state's responsibility, legal or otherwise, to remedy the injustices of racism and segregation. This absence is balanced by the duty to affirmatively further fair housing that permeates all aspects of federal funding recipients' housing agendas.[8] The gravity of this charge is both understood and solemnly accepted by many policymakers. Accordingly, QAPs can be steeped in the codewords of desegregation ("opportunity housing") or the language of restitution ("revitalization" or "preservation"). However, significant state variation remains; for every state with an obvious commitment to equitable placemaking, there is another that concentrates more singularly on the "bricks and sticks" subsidy. Those that chart a moderate course are given the latitude to do so through a byzantine process that shields them from broader public scrutiny. This relative isolation and limited stakeholder feedback loop should be seen as an opportunity for relatively easy policy change: 20 or 30 vocal proponents of change could easily form a majority in any QAP hearing room. A written letter, a public comment, a casual coffee with a career bureaucrat: these are all accessible and powerful devices to shape QAP policy.

Within this overlapping regulatory framework, HFAs have extraordinary flexibility and authority to maximize the utility of the program while reflecting community needs. Leadership rests with the states, which make decisions for the LIHTC program based on a keen understanding of hyperlocal housing needs, building conditions, and economic prospects. Each state's policy agenda is intended to be collaborative, responsive, and transparent. Because the QAP process is centered in HFAs, largely operating outside the legislative process, QAP policies can be formed quickly and provide immediate resolutions to emerging market disruptions.

The Ohio Context

OHFA is a blend of the two HFA structural extremes noted earlier, as it is neither a governmental department nor an autonomous entity; it is a quasi-independent state agency administered by an 11-member board, appointed by the governor, which selects an executive director to lead the agency's staff. The biennial QAP development process is managed by a planning, preservation, and development team and informed by the agency-wide strategic annual plan developed by the office of housing policy. For OHFA to arrive at its policy priorities, community engagement is purposeful and extensive, including legally mandated hearings, written comment periods, public forums and trainings, regional focus groups, and one-on-one meetings offered with relevant stakeholders throughout the year.

[7] Internal Revenue Code, 26 U.S.C. § 42 (2001).
[8] Fair Housing Act, 26 U.S.C. § 3608 (2010).

In addition to engaging with the general public, OHFA has deep ties to stakeholders who work for organizations that facilitate equitable development. The community engagement helps the QAP tackles issues ranging from affordable healthcare access to green building techniques, transit-oriented design, infant mortality prevention, anchor institution engagement, and food desert avoidance. This occurs against a backdrop of cultivating relationships with relevant stakeholders, including those from other state agencies, to break down silos and establish affordable housing as a platform for addressing other policy challenges. Active partnerships with Ohio's departments of education, Medicaid, developmental disabilities, mental health, and addiction services, in addition to the private housing and advocacy communities, further a broad agenda designed to advance the needs of low-income tenants.

The result of this work is that OHFA has funded nearly 130,000 rental units through the LIHTC program since 1987, with about 100,000 units currently subject to rent and income restrictions and undergoing routine compliance monitoring. Based on data reported to OHFA by property managers, LIHTC residents are overwhelmingly in deep economic distress, with a median household income around $13,000 per year. Furthermore, the LIHTC program serves white and black/African American tenants in approximately equal numbers in a state that is 82 percent white and 13 percent black/African American.[9]

OHFA has been eager to serve as a policy entrepreneur, with the state's QAP emphasizing the expansion and support of mixed-income communities.[10] The totality of the QAP embodies a "both-and" approach to development that not only expands mixed-income environments but also promotes investments in legacy neighborhoods, expansion of suburban affordability, and rural access to rental stock. The agency's leadership took the position that (a) the development of mixed-income places clearly falls within an HFA's mandate; (b) despite the myriad challenges this approach necessarily invites, the potential to bridge community differences, strengthen bonds between diverse constituencies, and promote economic independence among low- and moderate-income Ohioans warrants decisive action; and (c) the legacy of racism and the deleterious impact of redlining—racially and ethnically concentrated poverty—is perched firmly atop government's shoulders and must be conscientiously and comprehensively unwound. OHFA's promotion of mixed-income development via the QAP dates back to at least 1997 and has endured through five governors and four executive directors,

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[9] Editor's note: All references in this essay to black/African-American, white, or Asian populations refer to non-Hispanic/Latinx individuals unless otherwise noted. Data from "Quick Facts: Ohio," U.S. Census Bureau, accessed June 21, 2019. https://www.census.gov/quickfacts/fact/table/oh/PST045218.

