

119365

No. 119365

12/09/2015

~~Supreme Court Clerk~~

IN THE SUPREME COURT OF ILLINOIS

JOHN FATTAH,)	From the Appellate Court of Illinois
)	First District
Plaintiff-Respondent,)	No. 14-0171
)	
v.)	There heard on Appeal from the
)	Circuit Court of Cook County,
MIREK BIM and ALINA BIM,)	County Department, Law Division
)	Case No. 11 L 6937
Defendants-Petitioners.)	
)	The Honorable Sanjay T. Tailor
)	Judge Presiding

**SUPREME COURT RULE 345 MOTION FOR
LEAVE TO FILE BRIEF OF *AMICI CURIE*
IN SUPPORT OF DEFENDANTS-APPELLANTS MIREK BIM AND ALINA BIM**

The Movants, Home Builders Association of Illinois, an Illinois not-for-profit corporation, Bloomington/Normal Area Home Builders Association, an Illinois not-for-profit corporation, Home Builders Association of Greater Chicago, an Illinois not-for-profit corporation, Metro Decatur Home Builders Association an Illinois not-for-profit corporation, Home Builders Association of East Central Illinois, an Illinois not-for-profit corporation, Effingham Area HBA, Northern Illinois Home Builders Association, an Illinois not-for-profit corporation, Home Builders Association of Greater Peoria, an Illinois not-for-profit corporation, Home Builders Association of the Greater Rockford Area, an Illinois not-for-profit corporation, Quad Cities Builders & Remodelers Association, Inc., an Iowa not-for-profit corporation, Home Builders Association of Quincy, an Illinois not-for-profit corporation, Home Builders Association of the Greater Southwest Illinois, an Illinois not-for-profit corporation, Southwest Suburban Home Builders Association, an Illinois not-for-profit corporation, Springfield Area Home Builders Association, an Illinois not-

for-profit corporation, National Association of Home Builders (“NAHB”) (collectively referred to the “HBAs”), and the Illinois Chamber of Commerce, by and through their attorneys, Cooney Corso & Moynihan, LLC, pursuant to Illinois Supreme Court Rule 345, hereby move this Court for leave to file their Brief of *Amici Curiae* in Support of Defendants-Appellants Mirek Bim and Alina Bim, and states:

STATEMENT OF MOVANTS INTEREST

1. The HBAs are a collective of national, state and local trade associations comprised of builders, subcontractors and other entities involved in the residential home building industry. There is in excess of 1,500 individuals, corporations, partnerships and other legal entities who are members of the HBAs in Illinois. The HBAs purposes are to provide builders, contractors, developers and subcontractors a forum to protect and promote the building industry, protect the interests of builders, generate quality standards and provide new home ownership and affordable housing for residents of Illinois.

2. NAHB is a federation of more than 140,000 members in 800 state and local associations. These affiliated associations include 14 state and local associations in Illinois. NAHB’s builder members construct about 80 percent of the new homes each year in the United States. NAHB’s mission is to enhance the climate for housing and the building industry and provide and expand opportunities for all people to have safe, decent, and affordable housing.

3. The HBAs and its members work for the American dream of home ownership, as well as for the development of housing that creates vibrant and affordable communities. The HBAs are a vigilant advocate in the Nation’s courts, and frequently participates as a party or *amicus curiae* to safeguard the rights of its members and preserve. This matter is one such case, which the HBAs’ feel compelled to act. The wholesale change in the law as it pertains to the waiver of the

implied warranty of habitability will have a dramatic and severe consequence on the building industry and affect home ownership.

4. The Illinois Chamber of Commerce (“Chamber”) is the voice of business within the state. Its “association” consists of manufacturers, railroads, insurers, retailers, banks and a host of other industrial and commercial concerns, including those involved in the construction and building industries. Those businesses provide jobs to a myriad of Illinois workers as well as income which is applied to the general economy in the form of redistributed expenditures, profits and taxes. Recognizing the significance of the question which is presented by this appeal, and its impact upon the construction and building industries throughout the state, and thereby the public in general, the Chamber wants to make known its position on the issue in this case and to state its views on the adverse impact affirmance of the Appellate Court’s decision would have on the economy and business climate throughout the State of Illinois.

