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Land Development Regulation and Housing Affordability: How Rent-Seeking Reallocates Resources, and the Challenges to Deregulation¹

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Abstract

From a public choice perspective, this article examines how land-use regulation facilitates rent-seeking that harms housing affordability. Using a simple supply-and-demand framework, it decomposes the effects of stricter regulation on consumer surplus, producer surplus and production costs, in a Tullock-inspired analysis. This reveals how value is reallocated from households in need of housing, some landowners and blue-collar construction workers to existing homeowners, environmental and heritage interests, white-collar professionals and regulatory bureaucracies. Building on this incidence analysis, the article develops a public-choice account of why restrictive land-use regulation persists and often intensifies despite broad recognition that it raises housing costs. Drawing on Olson's notion of institutional sclerosis and the idea of spontaneous order, the regulatory regime is interpreted as the emergent outcome of decentralized rent seeking by actors who are both self-interested and informationally constrained, operating within an institutional framework that favors the status quo. The article concludes with institutional reforms aimed at reducing rent-seeking and improving housing affordability.

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1 Background

Housing affordability is an issue in most countries, not least in the EU, the UK and the US. It is a problem on both an individual level and an aggregate level. It is costly to households, and it is hurting economic efficiency by making matching between employers and employees more difficult. One part of the problem is the high cost of constructing new housing. Research supports that affordability can be improved by an increased supply of new housing, even if the new housing is expensive: more affordable units are freed up further down the filtering process through moving chains (Hauck & Kluser, 2026). These construction-related costs can be further divided into the cost of building and the costs associated with the process from undeveloped land to a valid building permit. This paper addresses the latter type of costs, including costs for zoning and building permits and the costs of all the surveys and considerations required to complete the process from undeveloped land to land ready for development.

Methodologically, the article applies perspectives from institutional economics and public choice. The core question is how the institutional environment provides the opportunity for different actors to exploit the market for land development in accordance with their own private interests.

Three theoretical concepts that are particularly important for the analysis in the article are *institutional sclerosis*, *rent-seeking*, and *spontaneous order*. Institutional sclerosis is a metaphor that describes a process in which a society becomes increasingly less dynamic, as special interest groups become increasingly effective at exploiting it for their own purposes (Olson, 1982).

Rent-seeking is the economic concept that describes when individuals or groups of individuals attempt to make gains (money, utility or otherwise) without contributing to productivity, often by exploiting legal or regulatory frameworks (Krueger, 1974). Essentially, it is the pursuit of gains obtained through manipulation or exploitation of the economic environment rather than through genuine economic activity.

Spontaneous order refers to a coordinated system that emerges from individual decisions made in specific situations: each decision applies only to the immediate circumstances, yet together these decisions create an overall pattern that is not intentionally designed by anyone (Hayek, 1945). The concept emphasizes that, regardless of individual intentions, our actions collectively lead to a macro-level order that often appears to be the intended consequence of conscious design, even when it is not. A key implication of this perspective is that no central actor—politician, planner or bureaucrat—can possess the dispersed knowledge needed to design the overall order deliberately.

In Olson's account, institutional sclerosis is largely the cumulative result of successful rent-seeking by organized interests. In this paper, we stress that this process is institutionally mediated: it is the existing rules that create the opportunities and incentives for decentralized rent-seeking. Interpreted through the lens of spontaneous order, the sclerotic regulatory regime emerges from many individually rational responses to those rules, even though no single actor designs, or necessarily even prefers, the aggregate outcome. Hence, any solution must start with the institutional framework.

1.1 Housing affordability and regulations on land development

The academic debate on how regulations on land development increase housing costs and contribute to housing unaffordability centers around the interplay between land-use regulations, housing supply, and market dynamics. Critics argue that stringent zoning laws, permitting processes, and other regulatory barriers restrict the development of new housing, thereby limiting supply and driving up prices.

Simple theory predicts that regulation will raise the average price of housing by restricting supply and by increasing construction costs, as compliance with regulation adds a cost to construction and thus raises average house prices (Glaeser & Gyourko, 2003). Various models illustrate how urban growth boundaries, height restrictions, and cost-increasing regulations each raise average house prices (Brueckner, 2009). Empirical findings indicate that regulatory constraints, such as zoning and building restrictions, can exacerbate housing affordability issues, especially in urban areas experiencing high demand (Glaeser & Gyourko, 2003). Studies of the broader economic effects of housing supply constraints, including the effects on economic output and the spatial distribution of people across markets, find that regulations which in practice prevent workers from moving to the most productive areas have negative effects on aggregate productivity (Glaeser & Gyourko, 2017) (Hsieh & Moretti, 2017). There is an abundance of empirical research documenting a positive correlation between regulation and average or median house values. A survey of this literature cites 40 articles on this topic, most of which find a positive correlation (Quigley & Rosenthal, 2005). More recent research obtains similar results (Zabel & Dalton, 2011) (Jackson, 2018). However, most of this literature is correlational and falls short of identifying a causal effect. Yet, since the theoretical mechanism is straightforward and since a large positive correlation between regulation and house prices is generally found in a wide variety of situations, it seems reasonable to assume that regulation probably does raise house prices.

The ‘Wharton Index’, developed by researchers at the University of Pennsylvania’s Wharton School, quantifies the regulatory environment’s impact on housing markets (Gyourko, Saiz, & Summers, 2008) (Gyourko, Hartley, & Krimmel, 2021). The Wharton Index provides insights and metrics to assess the degree to which local regulations affect development costs and housing supply. The authors observe that *“many very low density towns have the most stringent regulatory environments”*, indicating that land scarcity is not a primary motivation for the introduction of strict regulation (Gyourko, Saiz, & Summers, 2008, s. 714). It is also noted that *“more restrictive residential land use regulation appears bundled together with high human capital, high incomes and expensive homes, both in the cross section and over time”* (Gyourko, Hartley, & Krimmel, 2021, s. 2). Thus, the degree of regulatory strictness does not seem to be merely a consequence of competition for space.

The majority of research on this issue examines housing markets in the United States, but similar problems are found elsewhere. In the UK, for example, the relationship between planning policies, housing supply and affordability is highlighted in the Barker Review of Land Use Planning (Barker, 2006). In a more explicitly institutional vein, it is argued that discretionary, case-by-case planning systems—such as the British model—create systematic opportunities for rent-seeking and political bargaining over development rights, thereby amplifying the impact of regulation on land and housing costs (Pennington, 2000). Within the EU, the European Commission has likewise recognized that national and local planning regulations can significantly constrain housing supply and worsen affordability (European Commission, 2025).

In Sweden, recent research indicates that regulation on land development cause the price of ready-to-build land to rise (Bengtsson, 2020).

1.2 Persistence and rent-seeking

While there are valid reasons for regulating housing construction to address negative externalities, many studies hold that the costs associated with overly restrictive regulations often significantly outweigh the benefits gained from mitigating these externalities. For instance, Glaeser and Gyourko argue that regulations in the most productive areas of the U.S. have resulted in labor migrating to regions with lower wages and prices, consequently diminishing the overall economic output of the country (Glaeser & Gyourko, 2017, s. 19).

Another critical aspect of this issue is highlighted by Glaeser and Kahn, who note that stricter regulations in cleaner areas may inadvertently drive new development toward regions with higher emissions, as regulations tend to be less strict in those locations (Glaeser & Kahn, 2010, s. 404).

