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The Tennessee Advisory Commission on Intergovernmental Relations

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MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard
Executive Director

DATE: 29 May 2024

SUBJECT: Housing Affordability, Impact Fees, and Development Taxes—Final Report for Approval

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The attached Commission report is submitted for your approval. It was prepared in response to House Joint Resolution 139 by Representative Sparks in the 113th General Assembly, which requested a study of impact fees and their relationship to housing affordability. After discussions with the sponsor, legislative leadership, and stakeholders, the scope of the study was broadened to explore factors affecting housing affordability beyond impact fees. The resolution passed in the House and was referred to the Senate State and Local Government Committee, but no further action was taken.

Staff added information to the report that was requested by members at the last meeting. In response to questions from Mayor Frank about housing affordability, homelessness, and people residing in campgrounds, staff consulted with state park officials and included the available information. To address a question on manufactured housing, staff spoke with a representative of Clayton Homes and added information regarding some of the barriers to its use in Tennessee. And for a question on permitting fees and whether there might be any limits to how they are set, staff added information about relevant case law. To address Mayor Waters' concern about data related to housing inventories and needs, an appendix was added with more detailed data on vacancy rates in each county, showing a breakdown by the type of vacancy.

The Commission's draft finding that the state could authorize local governments to make multiyear funding commitments to affordable housing projects either through existing entities, such as industrial development boards, or by establishing a new entity similar to sports authorities was enacted by the 113th General Assembly in Senate Bill 1137 by Senator Oliver and House Bill 1229 by Representative Hemmer. The new law enables cities and counties to fund industrial development boards for multifamily affordable housing, provided certain preconditions set by the Comptroller are met.

Additionally, two recommendations that called for the use of realty transfer and mortgage tax revenue to fund affordable housing initiatives were revised to clarify that other revenue sources could also be considered:

- Zoning reform can have substantial affordability benefits and is squarely within the power of local governments, but local officials might be reluctant to adopt unfamiliar zoning changes, and rightly point out that new development comes with upfront costs and that financing those costs can create challenges. Further, local governments must balance affordability needs with other priorities. **Thus, the Commission recommends that the state offer an incentive for local governments to adopt zoning reforms that support housing development—such as allowing mixed-use development, reducing lot size requirements, or allowing types of missing middle housing—by sharing some of the state's realty transfer tax or mortgage tax revenue or other revenue with local governments whose land use regulations meet a minimum number of criteria out of a menu of optional measures. Funding can be phased in as state revenue growth allows.**
- **The Commission recommends the use of the realty transfer and mortgage tax revenues or some other revenue source to fund either the existing housing trust fund or a new trust fund from which THDA might make low- or zero-interest construction loans for affordable housing.** This could be achieved with either annual appropriations from the General Assembly, or a one-time appropriation, the interest from which could be used to support affordable housing programs indefinitely.

One recommendation related to property assessments under zoning reform was also revised following discussion with property assessors, who raised concerns of fairness and equity for taxpayers if similar properties were to be assessed in different ways:

- **The Commission recommends that state and local governments adopt policies to mitigate the effects of zoning reform on existing residents.** The draft report proposed mitigating any potential effects of zoning reform on property values by assessing property based on its zoning prior to reform. Senate Bill 2238 by Senator Yarbro and House Bill 2467 by Representative Stevens in the 113th General Assembly, as introduced, would have enacted this proposal. Following discussion with assessors, the bill was amended to use tax credits instead and to apply only to metropolitan governments. The bill passed in the Senate but was taken off notice in the House.

The following recommendations remain unchanged:

- As noted in the Commission's 2012 report, *Dealing with Blight: Strategies for Tennessee's Communities*, land banks can be a useful tool for making abandoned or vacant land productive—including by making it available for affordable housing. However, at present only a small number of cities and counties are authorized to establish land banks. Therefore, to assist local governments with both blight and increasing the land available for their housing supply, **the Commission recommends that the General Assembly authorize all local governments to establish land banks.**
- The state and many local governments also possess their own property that could be made available for housing. The Department of General Services currently collects information on state-owned real property, but greater coordination among information sources would be beneficial, and local governments could reach a wider audience by having property information listed on DGS's website. **As in 2019, the Commission recommends that the state help local governments reach a wider audience of potential buyers for their surplus real properties—including tax-delinquent properties—by allowing those that have websites to post links to the state's website where the state advertises its surplus real property.**
- The construction industry can be vulnerable to swings in the economy, which, when they lead to lost employment as happened during the Great Recession, can have negative effects on the availability of workers for housing construction. **To soften the effects of downturns and forestall the loss of construction employment, the Commission recommends that funding from the realty transfer and mortgage taxes could also be reserved by the state for infrastructure in ways that smooth out the ups and downs of the business cycle.**