5. The home building industry is one of the major driving forces for the economic recovery in Illinois. The industry has gone through an extensive change over the past 13 years. In 2005, the construction of 47,705 single family homes in Illinois, generated 188,442 jobs, \$12,500,000,000 in income, and \$2,800,000,000 in tax and other revenue to state and local governments. In 2009, the number of single family homes dropped to 7,844, resulting in only 24,543 jobs, \$1,900,000,000 in income, and \$444,200,000 in tax revenues. In 2014 this only increased to 10,553 in new single family houses, which is still 78% less than in 2005.¹

¹ U.S. Census Bureau, *Construction Building Permit Survey Reports, New Privately-Owner Units Authorized by Builder Permits in Permit-Issuing Places in the State of Illinois* (2015). Available at <https://www.census.gov/construction/bps/pdf/annualhistorybystate.pdf?cssp=SERP>, page 14 (Illinois); accessed 2/8/2015 (Ex 1); U.S. Census Bureau, *Building Permits Survey, Permits by State-Annual* (2014). Available at <https://www.census.gov/construction/bps/txt/tb2u2014.txt>; accessed 12/8/2015 (Ex 2); U.S. Census Bureau, *Building Permits Survey, Permits by State-Annual* (2009). Available at <https://www.census.gov/construction/bps/txt/tb2u2009.txt>; accessed 12/8/2015 (Ex 3); U.S. Census Bureau, *Building Permits Survey, Permits by State-Annual* (2005). Available at <https://www.census.gov/construction/bps/txt/tb2u2005.txt>; accessed 12/8/2015 (Ex 4); NAHB, *The Economic Impact*

6. The National Association of Home Builders has researched the price point for new home ownership and discovered that 8,250 Illinois families are priced out of the real estate market for every \$1,000.00 increase in housing costs.²

7. NAHB regularly preforms economic and housing studies that are used to predict market trends and to advise builders, economists and consumers as to the effect of governmental regulation and pricing increases. Nationally, 206,269 households are “priced out” of the new housing market with each \$1,000.00 increase in the costs of the house. Based on the fact that Illinois has 4% of the nation’s households and population, this equated to 8,250 households are prohibited from attaining new home ownership per \$1,000.00 price increase.³

STATEMENT OF HOW THE BRIEF OF *AMICI CURIAE* WILL ASSSIST THE COURT

8. The Appellate Decision in this matter changed the landscape of the judicially created public policy of the implied warranty of habitability and this Court’s concurrent recognition of ability to waive the same. *Peterson v. Hubschman Construction Co.*, 76 Ill.2d 31, 43 (1979). The Decision also modified standard terms used in new construction contracts that will result in an adverse change to the residential construction and affordable housing.

9. The Movants submit that their Brief will assist this Court understanding the effect of the Appellate Decision on the public in general and builders and subcontractors, as to job

of Home Building in Illinois 2000-2005 Average, Income, Jobs, and Taxes Generated. Housing Policy Department, Feb 2010; NAHB, The Economic Impact of Home Building in Illinois 2009 Average, Income, Jobs, and Taxes Generated. Housing Policy Department, Feb 2010 (Group Ex. 5).

² Natalia S. Siniavskaia, Ph.D., *State and Metro Area House Prices; the “Priced Out” Effect* (August 1, 2014). Available at <https://www.nahb.org/en/research/housing-economics/special-studies/state-and-metro-area-house-prices-the-priced-out-effect-2014.aspx>. This figure, 8,250 households/\$1,000 increase in purchase price, is calculated by taking the total 2014 national estimate of the price out of 206,269 households for each \$1,000 increase in the home price and multiplying it by 4%, which is the percentage of households and population pursuant to the U.S. Census *QuickFacts*, *United States* (Illinois) (2015); Available at <http://quickfacts.census.gov/qfd/states/17000.html?cssp=SERP>, (Population Est. 2014, and Households).

³ U.S. Census *QuickFacts*, *United States* (Illinois) (2015); Available at <http://quickfacts.census.gov/qfd/states/17000.html?cssp=SERP>, (Population Est. 2014, and Households).

growth, economic impact and decrease in affordable housing. The Movants are not only looking at the effect this decision will have on the parties but on the residential construction industry as a whole. They are of the opinion that their insight and argument will assist this Court in rendering its decision and that they are in a better position to advise this Court of the state wide effect the affirmation of the Appellate Decision will have on the construction industry.