Technically, strict regulations increase the costs of housing construction, leading to an inward shift of the supply curve. This shift results in a higher equilibrium price and a lower equilibrium quantity of housing. The negative effects of such developments are illustrated by the familiar Harberger triangle, which highlights deadweight loss (DWL) from overregulation, as shown in Figure 1.

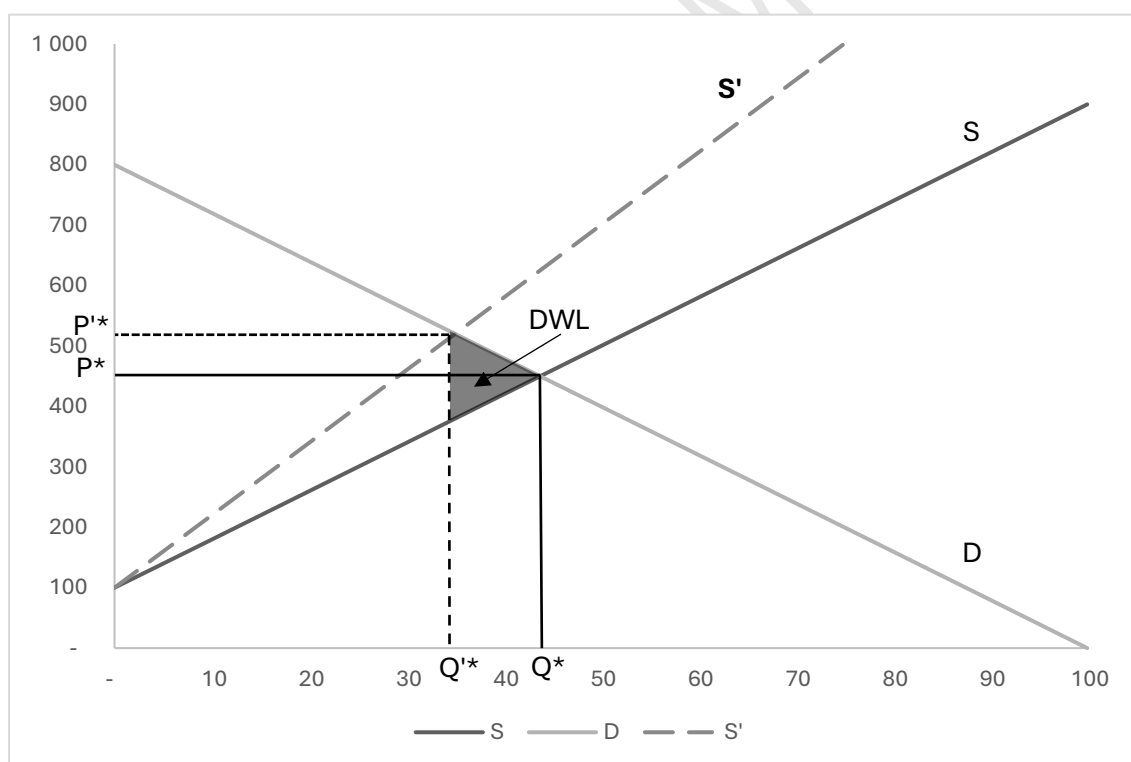


FIGURE 1: THE DEADWEIGHT LOSS FROM EXCESSIVE REGULATION

The deadweight loss resulting from excessive regulation represents a net cost to society, at least when the supply curves account for externalities associated with housing construction. This loss reflects forgone consumer and producer surpluses. Given that this phenomenon is a well-established fact, one may wonder why it persists and potentially even grows over time. Why is it not addressed or rectified? Common explanations for the enduring character of the issue point

to the NIMBY phenomenon and the support such regulations receive from significant voter groups. As Glaeser and Gyourko put it: *“The great challenge facing attempts to loosen local housing restrictions is that existing homeowners do not want more affordable homes: they want the value of their asset to cost more, not less. They also may not like the idea that new housing will bring in more people, including those from different socio-economic groups.”* (Glaeser & Gyourko, 2017, s. 20) While this is undoubtedly true, it does not tell the whole story. Regulations that restrict the supply of new housing can positively impact housing prices, but they also produce a variety of other effects. For instance, regulations governing minimum lot sizes may limit the number of new housing units, but they can also create more green spaces and potentially enhance local biological diversity. Similarly, regulations on housing design may increase construction costs, reduce the supply of new housing, and raise prices for existing homes. At the same time, they may generate utility for planning bureaucrats responsible for administering the building permit process. The impact of such regulations thus extends beyond current homeowners and prospective households that might move in if new housing were available. Both support for, and opposition to, these regulations may arise simultaneously from multiple groups of agents. Furthermore, if we identify local authorities as the problem due to their desire to satisfy existing homeowners, we may still question why this issue is not addressed at a national level.

This paper explores these questions and examines the consequences of excessive regulations in greater detail. In particular, the paper is concerned with the persistence of these problems. By now, the adverse effects of restrictive land-use regulation on housing affordability are well documented and widely recognized in policy debates, yet the regulatory framework not only endures but, in many cases, becomes more restrictive. To understand this, we draw on Olson’s notion of institutional sclerosis, viewing the current regime as the unintended outcome of cumulative rent-seeking by organized interests that benefit from the status quo and are increasingly able to defend it against reform.

1.3 Analytical approach and structure of the paper

One approach we take is to follow Tullock’s example by analyzing not only deadweight loss but also reallocations among producer surplus, consumer surplus, and production costs (Tullock, 1967) (Tullock, 2005a) (Tullock, 2005b). Stricter regulations will shift value from certain agents to others, and we should expect these agents to be aware of this shift and to act to protect their interests. Many of these actions may be classified as rent-seeking activities. Some of the rent-seeking is materially motivated, but a significant part is also ideologically motivated (Bengtsson, *The Industry of Idealistic Rent-seeking: Agents, Captures, and Consequences*, 2025). Section 2 develops this Tullock-style decomposition, and Section 3 applies it to identify the gains and losses of specific actor groups.

Another approach we will take is to view the existing regulatory framework as a form of spontaneous order that emerges when individuals act to influence its design in accordance with their own interests. The actors involved possess interests that are partially overlapping, sometimes conflicting, and at other times congruent. To comprehend why the regulatory framework is structured as it is, we must analyze how these differing interests interact and counteract one another. Section 4 synthesizes these interactions into a public-choice account of why restrictive regulation persists.

A third approach we will take is to understand how current institutions facilitate rent-seeking and how they might be reformed to reduce these opportunities. Given the phenomenon of

institutional sclerosis, implementing such reforms presents a significant challenge. Over time, special interests become increasingly adept at leveraging the institutional environment to their advantage and insulating it from change. Section 5 discusses institutional reforms aimed at restoring balance between development and conservation. The discussion is held on a general level, not applied to any specific national regulation. To suggest specific measures to be taken in specific jurisdiction is beyond the scope of this paper. We then conclude in Section 6.