[10] The 2019 Ohio Qualified Allocation Plan opens with the following statement of principles: "[T]his document advances the five primary policy objectives that were first articulated in this year's plan: Smart Revitalization, Portfolio Diversification, Healthy Living, Ending Homelessness and Cost Efficiency and Simplicity… We are honored to celebrate the fiftieth anniversary of the [Fair Housing Act] in the only way we see fit: with steadfast support for all those working to create diverse and accessible communities."

a testament to power of well-reasoned policy to overcome partisanship and bureaucratic gridlock.[11]

How can OHFA and other HFAs accomplish these objectives? We begin with the "low-hanging fruit" before describing more multifaceted and visionary options.

Method One: Blending Incomes within the LIHTC Framework

The easiest and most common way for HFAs to achieve some version of income integration is to require or incentivize a range of incomes inside LIHTC developments that, while significantly different from each other, all fall under the overarching "low-income" banner. This means that blue-collar workers earning 60 percent of area median income (AMI), families living on minimum-wage incomes and bringing in less than 30 percent of AMI (extremely low-income, or ELI), and residents whose incomes fall below 20 percent of AMI and who often survive solely on Supplemental Security Income all live in the same building. In addition, about half of Ohio LIHTC tenants have some form of further rent assistance through Section 8 or the Housing Choice Voucher program, allowing units that target higher-income populations to also serve those with little to no income. Although this distribution is more truncated than full income integration, this mix is designed to stimulate interaction between households with stable but low-wage jobs and households in more precarious economic conditions.

OHFA has long endorsed this approach to mixed-income housing development. A customized suite of financing tools makes it possible to serve ELI households while preserving the economic viability of a project:

- OHFA offers a 15 percent "basis boost" for new housing developments that set aside at least 25 percent of their units for ELI households, which ensures that additional tax credits are available to defray the reduced rents at the low end of the income bracket.[12]
- Developers are permitted to access a $75,000 developer fee supplement if they reserve over 25 percent of units for ELI households, a reflection of the additional planning and outreach services necessary to launch the development.
- OHFA offers additional points within its competitive scoring process for both ELI targeting and incorporation of rental subsidies such as place-based Section 8 or the Section 811 Project Rental Assistance Program, both administered by the U.S. Department of Housing and Urban Development.

As a result of these incentives, 41 percent of the units in Ohio funded with competitive LIHTCs in 2018 had household income limits below the statutory maximum (i.e., 60 percent of AMI).

[11] "Projects that create a mixture of market and affordable rental housing will receive 2 points," Ohio Housing Finance Agency, *1997 LIHTC Allocation Plan* (Columbus, OH: Ohio Housing Finance Agency, 1997).
[12] These policies were effective in the 2018-2019 QAP. As of this writing the 2020-2021 QAP is not released.

Income gradation is only likely to increase in coming years. The federal [Consolidated Appropriations Act of 2018] permitted a new minimum set-aside called the "average income test." The average income test allows LIHTC units to serve households with incomes between 20 percent and 80 percent of AMI, provided the weighted average of income restrictions on LIHTC units does not exceed 60 percent of AMI. This allows for resources to be directed toward a wider array of populations while simultaneously facilitating deeper income targeting though self-subsidization practices, in which higher-income units are used to offset the rent losses of lower-income units. With increased income to the projects using the average income test—thanks to higher rents—more projects likely will be able to use the non-competitive 4 percent LIHTC credit, freeing up the highly competitive 9 percent credits and expanding the overall availability of housing development funds. It is now the states' responsibility to establish average income test policies that appropriately balance the integrative power of this tool with the risk mitigation necessary to protect assets until more comprehensive Internal Revenue Service guidance is released.