10. The Movants have tendered their Brief of *Amici Curiae* concurrent with the filing of this Motion, which expounds on the forgoing interests and arguments.

11. Attached hereto is a proposed order.

WHEREFORE, the *Amici Curiae*, the HBAs and the Chamber, respectfully pray that this Court grant it leave to appear and file their Brief of *Amici Curiae*.

Respectfully submitted by:

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New Privately-Owned Housing Units Authorized by Building Permits in Permit-Issuing Places in the State of: Illinois

(Valuation in thousands of dollars)

Total Units					1 Unit			2 Units			2 to 4 Units			3 and 4 Units			5 or More Units		
Place Series	Year	Buildings	Housing Units	Valuation of Construction	Buildings	Housing Units	Valuation of Construction	Buildings	Housing Units	Valuation of Construction	Buildings	Housing Units	Valuation of Construction	Buildings	Housing Units	Valuation of Construction	Buildings	Housing Units	Valuation of Construction
10,000	1960		45,850	626,501		32,337	506,371					3,162	35,142					10,351	84,988
	1961		50,282	677,392		30,906	487,537					3,736	40,959					15,640	148,897
	1962		49,932	648,278		28,172	460,514					3,504	36,422					18,256	151,342
12,000	1963		49,251	649,192		28,487	476,226					4,634	50,925					16,130	122,041
	1964		50,176	694,635		28,585	502,035					4,167	45,938					17,424	146,663
	1965		54,899	775,284		30,535	554,632					3,936	45,191					20,428	175,460
13,000	1966		51,571	784,242		27,015	516,538		1,472	19,197				1,704	16,848			21,380	231,659
	1967		64,318	930,159		31,697	640,765		1,523	19,581				1,835	17,151			29,263	252,663
	1968		76,421	1,157,403		34,993	743,534		1,784	22,544				2,284	23,678			37,360	367,646
14,000	1969		65,833	1,025,679		27,622	619,306		1,638	19,916				2,133	24,520			34,440	361,936
	1970		53,109	892,265		24,242	520,700		1,416	18,532				1,882	24,882			25,569	328,152
	1971		82,838	1,350,730		36,704	809,006		1,336	19,370				3,585	41,145			41,213	481,209
16,000	1972		79,047	1,474,868		38,452	931,891		1,464	23,105				3,702	49,371			35,429	470,501
	1973		65,345	1,385,972		33,372	902,813		1,404	22,873				3,220	46,904			27,349	413,382
	1974		36,193	887,180		22,212	670,501		882	15,107				1,206	19,246			11,893	182,326
17,000	1975		38,959	1,075,657		25,700	862,716		1,154	22,374				1,385	24,960			10,720	165,607
	1976		59,503	1,756,632		38,002	1,398,998		1,638	35,422				2,099	38,110			17,764	284,101
	1977		75,374	2,485,816		48,340	2,000,843		1,960	49,694				2,576	51,999			22,498	383,279
19,000	1978		72,163	2,735,781		44,225	2,100,424		1,910	51,688				2,328	56,440			23,700	527,229
	1979		45,782	1,852,267		23,069	1,237,927		1,212	38,884				2,022	54,813			19,479	520,643
	1980	12,350	25,226	1,086,542	10,627	10,627	617,428	521	1,042	33,869				458	1,765	61,897	744	11,792	373,348
20,000	1981	9,740	16,356	775,381	8,769	8,769	536,769	336	672	23,648				280	1,069	29,441	355	5,846	185,523
	1982	8,925	18,960	909,727	7,980	7,980	486,414	294	588	21,673				221	853	30,593	430	9,539	371,047
	1983	19,098	29,836	1,610,253	17,654	17,654	1,165,497	568	1,136	41,379				310	1,208	40,289	566	9,838	363,088