In its emphasis on institutions, incentives and decentralized decision-making, the approach in this paper is closely akin to Pennington's Coase–Hayek–Public Choice perspective on land-use planning (Pennington, 2000) (Pennington, 2002). Pennington criticizes discretionary land-use planning, in which development rights are effectively allocated through political and administrative bargaining rather than as stable attributes of ownership. Such systems not only raise the information costs of development but also expand the scope for rent-seeking by both public and private actors: *"When taking into account Hayekian arguments, the seemingly overwhelming case for government land-use regulation looks considerably weaker. The case for planning looks weaker still, however, if the assumptions that planners are motivated solely with regard to the public interest is relaxed."* (Pennington, 2002, s. 58). Here, I extend those two lines of argument by decomposing the distributional effects of regulation in a Tullock-inspired incidence analysis and by interpreting the resulting institutional sclerosis as a spontaneous order.

We will begin our analysis in the next section by closely examining the allocation of producer and consumer surpluses, as well as production costs.

2 A closer look at the problem

We conduct the analysis within the simple supply-and-demand model shown in Figure 1. To understand the consequences of stricter regulation, we examine in more detail the reallocations of value among producer surplus, consumer surplus, and production costs. This allows us to better identify the potential winners and losers when regulation increases the marginal cost of production.

2.1 A picture of reallocations of value

Figure 2 shows the starting point on the market for new housing, where the total value created by the consumption of the good (new housing) is divided into producer surplus, consumer surplus, and production costs. We focus not only on the surpluses, but also on production costs since these represent incomes (surpluses) in other markets that contribute to the production of new housing. For example, both capital and labor in the construction industry are affected by changes in the volume of new housing construction. Thus, changes in the production of new housing will also affect actors in other markets. The producers in our model are housing development firms, and the producer surplus belongs to them. Production costs are costs for land, capital and labor needed to construct new housing.

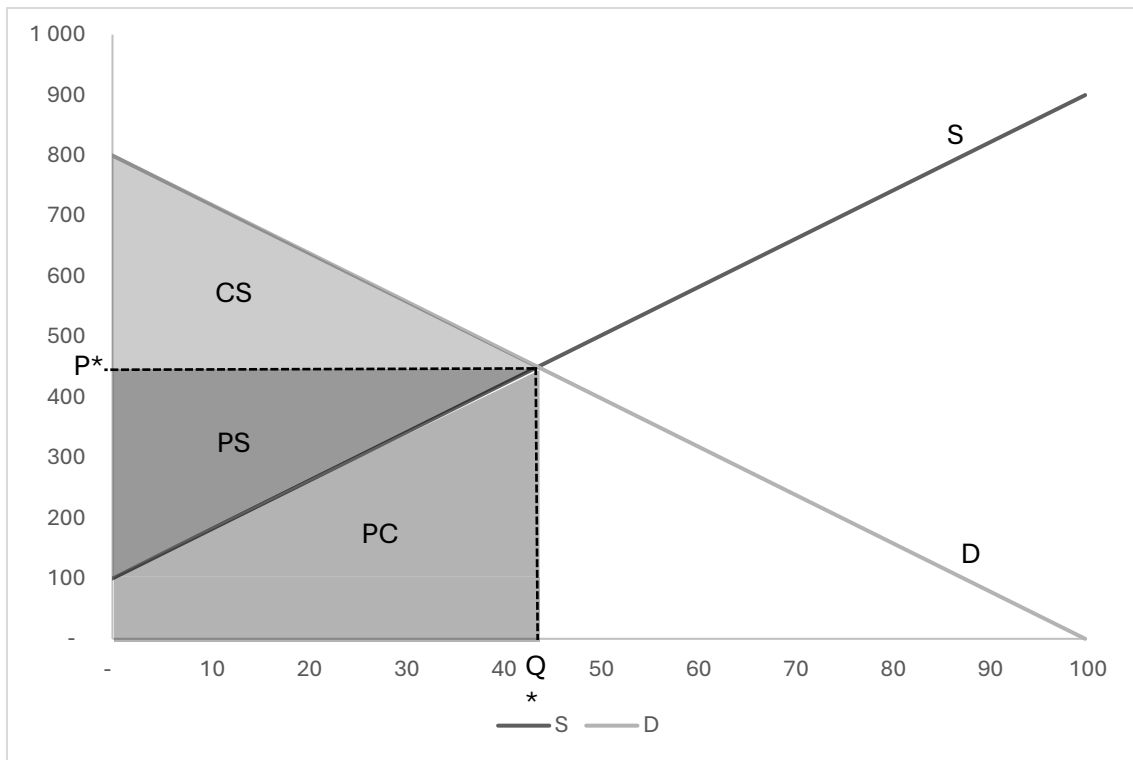


FIGURE 2: PRODUCER SURPLUS, CONSUMER SURPLUS AND PRODUCTION COSTS BEFORE CHANGES TO REGULATION.

Now, let us introduce a change to the supply curve, as we did in Figure 1. This change represents stricter regulation of land development and shifts the supply curve to the left, modeled in Figure 3 as a rotation around the point of intersection with the y-axis. In Figure 3, we picture a relatively steep demand curve as demand for housing usually is thought to be inelastic to price changes, meaning that a price increase leads to an increase in total revenue.

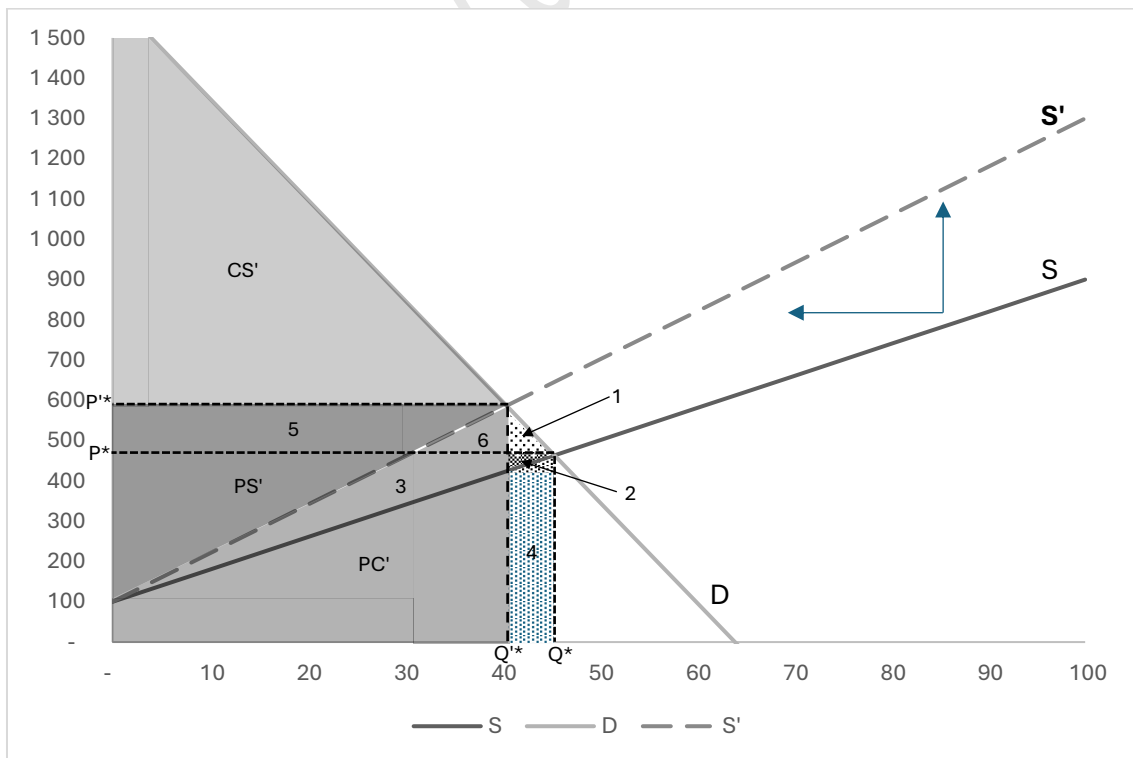


FIGURE 3: PRODUCER SURPLUS, CONSUMER SURPLUS AND PRODUCTION COSTS AFTER CHANGES TO REGULATION.

