

# SLDC, Public Review Draft, Public Comments

Date Comment	First Name	Last Name	Organization	Communication	Part of County	Chapter	Comment/Question	Additional Notes:
10/15/2012				Letter	Estancia		Reccomendation that code be revised to address findings from studies critical of planning and smart growth.	See Attachments 2-7

Date Comment	First Name	Last Name	Organization	Communication	Part of County	Chapter	Comment/Question	Additional Notes:
10/15/2012	Gretchen	Grogan	Commonweal Conservancy	email	The South	8	<p>I was wondering if you could answer a couple of questions Ted and I have about the Galisteo Basin Preserve. On the draft zoning map, it seems to show that the eastern side of the Preserve has a hatching pattern overlaying it. What does this designate? I'm not sure if it designates that this area is served by SF County water services or is it a mixed use designation? As you know, Trenza has received master plan approval as a mixed-use, mixed-income community and it also received Preliminary Plat approval for the first phase of its development. On the Future Land Use Map that was part of the SGMP, Trenza's location was shown as a "star" that designated a Community Center.</p> <p>Also, on the Future Land Use Map the Preserve was shown as part of the Rural Fringe Area, but on the preliminary zoning map the Preserve is being shown as part of the "Rural" area with a zoning designation of 1 du/40 acres, instead of 1 du/20 acres. Ted and I are curious about why this switch was made. We would like an opportunity to discuss this with you, either at the open house tomorrow or perhaps at some other time that is convenient for you.</p>	

Date Comment	First Name	Last Name	Organization	Communication	Part of County	Chapter	Comment/Question	Additional Notes:
10/17/2012	Karen	Yank	Turquoise Trail Preservation Trust	web	Estancia	10	<p>In the planning stage of the County code we all attended a special meeting that focused on how Sand and Gravel Extraction would be dealt with in the new code. Commissioner Stefanics attend as well. It was agreed upon that sand and gravel would no longer be exempt from the stringent regulations in the mining code and that all mining and related activities including sand and gravel extraction would be treated the same and be considered a DCI. This agreement is in writing in the SGMP in section 2.2.6.2 that states: Sand and gravel mining will be recognized as a DCI and subject to the requirements of the existing mining ordinance and SLDC. Furthermore, because we had taken great care to reach this agreement in the planning stage we did not have a focus group to address mining in the writing of the code.</p> <p>Now in the Draft SLDC it is apparent that a large oversight was made. In section 10.19.1 a threshold of 20 acres and/or use of blasting has been set for designating sand and gravel operations as a DCI. We know from firsthand experience that many quarries do not use blasting and that a 5-acre sand and gravel operation equates to 40 to 50 trucks a day. A 20-acre operation could use 200 trucks a day, which we believe is clearly of Countywide Impact. Also, in section 10.19.2 of this Draft it is allowing related uses activities at the same site of a mining operation less than 20 acre with no blasting to be exempt from being looked at as a DCI. These related activities could include road materials fabrication plants, asphalt hot mix plants, concrete batch plants and the use of mobile equipment such as crushers, stackers and conveyors that would all definitely cause Countywide Impact. All of the County's Sand and Gravel Extraction operations and related activities need to be regulated as a DCI. We ask the county to remove Sand and Gravel Extraction from section 10.19.1 and honor our previous commitment to the communities of Santa Fe County. Any other decision would negate the entire planning process and violate the trust built between the County and its people.</p>	

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10/17/2012	Tai		Bixby		email		10	In reviewing the draft SLDC, I was dismayed to see that you specifically left out language addressing the development and construction of Community Service Facilities. Paragraph 10.15 on page 215 of the code just says "Reserved." Please provide your draft language for Community Service Facility development as soon as possible for public review and comment by the community of Santa Fe County.	
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Date Comment	First Name	Last Name	Organization	Communication	Part of County	Chapter	Comment/Question	Additional Notes:
10/18/2012	Stephen	Ness	Estancia Basin Water Planning Committee	Letter	Estancia	8	<p>The Estancia Basin Water Planning Committee (EBWPC) in its founding MOU has the responsibility to investigate and recommend water resource management policies and strategies for consideration by the various governments with jurisdiction in the Estancia Basin.</p> <p>Under the existing state water laws, a landowner/developer could sell or sever water rights from a property and then turn around and subdivide the property based on water being provided from individual or shared domestic wells for each lot. Those wells could be permitted under the domestic well statutes (72-12.1.1) of the existing water laws. The Office of the State Engineer is required to issue such permits, and does so without review of their potential impairment on surrounding water rights holders.</p> <p>The various County Commissions in the basin, under Subdivision authorities granted to them by state statute, have a mechanism by which to stop this potential for "double dipping" - i.e. selling water rights from a property and then subdividing without re-assigning water rights to the property. However, it would require that the Estancia Basin "overlay" be created by each County and that for the "overlay" area, the existing subdivision ordinances be amended to prevent such a practice.</p> <p>The EBWPC has prepared a resolution addressing this matter for your consideration (Attachment 1). In essence the resolution, if approved by the Commission, would clearly state the County's policy on this matter and would direct County staff to prepare the required amendments to County codes needed to prohibit this practice. The resolution does allow development of lands from which water rights are severed, provided that other water rights are transferred back on to the property, the land is to be served by a community system with appropriate water rights, or if an appropriate portion of the water rights are retained for the development.</p> <p>If you have questions regarding this resolution or would like for the County's EBWPC representative to address this resolution before the Commission, please feel free to contact us.</p>	See Attachment 1

Date Comment	First Name	Last Name	Organization	Communication	Part of County	Chapter	Comment/Question	Additional Notes:
10/18/2012	Bill	Bell	Camp Oro Quay	comment form	Estancia	8	<p>Please allow me to give a some history and background to Singing Hill's "Camp Oro Quay" located in southern Santa Fe County. We are located in the San Pedro area on the North side of South Mountain on State Road 344. This property was developed as a campi retreat-conference center in 1964. For almost 50 years now this facility has served children, families and the people ofNM and Santa Fe County.</p> <p>We host a variety ofactivities, groups and events at this location. Some of these groups include NM School Districts, the Archdiocese of Santa Fe, Santa Fe County Fire, Neighborhood Meetings, NM Game and Fish Hunter's Education, Churches, University ofNew Mexico, Boy Scouts of America, Girl Scouts of America, 4-H clubs, sports teams, special needs children, at risk youth and many others.</p> <p>Each year we pay Santa Fe County the required fee for our business licence. We have the necessary inspections from the State Environmental Health Department to operate our kitchen and swimming pool. We file our non-profit report with the Public Regulation Commission and pay the fee each year. We are a non-profit organization under the IRS Code as a 501c3. This organization meets the current requirements to operate in New Mexico.</p> <p>Over the years we have all seen growth in Santa Fe County. Much ofthe land around our facility was rural! farming and now is mostly rural residential with large lots and few homes. It would be easy for the county to now classify all ofthe property in our area as "Residential" with a broad stroke ofthe brush. This may work for 99% of the properties in this area, but it will not work for our property or organization. Our organization does not really fall under the "home based" business plan. We are more than that, in that we have employees and a dozens of volunteers who serve the thousands ofguests who visit our campus each year.</p> <p>Please consider our unique situation and the facts surrounding our organization as you move forward with the Growth Management Plan. Thank you for your consideration.</p>	

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10/18/2012	Karen	Yank		comment form	South	Appendix B	All mining on use table should be listed as a DCI. Asphalt, concrete, and hot mix plants are not in use table and should only be in industrial zones.	
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Date Comment	First Name	Last Name	Organization	Communication	Part of County	Chapter	Comment/Question	Additional Notes:
10/18/2012	Ted	Harrison		email			<p>Thanks for your email today.</p> <p>Following from my participation in the Galisteo community meeting yesterday afternoon, I wanted to thank you and your colleagues at Santa Fe County for the dedicated tremendous time and energy they have dedicated to the task of drafting the SLDC, and facilitating the initial round of public comments.</p> <p>Clearly, the narrative and regulatory framework of the SLDC has been carefully developed and thoughtfully constructed to facilitate an improved process of land use in the county.</p> <p>Given the length and complexity of the document -- and the relatively brief amount of time that has been available to the public and the professional community to provide you and your colleagues with comprehensive comments, suggestions, additions and changes to the draft -- my colleagues and I would respectfully request that the County extend the deadline for written comments until the end of November. With an extension, we believe that the county will be able to solicit a broader and more substantial collection of comments to advise the preparation of a more final draft in early January.</p> <p>While we appreciate that staff and the Commissioners are eager to advance the new SLDC to adoption, a longer timeframe in which written comments can be offered would be greatly appreciated.</p> <p>Thank you for your consideration of this request. I look forward to hearing your thoughts on the opportunity for extension in the days ahead.</p>	

Date Comment	First Name	Last Name	Organization	Communication	Part of County	Chapter	Comment/Question	Additional Notes:
10/19/2012	Chuck; Marie	McAllister; Davis		email	Estancia	10 and 8	<p>A second issue is the exception to zoning requirements currently afforded to community service entities. Apparently, such organizations can build anywhere in the state regardless of zoning. That also seems to be the intention of the proposed zoning code. In addition, based upon Cedar Grove residents' experience with the County and its certification/licensing agencies, it would appear that the rules and restrictions which local rural-fringe homeowners have had to observe and adhere to would not have applied to the Girls and Boys Ranches of New Mexico's proposed development.</p> <p>If the purpose of zoning is to direct and restrict the types of development to conform to established as well as County-assigned neighborhood area standards (rural residential, ag/ranch, rural,mixed use, etc.) and to allow some degree of local determination of those standards, doesn't giving a carte blanche waiver to one category of developer obviate the entire rationale for zoning?</p>	

Date Comment	First Name	Last Name	Organization	Communication	Part of County	Chapter	Comment/Question	Additional Notes:
10/19/2012	Chuck; Marie	McAllister; Davis		email	Estancia	8	<p>We attended the SLDC meeting on zoning in Edgewood last evening and want to register some comments and reactions.</p> <p>Most of the time was spent discussing water issues. Several of the people in attendance appeared to have considerable expertise regarding the subject and had been involved in monitoring the water situation in southern Santa Fe County and in the Moriarty area for many years. They provided considerable information regarding the geology, hydrology, and history as well as current anecdotal reports pertinent to this area, ie, the Estancia Basin.</p> <p>What quickly became apparent is that the proposed zoning in this area of the County is predicated upon twenty-five-year old data which does not reflect the current or future status of water availability, drawdown, and replenishment.</p> <p>So, my question is: How can anyone on the County end of this process think that assigning zoning based upon questionable data has any legitimacy?</p> <p>And yet, that seems to be the agenda. I understand that the purpose of these meetings is to gather information and perspectives, but when faced with the suggestion that the County conduct surveys, speak with EWWA and local people who drill, install, and monitor the current water situation in this part of the County, and conduct hydrology studies to determine what the actual current and projected situation is, especially in view of the drought and its probable continuation for years to come, those running the meeting could offer no positive suggestions for what the County can do to gather information necessary to support any zoning decisions for the future.</p> <p>Before you make decisions on zoning or any other matters (population density assignments, and infrastructure changes, for example), does it not make sense to ascertain valid and verifiable data upon which such decisions should be based?</p>	

Date Comment	First Name	Last Name	Organization	Communication	Part of County	Chapter	Comment/Question	Additional Notes:
10/19/2012	Leslie	Hancock		web	Central	8	<p>"My wife and I have a comment specifically relating to minimum lot size (dwellings per X acres) in the Preliminary Draft Zoning Map of 10/4/2012, viewable online at <a href="http://www.santafecountynm.gov/userfiles/SLDC_2012_PRD/_SLDCstudysessionpreliminary_draft_zoning_map_10_4_12c.pdf">http://www.santafecountynm.gov/userfiles/SLDC_2012_PRD/_SLDCstudysessionpreliminary_draft_zoning_map_10_4_12c.pdf</a>. Our property is at 50 Old San Marcos Trail, Tract A-1-B, in the San Marcos Pueblo Grant. The western boundary of our land lies on the western boundary of the San Marcos Pueblo Grant. The map coordinates of our house are 35°27'25"N, 106°04'45"W. See Book 575, Page 006 of the Records of Santa Fe County.</p> <p>One of the inducements to buying this property was the fact that it lies in an area currently limited to one dwelling per 40 acres. It's difficult to tell from the Draft Zoning Map whether the proposed zoning puts us into a Rural zone (one dwelling per 40 acres) or a Rural Residential zone (one dwelling per 10 acres). Of course we want to keep the original one-dwelling-per-40-acres designation. It would distress us to lose that by an arbitrary zoning change that moves the old boundary line a few thousand feet.</p> <p>I assume that the zoning in this case follows the hydrologic boundaries described in "Conceptual Hydrologic Systems for Santa Fe County," viewable at <a href="http://nmgs.nmt.edu/publications/guidebooks/downloads/46/46_p0299_p0306.pdf">http://nmgs.nmt.edu/publications/guidebooks/downloads/46/46_p0299_p0306.pdf</a>. Figure 1 of that document, a "Generalized Geologic Map of the Aquifer Systems in Santa Fe County," shows that our property lies very near the boundary between the North Santa Fe County and South Santa Fe County aquifer systems. A comparison of the Preliminary Draft Zoning Map and Figure 1 of "Conceptual Hydrologic Systems" suggests that your proposed zoning of the San Marcos Pueblo Grant follows that boundary.</p> <p>My comment, in short, is that we should stay in the one-dwelling-per-40-acre zone. A visit to our land, and all the land nearby, will show you just how "conceptual" that dotted line is. This property is extremely dry. Our well is more than five hundred feet deep. Denser settlement in the future would be extremely unwise."</p>	

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10/21/2012	Ruth and Gary	Anderson		email	El Centro	8	<p>I live on the western boundary of Pinon Hills. I understand new zoning rules are being considered to change the zoning to the west of the subdivision to SDA-1 designation.</p> <p>I am very upset that this is even being considered for this area. It is inappropriate for commercial and industrial development to be put into the middle of an established neighborhood such as ours. Because we rely on septic systems in this area, we also need to keep the density at the current level. There is a reason why many people live outside of the convenience of town: less density, less commercial development, and NO INDUSTRIAL businesses in the middle of neighborhoods. It's very quiet here -- that's what we love about it.</p> <p>We built our house here because of the zoning protection for single family lots. This change seems to only benefit a very few to the detriment of many. Please, please do not allow this to happen. It would really affect the quality of our lives. Thank you for taking into consideration the affect this will have on all of us out here.</p>	
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Date	Comment	First Name	Last Name	Organization	Communication	Part of County	Chapter	Comment/Question	Additional Notes:
10/21/2012		Peter	Hayes		email	El Centro	8	No SDA 1 adjacent to pinon hills, please	

Date Comment	First Name	Last Name	Organization	Communication	Part of County	Chapter	Comment/Question	Additional Notes:
10/21/2012	Trevor	Burrowes		web	South		<p>"As climate change exacerbates drought, water shortage and wildfires in New Mexico, development in Santa Fe County has the potential to set an example of restraint, maximizing conservation.</p> <p>Conservation can apply to the natural eco-systems of the county or to inputs and outputs from and to the world beyond our boundaries. Inputs, for example, could include plants for landscaping, or increased traffic and road wear and tear, while outputs could include being a force for drying out as opposed to hydration of neighboring ecosystems.</p> <p>Since there could be no extreme too much for conservation in a time of environmental crisis, I wish to make the following suggestions for managing the county's landscape.</p> <p>1) Line as many roadways as possible with trees. The median strip in Governor Miles Rd in Santa Fe city is an example of an impressive street tree program.</p> <p>2) Prescribe that, to the maximum extent feasible, there be no development-related landscaping other than the pre-existing natural landscape.</p> <ul style="list-style-type: none"> <li>- Bike, equestrian and pedestrian trails/paths would be aggregate or other earthlike materials.</li> <li>- Separate bike, pedestrian/equestrian, and vehicular circulation by vegetation strips.</li> <li>- Driveways would comprise the traditional dirt roads and left as narrow as possible.</li> <li>- Major consideration would be given to maintaining the habitat of the county's wild creatures, including their means of habitual circulation.</li> <li>- Discourage large private gardens that require water.</li> <li>- Golf courses would receive no irrigation but be allowed to go brown.</li> <li>- New development would be nestled into existing vegetation to the maximum degree feasible with minimal constructed footprint.</li> </ul>	

Date	Comment	First Name	Last Name	Organization	Communication	Part of County	Chapter	Comment/Question	Additional Notes:
10/21/2012		Trevor	Burrowes		web	South		<ul style="list-style-type: none"> <li>- Encourage green roofs.</li> <li>- Encourage rooftop solar systems.</li> <li>- Encourage community and other pooled garden space.</li> <li>- Encourage the planting of food trees that serve humans and animals.</li> </ul> <p>The above are merely some quick suggestions that may soften the impact of the (IMO) massive overdevelopment of the county. I would be glad to discuss these suggestions if required. I can be reached by email at <a href="mailto:trevoroche@aol.com">trevoroche@aol.com</a> or by phone at</p> <p>Trevor Burrowes"</p>	

# Attachment 1

Board of County Commissioners  
Torrance County, New Mexico  
PO Box 48  
205 9<sup>th</sup> Street  
Estancia, NM 87016

Mr. Robert Anaya,  
County Commissioner, District 3  
Santa Fe County, NM  
102 Grant Avenue  
Santa Fe, NM 87501

Mr. Wayne Johnson,  
County Commissioner, District 5  
Bernalillo County, NM  
One Civic Plaza, NW  
Albuquerque NM, 87102

September 21, 2012

Re: A RESOLUTION ADDRESSING THE USE OF DOMESTIC (72-12-1) WELLS FOR WATER SUPPLY FOR SUBDIVISION OF LANDS FROM WHICH WATER RIGHTS HAVE BEEN PREVIOUSLY TRANSFERRED OR SEVERED

Dear Commissioners:

The Estancia Basin Water Planning Committee (EBWPC) in its founding MOU has the responsibility to investigate and recommend water resource management policies and strategies for consideration by the various governments with jurisdiction in the Estancia Basin.

Under the existing state water laws, a landowner/developer could sell or sever water rights from a property and then turn around and subdivide the property based on water being provided from individual or shared domestic wells for each lot. Those wells could be permitted under the domestic well statutes (72-12.1.1) of the existing water laws. The Office of the State Engineer is required to issue such permits, and does so without review of their potential impairment on surrounding water rights holders.

The various County Commissions in the basin, under Subdivision authorities granted to them by state statute, have a mechanism by which to stop this potential for "double dipping" – i.e. selling water rights from a property and then subdividing without re-assigning water rights to the property. However, it would require that a Estancia Basin "overlay" be created by each County and that for the "overlay" area, the existing subdivision ordinances be amended to prevent such a practice.

The EBWPC has prepared a resolution addressing this matter for your consideration (*Attachment 1*). In essence the resolution, if approved by the Commission, would clearly state the County's policy on this matter and would direct County staff to prepare the required amendments to County codes needed to prohibit this practice. The resolution does allow development of lands from which water rights are severed, provided that other water rights are transferred back on to the property, the land is to be served by a community system with appropriate water rights, or if an appropriate portion of the water rights are retained for the development.

If you have questions regarding this resolution or would like for the County's EBWPC representative to address this resolution before the Commission, please feel free to contact us.

Sincerely

Stephen Ness,  
Chairperson, Estancia Basin Water Planning Committee

**ATTACHMENT 1**  
**DRAFT OF PROPOSED RESOLUTION**

**A RESOLUTION ADDRESSING THE USE OF DOMESTIC (72-12-1) WELLS FOR WATER SUPPLY FOR SUBDIVISION OF LANDS FROM WHICH WATER RIGHTS HAVE BEEN PREVIOUSLY TRANSFERRED OR SEVERED**

**Whereas:** The Estancia Basic Water Planning Committee (EBWPC) was formed by Memorandum of Understanding by the Counties of Bernalillo, Santa Fe, and Tarrant; and the EBWPC was assigned the responsibility to recommend water resource management policies for consideration by the various governments within the jurisdiction in the Estancia Basin.

**Whereas:** The New Mexico Office of the State Engineer (OSE) declared the Estancia Basin fully appropriated and closed the basin to new appropriations on 4 July 2001, and the OSE recognizes nearly three times the amount of permitted water rights than the amount of water actually pumped throughout the basin; and the OSE currently administers the Estancia Basin under guidelines approved in June 2002; and the OSE has not proposed, nor has any immediate plans, to adjudicate the water rights within the basin.

**Whereas:** Both permitted water rights and physical pumping of water far exceed the amount of annual recharge occurring to the basin, and whereas historic and current pumping has resulted in significant decline in water levels, and continuing declines in water levels are an on-going concern in the basin;

**Whereas:** Whereas there are no provisions in State law or in the OSE Estancia Basin guidelines to prevent redevelopment of land from which water rights have been transferred or severed, and such redevelopment could present a plan to the respective member Counties or other governmental entities for utilizing the existing domestic well (NMSA 72-12-1) statutes for an intended water supply for a proposed subdivision, and that the 72-1-1 statute currently requires the issuance of such permits by the OSE without further consideration of the impact or impairment caused by issuance of such permits.

**Whereas:** The provisions of NMSA 47-6-9 require the board of county commissioners to regulate subdivisions within the county's boundaries, including requirements to quantify the maximum annual water requirements of subdivision and to assess the water availability to meet the maximum annual water requirements of each new subdivision or development.

**Whereas:** The provisions of NMSA 47-6-9 does not limit the authority of counties to adopt subdivision regulation with requirements that are more stringent than the requirements set forth in the New Mexico Subdivision Act, and NMSA 4-37-1 grants to counties the same powers as granted to municipalities which includes limited powers to regulate the drilling of domestic wells.

**Be it resolved:**

- 1.** It is this policy of this County Commission that subdivision of lands within the Estancia Basin from which water rights have been previously severed, transferred, or have any way undergone a change in place or

purpose of use (i.e. subject lands) shall not subsequently be developed based on the use of domestic wells issued under provisions of NMSA 72-12-1, unless sufficient rights were reserved for such development.

2. It is the County Commissions policy that such plans are considered contrary to providing for the safety, preserving the health, and promoting the prosperity of the county and its inhabitants.
3. It is the direction of this County Commission to the County Manager and to the EBWPC that the proposed amendments allow for development utilizing domestic wells permitted under 72-1-1 provisions only if (a) water rights were severed from the land prior to effective date of the proposed amendments, (b) <sup>add County</sup> for lands in which a portion of water rights have been retained in an amount consistent with the amount that would be assigned to the domestic well 72-1-1 permit(s) as issued by the OSE for the subdivided property at the time of the subdivision application, and (c) for lands without prior rights assigned or declarations having been made as of the effective date of the proposed amendments.
4. It is the direction of this County Commission to the County Manager and County staff and to the EBWPC that redevelopment of land from which water rights have been severed must obtain water from a source other than domestic wells, for example, from a community water system (either existing or created) that has documented access to water rights and productive wells sufficient to meet the longevity and quality requirements of the County code.
5. It is the direction of this County Commission that the County Manager, in consultation with the EBWPC, develop and submit for approval proposed amendments to land use plans and Subdivision Ordinances to implement the above stated policy. The effective date of the amendments shall be no sooner than the date of the adoption of the amendment.

