

Touro College Jacob D. Fuchsberg Law Center

From the Selected Works of Michael E Lewyn

2018

2018 July-December Market Urbanism blog posts

Michael Lewyn



Available at: <https://works.bepress.com/lewyn/173/>

Two Cheers for PHIMBY

NOVEMBER 20, 2018 BY MICHAEL LEWYN



One alternative to market urbanism that has received a decent amount of press coverage is the PHIMBY (Public Housing In My Back Yard) movement. PHIMBYs (or at least the most extreme PHIMBYs) believe that market-rate housing fails to reduce housing costs and may even lead to gentrification and displacement. Their alternative is to build [massive amounts of public housing](#).

On the positive side, PHIMBYism, if implemented, would increase the housing supply and lower housing costs, especially for the poor who would be served by new public housing. And because there is certainly ample consumer demand for new housing, PHIMBYism would be more responsive to consumer preferences than the zoning status quo (which privileges the interests of owners of existing homes over those of renters and would-be future homeowners).

But PHIMBYism is even more politically impossible than market urbanism.

Market urbanists just want to eliminate zoning codes that prevent new housing from being built- a heavy lift in the political environment of recent decades. But PHIMBYs want to override the same zoning codes, AND find the land for new public housing (which often will require liberal use of eminent domain by local governments), AND find the taxpayer money to build that new public housing, AND find the taxpayer money to maintain that housing forever. And to make matters worse, the old leftist remedy of raising taxes on the rich might be inadequate to fund enough housing, because the same progressives who are willing to spend more money on housing also want to spend more public money on a wide variety of other priorities, thus making it difficult to find the money for housing.

The land price argument and why it fails

OCTOBER 11, 2018 BY MICHAEL LEWYN

One common argument against all forms of infill development runs something like this: “In dense, urban areas land prices are always high, so housing prices will never be affordable absent government subsidy or extremely low demand. Furthermore, laws that allow new housing will make land prices even higher, thus making housing more unaffordable.”

This argument seems to be based on the assumption that land prices are essentially a fixed cost: that is to say, that they can only go up, never go down. In fact, land costs are extremely volatile.

For example, a recent [Philadelphia Inquirer story](#) showed that in Philadelphia, land costs per square foot of vacant land fell by 46 percent over the last year. Why? A developer quoted in the story suggests that as supply has started to keep up with demand, rents have declined, causing land prices to decline. In other words, when supply increases, rents go down AND so do land prices.

Response to “Steelmanning the NIMBYs”

OCTOBER 7, 2018 BY MICHAEL LEWYN

Scott Alexander, a West Coast blogger, has written a post that has received a lot of buzz, called [“Steelmanning the NIMBYs”](#); apparently, [“steelmanning”](#) is the opposite of “straw manning”; that is, it involves making the best possible case for an argument you don’t really support. There have been [so many comments](#) to this post that I don’t feel the need to respond to every point (and many of the points are very San Francisco-specific). But here are a few points, each of which begin with a quote from Alexander:

1. “Even in the best case scenario, increased housing supply will just make apartments *slightly* more affordable.” But the post states that if housing supply

increases by the admittedly ambitious 2.5 percent a year, the monthly rent for a one bedroom San Francisco apartment will go down from \$3500 to \$2100- a **forty percent** decrease. Moreover, in looking at the effects of new supply it isn't enough to compare the benefits of reform to the status quo, because it is quite possible that if we continue "business as usual" policies rents will keep rising. So instead of comparing \$2100 to the current rent, maybe we should compare it to whatever the rent will be if San Francisco continues along its current path (which I am guessing is more than \$3500).

2. "If your theory predicts that turning a city into Manhattan will make rents plummet, then consider that turning Manhattan into Manhattan made rents much worse, and so maybe your theory is wrong." This is another version of the theory that density causes rent to rise. I have responded to that argument [here](#). (Brief summary: Manhattan has gotten LESS dense over time, so if density was bad for rent, Manhattan should be a bargain now!)
3. "And I have heard YIMBYs counter that if people don't want to live in an urban environment, they shouldn't have bought a house in a city. But they kind of didn't. They bought a house in a medium-density suburb, then some other people came and said "No, this has to be a city". In other words, suburbanites (and by implication, city residents who are also NIMBYs) relied on the status quo and therefore their preferences should be enforced. Although the reliance argument has some emotional power, it has a few flaws:
 - the reliance argument is a self-fulfilling prophecy; the zoning that the reliance argument justifies itself creates the reliance. If you had less zoning, people would be less likely to rely on the status quo.
 - it proves too much. If my reliance on my neighborhood's density justifies legal enforcement of the status quo, why not my reliance on my neighborhood's racial or religious composition (both of which, I suspect, affect housing decisions just as much, if not more, than density)?
 - Restrictive zoning might violate other people's reliance interests. For example, if I move to city X and get married and start a career, am I relying on the likelihood that housing will continue to be affordable in city X? If I buy land, am I relying on the possibility that I can do what I want on the land?

I note that the reliance argument is not as pro-suburban as Alexander thinks. If neighbors of a proposed building or subdivision get veto power over housing because they relied on the status quo, this means housing should be built where fewer neighbors have relied on the status quo- that is, where fewer people live near the building/subdivision. Such places would by definition be the least dense places- that is, suburbs or rural areas as opposed to cities.