We can interpret the shift in the supply curve both vertically and horizontally. Vertically, it shows that the land that is developed now costs more and results in more expensive housing units. This can be thought of as higher costs for compliance with the regulation, e.g. more costly surveys and longer processes. Horizontally, it shows that some land is now withdrawn from development, e.g. because of density restrictions or increased minimum lot sizes. These effects lead to a decrease in the equilibrium level of new housing completed each year. The previously discussed deadweight loss is represented by areas 1 and 2. Now we can identify four more reallocations, numbered 3 – 6 in Figure 3. We also mark the remaining parts of producer surplus, consumer surplus and production costs, denoted PS' , CS' , PC' . The reallocations are the following:

- 1 $CS \Rightarrow DWL$ – The consumer surplus from $(Q^* - Q'^*)$ is lost and represents the net benefit that consumers would have experienced from living in those housing units.
- 2 $PS \Rightarrow DWL$ – The corresponding producer surplus is also lost and represents the net benefit to the producer of those marginal housing units.
- 3 $PS \Rightarrow PC$ – This area represents the higher production costs for the supply that remains after the implementation of the new, stricter regulations. What was previously producer surplus is now spent on compliance with the new regulations.
- 4 $PC \Rightarrow ?$ – Area 4 represents the production costs for $(Q^* - Q'^*)$ that are not incurred when production decreases. The value they represent is lost to the industry as a whole, similar to the DWL. In practice, these costs mainly relate to construction and civil engineering work and therefore include wages for blue-collar workers.
- 5 $CS \Rightarrow PS$ – Area 5 represents consumer surplus under the original regulation and becomes producer surplus under the new, stricter regulation. The decrease in supply leads to a higher equilibrium price and consumers must pay more for the remaining consumption.
- 6 $CS \Rightarrow PC$ – Area 6 represents consumer surplus under the original regulation and becomes production costs under the new, stricter regulation.

The new-housing industry loses value equivalent to the sum of areas 1 + 2 + 4. The area under the demand curve represents the value created by the consumption of new housing. Consequently, the total loss of value to the new-housing industry is represented by the area under the demand curve between Q^* and Q'^* . Note that this 'loss to the new housing industry' is defined in terms of the value of foregone consumption (area under the demand curve), not in terms of firms' total revenue, which may increase when demand is inelastic. Only a minor part of it, areas 1 & 2, represented net benefit to the industry, while the larger part, area 4, was production costs for the new-housing industry. However, as said before, those costs represent net benefit elsewhere, e.g. as producer surplus to workers in the construction and civil engineering industry and to firms supplying inputs to housing developers. Workers losing their jobs will experience a loss, although their loss is not part of the deadweight loss. Acknowledging transaction costs, it is a cost to society as well since those laid off will go unemployed for a time.

The next step in the analysis is to study how reallocations affect different actors in the industry, which we will address in the next section.

3 The effect on different actors

In this section, we will examine the effects of the new, stricter regulations at the actor level. In doing so, we need to acknowledge the existence of subgroups within the broader categories of

consumers and producers, and that they may experience the effects of the new regulations differently. We also need to acknowledge that the market for new housing is a submarket within the broader housing market.

3.1 Households

Our model shows the market for new housing, which in turn is a part of the total market for housing. The supply of new housing is generally just a small part of the total market. Furthermore, a substantial part of the market of existing housing consists of owner-occupied dwellings, which means that there are many households who will gain financially if the price of housing increases. Thus, we can think of two different groups of households, those owning a dwelling and those looking for one.

3.1.1 Households looking for new housing

We start by considering the collective of consumers of new housing. This group of consumers loses consumer surplus equivalent to the sum of areas 1 + 5 + 6. Part of this loss arises from the reduction in the consumption of new housing, and part arises from the higher housing costs that result.

3.1.2 Households owning the pre-existing stock of housing

Consumers of housing do not constitute a single collective interest but are divided into at least two specific groups with not only different but, to a large extent, opposing interests. On the market for existing housing, households already owning a dwelling are on the supply side and will experience an increase in demand for their housing, and higher prices, if the production of new housing decreases. Households that own existing homes prefer housing prices to be high and therefore a low level of new housing construction. In addition, they may have other reasons for supporting or opposing new housing. Increased competition for common-pool resources is one possible motive for opposing new construction, while improved conditions for infrastructure, local commerce, and services may be a motive for supporting the construction of new housing in one's own area (Ostrom, 1990). Since this article focuses on obstacles to new housing construction, we are primarily interested in motives for resisting new housing. Such resistance is often labeled 'NIMBYism'.

3.2 Development firms

The demand for housing is usually thought to be price inelastic and a decrease in the supply of new housing caused by stricter regulations should therefore lead to higher total revenue, i.e. $PS' + PC' > PS + PC$ or $5 + 6 > 2 + 4$. However, the producer side is not a single actor, and we must therefore study the effects on the actor level. We think of developers as entrepreneurs who are distinct entities from landowners and construction firms. The development firms are thus the owners of the producer surplus in our model.

3.2.1 Housing development firms

For housing development firms, the picture is less clear than for the supply side as a whole. They lose areas 2 and 3 but gain area 5, and the net effect depends on the exact shapes of the supply and demand curves. As a group, they lose from the reduction in the volume of land development and new housing production, but they gain from the increase in the equilibrium price of the housing that is produced. Gross income is $PS' + PC'$, and this is greater than $PS + PC$ if demand is inelastic. However, since production costs per unit increase, it is not clear whether developers

as a group gain in terms of producer surplus, i.e. whether $PS' > PS$. Nevertheless, it is clear that developers as a group are less harmed than consumers.

Moreover, the impact across developers is heterogeneous: the overall reduction in development is not allocated proportionally between firms. Thus, the burden corresponding to area 2 falls on only a subset of developers, who will consequently lose. It is also likely that the burden associated with area 3 will be distributed unevenly among developers. In total, we can expect that some developers are clearly hurt by the stricter regulations, some clearly benefit, and for the remainder the outcome is mixed.

One important observation is that while the total sum of production costs can move in either direction, the cost per unit of output will rise. Since less land is developed and fewer housing units are built, there is less demand for construction and civil engineering workers. At the same time, more work is required for compliance with regulations. In Figure 3, areas 3 and 4 are both production costs, but they are of different kinds and are performed by different types of workers. Area 4 primarily represents blue-collar work, whereas area 3 primarily represents white-collar work. In practice, it is likely that a larger share of the activities represented by area 3 will be carried out in-house by the developer firms than is the case for the activities represented by area 4.

In the next section, we analyze how regulation affects stakeholders other than consumers and developers.