# Evaluation of Groundwater Level Data from Estancia Basin Monitoring Wells

June 2012  
HydroResolutions, LLC



## June 2012 Data Evaluation

As part of the contract between the East Torrance Soil and Water Conservation District (ETSWCD) and HydroResolutions (HR), HR has assembled and evaluated groundwater level data from wells within the Estancia Basin that are being monitored as part of the Estancia Basin Water Planning Committee (EBWPC) hydrogeologic monitoring program. Data were most recently downloaded on April 30 and May 1, 2012, from the 11 wells that are currently continuously monitored and seven wells that are manually monitored.

Figure 1 shows the complete EBWPC groundwater monitoring network, including 25 wells in which only manual water-level measurements are collected and 12 wells that have been monitored continuously using pressure transducers. Note that continuous monitoring was discontinued in Greene-4 (Figure 1 – south end of the basin) on October 18, 2011, due to its remote location and the fact that water levels in Greene-4 were not believed to be representative of the Estancia Basin. Figure 1 also shows the best estimate of the long-term water-level trend (in ft/yr) at each of the continuously (past and present) monitored well locations. Positive values indicate rising water levels and negative values indicate falling water levels. A single combined trend is given for the Schwebach 1 and 4 wells – there is no appreciable trend difference between the two locations.

Of the 11 currently continuously monitored wells, all but one (Schwebach 1) also include manual measurements, allowing for verification of the transducer readings. Note that water levels in most of the exclusively manually monitored wells have been measured only one or two times with the three exceptions being Magnum Steel, E-6385 (Bowman), and Shaw WM. Where water levels have been measured with sufficient frequency to determine if the effects of seasonal irrigation pumping can be detected, the data indicate that 8 out of 15 wells do show the effects of irrigation pumping (Figure 2).

Near the northwest boundary of the basin, water levels in E-2298 (Figure 3) are seen to be increasing at about 2.6 ft/yr and do not show any responses related to irrigation pumping. Water levels at the Hagerman Headquarters well located near the northeastern boundary of the basin are shown in Figure 4. About a mile to the east, the Bozlan-1 well (Figure 5) was previously thought to be affected by seasonal irrigation pumping. However, over the past year the expected irrigation recovery cycle typically observed between September and April was not observed at this location, so it is currently listed as not affected by irrigation (Figure 2). The long-term water-level trend shows that Bozlan-1 water levels are currently declining at about 3.5 ft/yr. Apart from Bozlan-1, there are no additional continuously monitored wells along the eastern side of the basin.

South of E-2298 along the western edge of the basin, E-9673 (Figure 6) shows no evidence of being affected by irrigation pumping. The data indicate that the long-term water level at E-9673 is effectively constant. Magnum Steel (Figure 7) and E-6385 (Bowman) (Figure 8) in the north central part of the basin clearly show the effects of irrigation pumping. Given the irregular sampling frequency, it is

difficult to determine the magnitude of the long-term water-level changes at the Magnum Steel and E-6385 locations.

Wells E-50-1 (Schwebach 1) (Figure 9) and E-50-4 (Schwebach 4) (Figure 10) near the center of the basin (Figure 2) clearly show the irrigation pumping cycle with water-level changes on the order of 20 ft between the start and end of the irrigation season. Long-term water levels in the vicinity of wells E-50-1 and E-50-4 are declining at a rate of about 5 ft/yr (Figure 1).

Well E-2034-S displays an attenuated irrigation pumping signal (Figure 11) relative to E-50-1. The long-term water level in the vicinity of this well is declining at approximately 2.5 ft/yr (Figure 1). West of E-2034-S, the Swenka Exploratory well near the western edge of the basin has shown an overall increase in water levels since monitoring began in 2009 (Figure 12), with an approximate long-term increase of 1.4 ft/yr. There is no indication that the Swenka Exploratory well is being affected by irrigation pumping.

Further south, but still on the west side of the basin, E.B. Romero WM (Figure 13) shows both short-term windmill pumping cycles as well as the seasonal irrigation pumping cycles. The long-term water level the E.B. Romero WM location appears to be relatively constant. Continuing south along the west side of the basin, Smith-1 (Figure 14) clearly shows the irrigation pumping cycles and a long-term water-level decline of approximately 0.4 ft/yr.

Cheri Lujan-1 (Figure 15) does not appear to be affected by irrigation pumping and exhibits no long-term change. However, Shaw WM just a mile south does show the irrigation pumping signal (Figure 16). Changes in the total depth of Cheri Lujan-1 between initial and subsequent measurements suggest that the deeper part of this well collapsed. It is believed that the remaining water column in Cheri Lujan-1 is isolated from that part of the basin aquifer that is affected by irrigation pumping.

Neither Greene-1 (Figure 17) nor Greene-4 (Figure 18) in the southern part of the basin (Figure 2) shows the effects of irrigation pumping. Both Greene-1 and Greene-4 are located within the topographic basin boundary but south of the administrative basin boundary. The water level at Greene-1 is rising at about 0.2 ft/yr and at Greene-4 it is decreasing at about 2.2 ft/yr (Figure 1). As noted previously, continuous monitoring has been discontinued in Greene-4 due to its remote location and the fact that water levels in Greene-4 are not believed to be representative of the Estancia Basin.

Manual water level readings were taken at the Ruby Shaw Windmill (Figure 19), the Hoiling Well (Figure 20) and the Jerry Shaw Headquarters Well (Figure 21) during the most recent monitoring run.

The data from the Ruby Shaw Windmill (Figure 19) suggest that the water level might be rising at that location in contrast to the Smith-1 well approximately five miles to the east where continuous water-level readings show a long-term decrease. The current plan is to move the pressure transducer from the Cheri Lujan-1 well to the Ruby Shaw Windmill to further investigate this possible difference.

Data from the Hoiling Well (Figure 20) suggest a 70-ft decrease in the water level over a two-year period at that location. More frequent manual measurements at this location are planned.

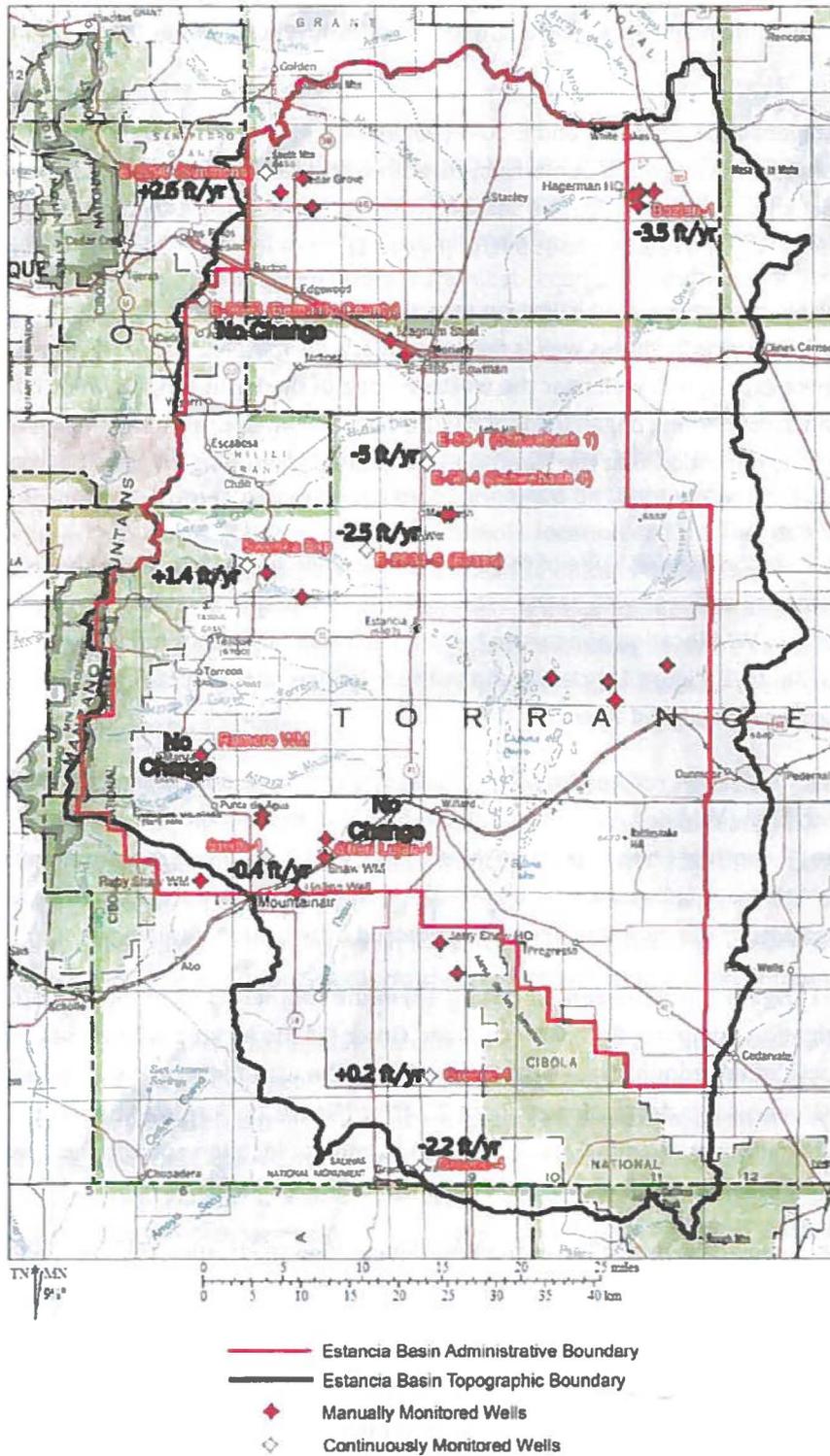
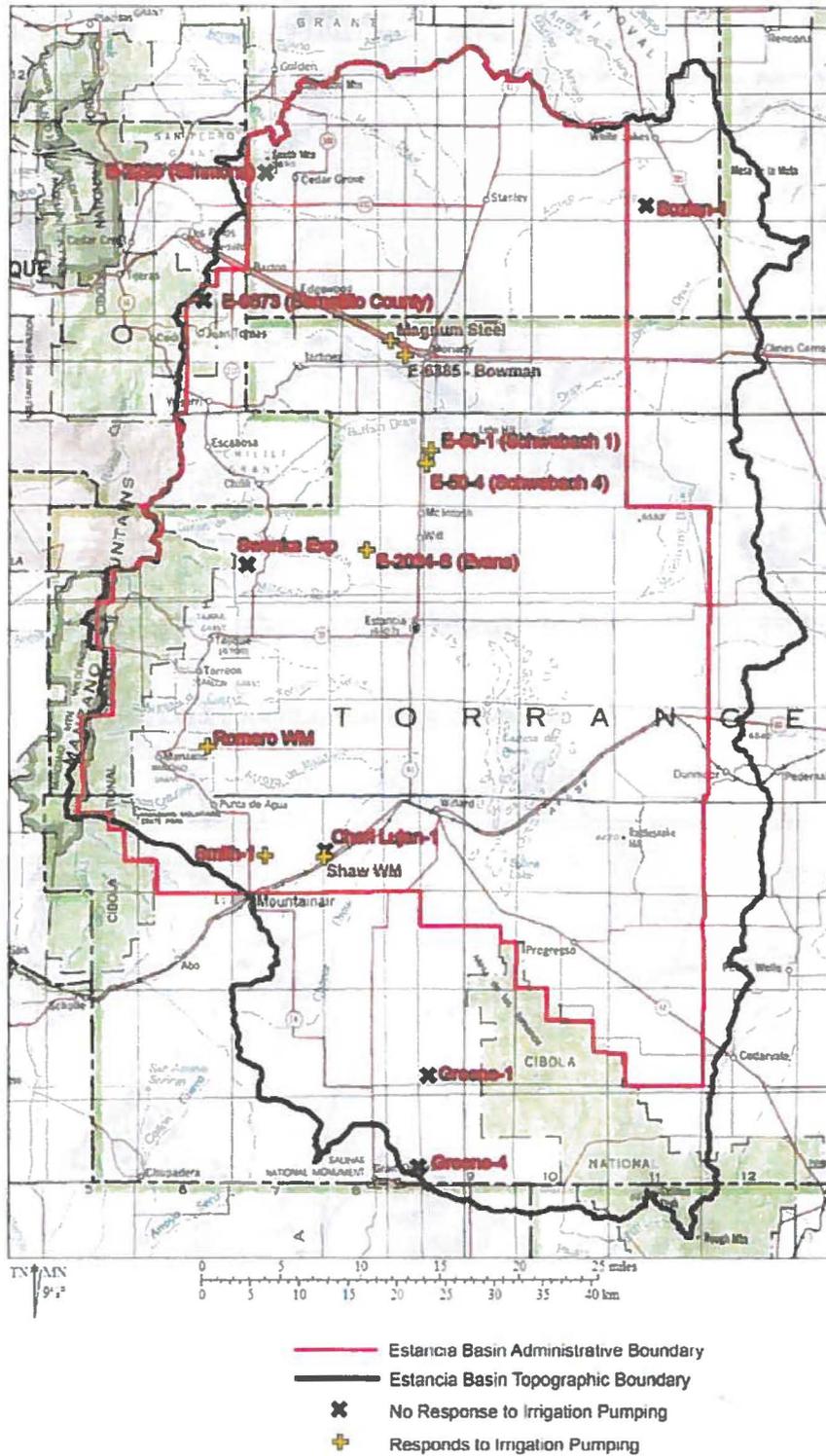


Figure 1. EBWPC groundwater monitoring network showing manually and continuously monitored well locations and long-term water-level trends.



**Figure 2. EBWC groundwater monitoring network showing well responses to irrigation pumping.**

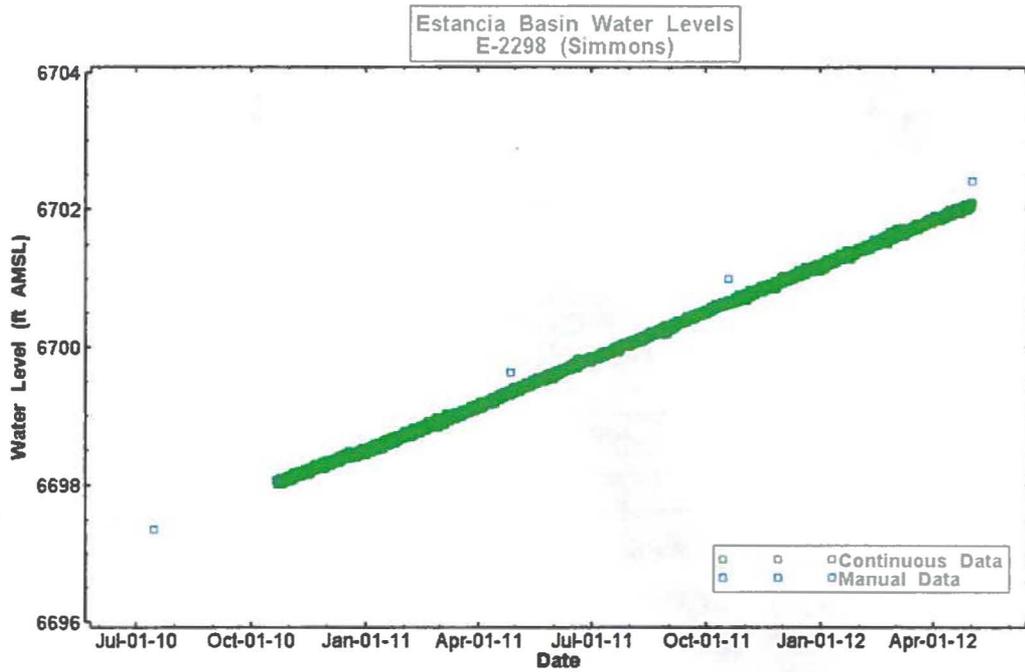


Figure 3. Water levels measured in well E-2298.

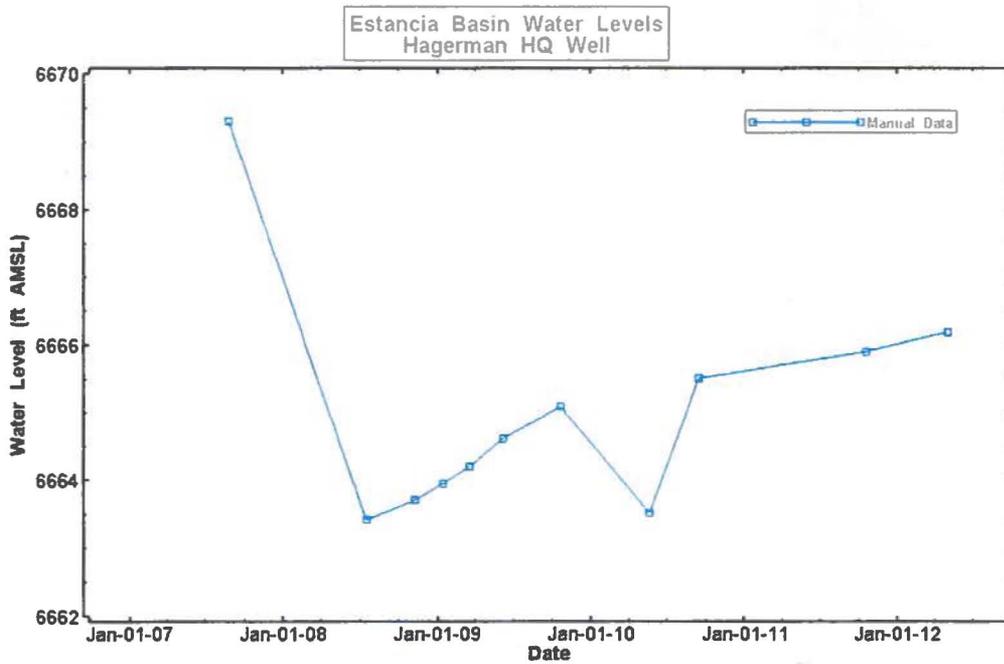


Figure 4. Water levels measured in the Hagerman Headquarters well.

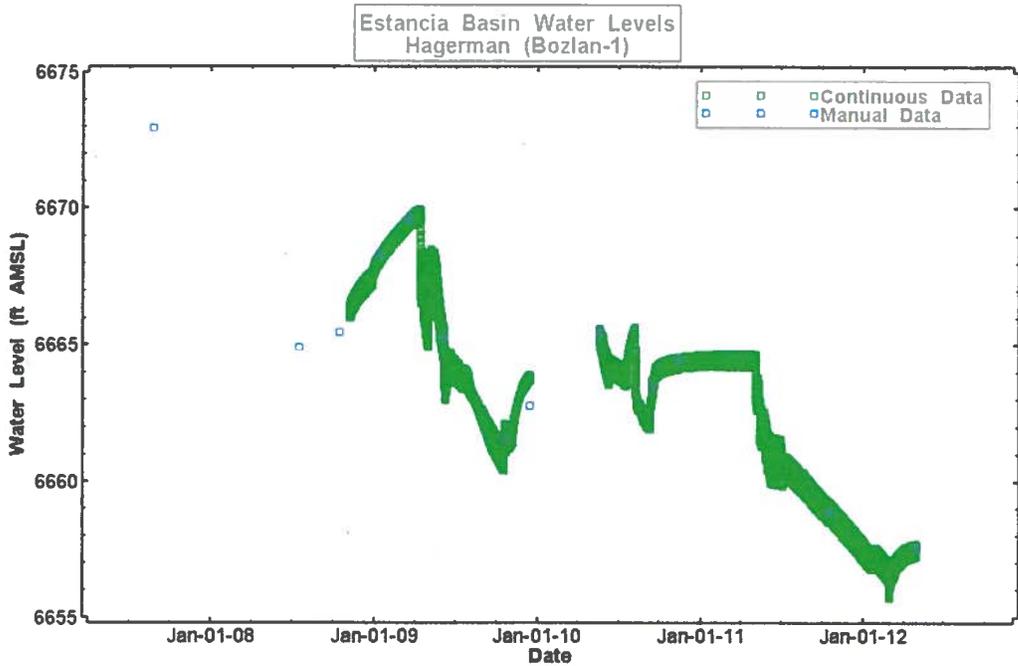


Figure 5. Water levels measured in the Bozlan-1 well.

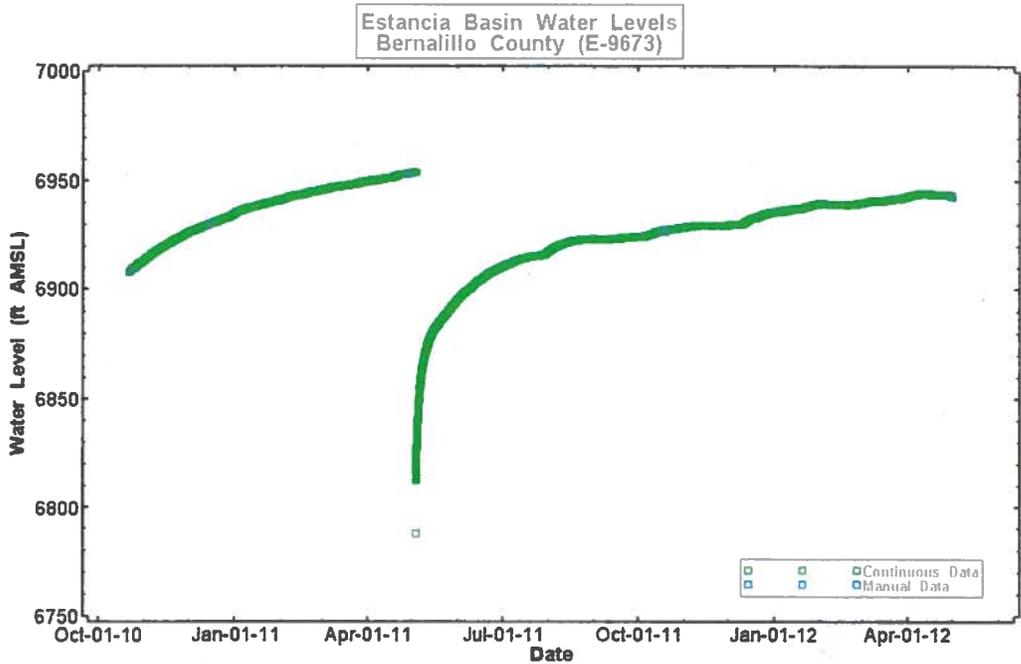


Figure 6. Water levels measured in well E-9673.