The Foreign Buyers Are Taking Over (Not!)

SEPTEMBER 14, 2018 BY MICHAEL LEWYN

A headline in the Boston Globe [screams](#): “Boston’s new luxury towers appear to house few local residents.” The headline is based on a [report](#) by the leftist Institute for Policy Studies, which claims that in twelve Boston condo buildings, “64 percent do not claim a residential exemption, a clear indication that the condo owners are not using their units as their primary residence.”*

The report accordingly concludes that these buildings do not “address Boston’s acute affordable housing crisis.” This seems to be another version of the common “foreign buyers” argument: that new housing does not hold down rents, because it will all be bought up by rich foreigners who will let the units sit unoccupied forever. Although the report does not explicitly endorse restrictive zoning, it does urge the city to require new residential buildings to be carbon-neutral- a rule that might make residential construction more difficult.

But this inference would be wrong. If you own a condominium, you have three choices: (1) to live in it; (2) to sit on it and lose money on your mortgage; or (3) to rent it out. Obviously, you make the most money through choice (3)- renting out the condo. So even a condo owner who does not choose option (1) has a strong incentive to adopt choice (3). Thus, it seems likely that at least some, if not all, of the condos will be rented out, thus increasing rather than decreasing regional housing supply, which in turn will have a positive effect on housing prices.

*The residential exemption saves Boston homeowners [up to \\$2500 per year](#) on their tax bill. I would think that at least some owner-occupants are unaware of or forget to file for this exemption- but since I have no idea how common this is, I am reluctant to argue that this possibility alone makes the IPS report defective. A Bostonian might want to chip in here.

No, this study does NOT support refusal to build housing

AUGUST 26, 2018 BY MICHAEL LEWYN

A recent headline in the Forbes blog [screams](#): “Additional Housing Won’t Make City More Affordable, Says Fed Study.” This blog post cites a Federal Reserve Study showing that adding 5 percent more housing in the most desirable urban neighborhoods would lower rents by only 0.5 percent.

But if you read the study more carefully, it doesn’t stand for what the headline says it stands for. First of all, it refers only to increasing housing supply in the most expensive neighborhoods. But housing markets are citywide- so of course if you increase housing supply in just one or two neighborhoods, you are not going to get significant rent

reductions. If you raised housing supply by 5 percent everywhere, presumably you would get more than a 0.5 percent rent reduction.

The study itself states: " The papers that find large effects of regulation on house prices are not necessarily at odds with our findings in this paper, because regulations can have very large effects on the housing stock. For example, Jackson (2016) finds that an additional regulation reduces residential permits by 4 to 8 percent per year. Glaeser and Ward (2009) estimate even larger effects on supply. These effects on construction can accumulate into very large changes to the housing stock, especially when these regulations are in place for many years, as is often the case." (p. 5) In other words, the study admits that supply-limiting regulations do affect housing costs: precisely the opposite of what a careless reader might think from reading the Forbes headline.

Second of all, 5 percent is not exactly a huge increase. Even the author of the Forbes blog post concedes that more aggressive supply increases might lead to more aggressive rent reductions.

Third, the study assumes a zero vacancy rate (p. 13) which seems to be an assumption that would obviously be untrue in the real world.

Fourth, the study states: "In areas of the city where rents are closer to construction costs, housing supply is likely to be more elastic due to more available land and fewer or less binding regulations in such areas " (p. 7) In other words, even if housing supply doesn't affect rents much in the most desirable neighborhoods, it affects housing supply elsewhere.

So the study doesn't really support [supply-and-demand denialism](#).

Two cheers for subsidized housing

AUGUST 22, 2018 BY MICHAEL LEWYN

A pure libertarian might argue that in an ideal world, there'd be no need for government-subsidized housing for low- and moderate-income households. Nevertheless, it seems to me that in the world we actually live in, even people generally opposed to the welfare state should favor more such housing. This is so for several reasons.

First, government raises the cost of housing through a wide variety of regulations- some justified (e.g. building codes necessary for safety), some not-so-justified (e.g. exclusionary zoning). These regulations, by raising the cost of housing, effectively take money from all households. And because these restrictions aren't based on ability to pay, they are especially painful for low-income households. Public housing and similar programs, rather than being a subsidy to the undeserving poor, are merely compensation for this act of plunder.

Second, even if the United States abolished zoning tomorrow, it might take decades for housing supply to increase enough to bring rents down. So in the interim, lower-income households would still be suffering from the effects of zoning, and would deserve compensation just as much as they do under the status quo.

Third, even if the United States abolished zoning and similar restrictions tomorrow, public health and safety might support certain restrictions that nevertheless increase the cost of housing- for example, some basic safety protections in building codes. It seems to me that as a matter of justice, government should not be forcing people into homelessness, so government should subsidize housing in order to make up for the costs imposed by even the most legitimate regulations.

Finally, even if there were no housing-related regulations at all, the cost of land would create a floor under housing costs, which means some people would be homeless without government support. So if homelessness creates harmful social externalities of any kind, you might want social policies that prevent such homelessness.