3.3 Stakeholders in production

Having analyzed the recipients of consumer and producer surplus, we now turn to those who receive the surplus generated by production in the new housing industry. This group can be subdivided further, but for simplicity we treat them as a) landowners, and as b) workers and c) firm owners in the construction and civil engineering industry. To develop land into new housing, the development firm must compensate the owners of the production factors, i.e. land, labor, and capital. As a group, they lose area 4 and gain areas 3 and 6. As already noted, the net aggregate effect is ambiguous, and of limited interest. What is more relevant is the effect on each subgroup.

3.3.1 Landowners

In the market for land, two effects come into play. First, demand from developers decreases because higher regulatory compliance costs raise marginal production costs and reduce the quantity of housing demanded. Second, the supply of developable land falls, since a smaller portion of land can now be developed (the horizontal change mentioned above). The net effect on the equilibrium price of land depends on the relative strength of these two effects and on the elasticities of demand and supply. The same holds for total income accruing to landowners as a group. At the individual level, however, the consequences will differ.

Landowners can be divided into two groups: those who are allowed to develop their land under the stricter regulations, and those who are not. For the former, the stricter regulations may well be beneficial, whereas for the latter they are clearly detrimental. Thus, we have identified one more group, besides households looking for new housing, that is clearly harmed by the stricter regulations.

3.3.2 Capital and labor in construction and civil engineering firms

Production costs represented by area 4 are lost for the construction and civil engineering industry. Less land is developed and fewer houses are built, but as noted above, total production costs do not necessarily fall, since they simultaneously increase by the amount shown in area 3. The net effect on capital owners and labor depends on how the industry is organized, that is, on whether it is the same agents who lose area 4 and gain area 3.

For labor, it is quite clearly not the same agents, since the work in area 3 is mainly related to regulatory compliance, whereas the work in area 4 is mainly practical construction and civil engineering. We can safely conclude that some employment will shift from typical blue-collar labor to white-collar labor.

On the capital side, the picture is less clear, since construction firms may also be involved in compliance work. However, it is likely that most of the additional compliance work will be carried out by firms other than those primarily engaged in construction and civil engineering.

Consequently, we identify one group that clearly gains from stricter regulations—white-collar labor in area 3—and one group that clearly loses—blue-collar labor in area 4. Furthermore, we identify two groups of firm owners that probably gain and lose, respectively, from the stricter regulation. The gaining firms are those carrying out the activities represented by area 3, which may be independent consulting firms or housing development firms. We may label them collectively as the compliance industry, and they can be assumed to act as regulatory entrepreneurs, profiting from designing, interpreting and helping others comply with the regulatory framework (Bengtsson, *The Industry of Idealistic Rent-seeking: Agents, Captures, and Consequences*, 2025).

3.4 Other stakeholders

Having analyzed those who are directly involved in the production of new housing—through consumer surplus, producer surplus, and production costs—we now turn to other groups with interests inside as well as outside the industry.

3.4.1 Local regulation: politicians and bureaucrats

We must also consider those directly involved in designing and implementing regulations. We may think of them as politicians and bureaucrats, where the former design regulations and the latter implement them. At the local level, relevant regulations concern detailed planning (zoning) and building permits.

Local politicians can be understood as vote-maximizing actors and are expected to serve as a channel for NIMBY sentiments, because they depend on local votes (Glaeser & Gyourko, 2017). To be elected or re-elected, a politician must be popular among voters, and, as noted before, voters who are homeowners often resist new housing. Moreover, these voters tend to care intensely about this issue and may decide how to cast their vote based on a politician's stance on it. In addition to vote-maximization motives, local politicians may also have fiscal reasons to restrict new housing, especially new affordable housing. From a local fiscal perspective, it is preferable to attract high-income households who are expected to pay more in taxes.

Those who demand more new housing—such as households in need of housing or local developers or landowners—do not offer as many votes as those who oppose additional construction. Some of the households that would benefit from new housing are not even local

voters: some currently live elsewhere, and some are too young to vote. Developers and landowners are simply too few to matter electorally.³ Furthermore, developers and landowners must maintain good relations with local politicians and therefore cannot be expected to argue too vigorously about more construction.

If local politicians can be understood as vote-maximizing, local bureaucrats involved in the planning and building-permit processes are often understood as budget-maximizing, slack-maximizing, and risk-avoiding (Mueller, 2003). Their incentives do not necessarily favor more housing construction; on the contrary, they may contribute to holding back new construction. In addition to budget-, slack- and risk-motivated behavior, some bureaucrats also act as 'inside activists', using whatever discretion and slack they have to advance ideological goals they personally support (Bengtsson, *The Industry of Idealistic Rent-seeking: Agents, Captures, and Consequences*, 2025) (Hysing & Olsson, 2018).

As budget-maximizing actors, bureaucrats have an interest in maintaining or increasing the resources of their department – in terms of staff, time, and technical systems. A complex, time-consuming and detailed planning and permitting process justifies a larger organization and larger appropriations. Simplification, standardization, and faster decision-making, by contrast, risk reducing the need for administrative capacity. Institutionally, there are therefore weak incentives for the budget-maximizing bureaucrat to push for a more efficient process that would facilitate extensive new construction.

As slack-maximizing actors, bureaucrats also have incentives to handle cases in ways that minimize the workload per civil servant. New construction projects often entail additional work: contacts with developers, neighbors, politicians, and other departments, as well as complex legal and technical assessments. Saying no, requesting additional documentation, or delaying decisions can in practice be less demanding than actively moving projects forward, resolving conflicts, and taking responsibility for balancing competing interests. A low rate of housing construction means fewer conflict-prone cases and a more predictable workday for the slack-maximizing bureaucrat.

In some situations, bureaucrats are risk-avoiding. Incorrect or correct but controversial decisions can lead to appeals, legal proceedings, negative media coverage, or internal sanctions. This is particularly true for decisions that enable construction: a granted planning approval or building permit is more visible and politically sensitive than a rejection or a delay. Since the regulatory framework is often extensive and partly ambiguous, there are almost always formal grounds to request further investigations or to interpret the rules restrictively. From a risk perspective, risks are asymmetrical and it is therefore safer to be cautious, which in practice means slowing down or limiting new construction.

As inside activists, some bureaucrats also pursue ideological goals they personally support. Given the slack and discretion available in the planning and building-permit process, they can interpret vague rules, prioritize certain considerations and delay or discourage projects in ways that advance their preferred environmental, social or heritage objectives (Bengtsson, *The Industry of Idealistic Rent-seeking: Agents, Captures, and Consequences*, 2025) (Hysing & Olsson, 2018). In this role, they are neither primarily budget-, slack- nor risk-motivated, but

³ In a corrupt system, however, developers and landowners could attempt to bribe or otherwise persuade politicians to grant them building rights and permits. On the other hand, in such a system they might spend at least as much effort on preventing new construction by competitors.

instead use existing institutional slack to engage in ideologically motivated rent-seeking from within the bureaucracy.

Taken together, these motives – budget maximization, slack maximization, risk avoidance and inside activism – imply that the local bureaucrats administering the planning and building-permit process have no strong self-interest in promoting more housing construction. Rather, their self-interest points towards more complex procedures, longer processing times, and a cautious stance towards new projects, especially larger or potentially contentious housing developments. Added to this, we have the notion of the bureaucrat as an inside activist, promoting idealistic goals he aligns with. In combination with the incentives facing local politicians, this contributes to a systematic underproduction of new housing. Moreover, we have the Hayekian notion that even well-intentioned politicians and bureaucrats face severe information constraints: they cannot fully know the opportunity costs of forgone projects or the local knowledge held by owners and developers.