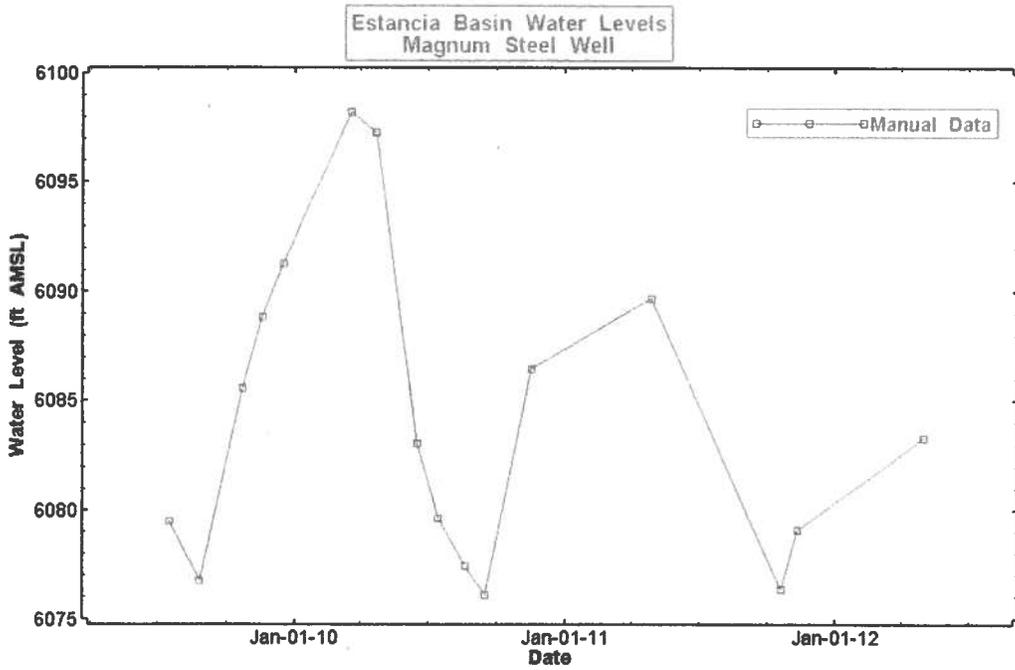


Figure 7. Water levels measured in the Magnum Steel well.

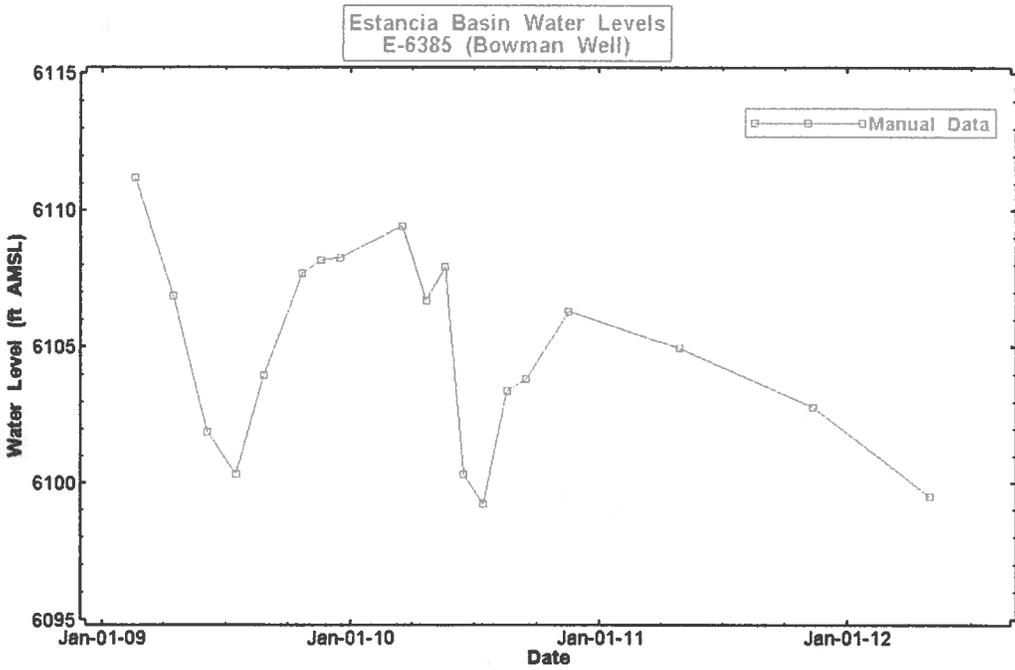


Figure 8. Water levels measured in well E-6385.

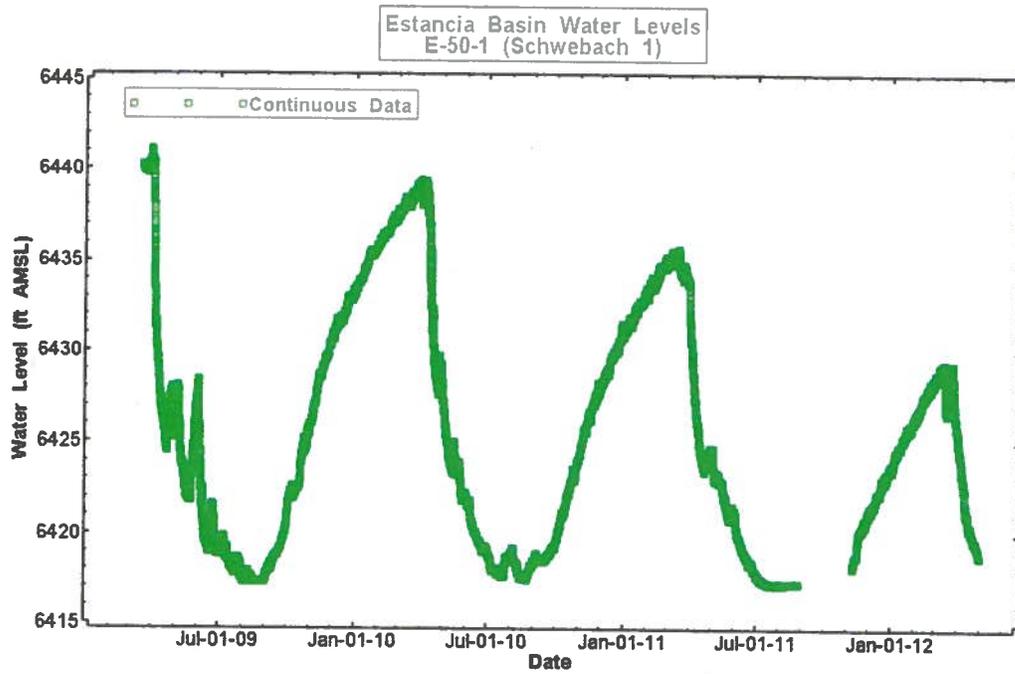


Figure 9. Water levels measured in well E-50-1.

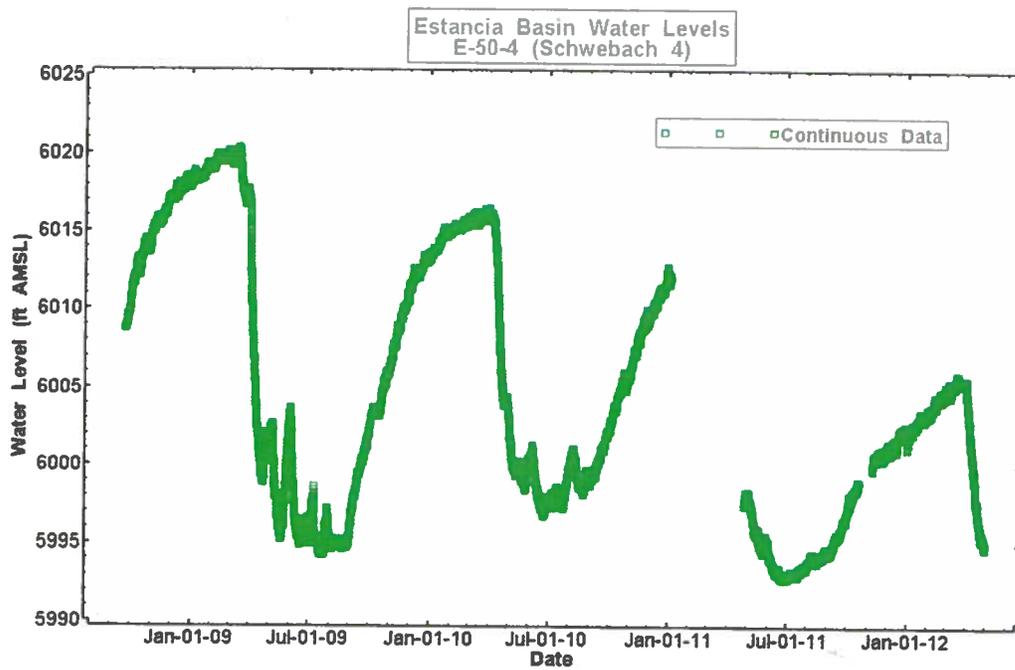


Figure 10. Water levels measured in well E-50-4.

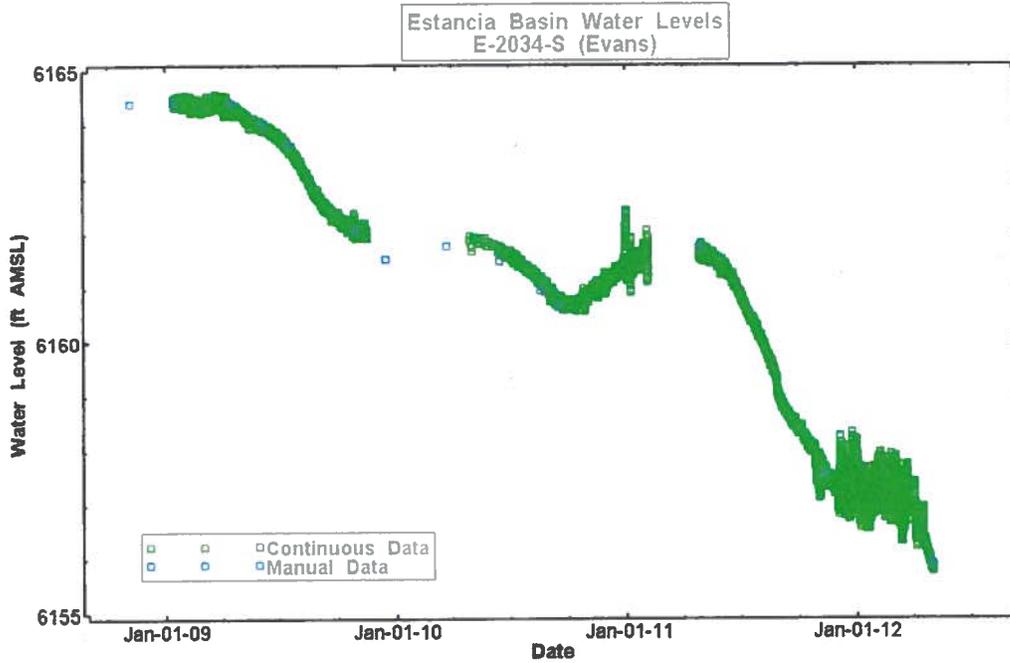


Figure 11. Water levels measured in well E-2034-S.

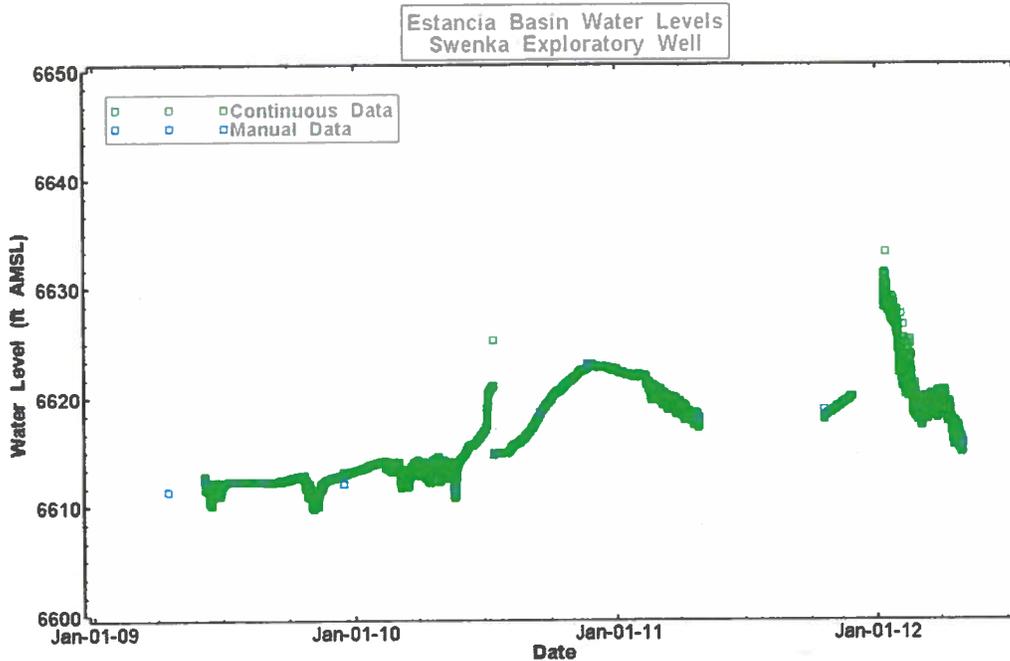


Figure 12. Water levels measured in the Swenka Exploratory well.

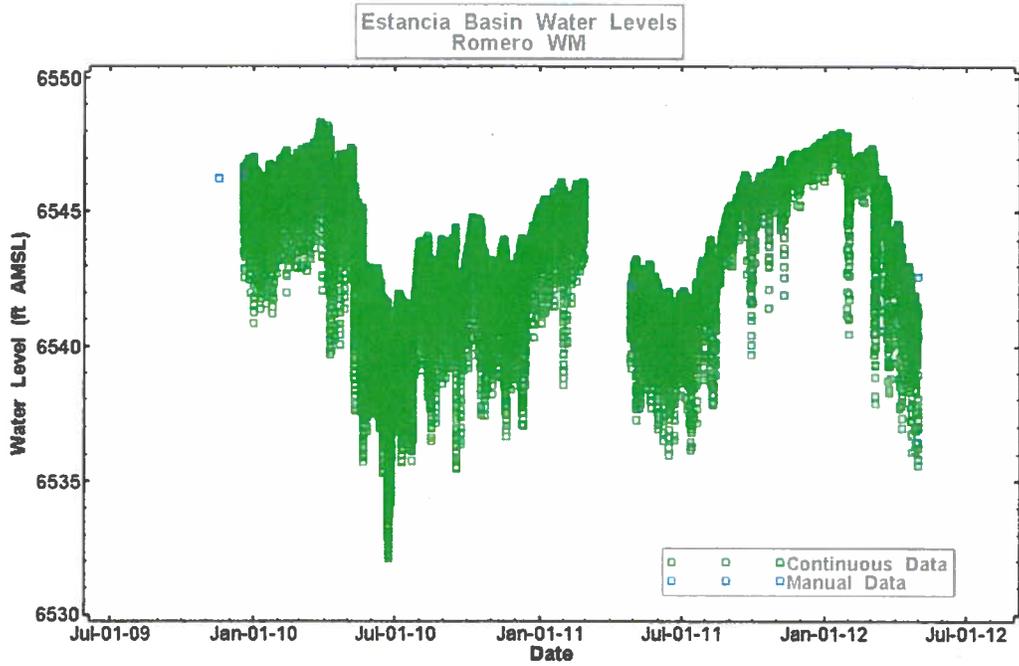


Figure 13. Water levels measured in the E.B. Romero WM well.

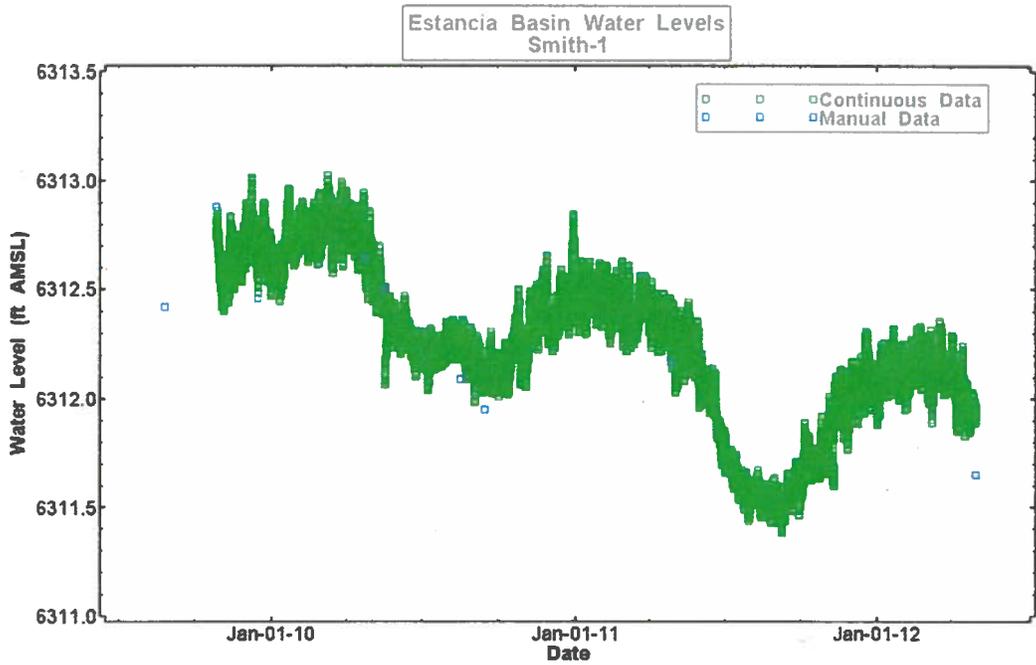


Figure 14. Water levels measured in the Smith-1 well.

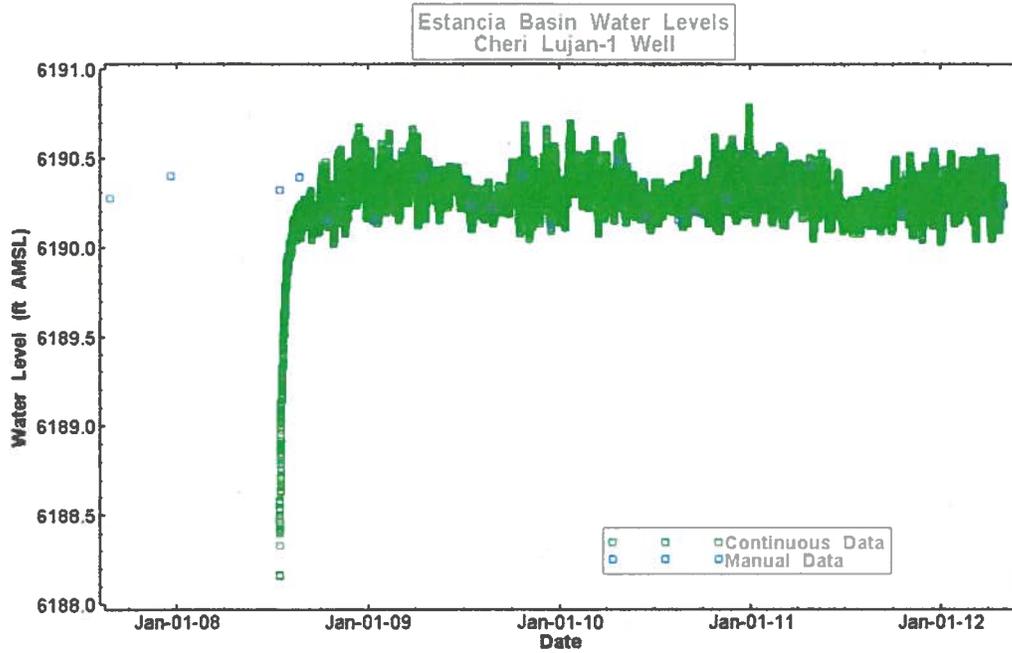


Figure 15. Water levels measured in the Cheri Lujan-1 well.

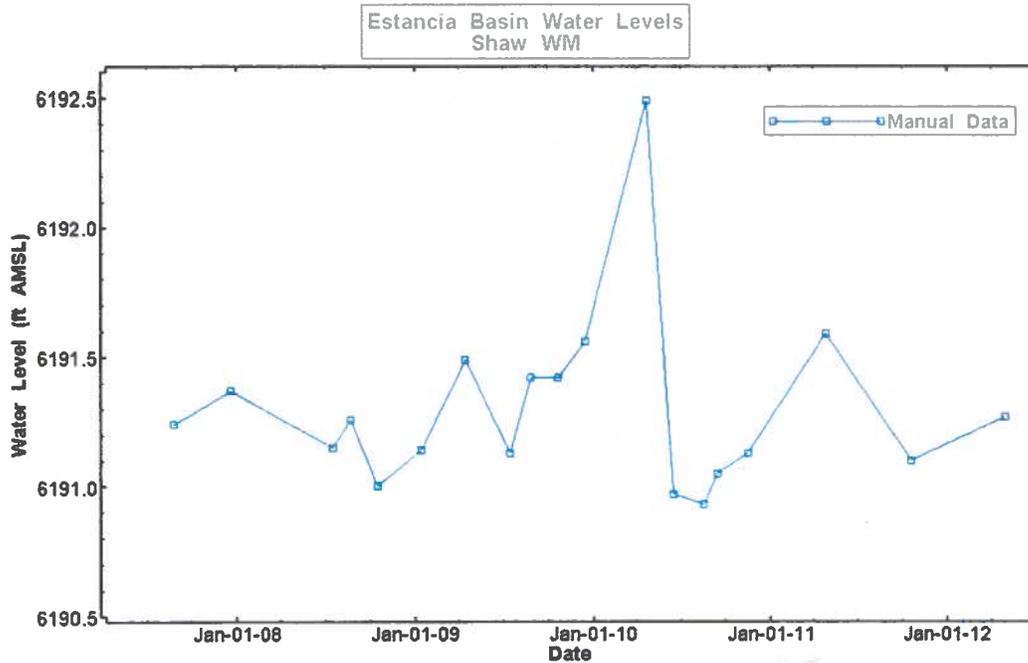


Figure 16. Water levels measured in the Shaw WM well.