Method Two: Meeting the Challenge of Full Market Integration

A more traditional view of income integration involves placing non-low-income, market-rate units into otherwise affordable developments. Often perceived as more challenging, evolving consumer demands and market-wide shortages are opening a window towards wider acceptance.[13]

In the HFA realm, this approach is typified by OHFA's sustained push to incorporate non-LIHTC units within tax credit communities. As noted previously, in one form or another since 1997 OHFA has offered competitive scoring points to developments that construct market-rate units—i.e., those without income restrictions—alongside units reserved for low-income households. Tapping into the same self-subsidization concept described above, this ideally conserves limited state resources while aiming to achieve broader objectives of destigmatizing and demystifying other lived experiences and building egalitarian routes to shared prosperity.

The incentive's structure has evolved over time, adjusting how many market units are necessary to achieve the points required or how they will be treated by underwriters, but none proved sufficient to sway a significant number of applicants to propose fully mixed-income developments. Only about 3 percent of units in OHFA's portfolio lack income restrictions, and some of these are reserved for property managers and maintenance staff. This tepid reception

[13] Kathleen McCormick, "Millennials' Preferences Are Good News for Mixed-Income Development," *Urban Land Magazine*, March 29, 2017. https://urbanland.uli.org/development-business/millennials-preferences-good-news-mixed-income-development/.

was not unforeseeable, as there are many obstacles to market integration within LIHTC housing projects:

- Projects that fall outside the well-worn template of fully low-income projects embraced by developers and investors attract more skepticism and unease from investors and, therefore, a lower price in the market for their tax credits.
- During the development phase, affordable projects with market-rate units are forced to straddle an unusual debt position, stuck between two underwriting standards that make the lending risk difficult to parse and therefore result in higher interest rates than similarly situated LIHTC proposals. In an environment that champions cost containment, this trade-off could effectively act as a competitive disadvantage.
- Architects may struggle to design a unit that meets both the thriftiness demanded by use of public resources and the luxury necessary to attract a market-rate renter; reconciling these differences while honoring fair housing's equivalency spirit is a substantial challenge. Separating out non-LIHTC square footage via a condominium can ease some of these tensions, but it comes with an administrative price tag that restricts its feasibility.
- Operating an apartment building with non-LIHTC units adds complexity and potentially stiff compliance consequences during the leasing phase that are atypical for LIHTC deals. This challenge can be compounded by an expertise gap, with some affordable housing managers not yet conversant in balancing the differing needs of a blended population.

While the impact of any one of these challenges might be limited, when combined the challenges likely result in a lower equity price and unfavorable investment terms, making the deal less viable. However, these hurdles could be mitigated through social venture lending that more appropriately balances risk against outcomes and technical assistance to operators willing to take the leap.

Looking at the big picture in Ohio, QAP points for market-rate integration are currently situated within scoring categories that equally value the use of historic tax credits, design features to support older adults aging in place, and health programming. It is not surprising that, given the incentive's relatively low weight, developers are opting for more easily executable features. This impediment is compounded when cross-subsidization fails to provide sufficient income coverage for low-cost submarkets where the economic profiles of a tax credit renter and a private tenant are essentially identical.

Method Three: Integrating Low-Income Buildings in Thriving Neighborhoods

Income inclusion isn't only relevant at the building level; it also is necessary at a community level. For decades, affordable housing has been concentrated in neighborhoods that lack meaningful access to self-stabilizing resources such as upwardly mobile jobs and high-quality schools. Rooted in a history of racism from redlining to white flight, the intergenerational cycle of poverty is self-perpetuating. Poor families in historically under-developed and under-financed neighborhoods lack access to the education, job opportunities, and other resources necessary to compete in the modern economy. Their low-income counterparts who may live in high-cost neighborhoods have proximity to necessary services but remain unable to earn enough income relative to their expenses to achieve self-sufficiency. Without a holistic approach that incorporates the goals of both affordability and accessibility, these generational patterns will reproduce. Encouragingly, research has shown that development of low-income housing in high-income and resource-rich communities improves many life outcomes for new residents while preserving quality of life for existing residents.[14]