3.4.2 National regulation: regulating externalities

The logic behind regulations of land development in most countries is that the landowner is responsible for initiating and carrying out land development, while regulations and authorities are responsible for protecting other interests that might be negatively affected by the development. In the language of economics, regulations are intended to protect against negative externalities from land development.⁴ These externalities can be understood as negative effects on local or global environmental values, such as biodiversity and greenhouse-gas emissions, as well as on cultural heritage or on other persons' individual rights.

In practice, this role is typically assigned to national or regional agencies and ministries with mandates to protect the environment, cultural heritage, health and safety, or other public interests. From a public choice perspective, these agencies are not neutral maximizers of social welfare. Rather, they are organizations whose leaders and staff have their own objectives, including mission expansion, budget maximization, reputational concerns, and risk avoidance.

First, regulatory agencies have strong incentives to define their mandates broadly and to interpret potential externalities expansively. The more activities that are deemed to threaten environmental or cultural values, the stronger the case for additional staff, more extensive monitoring, and more detailed regulation. Each new layer of rules and each new category of protected interests can be justified as necessary to fulfill the agency's mission. This logic naturally leads to a cumulative increase in the regulatory burden on land development.

Second, national regulators tend to be risk-averse. Approving land development that later proves to have damaged a protected species, a cultural environment, or a sensitive landscape may result in public scandals, court challenges, or political intervention. By contrast, blocking or delaying development is far less visible and rarely gives rise to personal sanctions. The asymmetry between the risks associated with 'too much' development and the risks associated with 'too little' development encourages a precautionary approach that systematically favors conservation over new construction.

⁴ In a different language, authorities can be said to have a responsibility for planning or coordinating individual actions toward a greater good. As economists, we can interpret this as an attempt to minimize the total value of negative externalities. Nevertheless, one could argue that not all planning aims to minimize externalities, but sometimes simply seeks to maximize what the planner himself considers appropriate.

Third, many regulatory agencies have close relationships with organized interest groups that share their policy goals, such as environmental NGOs or heritage organizations. These groups supply information, political support, and public legitimacy to the agencies, and in return they may see their concerns prioritized in regulatory practice. From a rent-seeking perspective, this creates strong, well-organized coalitions in favor of tighter controls on land development. The beneficiaries of stricter regulation—those who attach high value to environmental or cultural preservation—are often well organized and politically vocal, whereas the losers—future households who would have lived in the foregone housing, or dispersed taxpayers bearing higher welfare costs—are weakly organized or not yet present in the polity.

Finally, the externalities associated with under-supply of housing are rarely conceptualized as externalities in the same explicit way. Overcrowding, long commuting distances, reduced labor mobility, and diminished agglomeration economies are significant social costs of too little housing, but they do not appear in the same institutionalized form in legal texts or agency mandates as do environmental or heritage concerns. *What can be created* is not protected the same way as *what currently is*. As a consequence, the negative externalities of development are systematically internalized into the regulatory process, while the negative externalities of non-development are largely ignored. This asymmetry further skews the regulatory framework in favor of restricting new housing.

Taken together, the institutional design of national regulation, the incentives of regulatory agencies, and the asymmetrical treatment of externalities create a powerful national-level bias against land development. This bias reinforces the local political and bureaucratic incentives discussed above and helps explain why restrictive regulatory regimes persist and intensify over time, even in the face of growing housing affordability problems.

4 Motives and opportunities to act: a perfect storm

The analysis so far has identified a number of actors who are affected, directly or indirectly, by stricter land-use regulation: households looking for new housing, owners of the existing housing stock, landowners, development firms, capital and labor in the construction and civil engineering industry, local politicians and bureaucrats, and national regulators and their allied interest groups. From a public choice perspective, what matters is not only how these actors are affected, but also their motives and opportunities to act on their interests.

4.1 Losers: weak, dispersed, and underrepresented

A first observation is that the groups that lose most clearly from stricter regulation—households in need of housing, some landowners, and blue-collar workers in construction—are either weakly organized, politically marginal, or both. Households looking for new housing are numerous but heterogeneous, often young, and many are not yet residents or even eligible voters in the jurisdictions where new housing would be built. Their losses are partly invisible (foregone opportunities to move) and spread out over long periods of time. Landowners who are entirely prevented from developing their land are a small group and may even be politically unpopular if they are portrayed as ‘speculators’. Blue-collar construction workers are typically not organized around the specific issue of planning regulations and may be shielded in the short run by alternative projects or public works.

4.2 Winners: organized interests and administrative coalitions

By contrast, the groups that benefit from stricter regulation are often better positioned to influence the regulatory process. Existing homeowners are numerous, politically engaged, and geographically concentrated in the affected municipalities. They have a clear, easily understood interest in preserving or increasing the value of their housing, and they can mobilize around highly salient local issues. Environmental and heritage groups are well organized and can frame opposition to development in morally and aesthetically compelling terms. Local politicians, modeled as vote-maximizing, face strong incentives to respond to these groups' preferences, particularly when the costs of non-development fall on outsiders or future residents.

On the administrative side, local bureaucrats in planning and building-permit offices, together with national regulators, have institutional incentives that align poorly with an expansion of the housing stock. More complex and restrictive regulation increases their budgets, extends their authority, and reduces the personal risks associated with approving controversial projects.

In addition, many of the new production costs associated with area 3 in Figure 3 accrue to white-collar professionals—planners, lawyers, consultants—who themselves have an interest in maintaining or expanding the regulatory apparatus and can, in this capacity, act as regulatory entrepreneurs (Bengtsson, *The Industry of Idealistic Rent-seeking: Agents, Captures, and Consequences*, 2025). This compliance industry has an incentive to sustain and deepen regulation in ways that increase the demand for its services.

4.3 Emergent sclerosis and persistence

This configuration of interests creates what can be described as a 'perfect storm' against land development. Many actors have both the motive and the opportunity to resist new housing, while relatively few have both motive and opportunity to support it. Those who support more development—such as households not yet living in the municipality, or diffuse taxpayers who would benefit from higher aggregate output—have weak channels through which to influence decision-making. Those who oppose development—local homeowners, organized conservation interests, and bureaucracies with expanding mandates—enjoy multiple, overlapping channels of influence at both local and national levels.

From the perspective of spontaneous order and institutional sclerosis, the current regulatory framework can be seen as the emergent outcome of these interacting micro-motives. No single actor may have designed the system to produce high housing costs and low construction levels, nor had such intentions. Yet the cumulative effect of many small decisions—each rational from the perspective of the decision-maker—has been to create a macro-level pattern of persistent housing under-supply.⁵ Over time, as Olson suggests, the special interests that benefit from this pattern become better organized and more skilled at defending it, while the dispersed losers remain weakly organized. This dynamic helps explain why, even as evidence of the costs of restrictive land use regulation accumulates, the regulatory order remains restrictive and resistant to reform.