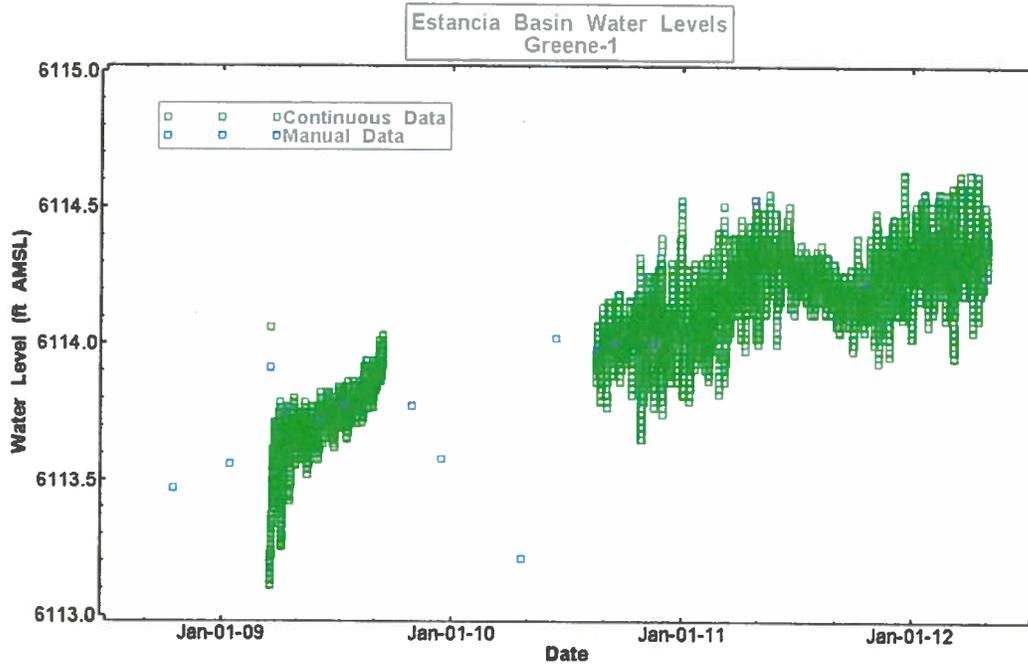


Figure 17. Water levels measured in the Greene-1 well.

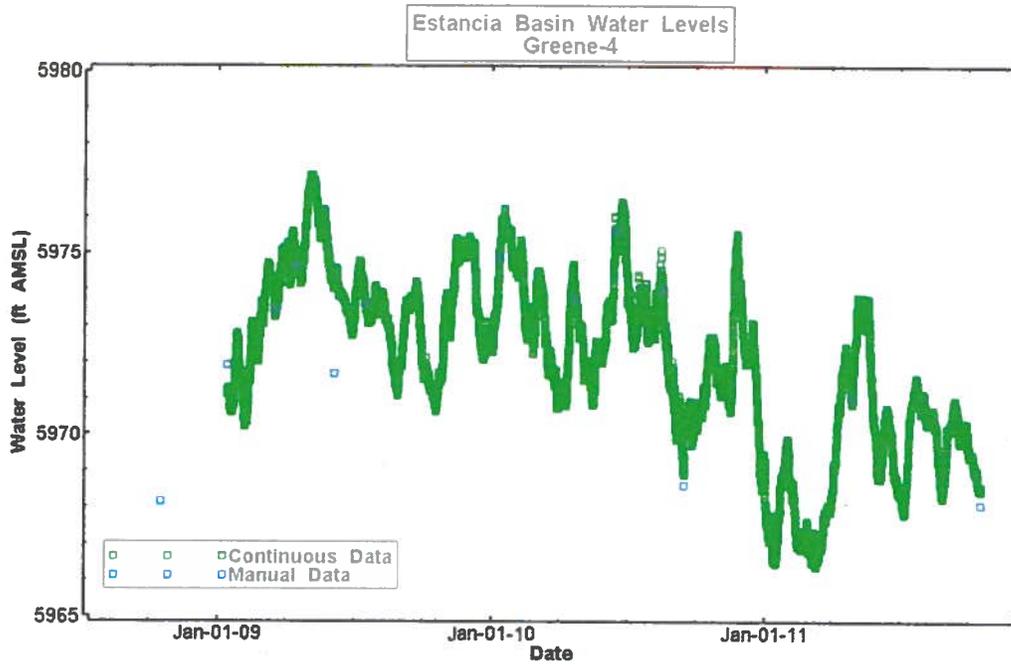


Figure 18. Water levels measured in the Greene-4 well.

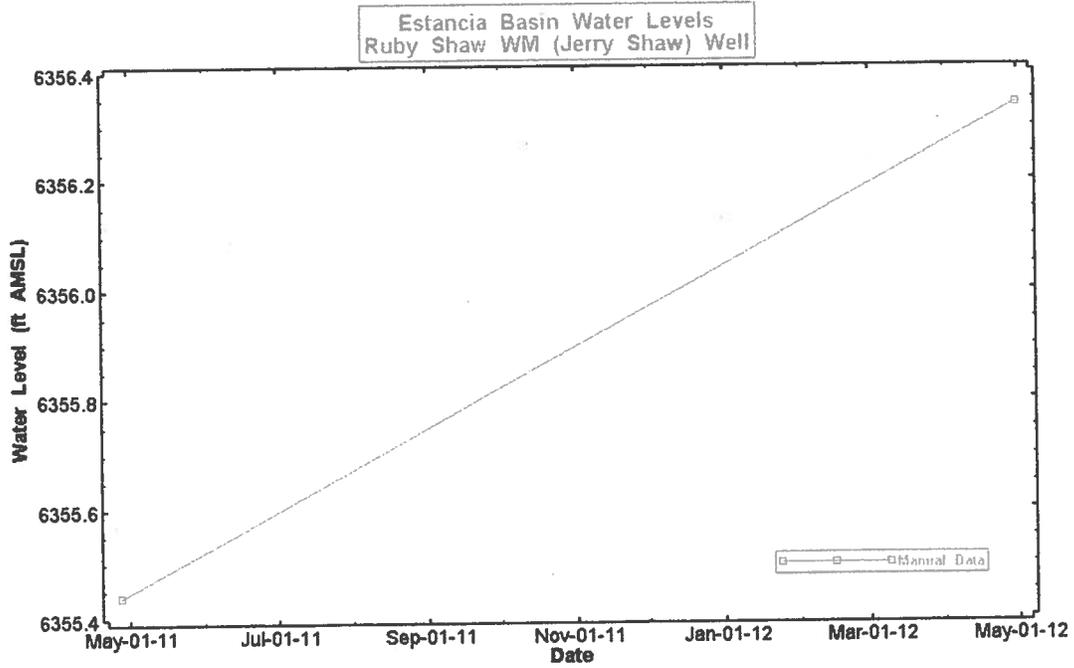


Figure 19. Water levels measured in the Ruby Shaw windmill well.

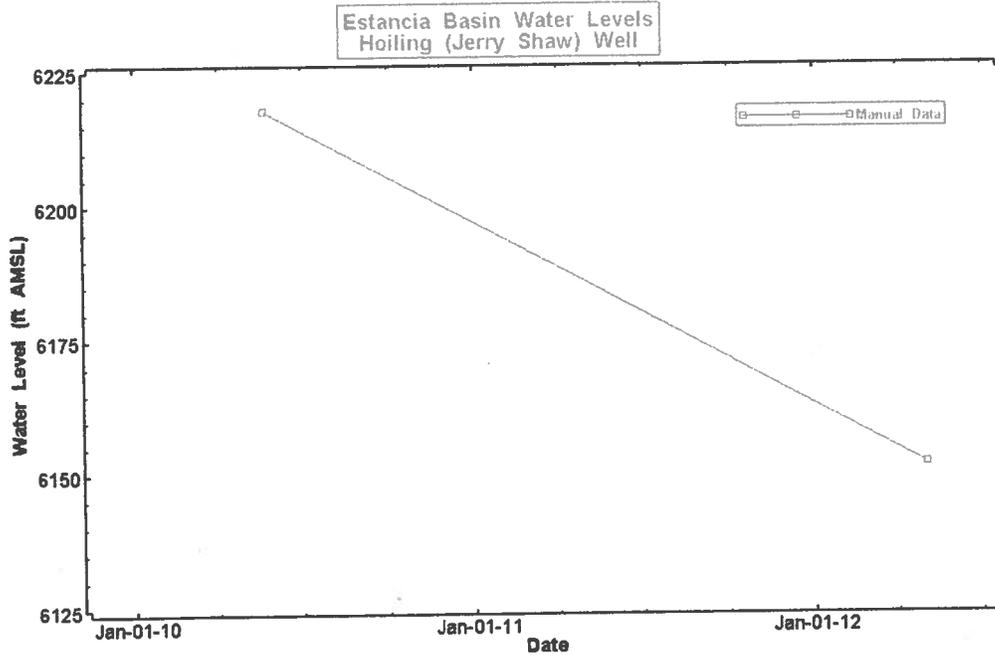


Figure 20. Water levels measured in the Hoiling well.

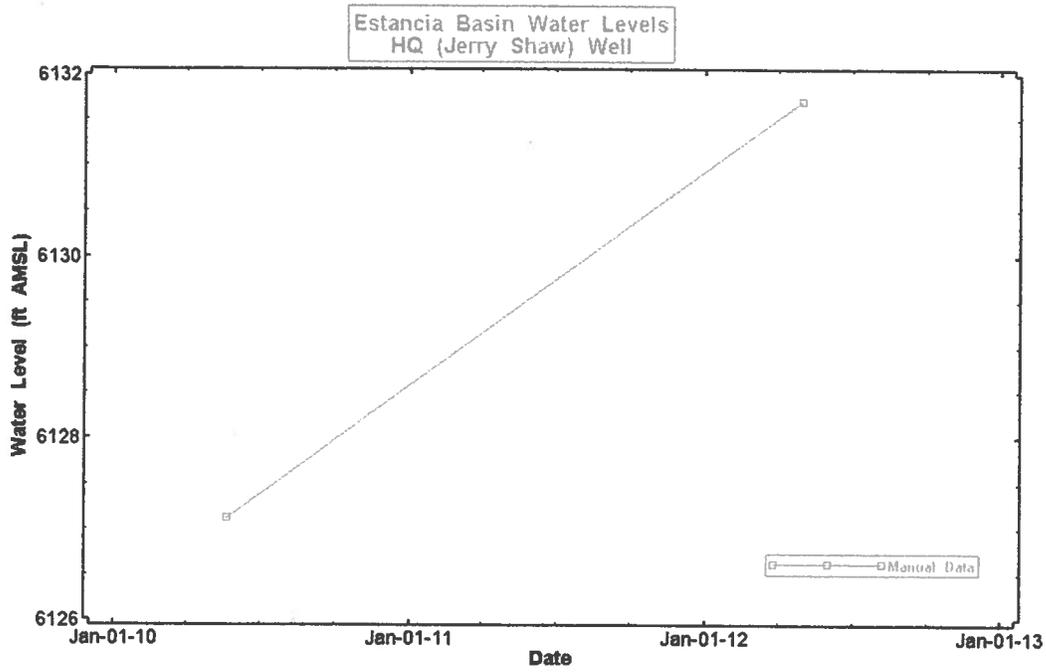
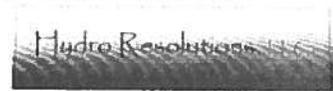


Figure 21. Water levels measured in the Jerry Shaw Headquarters well.

## Attachment 2

# The Housing Crash and Smart Growth

Policy Report No. 335

by Wendell Cox

June 2011

*There is general agreement the financial crisis that began with the failure of Lehman Brothers on September 15, 2008, was worsened by the bursting of the U.S. housing price bubble. It is also generally acknowledged that some of the fuel for the housing bubble came from a relaxation of mortgage loan standards that allowed many families to purchase homes they could not afford with loans on which they subsequently defaulted.*

## Executive Summary

There is general agreement the financial crisis that began with the failure of Lehman Brothers on September 15, 2008, was worsened by the bursting of the U.S. housing price bubble. It is also generally acknowledged that some of the fuel for the housing bubble came from a relaxation of mortgage loan standards that allowed many families to purchase homes they could not afford with loans on which they subsequently defaulted. New and excessive demand from mortgagees drove up home prices faster than the increase in the housing supply.

It is less well understood that the U.S. housing bubble was not a monolithic event. It varied substantially by geography. Gross national house value increases and losses were overwhelmingly concentrated in metropolitan areas with more restrictive land use regulations — known by a variety of names, such as compact city policy, growth management or smart growth. Many metropolitan areas with these land use restrictions were not able to respond to the increased demand for homeownership caused by the greater availability of mortgage credit. The inevitable result was higher prices, which encouraged speculation and increased house prices even more. Thus, from 2000 to 2007, among the nation's 50 largest metropolitan markets:

- In the 10 markets with the greatest rise in prices compared to income, the cost of a house rose by an average of \$275,000, relative to incomes.
- Among the second 10 markets with the greatest price escalation, house prices rose \$135,000.
- By contrast, in the major markets with the least rise in prices, houses increased only \$5,000.



Dallas Headquarters:  
12770 Coit Road, Suite 800  
Dallas, TX 75251  
972.386.6272  
Fax: 972.386.0924

[www.ncpa.org](http://www.ncpa.org)

Washington Office:  
601 Pennsylvania Avenue NW,  
Suite 900, South Building  
Washington, DC 20004  
202.220.3082  
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## Introduction

There is general agreement the financial crisis that began with the failure of Lehman Brothers on September 15, 2008, was worsened by the bursting of the U.S. housing price bubble. It is also generally acknowledged that some of the fuel for the housing bubble came from a relaxation of mortgage loan standards that allowed many families to purchase homes they could not afford with loans on which they subsequently defaulted. New and excessive demand from mortgagees drove up home prices faster than the increase in the housing supply.

After the run-up from 1999 to 2006, house prices began falling and mortgage interest rates began rising. Households were no longer able to refinance, causing many new homeowners to fall into delinquency and foreclosure. Lenders began calling these mortgages “toxic” assets because they yielded no return. Institutions holding the loans resisted revaluating their assets because doing so would force them to admit their insolvency. But with no other institutions to purchase these loans, the market froze, causing mounting losses that could not be absorbed by lenders.

Bear Stearns, one of the firms that collapsed, announced in July 2007 that its subprime hedge fund had lost nearly all of its value, causing a 61 percent drop in overall net profits and forcing a merger with J.P. Morgan Chase eight months later. Lehman Brothers, a rival investment bank, similarly filed for bankruptcy in late 2008, citing bank and bond debt of \$768 billion with assets worth \$639 billion. The bankruptcy of these firms led to the

well known collapse of the U.S. mortgage finance industry generally.

It is less well understood that the U.S. housing bubble was not uniform across the country. It varied substantially by geography, largely mirroring differences in the stringency of land use regulation. The crash in house values that followed was also concentrated in the markets with the most restrictive land use policies.

*“The housing price bubble was concentrated in areas with restrictive land use policies.”*

## The Housing Bubble

The U.S. housing bubble that developed from 1999 to 2006 was the result of actions by both potential homeowners and lenders. Potential buyers perceived homeownership as an investment that had little risk. Economic incentives offered to lending institutions resulted in the issuing of subprime loans with variable interest rates to households with poor (or no) credit histories. Increased demand for homes raised prices and, as a result, the supply increased: more new homes were built and more existing homes were put on the market.

**The American Dream of Homeownership.** Following World War II, Americans began to realize the dream of home ownership with the development of low-priced

suburbs on the fringe of urban areas, such as Levittown, New York. As average (median) family incomes rose in the post-war era, homeownership grew significantly. Consider:

- Homeownership rose from 44 percent of households in 1940 to 62 percent by 1960.
- Sixty-five percent of households were homeowners in 1995.
- Homeownership peaked in 2006 at 69 percent.

House sizes also increased:<sup>1</sup>

- In 1973, the average single-family home was 1,525 square feet.
- By 2006, the average home size rose to 2,248 square feet, an increase of 47 percent.

The quality of housing also increased, with amenities like air conditioning becoming standard features in new homes.

**House Prices and Income: The Multiple Median.** From the late 1940s until 1970, there was a general equilibrium between house prices and household incomes in the United States: The median sale price of detached housing was generally less than or equal to three times the median household income in a particular home market, a measure called the median multiple. As the housing bubble began to develop, house prices and the value of existing houses began to rise faster than incomes. For example:<sup>2</sup>

- The sales price of the median single-family home more than doubled from \$104,500 in 1987 to nearly \$241,000 at the peak of housing prices in 2006.

## The Cost of Excessive Land Use Regulation

What accounts for the geographic concentration of the bubble in house prices and subsequent crash? Numerous studies have found an association between land use policies and house prices. Scarcity tends to raise prices (other things being equal). However, natural limits on the availability of land, such as the presence of a seacoast or mountains, is secondary to the scarcity caused by regulatory barriers that stand between the natural barriers and urbanization.<sup>5</sup> A reduction of land available for housing due to regulatory restrictions can increase house prices. Land prices, not construction costs, account for the largest differences in median house prices among metropolitan areas. Areas with less restrictive policies have lower housing prices. For example, while the nine largest metropolises with prescriptive regulation in the nation averaged a median house price of \$417,800 before the crash, houses in the less regulated Houston, Atlanta and Dallas-Fort Worth markets averaged \$159,300.<sup>6</sup>

Research by Edward Glaeser and Joseph Gyourko has shown a strong relationship between prescriptive land use policies and higher housing prices.<sup>7</sup> Other distinguished academics have come to similar conclusions.<sup>8</sup>

**A Typology of Land Use Policies.** A Brookings Institution study divides local and state land use regulations into four broad families by county. These classifications are the foundation of the typology used in this report, which divides land use regulation into “prescriptive” and “responsive.”

Prescriptive land use regulation markets include those classified as “growth management,” “growth control,” “containment” and “containment-light” in the Brookings study, as well as markets Demographia has determined to have significant rural zoning (large lot zoning) and substantial geographical development prohibitions (New York, Chicago, Milwaukee, Minneapolis-St. Paul, Virginia Beach and Washington).<sup>9</sup> All other markets are classified as responsive land use regulation markets (development is allowed to occur based upon market preferences consistent with fundamental environmental regulation.)

*“The supply of housing was not able to rise to meet the increased demand.”*

Prescriptive land use policies are designed to stop or contain the geographic expansion of urban areas — also called suburbanization or, pejoratively, urban sprawl — and force more travel by public transit and walking, instead of by car. These policies are assigned various labels such as compact city policy, growth management and smart growth.<sup>10</sup> Principal smart growth policies include urban containment (such as growth boundaries and restrictions on physically developable land), large-lot zoning in urban fringe and rural areas, state aid contingent on local growth zones, house building

moratoria or limits, high development fees and exactions, and mandatory regional or county planning.<sup>11</sup>

**Creating an Index of Regulatory Costs.** Generally, land and regulatory costs are 25 percent of the net cost of constructing a house, after subtracting the cost of infrastructure (streets, water and sewer lines) for a site. This means that, in a metropolitan region with normal land and regulation costs, the cost of the house will be 80 percent of the total price, while the cost of the land and regulation will be 20 percent.

The “2010 Demographia Residential Land Use & Regulation Cost Index” compares estimated land and regulatory costs for new entry level houses in 11 representative metropolitan regions selected for geographical and regulatory balance, and because there was sufficient data available from which to develop the index. The 11 markets are Atlanta, Dallas-Fort Worth, Houston, Indianapolis, Minneapolis-St. Paul, Portland, Raleigh-Durham, San Diego, Seattle, St. Louis and Washington-Baltimore.

As Figure II and Table I show, land and infrastructure costs for six of the metropolitan markets are within historic norms (Atlanta, Dallas-Fort Worth, Houston, Indianapolis, Raleigh-Durham and St. Louis). Each of these markets has less restrictive land use regulations.

The other five metropolitan areas (Minneapolis-St. Paul, Portland, San Diego, Seattle and Washington-Baltimore) have more restrictive land use regulations. Nonconstruction costs in these markets jumped two to 13 times the historic norm, adding from nearly \$30,000 (Minneapolis-

than 3 percent of the nation is urbanized, and far more land has been taken out of agricultural production than has been converted to urban use.

More recently, proponents have seized upon unease about greenhouse gas emissions to advance smart growth policies, based on the assumption that denser housing will materially reduce automobile use and thus reduce greenhouse gas emissions. [See the sidebar, “The Smart Growth Greenhouse Gas Emissions Dead-End.”]

### House Values in Prescriptive and Responsive Markets.

As the housing bubble developed, prescriptively regulated markets, including those in non-major metropolitan markets, accounted for 89 percent of the aggregate increase in house values. Conversely, 25 percent of homeowners lived in the responsively regulated major markets, which accounted for just 11 percent of the aggregate value increases [see Appendix Table A, Section 1].

**Concentrated Losses.** From the peak in the fourth quarter of 2006 until the end of 2010, homes values fell more than \$6 trillion.<sup>16</sup> Losses after the bubble burst were even more concentrated than house price gains. Consider:

- From the peak of the bubble in 2006 to the Lehman Brothers’ collapse on September 15, 2008, more restrictively regulated

TABLE I  
**Demographia Land & Regulation Cost Index**

<u>Metropolitan Market</u>	<u>Expected Raw Land &amp; Regulation Cost</u>	<u>Gross Actual Land &amp; Regulation Cost</u>	<u>Excess Land &amp; Regulation Cost</u>
<b>Traditional</b>			
Atlanta	\$16,100	\$ 16,100	\$ 0
Indianapolis	\$13,900	\$ 13,900	\$ 0
Raleigh-Durham	\$16,000	\$ 16,000	\$ 0
St. Louis	\$16,900	\$ 16,900	\$ 0
<b>Texas</b>			
Dallas-Fort Worth	\$14,500	\$ 14,500	\$ 0
Houston	\$13,200	\$ 13,200	\$ 0
<b>Exclusionary</b>			
Minneapolis-St. Paul	\$20,000	\$ 48,700	\$ 28,700
<b>Reform</b>			
Seattle	\$18,000	\$ 69,400	\$ 51,400
Portland	\$16,900	\$ 76,200	\$ 59,300
Washington-Baltimore	\$16,000	\$ 90,700	\$ 74,700
San Diego	\$18,100	\$239,100	\$221,000

Source: New 2,150 Square Foot Detached House, Table 2. Available at <http://www.demographia.com/dri-full.pdf>

metropolitan markets accounted for 73 percent of aggregate value losses.

- The average loss from 2007 to the Lehman Brothers’ collapse was \$175,000 per house in the 11 markets with the greatest run-up in prices and the greatest fall.
- All prescriptively regulated markets accounted for 94 percent of losses, or an average of \$97,000 per house.
- Responsively regulated markets lost just 6 percent of their value, or an average of \$12,000 per house. [See Appendix Table A, Section 2.]