HFA leaders are increasingly cognizant of their responsibility to diversify the affordable housing portfolio, but simple solutions are elusive. HFAs must balance numerous and competing priorities, including assessing the proper valuation of community and culture in legacy lower-income neighborhoods, supporting the expansion of low-income households located in prosperous communities, recognizing the transformational power of capital in investment-hungry areas, satisfying legal obligations to affirmatively further fair housing, committing to the preservation of access on rapidly gentrifying blocks, facilitating mobility for families in low-income spaces, and easing the struggle of poor families in wealthy suburbs. The extent to which issues of race and ethnicity factor into these considerations, and the mechanisms by which they do so, should be honestly debated and deliberated at every opportunity.

OHFA has been recognized as a national leader in this space.[15] Reliable, localized data are invaluable to this effort. OHFA's partnership with the Kirwan Institute for the Study of Race and Ethnicity at The Ohio State University, to build and continually refine a proprietary opportunity mapping system, proved essential for understanding the geographic dimensions not only of opportunity but of neighborhood change in urban, suburban, and rural contexts.[16] This cataloguing of resources and liabilities provides the information OHFA uses to confront and address inequalities in the state's housing stock. While this work was not overtly focused on analyzing race and ethnicity, overlaying OHFA's opportunity maps with historical redlining maps dramatically demonstrates the undeniable link between economic landscapes and racism.

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[14] Raj Chetty, Nathaniel Henderson, and Lawrence F. Katz, "The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment," *American Economic Review* 106, no. 4 (April 2016): 855-902, https://www.aeaweb.org/articles?id=10.1257/aer.20150572.; Ingrid G. Ellen, Karen M. Horn, and Katherine M. O'Regan, "Poverty Concentration and the Low-Income Housing Tax Credit: Effects of Siting and Tenant Composition," *Journal of Housing Economics* 34, (December 2016): 49-59, https://www.sciencedirect.com/science/article/pii/S1051137716300183.

[15] National Council of State Housing Agencies, email message to author, April 13, 2018.

[16] "Opportunity Mapping Tool," Ohio Finance Agency, accessed June 21, 2019. https://ohiohome.org/ppd/opportunitymap.aspx.

Using this rigorous tool, OHFA reconfigured its QAP to incentivize affordable housing development in economically flourishing neighborhoods. Consequently, in 2018, 40 percent of competitive LIHTC awards were situated in high- or very high-opportunity census tracts. As operationalized by Kirwan's research, these categories represent the top two quintiles of tracts based on a composite index that computes economic, educational, health, housing, and transportation conditions relative to peer tracts (i.e., urban, suburban, or rural areas). The remaining investments, located in more traditional LIHTC locations, are tailored to maximize local benefits, such as strong transit infrastructure, stewardship of anchor institutions, and access to world-renowned healthcare facilities. This is the epitome of the "both-and" approach: meeting LIHTC residents wherever they are, supporting growth and autonomy, and providing them with supports that complement existing neighborhood amenities.

Method Four: Encouraging Hyperlocal Renaissance

Distinct from simply carving out islands of affordability in already stabilized neighborhoods, the renaissance method seeks to catalyze the growth of affordability and affluence simultaneously in depressed communities. Unsurprisingly, political and policy contexts make this type of neighborhood-level transformation extremely difficult to achieve, but HFAs are singularly qualified to lead the effort. At the most basic level, the Internal Revenue Code already requires tax credit allocators to give preference to developments situated within the bounds of a concerted community revitalization plan. Despite a long track record, however, the full potential of this innovative approach is only now being tested.

In 2016, OHFA created a "local initiatives" carve-out in its QAP. This reserved pool of funds gave developers the opportunity to compete for additional resources if their project contributed to a comprehensive, multi-phase, or transformative community development effort. This initiative created a financing vehicle for Poindexter Phase III, a 159-unit mixed-income redevelopment of one of the nation's first public housing communities. The redevelopment was funded by a Choice Neighborhoods implementation grant and supported by an affiliate of the Purpose Built Communities network. When the final phase is completed, the refurbished neighborhood will include 450 housing units, partnerships with the City of Columbus and the Ohio State University to stimulate economic mobility, and a museum honoring the site's origins. Further, this transformational redevelopment is situated near Columbus' rapidly growing urban core, with access to abundant employment opportunities, transportation facilities, and neighborhood amenities.

