



July 13, 2021

The Honorable Maxine Waters
Chairwoman
House Financial Services Committee
2129 Rayburn House Office Building
Washington, District of Columbia 20515

The Honorable Patrick McHenry
Ranking Member
House Financial Services Committee
4340 O'Neill House Office Building
Washington, District of Columbia 20024

The Honorable Emanuel Cleaver
Chairman
House Subcommittee on Housing, Community
Development, and Insurance
2129 Rayburn House Office Building
Washington, District of Columbia 20515

The Honorable French Hill
Ranking Member
House Subcommittee on Housing,
Development, and Insurance
4340 O'Neill House Office Building
Washington, District of Columbia 20024

Dear Chairwoman Waters, Ranking Member McHenry, Chairman Cleaver, and Ranking Member Hill:

The Yes In My Backyard Act (YIMBY Act) ([S. 1614](#), [H.R. 3198](#)) was reintroduced in recent weeks. As with the bill's version in the 116th Congress, the legislation would install new reporting requirements for recipients of federal Community Development Block Grant (CDBG) funding. Although the legislation's intent is evident – to provoke local governments to install policies accommodating residential development – the form of additional reporting being proposed is prescriptive and undermines the ability of local governments to both identify needs specific to their jurisdiction and respond accordingly. There are other available options which would instead promote more direct and tangible methods of local action on housing development.

Background

The legislation would require CDBG grantees to review and complete a checklist of land use policies as a part of the grantee's long-term planning document known as the consolidated plan. Twenty-two individual activities are listed in the reporting requirements. CDBG grantees would need to compare their state and local laws with the extensive list of policies to identify which are currently in-use. The list is not endorsed or provided by any particular government affiliate such as the U.S. Department of Housing and Urban Development (HUD). The checklist also does not account for additional activities which either have or can be initiated by the grantee to promote residential development. Additionally, the checklist does not account for the state and local

grantee's specific needs, ability to act on comprehensive land use policies, or degree of impact action items would have on housing development in their respective community.

Community needs and capacity

Each jurisdiction has varying levels of needs as well as capacity and resources to respond to residential development; in other words, no locality is created equally. Land use policies are distinct to each locality reflective of their specific circumstances. One activity may be sufficient in a given locality to address housing access and opportunity. On the other hand, other communities may need to promote several actions to adequately promote housing. In other communities, local housing challenges are centered on the quality of existing housing stock and the actions identified on the checklist to promote new housing are not relevant to those challenges. Further, capacity and resources also remain major factors in construction of local land use policies. Typically, larger and more affluent localities have the ability to put staff and citizen-led groups in place to determine zoning and related matters. For most smaller localities though, such staffing is not available to dedicate to zoning analysis, which may or may not address the particular housing challenges for the local community. A checklist as proposed by the legislation would not provide a fair or accurate assessment of the jurisdiction's position or ability to engage on housing development.

CDBG limitations and inability to respond

The proposal also does not account for how CDBG programs operate across state and local governments. As communities vary in adopting land use policies, CDBG administrators likewise range in their ability and connection to this type of local policymaking. A majority of program managers implement CDBG with limited capacity. A review of twenty-two land use policies would be burdensome for many administrators to handle; this is especially the case with CDBG program managers who operate in a one-person or part-time capacity, and that are not housed in the same division as the planning and development departments which would oversee land use, building codes, and related areas.

Further, it is unclear how states would comply with the YIMBY Act due to how the non-entitlement program is established. States administer thirty percent of CDBG funding and direct funds to local jurisdictions typically under 50,000 in population. The number of awards and jurisdictions participating in the non-entitlement program varies each year. In order to meet YIMBY's checklist, states would need to report on not only land use policies of local governments currently receiving state CDBG funds but also any local governments which may receive funds in the five-year time period covered by the consolidated plan. States, in order to ensure jurisdictions are accounted for and reporting is met through YIMBY, would need to assess all cities and counties which would be eligible to receive funds in the non-entitlement program. The process would add untenable duties to an already overstretched list of responsibilities for state CDBG administrators.

Alternatives

Develop comprehensive study on local action to accommodate affordable housing

A comprehensive federal study is needed to determine current impediments to housing development and how localities can take action to accommodate quality, affordable residential spaces. Various studies have been issued in recent years with a range of recommended practices promoted from housing advocates, financial institutions, and other stakeholders. However, a thorough review for 2021 may provide modern solutions drawing upon examples from local governments sharing meaningful outcomes. A collaboration of federal entities engaged on affordable housing would be well-positioned to head this assessment including HUD, U.S. Department of Treasury, U.S. Department of Agriculture, and U.S. Department of Commerce. Documentation of local actions to produce affordable housing would draw upon local experiences, challenges, and opportunities with respect to jurisdictions at different locations and varying populations.

Support targeted actions on affordable housing

As resource and capacity ranges across communities, federal support is critical to all aspects of housing development. Communities with sufficient staff and local participation on boards and commissions will be better able to address planning and building activities. For others, inadequate support to these activities present challenges to determining and acting on community goals including accommodating housing development. Federal initiatives which strengthen comprehensive local actions would assist communities in planning and development goals. Direct support to localities would be responsive to individual communities while targeting actions to address housing and other infrastructure and service needs. At the same time, communities at all population levels and location should have access to this form of assistance.

Renew resources for affordable housing

Lastly, federal programs in a position to respond to the housing crisis should be renewed with additional resources to accommodate development. Programs have a successful record of boosting the supply of affordable housing. However, due to funding reductions and rising construction costs over many years, programs have been unable to respond to housing needs accordingly. The most direct and impactful path to more affordable housing is by reinforcing existing programs. Additional funding in programs such as CDBG, HOME Investment Partnerships (HOME), Housing Trust Fund (HTF), USDA Rural Housing as well as further support to Treasury's Low Income Housing Tax Credit would lead to further development and availability of affordable housing.

Affordable housing is direly needed across the nation. Many factors contribute to supporting housing development and communities which want to maintain and grow recognize the importance of taking action to accommodate more housing units. However, limitations exist which are different and distinct in each locality. The YIMBY Act attempts to obtain local input by drawing upon an extensive list of policy actions. In requiring feedback on a set list, the legislation would depict communities in an unfair and inconclusive manner. The addition of a checklist in CDBG documentation also fails to recognize varying capacity for CDBG administrators to appropriately respond to the additional reporting requirement. For states, the process would mean far more work than can be managed in tracking dozens or even hundreds of individual jurisdictions under one document.

Overall, the results of this endeavor are unclear except the additional reporting requirement would pose more duties on an already limited staff across CDBG administration – from HUD to state and local grantees. Alternatives exist to better engage localities on producing more affordable units of housing. Ultimately, financing remains the biggest barrier to affordable housing development and without substantial resources to subsidize housing production, significant gaps will continue in housing access and availability.

Please reach out if you have questions or we can provide further details to this response. Thank you.

Sincerely,



Vicki Watson
Executive Director
National Community Development Association



Dianne E. Taylor
Executive Director
Council of State Community Development Agencies