If the prescriptively regulated metropolitan areas had instead had responsive land use regulations,

prices likely would have escalated at a much lower rate during the housing bubble. This is because the land price premiums that grew during the bubble would have been less likely to develop, at least to the same degree. If the housing markets in the prescriptively regulated markets had replicated the performance of the responsive markets, it is estimated that the house value losses from the peak of the bubble to the start of the financial crisis would have been \$0.62 trillion, one-fourth of the actual loss of \$2.44 trillion. The average loss per house would have been \$17,000 instead of \$67,000. [see Appendix Table A, Section 3].

**Markets Most Affected by Bubble.** Over the period 2000 to 2007, the largest house value in-

by Harvard University's Edward Glaeser and the University of Pennsylvania's Joseph Gyourko indicates that speculative behavior can be expected in a market with limited supply.<sup>21</sup> Speculators and "flippers" are naturally drawn to markets where prices are rising in anticipation of extraordinary profits. Speculation was not a significant factor in the responsively regulated markets, principally because the prospect of modest price growth does not yield the short-term profits that speculators seek.

## Other Effects of Prescriptive Land Use Regulation

Smart growth leaves both households and society less well off.

Urban growth boundaries, which mandate high-density development within the boundary and low density development outside the boundary, are perhaps the most draconian policy. They substantially raise land prices, and thus housing, by severely restricting where new housing can be built. Urban growth boundaries also increase traffic congestion and the intensity of local air pollution.<sup>22</sup>

Further, Raven Saks of the Federal Reserve Board found that compact development policies were associated with lower employment growth.<sup>23</sup> It is also notable that metropolitan areas in Texas — the state with the most liberal land use regulation in the nation — have generally performed better than their principal metropolitan competitors in Florida and California, where land use is more restricted.<sup>24</sup>

### Effect on Minority Households.

The loss of housing affordability disproportionately affects minority households due to their generally lower incomes. The white non-Hispanic home ownership rate is 50 percent above the rates for Hispanic and African-American households.<sup>25</sup> California's Tomas Rivera Policy Institute, a Latino research organization, raised concerns about the impact of compact development on housing affordability, stating:

Whether the Latino homeownership gap can be closed, or projected demand for homeownership in 2020 be met, will depend not only on the growth of incomes and availability of mortgage money, but also on how decisively California moves to dismantle regulatory barriers

## The Smart Growth Greenhouse Gas Emissions Dead-End

Proponents have enlisted concerns about greenhouse gas emissions to justify expansion of smart growth policies. The first assumption is that densification will reduce driving and thus reduce greenhouse gases. The second assumption is that higher density residences, such as high-rise apartments, will also reduce greenhouse gas emissions. There is a plethora of difficulties with these assumptions. The first problem is that research, even by smart growth advocates, indicates that smart growth policies have little potential to reduce vehicle travel. The second is that, even if there were some reduction in vehicle travel, increased traffic congestion and slower speeds in denser areas would increase greenhouse gas emissions per mile traveled, perhaps even nullifying any gain. There is far greater potential to reduce greenhouse gas emissions using technological strategies, such as more fuel efficient cars. Moreover, these gains do not require straight-jacketing lifestyles to conform to the latest trends in urban planning.

Finally, it is by no means settled that higher density residences reduce greenhouse gas emissions. Studies show differing results, and there is no comprehensive U.S. database from which such conclusions can be drawn. For example, the U.S. Department of Energy's Residential Energy Consumption Survey does not include commonly provided energy in high-rise condominium and apartment buildings for functions such as lighting, heating, air conditioning, water heating and swimming pool heating. In addition, greenhouse gas emissions associated with the building of such dwellings (materials and construction activity) are higher per square foot than for detached housing in suburban locations.<sup>15</sup>

**APPENDIX TABLE A**  
**The Housing Bubble by Land Regulation Category**  
**(to the Great Financial Crisis, in 2007 dollars)**

**Section 1**

**GROSS VALUE: HOUSING STOCK (Trillions)**

	Prescriptive		Total	Responsive	Total
	Prescriptive: Concentrated	Prescriptive: Other			
Owned Homes: 2007	28.1%	36.6%	64.8%	35.2%	100.0%
National Value at 2000 Ratio to Income	\$2.59	\$3.44	\$6.03	\$2.02	\$8.05
Share of National Value	32.2%	42.7%	74.9%	25.1%	100.0%
Value Increase Relative to Income	\$2.89	\$1.76	\$4.65	\$0.56	\$5.21
Share of Increase	55.5%	33.8%	89.3%	10.7%	100.0%
Peak Value	\$5.48	\$5.20	\$10.68	\$2.58	\$13.26
Loss to Start of Great Financial Crisis	-\$1.79	-\$0.50	-\$2.28	-\$0.16	-\$2.44
Share of Loss	73.2%	20.4%	93.6%	6.4%	100.0%

**Section 2**

**AVERAGE HOUSE VALUE: Actual**

	Prescriptive		Total	Responsive	Total
	Prescriptive: Concentrated	Prescriptive: Other			
Average House Value if No Inflation from 2000	\$254,000	\$259,000	\$257,000	\$158,000	\$222,000
Value Increase Relative to Income	\$283,000	\$133,000	\$198,000	\$44,000	\$144,000
% Change	111.4%	51.4%	77.0%	27.8%	64.9%
Peak House Value	\$537,000	\$392,000	\$455,000	\$202,000	\$366,000
Average House Value at Start of Great Financial Crisis	\$362,000	\$355,000	\$358,000	\$190,000	\$299,000
Loss to Start of Great Financial Crisis	-\$175,000	-\$37,000	-\$97,000	-\$12,000	-\$67,000
% Change	-32.6%	-9.4%	-21.3%	-5.9%	-18.3%

*(chart continues on next page)*

## Endnotes

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11. Transportation Research Board, "Costs of Sprawl, 2010," Table 15.4, September 8, 2009. Available at [http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp\\_rpt\\_74-c.pdf](http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_rpt_74-c.pdf).
12. Demographia, "Demographia Residential Land Regulation Cost Index: 2010." Available at <http://www.demographia.com/dri-full.pdf>.
13. Fischel found no effect from alternative causes, such as differences in construction cost increases, population growth, quality of life, amenities, adoption of Prop 13 (the state's property tax reform initiative), land supply or water issues. See William Fischel, *Regulatory Takings, Law, Economics and Politics* (Cambridge, Mass.: Harvard University Press, 1995), pages 218-252.
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16. Federal Reserve Board, "Flow of Funds Accounts of the United States." Available at <http://www.federalreserve.gov/releases/z1/>.
17. Wendell Cox, "The Fed and Asset Bubbles: Beyond Superficiality," *NewGeography*, December 5, 2009. Available at <http://www.newgeography.com/content/001249-the-fed-and-asset-bubbles-beyond-superficiality>. Las Vegas and Phoenix have been wrongly characterized as having responsive land use regulation. In fact both metropolitan areas are prescriptively regulated and, in addition, are surrounded by government-owned land that forms virtual urban growth boundaries. See Demographia, "Las Vegas Land Market Analysis," 2010. Available at <http://www.demographia.com/db-lvland.pdf>. And Demographia, "Phoenix Land Market Analysis," 2010. Available at <http://www.demographia.com/db-phxland.pdf>.
18. Inflation adjusted increase in value to 2007 in comparison to the value for the same stock without inflation from 2000.
19. Demographia, "The Housing Downturn in the United States: 2009 First Quarter Update," 2009. Available at <http://demographia.com/db-ushsg2009q1.pdf>.

*The NCPA is a nonprofit, nonpartisan organization established in 1983. Its aim is to examine public policies in areas that have a significant impact on the lives of all Americans — retirement, health care, education, taxes, the economy, the environment — and to propose innovative, market-driven solutions. The NCPA seeks to unleash the power of ideas for positive change by identifying, encouraging and aggressively marketing the best scholarly research.*

### Health Care Policy.

The NCPA is probably best known for developing the concept of Health Savings Accounts (HSAs), previously known as Medical Savings Accounts (MSAs). NCPA President John C. Goodman is widely acknowledged (*Wall Street Journal*, WebMD and the *National Journal*) as the “Father of HSAs.” NCPA research, public education and briefings for members of Congress and the White House staff helped lead Congress to approve a pilot MSA program for small businesses and the self-employed in 1996 and to vote in 1997 to allow Medicare beneficiaries to have MSAs. In 2003, as part of Medicare reform, Congress and the President made HSAs available to all nonseniors, potentially revolutionizing the entire health care industry. HSAs now are potentially available to 250 million nonelderly Americans.

The NCPA outlined the concept of using federal tax credits to encourage private health insurance and helped formulate bipartisan proposals in both the Senate and the House. The NCPA and BlueCross BlueShield of Texas developed a plan to use money that federal, state and local governments now spend on indigent health care to help the poor purchase health insurance. The SPN Medicaid Exchange, an initiative of the NCPA for the State Policy Network, is identifying and sharing the best ideas for health care reform with researchers and policymakers in every state.

**NCPA President  
John C. Goodman is called  
the “Father of HSAs” by  
*The Wall Street Journal*, WebMD  
and the *National Journal*.**

### Taxes & Economic Growth.

The NCPA helped shape the pro-growth approach to tax policy during the 1990s. A package of tax cuts designed by the NCPA and the U.S. Chamber of Commerce in 1991 became the core of the Contract with America in 1994. Three of the five proposals (capital gains tax cut, Roth IRA and eliminating the Social Security earnings penalty) became law. A fourth proposal — rolling back the tax on Social Security benefits — passed the House of Representatives in summer 2002. The NCPA’s proposal for an across-the-board tax cut became the centerpiece of President Bush’s tax cut proposals.

NCPA research demonstrates the benefits of shifting the tax burden on work and productive investment to consumption. An NCPA study by Boston University economist Laurence Kotlikoff analyzed three versions of a consumption tax: a flat tax, a value-added tax and a national sales tax. Based on this work, Dr. Goodman wrote a full-page editorial for *Forbes* (“A Kinder, Gentler Flat Tax”) advocating a version of the flat tax that is both progressive and fair.

A major NCPA study, “Wealth, Inheritance and the Estate Tax,” completely undermines the claim by proponents of the estate tax that it prevents the concentration of wealth in the hands of financial dynasties. Actually, the contribution of inheritances to the distribution of wealth in the United States is surprisingly small. Senate Majority Leader Bill Frist (R-TN) and Senator Jon Kyl (R-AZ) distributed a letter to their colleagues about the study. In his letter, Sen. Frist said, “I hope this report will offer you a fresh perspective on the merits of this issue. Now is the time for us to do something about the death tax.”

### Retirement Reform.

With a grant from the NCPA, economists at Texas A&M University developed a model to evaluate the future of Social Security and Medicare, working under the direction of Thomas R. Saving, who for years was one of two private-sector trustees of Social Security and Medicare.

The NCPA study, “Ten Steps to Baby Boomer Retirement,” shows that as 77 million baby boomers begin to retire, the nation’s institutions are totally unprepared. Promises made under Social Security, Medicare and Medicaid are inadequately funded. State and local institutions are not doing better — millions of government workers are discovering that their pensions are under-funded and local governments are retrenching on post-retirement health care promises.

### Pension Reform.

Pension reforms signed into law include ideas to improve 401(k)s developed and proposed by the NCPA and the Brookings Institution. Among the NCPA/Brookings 401(k) reforms are automatic enrollment of employees into companies’ 401(k) plans, automatic contribution rate increases so that workers’ contributions grow with their wages, and better default investment options for workers who do not make an investment choice.

Attachment 3

Excerpt from *Basic Economics* by Thomas Sowell  
A Citizens Guide to the Economy

People have often forestalled transfers of property by getting laws passed to restrict property rights in a variety of ways. For example, various affluent northern California communities have required land to be sold only in lots of one acre or more per house, thereby pricing such land and homes beyond the reach of most people and thus neutralizing the greater aggregate purchasing power of less affluent people.

Zoning boards, "open space" laws, historical preservation agencies and other organizations and devices have also been used to severely limit the sale of private property for use in ways not approved by those who wish to keep things the way they are in their communities. The effectiveness of these laws infringing or negating property rights has been shown, not only by the maintenance of existing communities in their existing character, often with negligible population growth despite rising employment in the area, but also by the rapid increase in home prices as more people bid for a relatively unchanged number of homes, leaving those who lose out in this local competition to have to live farther away from their jobs.

Using many political and legal devices to prevent the unfettered sale of property rights from transferring land and transforming communities, Palo Alto, California-adjacent to Stanford University-had its home prices increase approximately four-fold in one decade, while its population actually declined in the face of increasing employment around them in Silicon Valley. In San Mateo County, another affluent area in northern California, more than half the land is legally off-limits as "open space," likewise causing home prices to skyrocket and keeping the less affluent from being able to live in the area.

One symptom of this is that the number of minorities living in San Mateo County actually declined by 10,000 people between the 1990 census and the 2000 census, even though the overall population of the county increased by 50,000 people. Similar patterns of a declining minority population while the total population increased also appeared in nearby San Francisco County and Marin County, both similarly affluent counties with similar restrictive land use policies.

Despite a tendency to think of property rights as special privileges for the rich, many property rights are actually more valuable to people who are not rich and such property rights have often been infringed or violated for the benefit of the rich. Although the average rich person, by definition, has more money than the average person who is not rich, in the aggregate the non-rich population often has far more money. This means, among other things, that many properties owned by the rich would be bid away from them by the greater purchasing power of the non-rich, if unrestricted property rights prevailed in a free market. Thus land occupied by mansions located on huge estates would pass through the market to entrepreneurs who would build smaller and more numerous homes or apartment buildings-all for the use of people with more modest incomes, but with more money in the aggregate.

Someone once said, "It doesn't matter whether you are rich or poor, so long as you have money." This was meant as a joke but it has very serious implications. In a free market, the money of ordinary people is just as good as the money of the rich and in the aggregate, there is more of it. The individually less affluent need not directly bid against the more affluent. Entrepreneurs or their companies, using their own money or money borrowed from banks and other financial institutions, can acquire mansions and estates, and replace them with middle-

class homes and apartment buildings for people of modest incomes. This would of course change the communities in ways the rich might not like, however much others might like to live in the resulting newly developed communities. Wealthy people have often forestalled such transfers of property by getting laws passed to restrict property rights in a variety of ways. For example, various affluent northern California communities have required land to be sold only in lots of one acre or more per house, thereby pricing such land and homes beyond the reach of most people and thus neutralizing the greater aggregate purchasing power of less affluent people. Zoning boards, "open space" laws, historical preservation agencies and other organizations and devices have also been used to severely limit the sale of private property for use in ways not approved by those who wish to keep things the way they are in their communities.

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By infringing or negating property rights, affluent and wealthy property owners are able to keep out people of average or low incomes and, at the same time, increase the value of their own property by ensuring its growing scarcity relative to increasing employment in the area. Some even acquire a sense of moral superiority in doing so, demonizing the intermediaries who seek to transfer land to new uses. "Developer" is as much of a dirty word among those protecting the status quo in California as "profits" were to India's socialist Prime Minister Nehru.

While strict adherence to property rights would allow landlords to evict tenants at will, the economic incentives are for them to do just the opposite-to try to keep their apartments as fully rented and as continuously occupied as possible, so long as the tenants pay their rent and behave themselves. Only when rent control or other restrictions on their property rights are enacted are landlords likely to do otherwise. Under rent control and tenants' rights laws, landlords have been known to try to harass tenants into leaving, whether in New York or in Hong Kong.

Under stringent rent control and tenants' rights laws in Hong Kong, landlords were known to sneak into their own buildings late at night to vandalize the premises, in order to make them less attractive or even unlivable, so that tenants would move out and the empty building could then be torn down legally, to be replaced by something more lucrative as commercial or

industrial property. This of course was by no means the purpose or intention of those who had passed rent control laws in Hong Kong. But it illustrates again the importance of making a distinction between intentions and effects-and not just as regards property rights laws. In short, incentives matter and property rights need to be assessed economically in terms of the incentives created by their existence, their modifications, or their elimination.

The powerful incentives created by a profit-and-loss economy depend on the profits being private property. When government-owned enterprises in the Soviet Union made profits, those profits were not their private property but belonged to "the people"-or, in more mundane terms, could be taken by the government for whatever purposes higher officials chose to spend them On. Soviet economists Schmelev and Popov pointed out and lamented the adverse effects of this on incentives.

But what justifies confiscating the larger part-sometimes 90-95 percent-of enterprises' profits, as is being done in many sectors of the economy today?

What political or economic right-ultimately what human right-do ministries have to do that? Once again we are taking away from those who work well in order to keep afloat those who do nothing. How can we possibly talk about independence, initiative, rewards for efficiency, quality, and technical progress?

Of course, the country's leaders could continue to talk about such things, but destroying the incentives which exist under property rights meant that there was a reduced chance of achieving these goals. Because of an absence of property rights, those who ran enterprises that made profits "can't buy or build anything with the money they have" which represent "just figures in a bank account with no real value whatever without permission from above" to use that money. In other words, success does not lead to expansions of successful enterprises or contraction of unsuccessful ones, as it does in a market economy.

While government officials in the United States cannot arbitrarily confiscate profits as directly as Soviet officials could, American legislators can pass laws imposing costs on private enterprises, thereby causing profits to be reduced-and incentives to be changed. In California, for example, the state legislature passed a law requiring landlords to give elderly tenants a year's notice before evicting them and to pay up to \$3,000 to each tenant evicted, to help with relocation costs. This legislation was intended to deal with the danger of mass evictions by landlords who were losing money under rent control in places like San Francisco, and who wanted to stop renting.

Since this legislation went into effect on January 2, 2000, owners of cheap hotels in San Francisco evicted many elderly tenants during December 1999, in order to escape these impending costs of shutting down their hotels. Here again, the goals of the law were very different from the consequences which, in this case, caused many poor and elderly single men to be thrown out on the streets during the Christmas season, in a city with a severe housing shortage and the highest rents in the country. Far more anger and indignation were directed at the hotel owners than at those who had passed such legislation. Yet, in the absence of attempts to confiscate profits through both rent control laws and laws on evictions, the ordinary incentives of property rights and a free market would have caused the hotel owners to want to keep all the tenants they could.



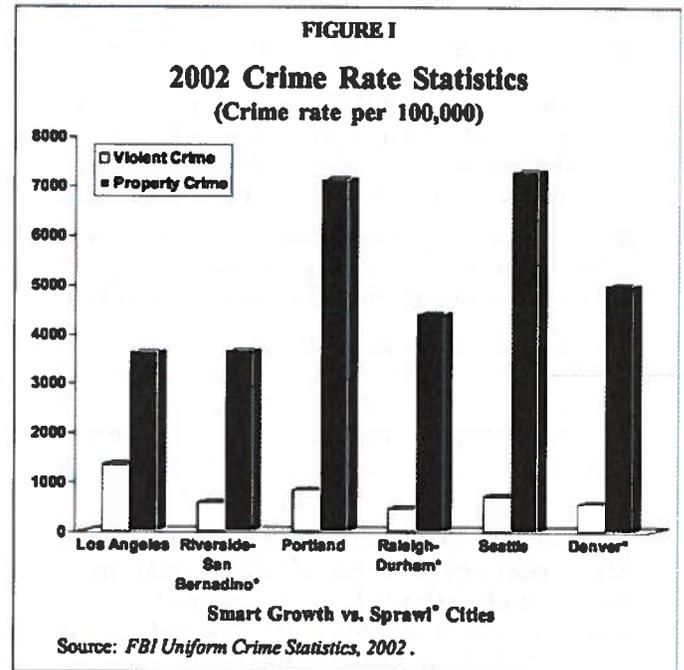
Attachment 4

## SMART GROWTH = CRIME, CONGESTION AND POVERTY

by H. Sterling Burnett, Ph.D., and Pamela Villarreal

Urban sprawl has sparked a national debate over land use policy, launching a movement in the past decade called “smart growth.” Advocates of such policies contend that urban sprawl causes crime and congestion, and limits opportunities for the poor and minorities. They argue for such development policies as drawing “growth boundaries” around cities, outside of which residential and business development is banned or severely restricted. Inside the boundaries, however, zoning restrictions and tax incentives encourage high density development.

**Smart Growth Does Not Reduce Crime.** Author Douglas Morris and other smart growth advocates claim that suburban sprawl contributes to increased violent crime rates. Accordingly, the Local Government Commission’s Center for Livable Communities promotes policies that create densely developed, walkable neighborhoods with bike paths and common areas that provide more “eyes on the street.” These policies are known as Crime Prevention through Environmental Design (CPTED). But a comparison of crime rates among cities characterized as “smart growth” and “sprawlers” reveals a different story. As Figure I shows:



- In 2002, Los Angeles’ violent crime rate of 1,349 per 100,000 was more than double that of the Riverside-San Bernardino metro area, considered the country’s most sprawling area by Smart Growth America.
- Portland’s violent and property crime rates of 828 and 7,127 per 100,000, respectively, were much higher than sprawling Raleigh-Durham, N.C., with rates of 455 and 4,416.
- Seattle’s violent and property crime rates of 705 and 7,298 per 100,000 outpaced sprawling Denver’s rates of 534 and 4,994.

In addition, both violent and property crime rates in Portland, Seattle and Los Angeles are much higher in the central city than in the wider metropolitan area including the suburbs. In fact, according to FBI crime statistics *there are no suburbs in the country with a higher murder rate than their associated central city.*

Smart growth CPTED policies have produced mixed results at the neighborhood level as well:

- A Raleigh, N.C., study showed that street robberies were less likely in neighborhoods with sprawl associated features like cul-de-sacs, high rates of home ownership and single family homes.
- In New Bedfordshire, England, neighborhoods designed using Europe’s equivalent of CPTED averaged more than twice the number of crime and disorder incidents per year (5,200) as traditional neighborhoods of comparable size (1,800).

**SMART GROWTH DOES NOT REDUCE CONGESTION.** By increasing high density development centered on mass transit, smart growth advocates hope commuters will abandon their cars for the convenience and lower cost of public transportation. But U.S. Census Bureau data reveals that has not happened:

- In 13 of 15 major cities with light rail systems, automobile trips as a share of overall transportation have increased an average of 2.5 percent, while the market share of mass transit has declined.
- Ironically, the greatest increase in auto use occurred in Washington, D.C., where — despite the construction of a \$10 billion, 100 mile long light rail system — the share of trips taken by auto rose from 73.9 percent in 1970 to 79.3 percent in 2000.

- Indeed, mass transit's market share has dropped in several large cities with smart growth policies — Portland, for instance, has experienced a 22 percent decline since 1980, and only Los Angeles saw a slight increase. [See Figure II.]