Recently, OHFA moved forward with a more aggressive strategy for meeting renaissance goals. The 2019 QAP established the FHAct50 Building Opportunity Fund, which authorizes each of the state's three largest cities (Columbus, Cleveland, and Cincinnati) to draw down $3 million in 9 percent LIHTCs (approximately $30 million in equity) over the next three years for affordable housing development. Operating outside the competitive process, this fund empowers cities to craft unique solutions without the usual scoring constraints. Instead, developments advanced under this fund must contribute to a comprehensive neighborhood revitalization plan that prioritizes income inclusivity and system-wide transformation. Further, OHFA requires each unit developed using LIHTC resources to be matched with a concurrent building permit for market-rate housing, ensuring that the projects will be placed within a growing mixed-income community.

This vision will only be realized if OHFA aggressively prioritizes current residents' growth, actively prevents displacement in the face of revitalization, and offers supports to facilitate comprehensive individual advancement. Accordingly, OHFA requires all FHAct50 Building Opportunity Fund developments to be spearheaded by a nonprofit with commitment to and leadership born from the community it serves. Moreover, each project must be accompanied by a high-impact service partnership customized to local need, such as the development of new educational opportunities, construction of amenities to promote community health and wellbeing, or transformations in legal protections afforded to renters. These are all possibilities that are both achievable and meaningful to the population. Requiring unit configurations and building designs that equally welcome families, senior citizens, workers, and individuals with disabilities ensures that this chance to build opportunity is open to every walk of life.

As of this writing, all three FHAct50 Building Opportunity Fund cities have selected their target neighborhoods and are collaborating with residents to create long-term, sustainable development plans. While still very new, there are positive indications that the investment is being infused into gentrifying neighborhoods and communities where affordability and diversity are threatened. If these early signs are indicative of larger victories, the burden will shift back to the state to develop a feedback loop that capitalizes on momentum and replicates success. That responsiveness and malleability is both the crux of a fair housing philosophy that empowers the people it serves and a necessary foundation of any operationally achievable goal.

What's Next? The Realistic and the Radical

How can HFAs continue to advocate for, and facilitate the development of, mixed-income communities? Most broadly, state HFAs must honestly assess the power they hold and the bounds of their influence, and advocates for racially and economically marginalized populations should strongly encourage such deliberations. This is, unquestionably, a state-by-state determination across political, legal, and jurisdictional dimensions.

At the programmatic level, Opportunity Zones—established in the Tax Cuts and Jobs Act of 2017—will open achievable avenues for affordable housing collaboration and leveraging that must be considered. These areas, nominated by state governors and approved by the U.S. Department of the Treasury, provide preferential tax treatment to investors who purchase assets situated within these putatively economically distressed areas. In Ohio, 320 census tracts in 73 counties are now Opportunity Zones.[17] There has been much discussion in communities nationwide about how to best leverage this new provision.[18] Stakeholders in these neighborhoods should consider ways in which this capital incentive can be used to generate broad-based prosperity. In recent months, much conversation has centered on regulations that the Internal Revenue Service will, or will not, place on the provision to ensure that incentivized economic activity actually takes place in designated neighborhoods and benefits current residents;[19] proposed regulations were propagated by the Internal Revenue Service in April 2019 but were not finalized as of this writing.[20] LIHTC projects within these areas could potentially generate additional equity, as the tax benefits of an investment in affordable housing can be magnified for certain investors.[21] While this financing boost alone should naturally drive LIHTC development, HFAs may use the QAP to further direct the types of amenities or services necessary to bolster an emerging mixed-income neighborhood.