⁵ This reasoning aligns with Schelling's notion of micromotives and macrobehavior (Schelling, 1978)

5 Solution: address the roots of institutional sclerosis

If the existing regulatory framework systematically favors the status quo and gives strong protection to those who benefit from restricting new housing, the central challenge is how to shift the balance between change and status quo, between development and conservation. From the perspective of public choice, this is not primarily a question of identifying the ‘right’ level of regulation in a technocratic sense, but of designing institutions that better align private incentives of rational individuals with socially desirable outcomes and that limit opportunities for rent-seeking. We need institutions that better support agents of change. Thus, a first question concerns who those agents are. We find the answer in our incidence analysis in figure 3.

We argue that land development regulations lead to fewer new homes and higher housing costs and thus result in both deadweight losses and redistributions of consumer and producer surpluses. Much of the deadweight loss—a net cost to society—falls directly on households who have to pay more for housing and also find it harder to move to employment. The main losers from the redistribution of producer surplus and production costs are subsets of landowners, housing developers and blue-collar workers in the construction and civil engineering industries. The interests of these four groups do not coincide in all respects, but with regard to barriers to land development they largely do: they all suffer from stricter regulation. If we want to address the broad societal problem of deadweight losses, it is the voices of these groups that need to be strengthened. The question is which groups to support and how to support them.

One option would be stronger unions for workers in the construction and civil engineering industry, which could lobby for more liberal regulation. However, there are two problems with this. First, generally stronger unions would also strengthen unions for groups that benefit from stricter regulation. Second, it is far from given that more liberal land-use regulation would be their priority; they might instead focus on subsidies that increase households’ ability to pay and thus raise effective demand for housing. Empirically, Sweden—with high union membership and comparably strong unions—shows that tightly regulated land development can persist despite strong organized labor.

Another option would be to strengthen households as housing consumers in order to balance the forces on the issue of regulation. But that does not seem like a feasible path either. Most consumers are not looking for new housing; they already have a home and are not necessarily keen on it becoming easier to build new homes – especially not in their own neighborhood. Also, if those households looking for new housing were to organize a lobby group, it would be more logical for them to lobby for special treatment, like grants or subsidies.

A more promising avenue that goes through households is to strengthen them in their role as builders of their own homes. In that role, households act not only as housing consumers but also as landowners and developers. Accordingly, the reform proposals in this paper are aimed at strengthening the practical importance of land ownership. By changing the balance in favor of landowners and developers, and to the detriment of external interests in the planning process, more land could be developed into housing, more quickly and at lower cost.

Two avenues will be proposed, one aimed at clarifying the roles for owners, regulators and external stakeholders in land. The aim is to strengthen the presumption of the owners’ right to decide over the use of land, within a transparent and stable framework that protects

democratically recognized rights held by external parties. The other avenue is to make changes to the institutional framework so that the incentives of various actors beside the landowners – politicians, bureaucrats, special interests – better align with the broader societal good. Regulations on land use intended to handle externalities from land development create its own externalities. Those externalities from regulation need to be internalized and that can be done by changes to the institutional framework.

5.1 Clearer roles for owners, regulators and external stakeholders

One strand of reform concerns the distribution of rights and responsibilities between private landowners, public regulators, and external stakeholders. In many jurisdictions, the cumulative effect of planning laws, environmental legislation and cultural heritage protection has been to transform development rights from presumptive attributes of ownership into permissions granted at the discretion of multiple authorities. As Pennington similarly argues, moving away from discretionary allocation of development rights toward clearer, more secure and more tradable rights in land would both reduce rent-seeking and improve the coordination of land use (Pennington, 2002). Discretionary systems increase uncertainty for landowners and developers and broaden the scope for political and bureaucratic rent-seeking.

The concrete measures depend on the institutional context, which differs between countries, but examples include strengthening the presumption in favor of development within already designated zones or introducing clearer and more predictable criteria for when development may be refused. Those measures would reduce both uncertainty and the scope for discretionary rent extraction.

Fundamentally, the division of responsibilities between owners and other stakeholders needs to be clarified in terms of who has the right to dispose of the *residual value* and who has the right not to be harmed. To exploit the entrepreneurial drive in private ownership, it must be clear that the residual value—and thus any entrepreneurial profit—belongs to the owner. This would encourage more experimentation and development, and thereby more housing that meets households' demand.

The interests of external stakeholders, whether they concern broad societal interests or narrow individual interests, should be safeguarded through clear, stable and predictable restrictions on what the owner may do with the land. General rules—such as how large a share of a plot may be built on, how close to the boundary one may build, or how water and sewage must be installed—are preferable to discretionary assessments of vague external interests such as 'impact on environmental or cultural values'. It is important to distinguish clearly between general rules within which private ownership can be exercised and central planning directed towards centrally determined goals, as stressed by Pennington: *"What is crucial, however, is that beyond laying down such basic rules, no attempt should be made to co-ordinate land uses according to some holistic plan. Rather, the maximum scope should be allowed for experimentation and innovative property-rights solutions to facilitate co-ordination through the forces of markets."* (Pennington, 2002, ss. 102-103). Central planning, and the bureaucracy needed to implement it, faces both of the problems discussed here: the Hayekian knowledge problem confronting the planner and the opportunities for rent-seeking opened up by the implementation of plans.

Even simple, general regulations, however, may become unreasonably strict and impose disproportionate burdens on those who wish to develop a property. One way to mitigate this problem is to decide such general rules at a higher political level, such as the national

parliament, so as to reduce the influence of local interests in their formulation. Even better is if functional ownership rights are clearly protected in the constitution. In the end, the demarcation line between a personal sphere of individual rights regarding oneself and one's possessions versus protection against externalities has to be drawn somewhere and by someone. Preferably, it is drawn in the constitution.

5.2 Internalizing externalities from regulation and rent-seeking

Excessive regulation results in external costs. When regulatory changes effectively remove development rights from landowners—by re-zoning to non-developable uses or by imposing restrictions that make development economically unviable—the costs of these decisions are currently borne most directly by the affected landowners but also by developers, blue-collar workers and households looking for new housing. Neither directly, nor indirectly through voter discontent, do these costs fall on the public regulators. Introducing stronger requirements for compensation in such cases would internalize some of the costs of restrictive regulation and force policymakers to weigh conservation benefits against the fiscal impact of compensating losers. This would not eliminate rent-seeking, but it would reduce politicians' or bureaucrats' incentive to apply regulations in an excessively restrictive way that would cause costs that are invisible in public budgets. The safest action should not automatically be to say no. As we learn from Coase, we cannot avoid externalities, only choose the less costly (Coase, 1960).

Another strand of reform concerns the structure of decision-making and the number of de facto veto points. As the analysis in Section 4 indicates, the current system offers many external actors effective veto powers over new development: neighbors, local councils, administrative agencies, courts, and NGOs. Reducing the number of sequential approvals required, tightening standing rules for appeals, and imposing stricter time limits on decision-making would not remove environmental or heritage protection, but it would limit the opportunities for strategic obstruction and delay. In terms of Tullock's framework, such reforms would reduce the rectangle of potential rents associated with blocking development and thereby diminish the resources rationally devoted to rent-seeking. A useful principle is that all agents given a role in the planning process should have some *skin in the game*: you should bear at least some of the costs that stem from your choices.