**SMART GROWTH HURTS LOWER INCOME AND MINORITY FAMILIES.** In some states, growth management acts (GMAs) that restrict development have made housing less affordable for middle class families. A recent study by the Reason Public Policy Institute observed three states where statewide GMAs were implemented in the 1990s. The result:

- In Washington State, housing prices increased about 8.6 percent from 1995 to 2000 in counties that were not required to implement GMA restrictions, whereas prices increased almost 16 percent in counties with growth restrictions.
- In Florida, 20 percent of the increase in urban area housing prices from 1994 to 2000 was attributable to GMA rules.
- In Oregon, housing prices almost doubled between 1991 and 2000 — from \$75,100 to \$146,500 — a 95 percent increase that far outpaced the 39.8 percent growth in the national median house price.

**A study by the Urban Institute indicates that smart growth policies reduce both housing affordability and economic opportunity, especially for minorities.** The study measured the ratio of urban development relative to population growth called the dispersion rate — with a higher rate indicating greater sprawl. It also measured economic opportunity by the concentration of poverty, wage gaps between black and white males, and the availability of so called living wage jobs — which pay well above the minimum wage — for black male heads-of-households. Researchers found that:

- The degree of sprawl in a metropolitan area is positively associated with economic opportunity and social equity — in other words, there tend to be more living wage jobs available in sprawling cities.
- Portland's dispersion index indicated no sprawl between 1980 and 1990, but living wage employment for less educated males declined 24 percent; for black males, the decline was an even steeper 48 percent.
- Norfolk, Va., ranked the highest on the dispersion index from 1980 1990, and also experienced the second highest growth in economic opportunity during that period.

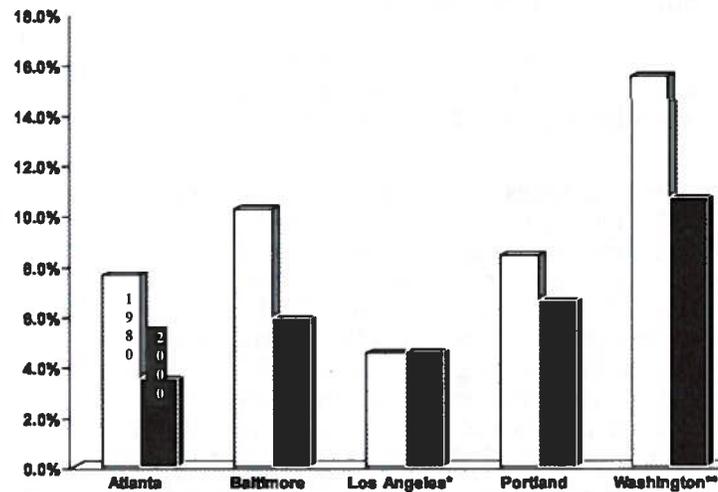
**Conclusion.** Even in the face of high impact fees, suburbs continue to grow and develop — because consumers demand them. Market forces, not bicycle paths, create villages.

*H. Sterling Burnett, Ph.D., is a senior fellow, and Pamela Villarreal is a research associate, with the National Center for Policy Analysis.*

*The NCPA is a 501(c)(3) nonprofit public policy organization.*

**FIGURE II**

**Transit Work Trip Market Share**



# Attachment 5

## Smart Growth Fraud

Michael S. Coffman  
American Land Foundation

For decades urban planners have adhered to the mantra that urban sprawl increases pollution and housing costs, more driving time to work and shopping, stress, and the escalating consumption of scarce farmland and open space. Urban planning to implement what Al Gore calls "smart growth" supposedly corrects these problems and creates more livable, inexpensive homes for all. Irrefutable evidence, however, shows that urban planning creates the very nightmares it is supposed to eliminate. In the process, it strips urbanites of one of their most fundamental civil liberties — property rights.

Land-use control has been a goal of socialists for many decades. Laurence Rockefeller's 1972 publication of The Use of Land: A Citizen's Policy Guide to Urban Growth was instrumental in attempting to enact land-use regulation in Congress several times in the early 1970s. Edited by William K. Reilly, who later served as EPA Administrator under George Bush senior, the report claimed that planning the wise use of land is the best tool to guide growth toward achieving economic equality and protecting environmental quality.

Following the failed attempt to employ the anti-property rights features of *The Use of Land*, the United Nations set the same agenda in the 1976 Conference on Human Settlements (Habitat I) held in Vancouver. For instance, the Preamble of Agenda Item 10 of the Conference Report states: "The provision of decent dwellings and healthy conditions for the people *can only be achieved* if land is used in the interests of society as a whole. *Public control of land use is therefore indispensable....*" (Italics added)

Smart growth advocates seek to preserve land in a natural or agricultural state by encouraging individuals to live in denser communities that take up smaller tracts of land per housing unit. Such communities also encourage residents to rely more on walking or public transit than on cars for mobility, and they more closely mix retail and other commercial facilities with residential units to foster easy access to jobs and shopping.

Land-use control can often become an obsession to planners for obvious reasons. In order to plan and control growth in their enlightened way, government bureaucrats and planning advocates *must* control property rights. Private property rights and smart growth are therefore mutually exclusive.

Such policies do not permit Americans the freedom to live where they choose. They must live inside urban growth boundaries. Developers must provide open space around new development. Americans may not live in greenbelt areas around urban centers. They may not live in designated viewsheds of scenic highways, or in the buffer zone of a Heritage River or a designated stream.

Those advocating smart growth can become so obsessive they become irrational. For instance, on June 18, 2001, the Sierra Club defined "efficient urban density" as a city containing 500 housing units to the acre. Put another way, 500 families would have to live on an acre of land which is 209 x 209 feet! This would require a 14-story apartment building if 36 very small 1,000 square foot units (with hallways) occupied each floor! Increasing the apartment size to 1500 square feet would require a 21-story building!

After being criticized that such densities were more than three times greater than the highest density tracts in Manhattan and more than double the most dense and squalid ward of Bombay, India, the Sierra Club quickly revised its definition of urban efficiency to 100 units per acre. Reaching even that goal, however, would require living arrangements that are 2.4 times as dense as all Manhattan, twice as dense as central Paris and ten times that of San Francisco according to the Heritage Foundation. The density of the average suburban area is 1-3 units per acre.

At least nineteen states have state growth-management laws or task forces to protect farmland and open space. Dozens of cities and counties have adopted urban growth boundaries to contain development and prevent the spread of urbanization to outlying and rural areas. The Department of Housing and Urban Development (HUD) partially funded a 2002 report called "Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change." Congress is considering passing "The Community Character Act," which proposes to fund state and local efforts to reform their land use planning process to conform more closely to smart growth policies.

The Legislative Guidebook calls for using federal funding as a carrot to mandate a more restrictive "integrated state-regional-local planning system that is both vertically and horizontally consistent." Vertically and horizontally consistent, in turn, means total government control from the federal government to the local community across America. One size fits all. This dovetails with Section 4(c)(1)(D) of the Community Character Act which calls for funding and "coordination of Federal, State, regional, tribal, and local land use plans."

The paranoia about the need to control growth is a constant drumbeat of those promoting urban planning. They claim America is rapidly losing its farmland and open space. Yet, the U.S. Bureau of Census classifies less than 5 percent of the U.S. as being developed and less than 2.5 percent as urban using the 2002 corrected data.

Even in the densely populated east, both New York and Pennsylvania are only 10 percent developed. New Jersey, the most developed state, has only 30 percent of its land developed. To top it all off, less than one-quarter of the loss in farmland since 1945 is due to urbanization, and the rate of loss has been dropping since the 1960s. 1

The presumption that low-density residential development means more pollution, more congestion and fewer preserved natural resources is equally false. Likewise, the belief that higher-density compact development mitigates those impacts is false. Increasing population density does little to alleviate auto-caused smog. Urban and suburban areas with the lowest population densities have the fewest air pollution problems.

Population density or compactness also has little relationship to how much commuters depend on automobiles.<sup>2</sup> More than 75 percent of commuter trips are by car — even in urban areas. Thus, any planning strategy that attempts to increase population density usually leads to more traffic congestion and stalled traffic. This exacerbates air pollution levels and potentially causes more areas to fail federal clean air goals.<sup>3</sup> This, in turn requires regulations that are even more restrictive.

Portland, Oregon, the model for urban planning, has had the most stringent land-use plans in the U.S. since the 1970s. In implementing its plan, Portland has stopped building highways and instead has built two light commuter rails that failed to achieve their goals. Transit commuter use actually dropped 20 percent from 1980 to 1991. Additionally, in spite of the severe hardship imposed on those who want to use automobiles, the Portland area experienced the largest increase in automobile use per capita from 1990 to 1999 of any U.S. urban area with more than one million people. <sup>4</sup>

The same is true for alternative transit methods. San Francisco's proposed Third Street light rail line, for instance, will cost \$40.50 per ride, which is equal to \$18,225 annually per new commuter. Notes the Heritage Foundation:

For the same money, each new commuter could lease a new Pontiac Grand Am throughout the "life" of the rail system and pay for more than 100,000 miles of air travel at the average ticket rate each year. Alternatively, one could lease the Grand Am and use the remainder of the annual subsidy for the average mortgage payment in the nation's most expensive housing market.

Urban planning has also failed miserably in providing affordable housing. As a rule, more dense areas cost more to build in, tend to have higher taxes, higher levels of pollution, and a higher cost of living. The Heritage Foundation reports that; "Data indicate that housing affordability in Portland (percentage of households that can afford the median priced home) dropped 56 percent from 1991 to 2000, the largest reduction of any major urban area in the nation! Portland's home ownership rate fell as a result." The poor, of course, suffer the most in this kind of failed policy. Families no longer able to afford single-family homes in Portland have to move into multifamily units. During 1992-97, the number of housing permits issued for multifamily units doubled from 25 percent to 49 percent.

Land-use zoning can also have a devastating impact on the cost of land. A March 2002 study published by the Harvard Institute of Economic Research showed that zoning dramatically increases the cost of land in urban areas. Where regulatory zoning is not artificially driving up the price of land, the cost of an extra quarter-acre in a single lot is very similar to a separate and independent buildable quarter-acre lot. This condition exists in urban Kansas City. However, in San Francisco, Los Angeles, Anaheim, San Diego, New York City, Seattle and others like them, the difference between the cost of an extra quarter-acre in a lot, and a separate buildable quarter-acre lot is in the hundreds of thousands of dollars. "In these areas," claims the Harvard study, "only a small percentage of the value of the lot comes from an intrinsically high land price; the rest is due to restrictions on construction." Land-use restrictions were the only variable correlated with the huge cost increases.

The aggressive promotion of smart growth policies by some in the media, politicians and a gross misrepresentation of the facts by many environmentalists threatens the freedom of ordinary Americans to choose living arrangements that best suit their needs. Although smart growth proponents advocate land-use control as a means of providing affordable housing, it punishes low-income families, keeping them from ever being able to afford a home of their own and denying them the American Dream. According to the Heritage Foundation, home ownership rates among African-American and Hispanic families are still below 50 percent, in contrast to the nearly 75 percent ownership rates among white households. The very fashionable Fauquier County, Virginia, which has imposed severe growth restrictions and limits on homebuilding, has seen its African-American population fall both relatively and absolutely over the decade of the 1990s.

No matter how it is cut, urban planning and smart growth is a bald-faced fraud that is creating a nightmare for people across America. From a few academics and environmentalists to the media, state and local officials, and high-level federal officials of all ideologies and party affiliations, this misguided vision has spread despite overwhelming evidence that it does not work. The persistence of these beliefs despite all facts to the contrary is a tribute to the power of a fashionable idea favoring federal intervention, however illogical it may seem in practice and experience.

It is time for the Bush administration to pull *all* federal funding for any program dealing with smart growth or urban planning. Imposing such altruistic ideals just does not work. They harm both the environment and the citizens whom they are supposed to help!

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Dr. Michael Coffman is president of Environmental Perspectives, Inc. and CEO of Sovereignty International Corporation in Bangor, Maine.

# Attachment 6

# HOUSING BOOM AND BUST

## The same discredited assumptions and the same disregard of repercussions.

By Thomas Sowell  
Jewish World Review, 2009

An African-American, Sowell's father died before he was born. He dropped out of Harlem's Stuyvesant High School because of financial difficulties and a deteriorating home environment. To support himself he worked at various jobs, from machine shop to delivery man, then Civil Service before drafted in 1951, when he went into the US Marine Corps.

After discharge, Sowell passed the GED examination, enrolled at Howard University then transferred to Harvard University, where in 1958 he graduated Magna Cum Laude with a B.A. Economics. He received a M. A. in Economics from Columbia University and a PhD from the University of Chicago, choosing to teach at Columbia University because he wanted to study under George Stigler.

Sowell has taught Economics at Howard University, Cornell University, Brandeis University, and UCLA. He has been a Senior Fellow of the Hoover Institution, Stanford University, where he holds a fellowship.

Sowell stated that he was a Marxist during "the decade of my 20s." His experience working as a federal government intern during the summer of 1960 caused him to reject Marxist dogma in favor of free market economic theory. His intern work revealed a correlation between the rise of mandated minimum wages for workers in the sugar industry of Puerto Rico and the rise of unemployment in that industry. Studying the patterns led to his conclusion that the government employees who administered the minimum wage law cared not that they may be causing higher unemployment of the poor by enforcing that law; their primary concern was keeping their own jobs secure.

Let us go back to square one to consider the empirical consequences of policies in the housing market. **Politicians** in Washington **set out to solve a national problem *that did not exist*** — a nationwide shortage of "affordable housing" — and have now left us with a problem whose existence is as undeniable as it is painful. When the political crusade for affordable housing took off and built up steam during the 1990s, the share of their incomes that Americans were spending on housing in 1998 was 17 percent, compared to 30 percent in the early 1980s. Even during the housing boom of 2005, the median home took just 22 percent of the median American income.

In 1946 Henry Hazlett warned that government subsidized housing results in great losses absorbed by the taxpayers due to political decisions.

What created the illusion of a nationwide problem was that, in particular localities around the country, housing prices had skyrocketed to the point where people had to pay half their income to buy a modest-sized home and often resorted to very risky ways of financing the purchase. In Tucson, for example, "roughly 60% of first-time home buyers make no down payment and instead now use 100% financing to get into the market," according to the *Wall Street Journal*. Almost invariably, these locally extreme housing prices have been a result of local political crusades in the name of locally attractive slogans about the environment, open space, "smart growth," or whatever other phrases had political resonance at the particular time and place.

Where housing markets have been more or less left alone — in places like Houston or Dallas, for example — housing did not take even half as big a share of family incomes as did comparable housing in places like the San Francisco Bay Area, where heavily hyped political crusades had led to severe restrictions on building. It was in precisely these extremely high housing-cost enclaves that the kind of people for whom the national housing crusade expressed much concern — minorities, low-income people and families with children — were forced *out* disproportionately.

**Few things blind human beings to the actual consequences of what they are doing like a heady feeling of self-righteousness during a crusade to smite the wicked and rescue the downtrodden.** Statistical studies about disparities between blacks and whites in mortgage loan approval rates might be said to have “jump-started” the housing crusades that began in the 1990s. Politicians and the media led this crusade, with many community activists following in their wake, much like scavengers, able to extract large sums of money from banks and other institutions by raising claims of discrimination, whose power to delay government approval of bank mergers and other business decisions made pay-offs to these activists the only prudent course for those accused.

Even where loudly proclaimed concern for the poor and minorities gave impetus to the drive for over-riding traditional mortgage lending standards, this is not to say that the poor and minorities were the sole beneficiaries or even the main beneficiaries. When you open the floodgates, you cannot tell the water where to go. Housing speculators — “flippers” — found the new and looser home mortgage rules a bonanza. So did many others. It is by no means clear that the poor or minorities came out ahead at all, after the housing boom turned to bust and many were left with mortgage payments they couldn’t meet on homes they couldn’t afford.

With rich rewards available — politically, ideologically, and financially — from the “affordable housing” crusade, there were ample incentives to keep this crusade going for years. Meanwhile, various special interests found ways to benefit themselves from all this, whether as home builders, real-estate investors, or others, and therefore added their voices in support of the open-ended goal of more home ownership through various ways of achieving, or seeming to achieve, affordable housing. Supporters of such policies and programs easily drowned out the voices of those economists and others who increasingly warned of the risky financial arrangements that were behind the statistics on the growing numbers of home buyers that were so triumphantly being paraded as fruits of the crusade for affordable housing and the stamping out of mortgage lending discrimination.

In short, this was a crusade that was feeding on its own successes by its own criteria, and was not likely to stop unless it got stopped.

The housing market collapse dealt a blow to some of the devices that fed the crusade — “creative” financing and lax lending standards, for example — but even the ensuing national crisis did nothing to end the political attractiveness of the goal of making housing affordable by government fiat, rather than by individuals buying or renting housing that was within their own income range. Just as the utter discrediting of public housing projects did not discredit the underlying beliefs that caused such projects to be built, so in this case even the

more widely disastrous consequences of the affordable-housing crusade have led only to seeking other ways of carrying on that same crusade, based on the same discredited assumptions and the same disregard of repercussions.

While some congressional Democrats have proposed a moratorium on mortgage foreclosures or allowing judges to change the terms of mortgage contracts, Senate Republicans have proposed “providing government-backed, 4% fixed mortgages to any credit-worthy borrower.” What these proposals from politicians of both parties all have in common is an utter absence of any serious consideration of the repercussions in multiple directions of arbitrary government fiats.

Anyone who expected any such consideration of repercussions by most members of either political party would have little chance of avoiding painful disappointments. Certainly few politicians of either party have questioned whether the track record of politicians in the housing market justified more of the same in other markets. Many are in fact eager to extend political intervention into other industries receiving the government “stimulus” or bailout money.

Before we go forward as a nation, it is well to look at where we have been, despite being urged to take drastic actions immediately — and, in fact, *especially* when being urged to take drastic actions immediately.

Whether we look at the American economy in general or the housing market in particular, we see a history of remarkable progress for generation after generation — and a few recent years when things turned very bad, very quickly.

It has been almost axiomatic, for at least a century, that the American economy produces more output than any other economy in the world. All this is so much taken for granted that no one considers it worth commenting on the fact that 300 million Americans today produce more output than more than a billion people in India or an even larger population in China — indeed, more than these two countries which, put together, have more than eight times the population of the United States. We also produce more than Japan, Germany, Britain, and France combined.

The housing market has, of course, changed drastically in the past few years, as have other things in the economy. But does all this suggest that (1) we need to change some recent bad policies or that (2) we need to restructure a whole economic system that has worked well for centuries? More specifically, does it mean that we need to allow politicians a bigger say in how American businesses are run?

Lenders did not spontaneously begin to lend to people who would not have qualified for loans under the traditional criteria that had evolved out of years of experience in the market. Such risky loans were made under growing pressures from government regulatory agencies and politicians, and even threats of prosecution from the Justice Department if the statistical profiles of borrowers whose loan applications were approved did not match the government’s preconceptions.

The growth in subprime loans was one way of meeting arbitrary quotas for lending to people who did not meet the criteria for loan approval that had prevailed for years. Quota lending was one of many political patches put over problems caused by previous political “solutions.” Often these interventions have focused on some limited goal, with no real concern about, or even awareness of, the wider ramifications of what they were doing. It is doubtful whether most of the state politicians of the past who enacted laws to prevent branch banking had anything in mind more far-reaching than enabling local banks to avoid having to compete with branches of much bigger and better-known banks. It seems even less likely that these local politicians felt any responsibility for the thousands of bank failures during the Great Depression of the 1930s.

Nor is it likely that the national politicians of our own times, who for years made “home ownership” the touchstone of housing policy, will acknowledge any responsibility for the financial disasters and widespread unemployment today.

What that means is that the voting public must at a minimum be skeptical of political spin, no matter how often it is echoed in the media. What would be even better would be to develop some sense of awareness that everything “is interconnected in the world of prices, so that the smallest change in one element is passed along the chain to millions of others.”

It is a caution especially apt when someone is pushing the political crusade of the day as an overriding “good thing,” whether home ownership, mortgage foreclosure mitigation, or a restructuring of the whole economy.

The very idea that the current economic crisis will go to “waste” if it is not used by politicians to rush through a fundamental restructuring of the economy, while the public is too panicked to object, should at the very least give us pause, if not set off alarm bells. From the standpoint of those who seek to remake the economic institutions of America, the worst case scenario would be to have the economy begin visibly recovering on its own before they can get their blueprint for salvation enacted into law. The urgency behind the hasty passage of the “stimulus” legislation was real, even if the reason for that haste was not a swift economic recovery.

Will the history of the New Deal and the Great Depression repeat itself? There is, of course, no way to know in advance. However, history has repeated itself many times before, when past experience has been ignored — and especially when past mistakes have been repeated, often in the name of doing something new and different. Comments made years ago by distinguished British historian Paul Johnson remain very apt in our times:

“The study of history is a powerful antidote to contemporary arrogance. It is humbling to discover how many of our glib assumptions, which seem to us novel and plausible, have been tested before, not once but many times and in innumerable guises; and discovered to be, at great human cost, wholly false.”

*...Thomas Sowell is a Scholar in Residence at the Hoover Institution, Stanford University.*

Attachment 7

# The Housing Crash and Smart Growth

Policy Report No. 335

by Wendell Cox

June 2011

*There is general agreement the financial crisis that began with the failure of Lehman Brothers on September 15, 2008, was worsened by the bursting of the U.S. housing price bubble. It is also generally acknowledged that some of the fuel for the housing bubble came from a relaxation of mortgage loan standards that allowed many families to purchase homes they could not afford with loans on which they subsequently defaulted.*

## Executive Summary

There is general agreement the financial crisis that began with the failure of Lehman Brothers on September 15, 2008, was worsened by the bursting of the U.S. housing price bubble. It is also generally acknowledged that some of the fuel for the housing bubble came from a relaxation of mortgage loan standards that allowed many families to purchase homes they could not afford with loans on which they subsequently defaulted. New and excessive demand from mortgagees drove up home prices faster than the increase in the housing supply.

It is less well understood that the U.S. housing bubble was not a monolithic event. It varied substantially by geography. Gross national house value increases and losses were overwhelmingly concentrated in metropolitan areas with more restrictive land use regulations — known by a variety of names, such as compact city policy, growth management or smart growth. Many metropolitan areas with these land use restrictions were not able to respond to the increased demand for homeownership caused by the greater availability of mortgage credit. The inevitable result was higher prices, which encouraged speculation and increased house prices even more. Thus, from 2000 to 2007, among the nation's 50 largest metropolitan markets:

- In the 10 markets with the greatest rise in prices compared to income, the cost of a house rose by an average of \$275,000, relative to incomes.
- Among the second 10 markets with the greatest price escalation, house prices rose \$135,000.
- By contrast, in the major markets with the least rise in prices, houses increased only \$5,000.