The central issue in how aggressive states can or should be with QAP-based policymaking is the degree to which communities and developers will pursue LIHTCs and other resources that HFAs can provide. Whether HFAs can, or should, use these tools to coax policy concessions is a valid discussion question. Theoretically, if interest in these resources is strong enough in an age of austerity, these funding streams could be used to pursue dramatic policy objectives. What if credits could only be directed to jurisdictions that repealed or blocked nuisance ordinances that compromised the housing situations of domestic violence victims? Or adopted “ban the box” legislation preventing employment discrimination against those residents who have a criminal justice background? What if suburbs could earn scoring points for their applicants by permitting density zoning or supporting transit infrastructure? What if organized NIMBY campaigns resulted in *more* points being awarded to developments fighting for affordable housing inroads in exclusionary communities? What if QAPs provided a funding set-aside to cities that promulgated inclusive zoning regulations?

To see how one of these ideas could work in practice, it is worth examining the last of these more closely. According to the [Grounded Solutions Network](), localities in 30 states have passed some form of inclusionary housing program that either mandates or incentivizes the

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[17] “Opportunity Zones,” Ohio Development Services Agency, accessed June 21, 2019. https://development.ohio.gov/bs/bs_censustracts.htm.

[18] Jordyn Grzelewski, “The Floodgates are About to Open: Cuyahoga County, Cleveland Leaders Unveil Opportunity-Zone Plan,” *The Plain Dealer*, March 21, 2019, https://www.cleveland.com/news/2019/03/the-floodgates-are-about-to-open-cuyahoga-county-cleveland-leaders-unveil-opportunity-zone-plan.html.

[19] Mariam Rozen, “Give Us More Red Tape! Opportunity Zone Investors Implore IRS,” *Financial Advisor IQ*, March 27, 2019, https://financialadvisoriq.com/c/2235593/269163.

[20] Internal Revenue Service. “IRS Issues Guidance Relating to Deferral of Gains for Investments in a Qualified Opportunity Fund,” News release, (April 17, 2017).

[21] John Sciarretti, Michael Novogradac, and Peter Lawrence. “New Opportunity Zones Could be Used to Finance Rental Housing,” Novogradic (blog), February 23, 2018, https://www.novoco.com/notes-from-novogradac/new-opportunity-zones-could-be-used-finance-rental-housing.

creation of units affordable to low-income households within market-rate rental housing projects.[22] These policies were implemented both in urban cores and suburbs.[23] Of the latter, those in New Jersey—compelled by the state Supreme Court's *Mount Laurel* decisions—and Montgomery County, Maryland, are the most prominent.[24]

The production of new housing through these programs is quite limited and, in many cases, it is more cost effective to pay an impact fee than construct the affordable units.[25] However, it might be possible to use LIHTCs to make these units more feasible, using state-level streamlined allocation techniques. At its most extreme, HFAs could theoretically condition the allocation of LIHTCs and other resources they control on the implementation of inclusionary housing policies in neighborhoods undergoing redevelopment, multiplying the policy impact of these funding streams. Alternatively, other policy options might include providing bonus resources to jurisdictions that adopt inclusive zoning policies, streamlining allocation pools exclusively for cities with mandatory affordable housing set-asides, and prioritizing consideration of neighborhoods that promote inclusive growth.

Lastly, it is worth emphasizing some of the other roles that state housing agencies can play in facilitating the work of others in policymaking. HFAs collect massive amounts of administrative data about their investments and the tenants who reside in them, allowing researchers to learn more about what is, as noted earlier, the largest source of affordable housing in America today. HFAs have legislative liaisons, communications experts, and others who can connect local stakeholders with policymakers and other audiences. Further, many LIHTC allocators also administer mortgage financing programs that support low- and moderate-income homeownership, meaning that they can be a source of expertise across tenures and income levels, and in some states also administer a wide variety of community and economic development programs, magnifying their potential impact.

