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Maine Equal Justice
 People Policy Solutions

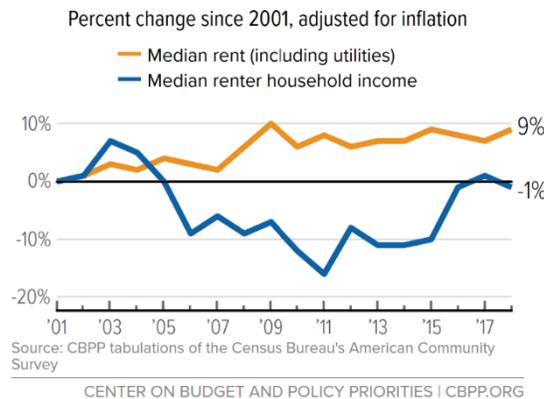
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**Testimony of Maine Equal Justice
 For Commission
 To Increase Housing Opportunities in Maine by
 Studying Zoning and Land Use Restrictions
 August 11, 2021**

Good afternoon Senator Craig Hickman, Speaker Fecteau, and members of the Commission to Increase Opportunities in Maine. I am a Policy and Legal Advocate at Maine Equal Justice, a nonprofit legal aid organization working to increase economic security, opportunity, and equity for people in Maine. We are in support of zoning laws that would alleviate the shortage of safe and affordable housing in Maine.

Maine Needs More Housing Opportunities for Low-income Renters and Homeowners

Rental costs have risen in various parts of the state, and despite an increased minimum wage and a tight labor market, wages haven't kept pace. Neither has federal rental assistance.¹ According to the Center on Budget and Policy Priorities data from 2019, **2 in 10 Mainers with low incomes are either homeless or pay over half their income on rent.**² With so many severely rent burdened households, Maine has suffered from a housing instability pandemic that preceded the COVID-19 pandemic.



¹ *Maine Federal Rental Assistance Fact Sheet*, Center on Budget and Policy Priorities (Dec. 2019) <https://www.cbpp.org/research/housing/federal-rental-assistance-fact-sheets#ME>.

² *Id.*

Of the approximately 48,000 severely rent-burdened population in Maine, the Center for Budget and Policy Priorities estimates that 26% are children, 30% are working adults, 13% are seniors, 28% have a disability, and 2% are veterans.³ Significantly, Maine Housing has documented that 26% of Maine’s homeless population is Black or African American, though they make up only 1% of Maine’s population, reflecting systemic racial disparities in Maine’s housing market that have been documented in other states and across the U.S.⁴

If you were to spend a day answering the phones in our office, you would quickly hear how large the challenge of finding safe and affordable housing looms in the lives of people with low incomes. If families have housing, their fear of losing it is palpable in their voices. If they don’t, their lives are in extreme crisis. That’s because the security of a home is far more than just a roof over a person’s head, it is the “platform” on which nearly everything else depends—employment, health, hunger, and the well-being and educational success of children. That’s why as an organization, we’ve been engaged for years with clients and other people in poverty in seeking solutions to this problem, including through advocacy and collaboration with the Maine State Housing Authority and participation in the Maine Affordable Housing Coalition, the National Low-Income Housing Coalition, and Housing Justice Maine. We have learned a lot about the structural and market factors that make this problem so challenging.

Maine Must Build More Affordable Housing

To state the problem simply: Mainers need safe housing that is affordable, and Maine doesn’t have enough options. There can be supply-side (building more units) or demand-side (providing more rental assistance) solutions, and federal and state programs use both strategies. But Maine still faces a critical shortage of affordable housing options for low-income renters, and Maine Equal Justice supports the crucial supply analysis that LD 609 will task the commission with.

Traditional demand-side solutions are providing rental assistance, usually through “housing vouchers,” to help low-income tenants afford their rent. Federal and state housing voucher programs do not provide nearly enough rental assistance to meet Maine’s long-term needs. The main program to help low-income tenants is the federal Section 8 Housing Choice Voucher program (aka Section 8 rental assistance), but the program is unable to meet the need that is out there. In fact, nationally, it only serves 1 in 4 eligible families. **In Maine, the joint Section 8 waiting list which covers most of the state has over 25,000 households on it.** These families will wait years for needed assistance.

But even when families do have vouchers, many still struggle to find safe, affordable housing. The Press Herald and Bangor Daily News have documented the struggle Mainers face “leasing up” their voucher with a willing landlord.⁵ Tenants face a lack of available units in their area,

³ *Id.*

⁴ Maine State Housing Authority, *Maine Homelessness Survey: 2019 Point in Time Count* (last revised May 17, 2019), <https://www.mainehousing.org/docs/default-source/housing-reports/2019-point-in-time-survey.pdf>.

⁵ See Randy Billings, *High-priced Housing Market is Squeezing Low-income Renters*, Portland Press Herald (Nov. 9, 2019), <https://www.pressherald.com/2019/11/09/low-income-families-squeezed-by-limited-housing-options/>;

conditions of the available units that don't meet program standards, and prices of the available units exceeding the program caps, among other barriers.⁶ In fact, **the National Low Income Housing Coalition estimates that there is a shortage of more than 19,000 rental units in Maine that are both available and affordable to extremely low-income renters.**⁷

There is an urgent need to address Maine's housing supply issues, and LD 609 is a necessary starting point to assess potential barriers and recommend reforms so our State can address this need. We support this bill because it is clear to us that more needs to be done to address housing affordability in Maine communities, and this bill, with its focus on studying local policies and the state's role in those policies *and* studying other states' successes in addressing housing shortages through zoning policies, represents a step towards new and potentially innovative solutions. Maine is certainly not the only state where zoning poses a barrier to developing affordable housing for low-income people.⁸ The commission will help Maine learn from other states' experiments with state-level policies to help municipalities address the housing crisis.⁹

The Commission Must Address How Zoning Has Been a Vehicle of Racial Inequality and an Obstacle to Affordable Housing Development

We strongly support the inclusion in LD 609 of two commission members who can represent the interests of low- and middle-income renters and homeowners and the mission of civil rights, racial justice, and racial equity. We also support requiring the commission to consider the historic role of race and racism in zoning policies to ensure racial equity in Maine's housing policy at all levels.