Dallas Headquarters:  
12770 Coit Road, Suite 800  
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## The Housing Crash and Smart Growth

Furthermore, from 2000 to 2007, the gross value of the U.S. housing stock rose \$5.3 trillion relative to household incomes. It is estimated that \$4.4 trillion of this increase occurred in the 20 major markets with the greatest escalation in housing prices.

For the nation as a whole, house values more than doubled from 1999 to the peak of the bubble. From the peak in the fourth quarter of 2006 until the end of 2010, homes values fell more than \$6 trillion. Losses after the bubble burst were even more concentrated than house price gains. Consider:

- From the peak of the bubble in 2006 to the Lehman Brothers' collapse on September 15, 2008, more heavily regulated metropolitan markets accounted for 73 percent of aggregate value losses.
- The average loss from 2007 to the Lehman Brothers' collapse was \$175,000 per house in the 11 markets with the greatest run-up in prices and the greatest fall.
- All prescriptively regulated markets (more heavily regulated markets) accounted for 94 percent of losses, or an average of \$97,000 per house.

- Responsively regulated markets (less restrictively regulated markets) lost just 6 percent of their value, or an average of \$12,000 per house.

With prices falling and mortgage interest rates rising, households were no longer able to refinance, causing many new homeowners to fall into delinquency and foreclosure.

If the prescriptively regulated metropolitan areas had instead had responsive land use regulations, prices likely would have escalated at a much lower rate during the housing bubble. This is because the land price premiums that grew during the bubble would have been less likely to develop, at least to the same degree. If the housing markets in the prescriptively regulated markets had replicated the performance of the responsive markets, it is estimated that the house value losses from the peak of the bubble to the start of the financial crisis would have been \$0.62 trillion, one-fourth of the actual loss of \$2.44 trillion. The average loss per house would have been \$17,000 instead of \$67,000. These more modest losses might not have set off the financial crisis, or it might have been less severe.

### About the Author

**Wendell Cox**, principal of the Wendell Cox Consultancy in metropolitan St. Louis, Missouri, is an adjunct scholar with the National Center for Policy Analysis, a senior fellow with the Heartland Institute and a visiting fellow in the Thomas A. Roe Institute for Economic Policy Studies at The Heritage Foundation. He was appointed to three terms on the Los Angeles County Transportation Commission by Mayor Tom Bradley and was appointed by Speaker of the House Newt Gingrich to the Amtrak Reform Council, to complete the unexpired term of New Jersey Governor Christine Todd Whitman. He is a visiting professor at the Conservatoire National des Arts et Metiers, a national university in France.

Mr. Cox holds a bachelor of arts degree in government from California State University, Los Angeles and a master of business administration degree from Pepperdine University.

## Introduction

There is general agreement the financial crisis that began with the failure of Lehman Brothers on September 15, 2008, was worsened by the bursting of the U.S. housing price bubble. It is also generally acknowledged that some of the fuel for the housing bubble came from a relaxation of mortgage loan standards that allowed many families to purchase homes they could not afford with loans on which they subsequently defaulted. New and excessive demand from mortgagees drove up home prices faster than the increase in the housing supply.

After the run-up from 1999 to 2006, house prices began falling and mortgage interest rates began rising. Households were no longer able to refinance, causing many new homeowners to fall into delinquency and foreclosure. Lenders began calling these mortgages “toxic” assets because they yielded no return. Institutions holding the loans resisted revaluating their assets because doing so would force them to admit their insolvency. But with no other institutions to purchase these loans, the market froze, causing mounting losses that could not be absorbed by lenders.

Bear Stearns, one of the firms that collapsed, announced in July 2007 that its subprime hedge fund had lost nearly all of its value, causing a 61 percent drop in overall net profits and forcing a merger with J.P. Morgan Chase eight months later. Lehman Brothers, a rival investment bank, similarly filed for bankruptcy in late 2008, citing bank and bond debt of \$768 billion with assets worth \$639 billion. The bankruptcy of these firms led to the

well known collapse of the U.S. mortgage finance industry generally.

It is less well understood that the U.S. housing bubble was not uniform across the country. It varied substantially by geography, largely mirroring differences in the stringency of land use regulation. The crash in house values that followed was also concentrated in the markets with the most restrictive land use policies.

*“The housing price bubble was concentrated in areas with restrictive land use policies.”*

## The Housing Bubble

The U.S. housing bubble that developed from 1999 to 2006 was the result of actions by both potential homeowners and lenders. Potential buyers perceived homeownership as an investment that had little risk. Economic incentives offered to lending institutions resulted in the issuing of subprime loans with variable interest rates to households with poor (or no) credit histories. Increased demand for homes raised prices and, as a result, the supply increased: more new homes were built and more existing homes were put on the market.

**The American Dream of Homeownership.** Following World War II, Americans began to realize the dream of home ownership with the development of low-priced

suburbs on the fringe of urban areas, such as Levittown, New York. As average (median) family incomes rose in the post-war era, homeownership grew significantly. Consider:

- Homeownership rose from 44 percent of households in 1940 to 62 percent by 1960.
- Sixty-five percent of households were homeowners in 1995.
- Homeownership peaked in 2006 at 69 percent.

House sizes also increased:<sup>1</sup>

- In 1973, the average single-family home was 1,525 square feet.
- By 2006, the average home size rose to 2,248 square feet, an increase of 47 percent.

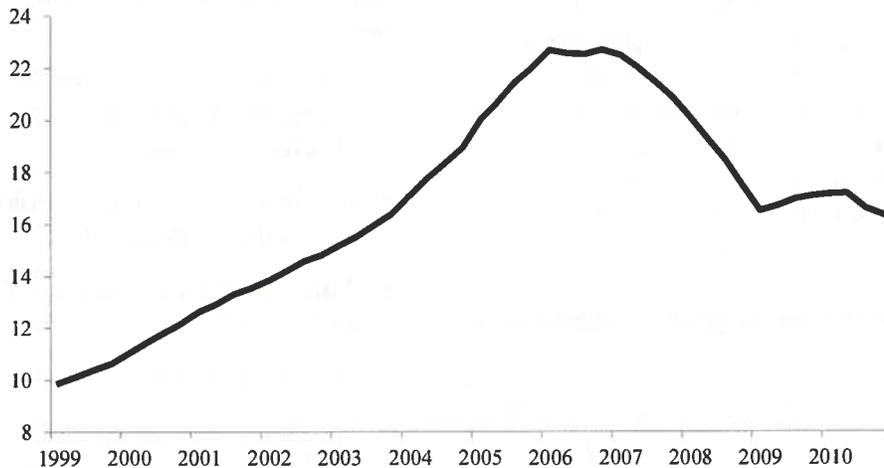
The quality of housing also increased, with amenities like air conditioning becoming standard features in new homes.

**House Prices and Income: The Multiple Median.** From the late 1940s until 1970, there was a general equilibrium between house prices and household incomes in the United States: The median sale price of detached housing was generally less than or equal to three times the median household income in a particular home market, a measure called the median multiple. As the housing bubble began to develop, house prices and the value of existing houses began to rise faster than incomes. For example:<sup>2</sup>

- The sales price of the median single-family home more than doubled from \$104,500 in 1987 to nearly \$241,000 at the peak of housing prices in 2006.

## The Housing Crash and Smart Growth

Figure 1  
**Market Value of U.S. Homes, 1999-2010\***  
 (trillions of dollars)



\*Note: All types of owner-occupied housing, including farm houses and mobile homes, unrented second homes, vacant homes for sale and vacant land.

Source: Federal Reserve Board, "Flow of Funds Report."

- The gross value of the U.S. housing stock rose \$5.3 trillion more than household incomes from 2000 to 2007.
- In fact, *the value of existing houses more than doubled in less than eight years*, rising from \$10.4 trillion in 1999 to a peak of \$22.7 trillion in 2006.<sup>3</sup> [See Figure I.]

**Geography of the Housing Bubble.** In 2005, economist Paul Krugman, a *New York Times* columnist and Nobel Laureate, pointed out that the rise in house prices was not uniform across the nation. House prices rose much more on the East and West coasts than in the middle of the country:<sup>4</sup>

- From the first quarter of 2000 to the first quarter of 2005, average housing prices nationwide rose about 50 percent.

- Over this period, house prices rose less than the national average in responsively regulated (less restrictively regulated) metropolitan areas like Houston and Atlanta, where prices rose 26 percent and 29 percent, respectively.
- However, house prices rose much higher than average in more heavily (or "prescriptively") regulated metropolitan areas like New York, Miami and San Diego — by 77 percent, 96 percent and 118 percent, respectively.

As Krugman noted, the increase in house prices was concentrated in particular markets. This has been confirmed by more recent figures since the market downturn. From 2000 to 2007, among the nation's 50 largest metropolitan markets:

- In the 10 markets with the greatest rise in prices compared to income, the cost of a house rose by an average of \$275,000, relative to incomes.
- Among the second 10 markets with the greatest price escalation, house prices rose \$135,000.
- By contrast, in the major markets with the least rise in prices, houses increased only \$5,000.

Furthermore, from 2000 to 2007, the gross value of the U.S. housing stock rose \$5.3 trillion relative to household incomes. It is estimated that \$4.4 trillion of this increase occurred in the 20 major markets with the greatest escalation in housing prices.

**Mortgage Debt.** To purchase houses at higher prices, Americans took on more mortgage debt over this period:

- From 2000 to 2007, the value of gross residential mortgages in the United States rose \$4.8 trillion more than household incomes.
- Assuming that the distribution of mortgages tracked escalating prices, 83 percent of the rise in house values occurred in the 20 markets with the greatest escalation in housing costs relative to income.
- However, these markets account for only 26 percent of the nation's owner-occupied housing stock.

These numbers suggest that more liberal lending policies were not the sole cause of the housing bubble and subsequent bust.

## The Cost of Excessive Land Use Regulation

What accounts for the geographic concentration of the bubble in house prices and subsequent crash? Numerous studies have found an association between land use policies and house prices. Scarcity tends to raise prices (other things being equal). However, natural limits on the availability of land, such as the presence of a seacoast or mountains, is secondary to the scarcity caused by regulatory barriers that stand between the natural barriers and urbanization.<sup>5</sup> A reduction of land available for housing due to regulatory restrictions can increase house prices. Land prices, not construction costs, account for the largest differences in median house prices among metropolitan areas. Areas with less restrictive policies have lower housing prices. For example, while the nine largest metropolises with prescriptive regulation in the nation averaged a median house price of \$417,800 before the crash, houses in the less regulated Houston, Atlanta and Dallas-Fort Worth markets averaged \$159,300.<sup>6</sup>

Research by Edward Glaeser and Joseph Gyourko has shown a strong relationship between prescriptive land use policies and higher housing prices.<sup>7</sup> Other distinguished academics have come to similar conclusions.<sup>8</sup>

**A Typology of Land Use Policies.** A Brookings Institution study divides local and state land use regulations into four broad families by county. These classifications are the foundation of the typology used in this report, which divides land use regulation into “prescriptive” and “responsive.”

Prescriptive land use regulation markets include those classified as “growth management,” “growth control,” “containment” and “containment-light” in the Brookings study, as well as markets Demographia has determined to have significant rural zoning (large lot zoning) and substantial geographical development prohibitions (New York, Chicago, Milwaukee, Minneapolis-St. Paul, Virginia Beach and Washington).<sup>9</sup> All other markets are classified as responsive land use regulation markets (development is allowed to occur based upon market preferences consistent with fundamental environmental regulation.)

*“The supply of housing was not able to rise to meet the increased demand.”*

Prescriptive land use policies are designed to stop or contain the geographic expansion of urban areas — also called suburbanization or, pejoratively, urban sprawl — and force more travel by public transit and walking, instead of by car. These policies are assigned various labels such as compact city policy, growth management and smart growth.<sup>10</sup> Principal smart growth policies include urban containment (such as growth boundaries and restrictions on physically developable land), large-lot zoning in urban fringe and rural areas, state aid contingent on local growth zones, house building

moratoria or limits, high development fees and exactions, and mandatory regional or county planning.<sup>11</sup>

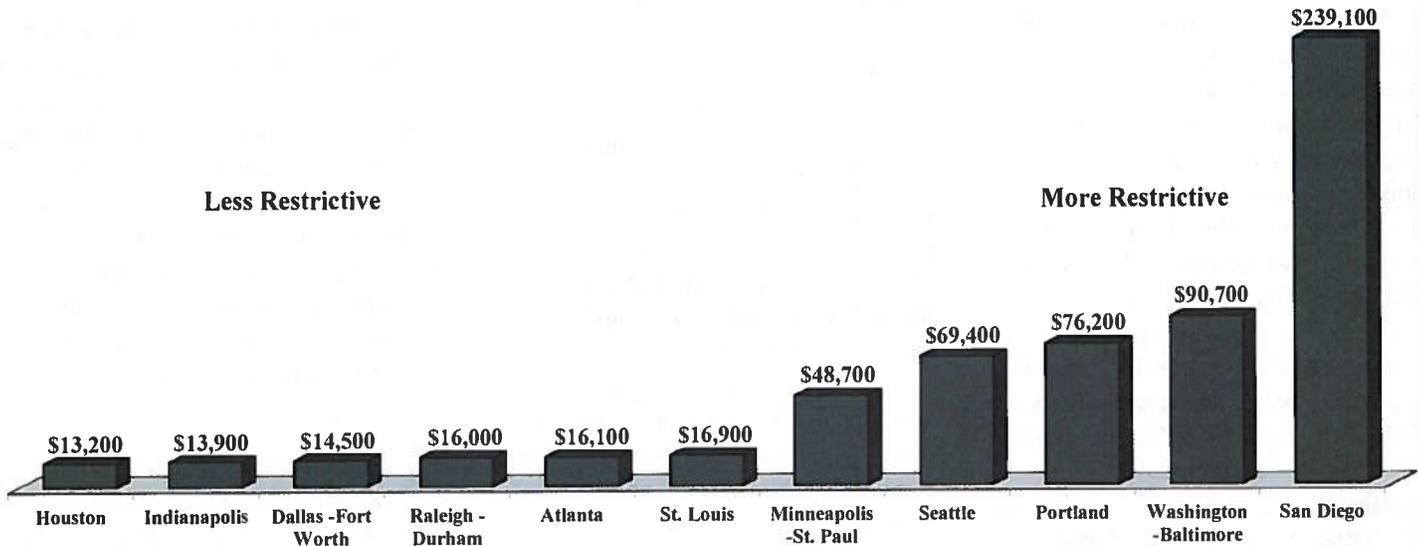
**Creating an Index of Regulatory Costs.** Generally, land and regulatory costs are 25 percent of the net cost of constructing a house, after subtracting the cost of infrastructure (streets, water and sewer lines) for a site. This means that, in a metropolitan region with normal land and regulation costs, the cost of the house will be 80 percent of the total price, while the cost of the land and regulation will be 20 percent.

The “2010 Demographia Residential Land Use & Regulation Cost Index” compares estimated land and regulatory costs for new entry level houses in 11 representative metropolitan regions selected for geographical and regulatory balance, and because there was sufficient data available from which to develop the index. The 11 markets are Atlanta, Dallas-Fort Worth, Houston, Indianapolis, Minneapolis-St. Paul, Portland, Raleigh-Durham, San Diego, Seattle, St. Louis and Washington-Baltimore.

As Figure II and Table I show, land and infrastructure costs for six of the metropolitan markets are within historic norms (Atlanta, Dallas-Fort Worth, Houston, Indianapolis, Raleigh-Durham and St. Louis). Each of these markets has less restrictive land use regulations.

The other five metropolitan areas (Minneapolis-St. Paul, Portland, San Diego, Seattle and Washington-Baltimore) have more restrictive land use regulations. Nonconstruction costs in these markets jumped two to 13 times the historic norm, adding from nearly \$30,000 (Minneapolis-

Figure II  
**Land & Regulation Cost Index: New 2,150 Square Foot Detached House\***



\*Note: Represents gross actual land and regulation cost.

Source: Demographia Land & Regulation Cost Index: New 2,150 Square Foot Detached House, Table 2. Available at <http://www.demographia.com/dri-full.pdf>.

St. Paul) to more than \$220,000 (San Diego) to the price of a new home.<sup>12</sup> [See Figure II and Table I.]

The Index numbers are calculated by dividing the estimated land and regulatory cost in a metropolitan region by this “normal” cost. Conservatively, the index assumes that any house price above 125 percent of its construction cost is due to excess land and regulation costs. Thus, the index illustrates the extent to which more restrictive regulation in metropolitan areas add to the cost of new housing.

**Loss of Housing Affordability in Prescriptively Regulated Markets.** The broad, stable ratio of housing prices to rising incomes during the post-World War II era began to break down in the 1970s in certain states.

For example, Hawaii and California imposed real estate regulations in the 1960s, followed in the 1970s by Oregon and Vermont. William Fischel of Dartmouth University found housing price increases in California were associated with the stronger regulations adopted after 1970.<sup>13</sup>

Oregon adopted urban growth boundaries in the mid-1970s. Urban growth boundaries allow higher density development within the boundary area and restrict residential development outside the boundary. As development expanded within the urban growth boundary of Oregon’s largest metropolitan area, Portland, house prices rose substantially. The area experienced the greatest loss in housing affordability in the nation during the 1990s.<sup>14</sup> Other states, such as Florida and Washington, and many

other metropolitan areas also adopted prescriptive land use regulations.

Housing affordability, as measured by the median multiple, deteriorated markedly in the prescriptively regulated markets, while generally remaining within the historic norm of 3.0 in responsively regulated markets [see Figure III].

**Environmental Issues and Smart Growth.** Land use in areas with market-responsive policies is regulated by basic federal, state and local environmental regulations and statutes (such as the Clean Water Act). Proponents of more restrictive policies, however, appeal to environmental concerns about inefficient land use, reliance on automobiles, preservation of farmland and attempts to restore inner cities to more livable conditions. In fact, less

than 3 percent of the nation is urbanized, and far more land has been taken out of agricultural production than has been converted to urban use.

More recently, proponents have seized upon unease about greenhouse gas emissions to advance smart growth policies, based on the assumption that denser housing will materially reduce automobile use and thus reduce greenhouse gas emissions. [See the sidebar, “The Smart Growth Greenhouse Gas Emissions Dead-End.”]

### House Values in Prescriptive and Responsive Markets.

As the housing bubble developed, prescriptively regulated markets, including those in non-major metropolitan markets, accounted for 89 percent of the aggregate increase in house values. Conversely, 25 percent of homeowners lived in the responsively regulated major markets, which accounted for just 11 percent of the aggregate value increases [see Appendix Table A, Section 1].

**Concentrated Losses.** From the peak in the fourth quarter of 2006 until the end of 2010, homes values fell more than \$6 trillion.<sup>16</sup> Losses after the bubble burst were even more concentrated than house price gains. Consider:

- From the peak of the bubble in 2006 to the Lehman Brothers’ collapse on September 15, 2008, more restrictively regulated

TABLE I  
**Demographia Land & Regulation Cost Index**

<u>Metropolitan Market</u>	<u>Expected Raw Land &amp; Regulation Cost</u>	<u>Gross Actual Land &amp; Regulation Cost</u>	<u>Excess Land &amp; Regulation Cost</u>
<b>Traditional</b>			
Atlanta	\$16,100	\$ 16,100	\$ 0
Indianapolis	\$13,900	\$ 13,900	\$ 0
Raleigh-Durham	\$16,000	\$ 16,000	\$ 0
St. Louis	\$16,900	\$ 16,900	\$ 0
<b>Texas</b>			
Dallas-Fort Worth	\$14,500	\$ 14,500	\$ 0
Houston	\$13,200	\$ 13,200	\$ 0
<b>Exclusionary</b>			
Minneapolis-St. Paul	\$20,000	\$ 48,700	\$ 28,700
<b>Reform</b>			
Seattle	\$18,000	\$ 69,400	\$ 51,400
Portland	\$16,900	\$ 76,200	\$ 59,300
Washington-Baltimore	\$16,000	\$ 90,700	\$ 74,700
San Diego	\$18,100	\$239,100	\$221,000

Source: New 2,150 Square Foot Detached House, Table 2. Available at <http://www.demographia.com/dri-full.pdf>

metropolitan markets accounted for 73 percent of aggregate value losses.

- The average loss from 2007 to the Lehman Brothers’ collapse was \$175,000 per house in the 11 markets with the greatest run-up in prices and the greatest fall.
- All prescriptively regulated markets accounted for 94 percent of losses, or an average of \$97,000 per house.
- Responsively regulated markets lost just 6 percent of their value, or an average of \$12,000 per house. [See Appendix Table A, Section 2.]

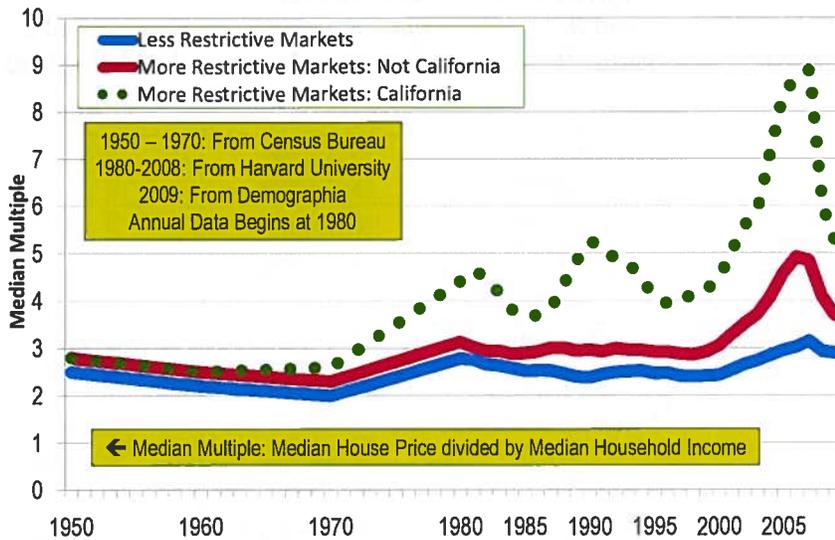
If the prescriptively regulated metropolitan areas had instead had responsive land use regulations,

prices likely would have escalated at a much lower rate during the housing bubble. This is because the land price premiums that grew during the bubble would have been less likely to develop, at least to the same degree. If the housing markets in the prescriptively regulated markets had replicated the performance of the responsive markets, it is estimated that the house value losses from the peak of the bubble to the start of the financial crisis would have been \$0.62 trillion, one-fourth of the actual loss of \$2.44 trillion. The average loss per house would have been \$17,000 instead of \$67,000. [see Appendix Table A, Section 3].