Conclusion

With federal policy often deadlocked, states are a natural nexus for those seeking to develop equitable mixed-income communities, and HFAs are a deeply underappreciated player in that policy space. QAPs are the central instrument for HFA policymaking, channeling billions

[22] "Inclusionary Housing Database Map," Grounded Solutions Network, accessed June 22, 2010, https://inclusionaryhousing.org/map/.
[23] U.S. Department of Housing and Urban Development, "Inclusionary Zoning and Mixed-Income Communities," *Evidence Matters*, 2013, https://www.huduser.gov/portal/periodicals/em/spring13/highlight3.html.
[24] These cases are *Southern Burlington County N.A.A.C.P. v. Mount Laurel Township* (1975) and *Southern Burlington County N.A.A.C.P. v. Mount Laurel Township* (1983), colloquially referred to as *Mount Laurel I* and *Mount Laurel II*, respectively. Southern Burlington County N.A.A.C.P. v. Mount Laurel Township, 67 N.J. 151 (1975).; Southern Burlington County N.A.A.C.P. v. Mount Laurel Township, 92 N.J. 158 (1983).
[25] Joe Cortright. "The 0.1 Percent Solution: Inclusionary Zoning's Fatal Scale Problem," City Observatory (blog), April, 4 2017. http://cityobservatory.org/the-0-1-percent-solution-inclusionary-zonings-fatal-scale-problem/.

of dollars in resources annually that can be used to achieve any number of objectives. Those with an interest in inclusive and equitable placemaking should engage—actively, strongly, and repeatedly —with their state's housing agency and work toward furthering those goals, and states must learn from one another to widely and rapidly adopt best practices in this arena.

Implications for Action

Implications for Policy.

- The Low-Income Housing Tax Credit is, by far, the largest source of financing for the construction and preservation of affordable housing in the United States. Advocates and administrators must appreciate and flex the power of the QAP in remedying entrenched housing problems such as racial and economic segregation.

- Like many significant but stilted governing documents, QAPs are often created with little input and responsiveness to the wishes of ordinary citizens. With so few stakeholders at the table, there is awesome potential for emerging grassroots movements to participate in transforming the housing legacy. Citizens, advocacy groups, and nonprofits need to attend pubic feedback events, initiate one-on-one meetings with QAP drafters, and use the bully pulpit to demand mixed-income results.

Implications for Research and Evaluation.

- Academics and other researchers should develop and expand partnerships with HFAs. These entities have policy expertise and large administrative data sets that can serve as a source of answers to research questions. Conversely, policymakers can gain better access to emerging trends in academic analysis of housing issues.

- Just as research has been conducted on federal initiatives to create racially and economically integrated communities like HOPE VI and Choice Neighborhoods, state-level policies like the FHAct50 Building Opportunity Fund should be similarly evaluated.

Implications for Development and Investment.

- Because corporate investors and syndicators are so central to the process of raising capital using LIHTCs, there should be a process for engaging these actors on the issue of mixed-income housing. If these parties become more likely to participate in such projects, there will be more funds available for both mixed-income and traditional affordable housing. Policymakers may wish to explore how to reduce investor risk, like through equity guarantees similar to adjustors, or ways in which they can draw new, non-economically motivated investors to the table.

- Where market conditions permit, inclusive zoning should continue to be refined and advanced as one tool in a portfolio of solutions to the housing crisis. As local governments become more comfortable with the inclusive zoning model, more contentious efforts to pair with the LIHTC should be consider, particularly those that allow private owners to create condominiums and outsource development and management functions to affordable housing experts.

Implications for Residents and Community Members.

- As housing policy reaches a new level of political salience, voters should demand substantive conversations and realistic solutions about the roles of HFAs from presidential contenders, state-level office seekers, and political candidates up and down the ballot.

- Not In My Back Yard (NIMBY) is not a reasonable response to development. A person who does not like a housing proposal should demand that it be improved, not scrapped, and work to harness these investments for neighborhood-wide sustainability. Where NIMBY is rooted in misinformation, targeted education showcasing the local need for affordable housing and the success stories of past initiatives should be highlighted. Where NIMBY is a mere silkscreen for racist and segregationist ideology, that motivation should be named and confronted.

References

Chetty, Raj, Nathaniel Henderson, and Lawrence F. Katz. "The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment." *American Economic Review* 106, no. 4 (April 2016): 855-902. https://www.aeaweb.org/articles?id=10.1257/aer.20150572.

Cortright, Joe. "The 0.1 Percent Solution: Inclusionary Zoning's Fatal Scale Problem," *City Observatory* (blog), April, 4 2017. http://cityobservatory.org/the-0-1-percent-solution-inclusionary-zonings-fatal-scale-problem/.

