

Testimony on Regulatory Burdens Affecting Housing Affordability

Good morning,

Thank you for the opportunity to speak today on housing affordability in Pennsylvania.

Everyone would like a single 'magic bullet' solution. However, due to Pennsylvania's highly fragmented system of governance and the multiple layers of regulation—many of which conflict with one another—there is no single path forward. Given the limited time, I will focus on several key contributors to rising housing costs.

Framing the Cost Structure

Housing costs can broadly be divided into two categories:

- Vertical Costs – The construction of the buildings themselves
- Horizontal Costs – Land acquisition, entitlement, and site improvements

While vertical regulations—such as building codes, accessibility standards, and energy requirements—do increase costs, they are significantly outweighed by horizontal costs. For that reason, my remarks will focus on the regulatory drivers impacting land development.

Zoning Constraints

- The concept of 'Uses by Right' still exists, but in practice has been significantly restricted or in some Municipalities eliminated through processes such as Form Based Zoning. Most projects now require either a Special Exception or Conditional Use approval.
- The Conditional Use process can add 6 to 12 months before a project can even begin land development review.
- It allows municipalities broad discretion to impose conditions, often without meaningful checks and balances.
- Although the PA MPC does allow for some performance standards to be applied to Municipal review periods in many cases one of the first steps of the review process is for Municipalities to require property Owners to sign documents waiving their right to enforce the MPC prior to plan processing.
- Zoning density levels have not kept pace with Lancaster County Planning Commission recommendations.

Land Development Process

- Developers may need approvals from up to 11 regulatory bodies, creating a lengthy and costly process. If a project is approved in under 2 years that is currently considered a "win" on the development side.
- Due to the increasing complexity of the process Municipal reliance on third-party consultants has led to a lack of accountability and increased costs. Property Owners are forced to compensate the consultants up front prior to review starting without any framework for timing of reviews, schedules or estimates of cost for services.
- These consultants often draft, interpret, and enforce ordinances—consolidating multiple governmental roles into a single private entity. They serve as the Legislative, Judicial and Executive branches of Government all the while being paid on an hourly basis by the property Owner with zero accountability for costs or timing.

Stormwater Management

- No regulatory area has increased housing costs more significantly.
- In some cases, stormwater infrastructure costs exceed all core utility and paving costs combined.
- New 'water quality' mandates are often costly, conflicting, and lack clear measurable outcomes.
- These originate from Chesapeake Bay compliance efforts instituted by the EPA around 2014, yet results have not met EPA requirements by any metric. The answer from DEP has been to expand on the regulation that did not work in the first place rather than pause and reassess procedure. There are many alternative SWM processes that could reduce cost and at the same time provide exponentially higher returns on investment for water quality however there does not seem to be political will for such investigation.
- Alternative approaches could reduce costs and improve outcomes with better regulatory collaboration and honest dialogue.

NPDES Permitting

- The NPDES threshold of 1 acre significantly burdens small projects particularly those of an infill nature.
- Neighboring states allow up to 5 acres, putting Pennsylvania at a disadvantage.

Closing

This has been a brief overview of several major regulatory drivers affecting the cost of housing. Addressing affordability will require a reassessment of these systems to reduce unnecessary costs while maintaining essential protections.

Thank you for the opportunity to testify and for your attention to this important issue.

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