**Markets Most Affected by Bubble.** Over the period 2000 to 2007, the largest house value in-

## The Housing Crash and Smart Growth

**Figure III**  
**Housing Affordability Since 1950**  
**Major Metropolitan Areas: Median Multiple**



Source: Census Bureau, Harvard University and Demographia.

creases were concentrated in 11 major markets: Los Angeles, San Francisco, San Diego, San Jose, Riverside-San Bernardino, Sacramento, Las Vegas, Phoenix, Miami, Tampa-St. Petersburg and Washington, D.C.<sup>17</sup> These markets are so heavily regulated that even with the expansion of demand induced by loose credit, the housing market was not able to respond with a supply of new affordable housing and there was a rush to purchase existing stock, which drove prices up.

- These markets accounted for 56 percent of the increase in aggregate house values nationwide, although they have only 28 percent of homeowners.<sup>18</sup>
- Average house values in these markets dropped 25 percent from the peak in 2006 to the September 15, 2008, bust.

**Subsequent Losses.** After the September 15, 2008, crash, housing

demand fell sharply and house price losses accelerated across the country, in both prescriptive and responsive markets:

- Approximately 44 percent of the losses from the September 15, 2008, crash to the end of the first quarter of 2009 were in highly regulated major metropolitan markets.
- The prescriptive markets as a whole accounted for 82 percent of the losses.
- The responsive markets accounted for just 18 percent.<sup>19</sup>

There is general agreement that the U.S. housing bubble contributed to the current financial crisis, which has been the most severe since the Great Depression. The crisis quickly spread internationally, due to the size of the American economy and the intensity of the mortgage losses. If the prescriptively regulated housing

markets in the United States had not been constrained by excessive land use regulation, mortgage losses would likely have been more manageable, and the financial crisis might have been less severe.

**Housing Still Expensive in Prescriptive Markets.** Even after the decline in prices, housing remains considerably more expensive than historic norms in a number of prescriptive metropolitan areas, such as San Francisco, San Diego, Los Angeles, New York, Boston, Portland and Seattle. For example, compare housing costs in San Diego, which is highly regulated, to Dallas-Fort Worth, which is less regulated:

- As of the first quarter of 2010, the median house price in San Diego was about \$380,000 and in Dallas-Fort Worth approximately \$140,000 [see Figure IV].
- A San Diego household with a median income would require 35 percent of its income to pay the mortgage on a median priced house.
- In Dallas-Fort Worth, a median income household would pay 15 percent of its income for the mortgage on a median priced house.<sup>20</sup>

After adjusting for differences in income, the San Diego household would pay \$325,000 more than the Dallas-Fort Worth household over the period of the loan (mortgage and down payment).

**The Role of Speculation.** Speculation is often blamed for contributing to the higher house prices that developed in the more highly regulated markets. Research

by Harvard University's Edward Glaeser and the University of Pennsylvania's Joseph Gyourko indicates that speculative behavior can be expected in a market with limited supply.<sup>21</sup> Speculators and "flippers" are naturally drawn to markets where prices are rising in anticipation of extraordinary profits. Speculation was not a significant factor in the responsively regulated markets, principally because the prospect of modest price growth does not yield the short-term profits that speculators seek.

## Other Effects of Prescriptive Land Use Regulation

Smart growth leaves both households and society less well off.

Urban growth boundaries, which mandate high-density development within the boundary and low density development outside the boundary, are perhaps the most draconian policy. They substantially raise land prices, and thus housing, by severely restricting where new housing can be built. Urban growth boundaries also increase traffic congestion and the intensity of local air pollution.<sup>22</sup>

Further, Raven Saks of the Federal Reserve Board found that compact development policies were associated with lower employment growth.<sup>23</sup> It is also notable that metropolitan areas in Texas — the state with the most liberal land use regulation in the nation — have generally performed better than their principal metropolitan competitors in Florida and California, where land use is more restricted.<sup>24</sup>

### Effect on Minority Households.

The loss of housing affordability disproportionately affects minority households due to their generally lower incomes. The white non-Hispanic home ownership rate is 50 percent above the rates for Hispanic and African-American households.<sup>25</sup> California's Tomas Rivera Policy Institute, a Latino research organization, raised concerns about the impact of compact development on housing affordability, stating:

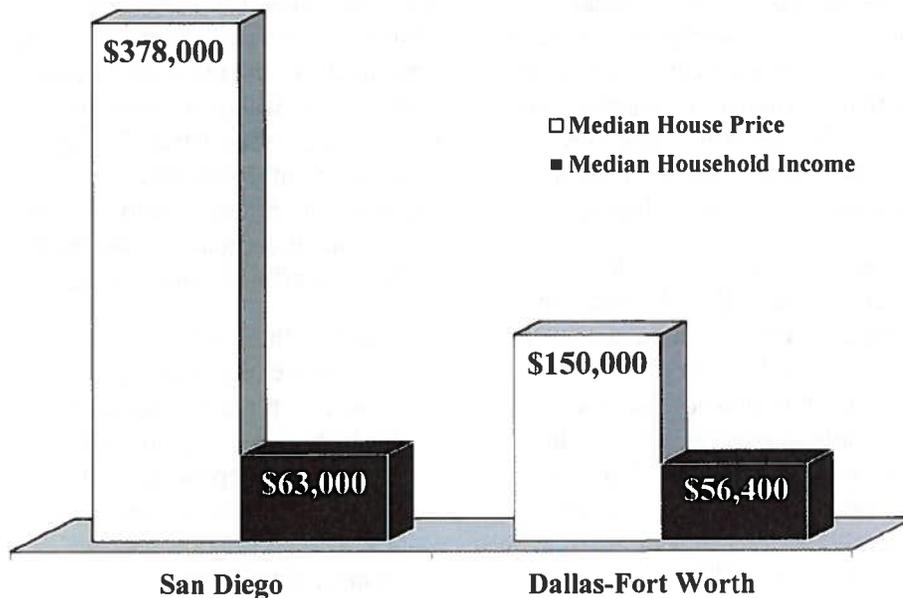
Whether the Latino homeownership gap can be closed, or projected demand for homeownership in 2020 be met, will depend not only on the growth of incomes and availability of mortgage money, but also on how decisively California moves to dismantle regulatory barriers

## The Smart Growth Greenhouse Gas Emissions Dead-End

Proponents have enlisted concerns about greenhouse gas emissions to justify expansion of smart growth policies. The first assumption is that densification will reduce driving and thus reduce greenhouse gases. The second assumption is that higher density residences, such as high-rise apartments, will also reduce greenhouse gas emissions. There is a plethora of difficulties with these assumptions. The first problem is that research, even by smart growth advocates, indicates that smart growth policies have little potential to reduce vehicle travel. The second is that, even if there were some reduction in vehicle travel, increased traffic congestion and slower speeds in denser areas would increase greenhouse gas emissions per mile traveled, perhaps even nullifying any gain. There is far greater potential to reduce greenhouse gas emissions using technological strategies, such as more fuel efficient cars. Moreover, these gains do not require straight-jacketing lifestyles to conform to the latest trends in urban planning.

Finally, it is by no means settled that higher density residences reduce greenhouse gas emissions. Studies show differing results, and there is no comprehensive U.S. database from which such conclusions can be drawn. For example, the U.S. Department of Energy's Residential Energy Consumption Survey does not include commonly provided energy in high-rise condominium and apartment buildings for functions such as lighting, heating, air conditioning, water heating and swimming pool heating. In addition, greenhouse gas emissions associated with the building of such dwellings (materials and construction activity) are higher per square foot than for detached housing in suburban locations.<sup>15</sup>

Figure IV  
**Housing Affordability: 2010**  
Comparing San Diego and Dallas-Fort Worth



Source: Author's calculations based on Edward Glaeser and Joseph Gyourko, *Rethinking Federal Housing Policy* (Washington, D.C.: American Enterprise Institute, 2008), and median house price and median household income for third quarter 2008. See Demographia, "Sixth Annual Housing Affordability Survey," 2010. Available at <http://www.demographia.com/dhi-ix2005q3.pdf>.

that hinder the production of affordable housing. Far from helping, they are making it particularly difficult for Latino and African American households to own a home.<sup>26</sup>

Moreover, rising house prices also affect rental prices, with a time lag.<sup>27</sup> Thus, higher house prices are likely to lead to higher rental costs for the approximately one-third of households that do not own a home. This is illustrated by U.S. Department of Housing and Urban Development "fair market rents," which are estimated at the 40th percentile of the rental market (including utilities). For households in the bottom 25 percent of the income distribution, fair market

rent for a two bedroom apartment in 2008 was 24 percent higher in prescriptively regulated markets than in responsively regulated markets.<sup>28</sup>

**Effect on Domestic Migration.** Over the past decade, population has increased faster in responsively regulated markets than in prescriptively regulated markets.<sup>29</sup> The major responsively regulated markets gained nearly a net 1 million domestic migrants from 2000 to 2008, while the prescriptively regulated markets lost a net 2.8 million to domestic migration.<sup>30</sup> In responsively regulated Atlanta, Dallas-Fort Worth and Houston, house prices remained within historic norms during the housing

bubble. These urban areas are now among the fastest growing in the developed world.<sup>31</sup>

### Conclusion

Housing affordability could be lost even in markets that are responsively regulated as a result of new state laws and regulations, but most importantly, requirements and incentives that are proposed at the federal level to encourage compact city policies. There are a number of initiatives that seek to spread smart growth policies throughout the nation, including proposed bills in Congress — such as surface transportation bills and the "cap and trade" bill, which contains potentially costly compact city transportation and housing provisions. If families are forced to spend more on housing, they will necessarily experience a lower standard of living.

Moreover, house price escalation is likely to resume in prescriptive markets when the economy returns to normal, because the excess of demand for residential land relative to supply will remain. California will be at particular risk of further affordability losses because of its greenhouse-gas-related planning requirements and its already overly restrictive regulations.<sup>32</sup> Eventually these initiatives are likely to increase the cost of housing and decrease discretionary household incomes.

Prescriptive land use regulations should be rolled back. This would increase housing affordability. House prices have fallen in virtually all prescriptively regulated markets and could begin rising inordinately again as housing demand increases. Metropolitan areas that are responsively regulated already enjoy the benefit of lower cost housing for their citizens.

APPENDIX TABLE A  
**The Housing Bubble by Land Regulation Category**  
**(to the Great Financial Crisis, in 2007 dollars)**

**Section 1**

**GROSS VALUE: HOUSING STOCK (Trillions)**

	Prescriptive		Total	Responsive	Total
	Prescriptive: Concentrated	Prescriptive: Other			
Owned Homes: 2007	28.1%	36.6%	64.8%	35.2%	100.0%
National Value at 2000 Ratio to Income	\$2.59	\$3.44	\$6.03	\$2.02	\$8.05
Share of National Value	32.2%	42.7%	74.9%	25.1%	100.0%
Value Increase Relative to Income	\$2.89	\$1.76	\$4.65	\$0.56	\$5.21
Share of Increase	55.5%	33.8%	89.3%	10.7%	100.0%
Peak Value	\$5.48	\$5.20	\$10.68	\$2.58	\$13.26
Loss to Start of Great Financial Crisis	-\$1.79	-\$0.50	-\$2.28	-\$0.16	-\$2.44
Share of Loss	73.2%	20.4%	93.6%	6.4%	100.0%

**Section 2**

**AVERAGE HOUSE VALUE: Actual**

	Prescriptive		Total	Responsive	Total
	Prescriptive: Concentrated	Prescriptive: Other			
Average House Value if No Inflation from 2000	\$254,000	\$259,000	\$257,000	\$158,000	\$222,000
Value Increase Relative to Income	\$283,000	\$133,000	\$198,000	\$44,000	\$144,000
% Change	111.4%	51.4%	77.0%	27.8%	64.9%
Peak House Value	\$537,000	\$392,000	\$455,000	\$202,000	\$366,000
Average House Value at Start of Great Financial Crisis	\$362,000	\$355,000	\$358,000	\$190,000	\$299,000
Loss to Start of Great Financial Crisis	-\$175,000	-\$37,000	-\$97,000	-\$12,000	-\$67,000
% Change	-32.6%	-9.4%	-21.3%	-5.9%	-18.3%

*(chart continues on next page)*

APPENDIX TABLE A (continued)  
**The Housing Bubble by Land Regulation Category  
 (to the Great Financial Crisis, in 2007 dollars)**

**Section 3**

**WHAT IF NO SMART GROWTH\***

	Prescriptive		Total	Responsive	Total
	Prescriptive: Concentrated	Prescriptive: Other			
<b>GROSS VALUE: HOUSING STOCK (Trillions)</b>					
Value Increase to Start of Great Financial Crisis	\$0.72	\$0.95	\$1.67	\$0.56	\$2.23
Value at Start of Great Financial Crisis	\$3.31	\$4.39	\$7.70	\$2.58	\$10.28
Loss Peak to Start of Great Financial Crisis	-\$0.20	-\$0.27	-\$0.47	-\$0.16	-\$0.62
<b>AVERAGE HOUSE VALUE: Actual</b>					
Average House Value: If No Inflation from 2000	\$254,000	\$259,000	\$257,000	\$158,000	\$222,000
Average House Value: 2007	\$324,000	\$331,000	\$328,000	\$202,000	\$284,000
Average House Value: Start of Great Financial Crisis	\$305,000	\$311,000	\$308,000	\$190,000	\$267,000
Loss to Start of Great Financial Crisis	-\$19,000	-\$20,000	-\$20,000	-\$12,000	-\$17,000
Intensity of Loss Compared to Actual	11%	54%	21%	100%	25%

\*Note: "What if" analysis assumes percentage changes that occurred in responsive land regulation markets.  
 Source: American Community Survey and National Association of Realtors data, and author's calculations.

## Endnotes

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## The Housing Crash and Smart Growth

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- <sup>20</sup> Assumes a 10 percent down payment and a 30-year, fixed rate mortgage at 5 percent. Author's calculations based on Edward Glaeser and Joseph Gyourko, *Rethinking Federal Housing Policy* (Washington, D.C.: American Enterprise Institute, 2008), and median house price and median household income for third quarter 2008. See Demographia, "Sixth Annual Housing Affordability Survey," 2010. Available at <http://www.demographia.com/dhi-ix2005q3.pdf>.
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- <sup>24</sup> Wendell Cox, "How Texas Averted the Great Recession," Houstonians for Responsible Growth, 2009. Available at <http://www.houstongrowth.org/node/63>.
- <sup>25</sup> Calculated from U.S. Bureau of the Census data.
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- <sup>27</sup> See, for example, Morris A. Davis, Andreas Lehnert and Robert F. Martin, "The Rent-Price Ratio for the Aggregate Stock of Owner-Occupied Housing," Department of Real Estate and Urban Land Economics, University of Wisconsin-Madison and the Federal Reserve Board of Governors, 2007. Available at [http://morris.marginalq.com/dlm\\_data\\_files/2007-12.DLM\\_fullpaper.pdf](http://morris.marginalq.com/dlm_data_files/2007-12.DLM_fullpaper.pdf).
- <sup>28</sup> Demographia, "Low Income Rental Affordability: HUD Fair Market Rent/Low Quartile (25 percent) Household Income: 2008: Metropolitan Areas over 1,000,000," August 20, 2010. Available at <http://demographia.com/db-fmr-mult.pdf>.
- <sup>29</sup> Demographia, "Net Domestic Migration by Land Use Category: 2000-2008: Metropolitan Areas Over 1,000,000 Population," 2009. Available at <http://demographia.com/db-2008mighaffcat.pdf>.
- <sup>30</sup> People who move from one county to another within the United States.
- <sup>31</sup> Texas experienced a real estate "bust" (including residential) in the 1980s. However, there was no "bubble." House prices had been near or below a median multiple of 3.0 and fell from that point. Excessive lending (which ended in the savings and loan crisis) and a precipitous decline in oil prices contributed to the problem. The excessive lending failed to drive house prices up, because land use regulations allowed a sufficient supply response. As a Texas A&M University Real Estate Center publication indicated, "The Texas residential market's ability to produce new housing units at a rate commensurate with demand and without escalating costs is a prime factor in balancing the market and keeping price changes modest." See James P. Gaines, "Texas Housing Bubble: Truth or Scare?" April 2006. Available at <http://recenter.tamu.edu/pdf/1769.pdf>.
- <sup>32</sup> California Senate Bill 375 implements programs to reduce greenhouse gas emissions through land use planning. As the research cited above indicates, land use planning is a particularly ineffective means for reducing greenhouse gas emissions. Administration of California environmental legislation, such as Assembly Bill 32 (the "Global Warming Solutions Act"), has been skewed toward smart growth approaches with little critical analysis. The result is likely to be a failure to achieve the emissions reduction objectives, while substantially increasing the cost of living and making traffic congestion even more severe.

*The NCPA is a nonprofit, nonpartisan organization established in 1983. Its aim is to examine public policies in areas that have a significant impact on the lives of all Americans — retirement, health care, education, taxes, the economy, the environment — and to propose innovative, market-driven solutions. The NCPA seeks to unleash the power of ideas for positive change by identifying, encouraging and aggressively marketing the best scholarly research.*

### Health Care Policy.

The NCPA is probably best known for developing the concept of Health Savings Accounts (HSAs), previously known as Medical Savings Accounts (MSAs). NCPA President John C. Goodman is widely acknowledged (*Wall Street Journal*, WebMD and the *National Journal*) as the “Father of HSAs.” NCPA research, public education and briefings for members of Congress and the White House staff helped lead Congress to approve a pilot MSA program for small businesses and the self-employed in 1996 and to vote in 1997 to allow Medicare beneficiaries to have MSAs. In 2003, as part of Medicare reform, Congress and the President made HSAs available to all nonseniors, potentially revolutionizing the entire health care industry. HSAs now are potentially available to 250 million nonelderly Americans.

The NCPA outlined the concept of using federal tax credits to encourage private health insurance and helped formulate bipartisan proposals in both the Senate and the House. The NCPA and BlueCross BlueShield of Texas developed a plan to use money that federal, state and local governments now spend on indigent health care to help the poor purchase health insurance. The SPN Medicaid Exchange, an initiative of the NCPA for the State Policy Network, is identifying and sharing the best ideas for health care reform with researchers and policymakers in every state.

**NCPA President  
John C. Goodman is called  
the “Father of HSAs” by  
*The Wall Street Journal*, WebMD  
and the *National Journal*.**

### Taxes & Economic Growth.

The NCPA helped shape the pro-growth approach to tax policy during the 1990s. A package of tax cuts designed by the NCPA and the U.S. Chamber of Commerce in 1991 became the core of the Contract with America in 1994. Three of the five proposals (capital gains tax cut, Roth IRA and eliminating the Social Security earnings penalty) became law. A fourth proposal — rolling back the tax on Social Security benefits — passed the House of Representatives in summer 2002. The NCPA’s proposal for an across-the-board tax cut became the centerpiece of President Bush’s tax cut proposals.

NCPA research demonstrates the benefits of shifting the tax burden on work and productive investment to consumption. An NCPA study by Boston University economist Laurence Kotlikoff analyzed three versions of a consumption tax: a flat tax, a value-added tax and a national sales tax. Based on this work, Dr. Goodman wrote a full-page editorial for *Forbes* (“A Kinder, Gentler Flat Tax”) advocating a version of the flat tax that is both progressive and fair.

A major NCPA study, “Wealth, Inheritance and the Estate Tax,” completely undermines the claim by proponents of the estate tax that it prevents the concentration of wealth in the hands of financial dynasties. Actually, the contribution of inheritances to the distribution of wealth in the United States is surprisingly small. Senate Majority Leader Bill Frist (R-TN) and Senator Jon Kyl (R-AZ) distributed a letter to their colleagues about the study. In his letter, Sen. Frist said, “I hope this report will offer you a fresh perspective on the merits of this issue. Now is the time for us to do something about the death tax.”

### Retirement Reform.

With a grant from the NCPA, economists at Texas A&M University developed a model to evaluate the future of Social Security and Medicare, working under the direction of Thomas R. Saving, who for years was one of two private-sector trustees of Social Security and Medicare.

The NCPA study, “Ten Steps to Baby Boomer Retirement,” shows that as 77 million baby boomers begin to retire, the nation’s institutions are totally unprepared. Promises made under Social Security, Medicare and Medicaid are inadequately funded. State and local institutions are not doing better — millions of government workers are discovering that their pensions are under-funded and local governments are retrenching on post-retirement health care promises.

### Pension Reform.

Pension reforms signed into law include ideas to improve 401(k)s developed and proposed by the NCPA and the Brookings Institution. Among the NCPA/Brookings 401(k) reforms are automatic enrollment of employees into companies’ 401(k) plans, automatic contribution rate increases so that workers’ contributions grow with their wages, and better default investment options for workers who do not make an investment choice.

The NCPA's online Social Security calculator allows visitors to discover their expected taxes and benefits and how much they would have accumulated had their taxes been invested privately.

### Environment & Energy.

The NCPA's E-Team is one of the largest collections of energy and environmental policy experts and scientists who believe that sound science, economic prosperity and protecting the environment are compatible. The team seeks to correct misinformation and promote sensible solutions to energy and environment problems. A pathbreaking 2001 NCPA study showed that the costs of the Kyoto agreement to reduce carbon emissions in developed countries would far exceed any benefits.

### Educating the next generation.

The NCPA's Debate Central is the most comprehensive online site for free information for 400,000 U.S. high school debaters. In 2006, the site drew more than one million hits per month. Debate Central received the prestigious Templeton Freedom Prize for Student Outreach.

### Promoting Ideas.

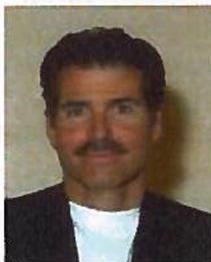
NCPA studies, ideas and experts are quoted frequently in news stories nationwide. Columns written by NCPA scholars appear regularly in national publications such as the *Wall Street Journal*, the *Washington Times*, *USA Today* and many other major-market daily newspapers, as well as on radio talk shows, on television public affairs programs, and in public policy newsletters. According to media figures from *BurrellesLuce*, more than 900,000 people daily read or hear about NCPA ideas and activities somewhere in the United States.

## What Others Say About the NCPA



*"The NCPA generates more analysis per dollar than any think tank in the country. It does an amazingly good job of going out and finding the right things and talking about them in intelligent ways."*

**Newt Gingrich**, former Speaker of the U.S. House of Representatives



*"We know what works. It's what the NCPA talks about: limited government, economic freedom; things like Health Savings Accounts. These things work, allowing people choices. We've seen how this created America."*

**John Stossel**,  
former co-anchor ABC-TV's *20/20*



*"I don't know of any organization in America that produces better ideas with less money than the NCPA."*

**Phil Gramm**,  
former U.S. Senator



*"Thank you . . . for advocating such radical causes as balanced budgets, limited government and tax reform, and to be able to try and bring power back to the people."*

**Tommy Thompson**,  
former Secretary of Health and Human Services