Ellen, Ingrid G., Karen M. Horn, and Katherine M. O'Regan. "Poverty Concentration and the Low-Income Housing Tax Credit: Effects of Siting and Tenant Composition." *Journal of Housing Economics* 34, (December 2016): 49-59. https://www.sciencedirect.com/science/article/pii/S1051137716300183.

Fair Housing Act, 26 U.S.C. § 3608 (2010).

Grounded Solutions Network. "Inclusionary Housing Database Map." Accessed June 21, 2019. https://inclusionaryhousing.org/map/.

Grzelewski, Jordyn. "The Floodgates are About to Open: Cuyahoga County, Cleveland Leaders Unveil Opportunity-Zone Plan." *The Plain Dealer*. March 21, 2019. https://www.cleveland.com/news/2019/03/the-floodgates-are-about-to-open-cuyahoga-county-cleveland-leaders-unveil-opportunity-zone-plan.html.

Internal Revenue Code, 26 U.S.C. § 42 (2001).

Internal Revenue Service. "IRS Issues Guidance Relating to Deferral of Gains for Investments in a Qualified Opportunity Fund." News release, April 17, 2017. IRS. Accessed June 21, 2019. https://www.irs.gov/newsroom/irs-issues-guidance-relating-to-deferral-of-gains-for-investments-in-a-qualified-opportunity-fund.

Khadduri, Jill, Carissa Climaco, Kimberly Burnett, Laurie Gould, and Louise Elving, "What Happens to Low-Income Housing Tax Credit Properties at Year 15 and Beyond?" Bethesda, MD: Abt Associates Inc., 2012.

McCormick, Kathleen. “Millennials’ Preferences Are Good News for Mixed-Income Development.” *Urban Land Magazine*, March 29, 2017. https://urbanland.uli.org/development-business/millennials-preferences-good-news-mixed-income-development/.

National Council of State Housing Agencies, email message to author, April 13, 2018.

National Low Income Housing Coalition. *Advocates’ Guide to Housing and Community Development Policy*. Washington: National Low Income Housing Coalition, 2019. https://nlihc.org/explore-issues/publications-research/advocates-guide.

Notice 2018-45, 2018-21 I.R.B 620.

Ohio Development Services Agency. “Opportunity Zones.” Accessed June 21, 2019. https://development.ohio.gov/bs/bs_censustracts.htm.

Ohio Housing Finance Agency. “Opportunity Mapping Tool.” Accessed June 21, 2019. https://ohiohome.org/ppd/opportunitymap.aspx.

Ohio Housing Finance Agency, 1997 LIHTC Allocation Plan. Columbus, OH: Ohio Housing Finance Agency, 1997.

Roze, Miriam. “Give Us More Red Tape! Opportunity Zone Investors Implore IRS.” *Financial Advisor IQ*. March 27, 2019. https://financialadvisoriq.com/c/2235593/269163.

Scally, Corianne. “States, Housing, and Innovation: The Role of State Housing Agencies.” PhD diss., Rutgers University- New Brunswick, 2007.

Sciarretti, John, Michael Novogradac, and Peter Lawrence. “New Opportunity Zones Could be Used to Finance Rental Housing.” *Novogradic* (blog). February 23, 2018. https://www.novoco.com/notes-from-novogradac/new-opportunity-zones-could-be-used-finance-rental-housing.

Southern Burlington County N.A.A.C.P. v. Mount Laurel Township. 67 N.J. 151 (1975).

Southern Burlington County N.A.A.C.P. v. Mount Laurel Township. 92 N.J. 158 (1983).

U.S. Census Bureau. “Quick Facts: Ohio.” Accessed June 21, 2019. https://www.census.gov/quickfacts/fact/table/oh/PST045218.

U.S. Department of Housing and Urban Development. “Inclusionary Zoning and Mixed-Income Communities.” *Evidence Matters*, 2013. https://www.huduser.gov/portal/periodicals/em/spring13/highlight3.html.

U.S. Department of Housing and Urban Development. “Low-Income Housing Tax Credits.” Accessed June 21, 2019. https://www.huduser.gov/portal/datasets/lihtc.html.