Callie Ferguson, *Homeless with 4 Kids, A Bangor Man Called Nearly 100 Landlords to Find a Place to Live*, Bangor Daily News (Nov. 19, 2018), <https://bangordailynews.com/2018/11/19/news/bangor/homeless-with-4-kids-a-bangor-man-called-nearly-100-landlords-to-find-a-place-to-live/>.

⁶ For a study on the prevalence of landlord bias against housing voucher holders, see also Mary Cunningham, et al., *A Pilot Study of Landlord Acceptance of Housing Vouchers: Executive Summary* 3, Urban Institute (2018), <https://www.urban.org/research/publication/pilot-study-landlord-acceptance-housing-choice-vouchers>. See also Matthew Haag, *'She Wants Well-Qualified People': 88 Landlords Accused of Housing Bias*, New York Times (Mar. 15, 2021), <https://www.nytimes.com/2021/03/15/nyregion/real-estate-lawsuit-section-8-discrimination.html>.

⁷ National Low Income Housing Coalition, *Housing Needs By State: Maine*, <https://nlihc.org/housing-needs-by-state/maine> (last accessed Mar. 19, 2021).

⁸ Recently, an MIT study for the Greater Portland Council of Governments documented local zoning policy's impact on affordable housing development. See Glenn Jordan, *Report Highlights Challenges for Apartment, Condo Developers in Portland*, Portland Press Herald (Feb. 18, 2021), <https://www.pressherald.com/2021/02/18/report-highlights-challenges-for-apartment-condo-builders-in-greater-portland/>.

⁹ For example, in the past two decades Massachusetts has experimented with sticks and carrots for municipalities to zone for affordable housing development in the form of amendments to the state's zoning enabling act. See Citizens' Housing and Planning Association (CHAPA), *The Use of Chapter 40R in Massachusetts* (2018), https://www.chapa.org/sites/default/files/TheUseofCh40R_2018.pdf, at pages 8-9 discussing the history of Chapters 40B and 40R. Additionally, there is a vast field of study on zoning reform to increase affordable housing supply, and the commission can study progressive zoning reform in cities across the country for viable models to present in Maine. See, e.g., John Myers and Michael Hendrix, *To Create More Affordable Housing, Make Zoning Hyperlocal*, Bloomberg News (Feb. 19, 2021), <https://www.bloomberg.com/news/articles/2021-02-19/hyperlocal-zoning-can-expand-affordable-housing>; Laura Bliss, *How Portland, Oregon's Landmark Zoning Reform Could Work*, Bloomberg News (Aug. 13, 2020), <https://www.bloomberg.com/news/articles/2020-08-13/how-portland-dethroned-the-single-family-home>.

It is well-known that local zoning has been a long-standing obstacle to expanding housing opportunities for people of color and low-income people. Historians have documented that local “exclusionary zoning” policies restricting multifamily housing development were designed to intentionally and systemically exclude Black Americans from moving into white suburbs.¹⁰ White suburban residents have long relied on coded language and racial stereotypes to justify policies promoting single-family homes and denying the development of apartment buildings.¹¹ The disparate discriminatory impact this has had on Black Americans and other people of color has led courts to strike down many such zoning ordinances as violations of the Fair Housing Act all over the country.¹² Moreover, barriers to building multifamily housing have disparately impacted low-income people and people with disabilities, among other protected groups.

When it comes to addressing systemic housing barriers for impacted groups, we need state-level policies to ensure equity throughout our state. For example, in 1997, Maine brought the state zoning enabling act into conformity with the federal Fair Housing Act by prohibiting discrimination against “community living arrangements” for persons with disabilities in local land use codes. P.L. 1997, c. 442. The amended statute, 30-A M.R.S. § 4357-A, guarantees that group homes can be built in any single-family zone throughout the state, creating equal access to housing opportunities for Mainers with disabilities no matter which town they live in. This commission can take further steps to ensure equal housing opportunities for Maine’s renters, no matter where in Maine they live.

Remediating this exclusionary history takes concerted work, and impacted people’s voices must be included in the process. With this commission, Maine is moving in the right direction to remedy the deep housing disparities for Mainers of color and low-income households who most need safe, affordable housing opportunities.

Conclusion

Maine Equal Justice hopes the Committee will prioritize alleviating affordable housing in Maine and would be eager to assist the Commission in understanding the perspectives of low-income people who face housing insecurity.

We thank you for the opportunity to testify.

¹⁰ Richard Rothstein, *The Color of the Law: A Forgotten History of How Our Government Segregated America* 49-50; 53-54 (2017).

¹¹ See, for example, Jacqueline Rabe Thomas, *Separated by Design: How Some of America’s Richest Towns Fight Affordable Housing*, ProPublica (May 22, 2019), <https://www.propublica.org/article/how-some-of-americas-richest-towns-fight-affordable-housing>, where homeowners in one Connecticut town complained that increasing density to build affordable housing would “ghettoiz[e]” the town and damage “neighborhood character.”

¹² See *Dews v. Town of Sunnyvale, Tex.*, 109 F. Supp. 2d 526, 567-68 (N.D. Tex. 2000), for a modern example.