Fiscal incentives also play an important role. At present, local governments often bear many of the perceived costs of new residents (infrastructure, schools, social services) while capturing only a portion of the associated tax revenue. This creates a structural bias against approving new housing, especially affordable housing. Reforming intergovernmental fiscal relations so that municipalities share more directly in the tax base created by new development—through property tax revenue, or income tax sharing—would shift local politicians' incentives closer to those of households seeking housing. Making local government revenue depend more on property tax would better align the government's incentives with the landowner and in the end the broader common good of a well-functioning housing market, including for affordable housing.

6 Concluding remarks

By analyzing the recipients of consumer surplus, producer surplus and production costs, together with the institutional framework for land-development regulation, we have been able to

explain both why land development is so difficult and why the situation is so hard to change, even though the problem of unaffordable housing is well known.

First, by decomposing deadweight loss into reallocations of consumer surplus, producer surplus and production costs, we identify in a Tullock-inspired way which specific groups gain and lose from stricter regulation. Households in need of housing, many landowners, subsets of developers and blue-collar construction workers bear most of the losses, while existing homeowners, certain white-collar professionals, bureaucracies and organized environmental and heritage interests capture much of the gain.

Second, we use this incidence analysis to build a public-choice account of how these groups' incentives interact within the existing institutional framework. The central question has been not merely why regulation raises housing costs, but why a widely recognized problem of this kind proves so persistent. The pattern is not the result of a single decision or actor, but of a spontaneous order shaped by the incentives and constraints facing many different groups—households, landowners, developers, bureaucrats, politicians and organized interests—given the institutional framework within which they operate. Over time, rational responses to these incentives have produced a form of institutional sclerosis because the beneficiaries of restrictive regulation are well organized and protected, while the losers are dispersed, weakly organized or not yet present in the polity.

Third, we derive an agenda for institutional reform that focuses not on changing individual motivations but on changing the rules and incentives that give rise to rent-seeking and in the end too little new housing. The reform proposals are guided by two main ideas. The first is to clarify the roles of owners, regulators and external stakeholders in ways that strengthen the presumption in favor of development rights as attributes of ownership, within a transparent and stable framework that protects clearly defined external interests. The second is to internalize the externalities created by regulation itself—through compensation for effective removals of development rights, reductions in de facto veto points, and fiscal arrangements that better align local political incentives with the benefits of new housing.

We cannot rely on planning bureaucrats or other actors to be omniscient and to behave altruistically; instead, we must assume that agents rationally pursue their own objectives given the information they possess and the incentives they face. Institutional reform must therefore focus on changing those incentives and opportunities for rent-seeking, rather than on changing individual motivations. Such reforms would not remove the legitimate role of regulation in addressing genuine externalities, but they would limit opportunities for rent-seeking and reduce the systematic bias against new, and especially affordable, housing. In doing so, reforms would help restore a better balance between development and conservation and make it more likely that the spontaneous order produced by individual actions leads to a housing market that is both more efficient and more affordable.

7 References

- Barker, K. (2006). *Barker Review of Land Use Planning*. Norwich: HM Treasury.
- Bengtsson, I. (2020). *Bostadsbrist och kommunens roll i bostadsförsörjningen*. Lund: RES Working Papers 2020:2: Real Estate Science, Department of Technology and Society, Lund University.
- Bengtsson, I. (2025). *The Industry of Idealistic Rent-seeking: Agents, Captures, and Consequences*. Real Estate Science, Department of Technology and Society, Lund: RES Working Papers 2025:2.
- Brueckner, J. K. (2009). Government Land Use Interventions: an Economic analysis. In S. V. Lall, M. Freire, B. Yuen, R. Rajack, & J.-J. Helluin, *Urban Land Markets: Improving Land Management for Successful Urbanization* (pp. 3-23). Dordrecht: Springer.
- Coase, R. H. (1960, October). The Problem of Social Cost. *The Journal of Law & Economics*, 3, 1-44.
- European Commission. (2025). *Understanding the Housing Crisis: Staff Working Document Accompanying the European Affordable Housing Plan*. Brussels: European Commission.
- Glaeser, E. L., & Gyourko, J. (2003). The Impact of Building Restrictions on Housing Affordability. *FBNY Economic Policy Review*, 9, 21-39.
- Glaeser, E. L., & Gyourko, J. (2017). *The Economic Implications of Housing Supply*. National Bureau of Economic Research.
- Glaeser, E. L., & Kahn, M. E. (2010). The greenness of cities: Carbon dioxide emissions and urban development. *Journal of Urban Economics*, 67, 40-418.
- Gyourko, J., Hartley, J. S., & Krimmel, J. (2021). The local residential land use regulatory environment across U.S. housing markets: Evidence from a new Wharton index. *Journal of Urban Economics*, 124.
- Gyourko, J., Saiz, A., & Summers, A. (2008). A New Measure of the Local Regulatory Environment for Housing Markets: The Wharton Residential Land Use Index. *Urban Studies*, 45(3), 693-729.
- Hauck, L., & Kluser, F. (2026). *Country-wide Effects of New Housing Supply: Evidence from Moving Chains*. Working paper.
- Hayek, F. A. (1945). The Use of Knowledge in Society. *The American Economic Review*, 35(4), 519-530.
- Hsieh, C.-T., & Moretti, E. (2017). *Housing Constraints and Spatial Misallocation*. NBER Working Paper 21154.
- Hysing, E., & Olsson, J. (2018). *Green Inside Activism for Sustainable Development*. Örebro, Sweden: Palgrave Macmillan.
- Jackson, K. (2018). Regulation, Land Constraints, and California's Boom and Bust. *Regional Science and Urban Economics*, 68(January), 130-147

- Krueger, A. O. (1974). The Political Economy of the Rent-Seeking Society. *American Economic Review*, 64, 291-303.
- Mueller, D. C. (2003). *Public Choice III*. Cambridge: Cambridge University Press.
- Olson, M. (1982). *The Rise and Decline of Nations: Economic Growth, Stagflation, and Social Rigidities*. Yale University Press.
- Ostrom, E. (1990). *Governing the Commons: The Evolution of Institutions for Collective Action*. Cambridge: Cambridge University Press.
- Pennington, M. (2000). *Planning and the Political Market: Public Choice and the Politics of Government Failure*. London: The Athlone Press.
- Pennington, M. (2002). *Liberating the Land: The Case for Private Land-use Planning*. London: The Institute of Economic Affairs.
- Quigley, J. M., & Rosenthal, L. A. (2005). The Effects of Land Use Regulation on the Price of Housing: What Do We Know? What Can We Learn? *Cityscape*, 8(1), 69-137.
- Schelling, T. C. (1978). *Micromotives and Macrobehavior*. W.W. Norton and Company.
- Tullock, G. (1967). The Welfare Costs of Tariffs, Monopolies, and Theft. *Western Economic Journal*, 5, 224-32.
- Tullock, G. (2005a). Where is the Rectangle? In C. K. Rowley, *The Selected Works of Gordon Tullock. Volume 5: The Rent-Seeking Society* (pp. 241-252). Indianapolis: Liberty Fund.
- Tullock, G. (2005b). Which Rectangle? In C. K. Rowley, *The Selected Works of Gordon Tullock. Volume 5: The Rent-Seeking Society* (pp. 253-258). Indianapolis: Liberty Fund.
- Zabel, J., & Dalton, M. (2011). The Impact of Minimum Lot Size Regulations on House Prices in Eastern Massachusetts. *Regional Science and Urban Economics*, 41(6), 571-583.