21,000	1984	21,197	30,160	1,716,762	19,556	19,556	1,375,953	599	1,198	40,560				370	1,420	46,371	672	7,986	253,878
	1985	22,575	38,719	2,237,683	20,496	20,496	1,593,308	606	1,212	51,272				499	1,902	69,293	974	15,109	523,810
	1986	33,016	51,876	3,390,808	30,635	30,635	2,539,981	719	1,438	59,667				527	1,992	76,810	1,135	17,811	714,350
22,000	1987	34,998	50,447	3,806,505	32,972	32,972	3,091,275	559	1,118	58,258				577	2,218	94,080	890	14,139	562,892
	1988	35,826	49,145	4,057,802	33,936	33,936	3,385,868	636	1,272	63,427				496	1,853	95,865	758	12,084	512,642
	1989	31,840	42,377	3,781,053	30,205	30,205	3,212,645	648	1,296	65,451				408	1,544	92,993	579	9,332	409,964
23,000	1990	28,863	38,255	3,514,914	27,401	27,401	2,940,355	642	1,284	68,161				338	1,239	63,492	482	8,331	442,906
	1991	27,315	32,846	3,188,748	26,045	26,045	2,865,115	556	1,112	62,948				314	1,173	67,030	400	4,516	193,655
	1992	34,143	40,430	3,961,561	32,695	32,695	3,516,408	716	1,432	84,660				350	1,290	80,533	382	5,013	279,960
24,000	1993	37,864	44,742	4,487,398	36,232	36,232	4,048,223	779	1,558	93,588				441	1,631	102,842	412	5,321	242,745
	1994	40,422	49,290	5,011,762	38,532	38,532	4,442,020	746	1,492	93,246				564	2,028	126,773	580	7,238	349,723
	1995	37,546	47,467	4,844,287	35,392	35,392	4,220,262	928	1,856	118,557				559	1,990	127,554	667	8,229	377,914
25,000	1996	38,298	49,592	5,198,763	35,912	35,912	4,423,251	814	1,628	109,291				781	2,796	166,745	791	9,256	499,476
	1997	34,926	46,323	5,087,002	32,801	32,801	4,267,423	748	1,496	110,313				647	2,365	154,113	730	9,661	555,153
	1998	37,978	47,984	5,618,459	36,177	36,177	4,935,983	547	1,094	85,118				627	2,263	148,773	627	8,450	448,585
26,000	1999	41,287	53,974	6,537,643	39,228	39,228	5,475,451	703	1,406	109,407				550	2,065	166,403	806	11,275	786,381
	2000	39,618	51,944	6,527,956	37,817	37,817	5,612,169	535	1,070	81,713				588	2,040	153,194	678	11,017	680,880
	2001	41,239	54,839	7,141,367	39,362	39,362	6,114,050	531	1,062	92,145				580	2,079	151,905	766	12,336	783,211
27,000	2002	44,718	60,971	8,545,583	42,545	42,545	6,878,726	669	1,338	120,432				599	2,280	256,106	905	14,808	1,290,319
	2003	47,398	62,211	9,105,577	45,379	45,379	7,806,351	677	1,354	132,691				649	2,321	186,096	693	13,157	980,439
	2004	48,201	59,753	9,551,086	46,207	46,207	8,387,644	633	1,266	113,163				729	2,497	203,794	632	9,783	846,485
28,000	2005	50,165	66,942	10,963,905	47,705	47,705	9,296,529	680	1,360	134,338				965	3,314	275,316	815	14,563	1,257,722
	2006	39,921	58,802	9,470,292	37,903	37,903	7,691,452	567	1,134	122,178				678	2,236	195,657	773	17,529	1,461,005
	2007	26,072	43,020	6,936,057	24,511	24,511	5,260,539	456	912	92,970				455	1,490	134,111	650	16,107	1,448,437
29,000	2008	12,677	22,528	3,783,161	11,827	11,827	2,661,194	211	422	46,685				319	1,095	104,589	320	9,184	970,693
	2009	8,223	10,859	2,100,663	7,844	7,844	1,698,534	137	274	33,344				83	285	37,863	159	2,456	330,922
	2010	8,077	12,318	2,412,386	7,624	7,624	1,701,148	155	310	40,690				112	385	45,220	186	3,999	625,328
30,000	2011	7,275	11,809	2,118,058	6,834	6,834	1,569,754	143	286	33,930				102	365	39,441	196	4,324	474,933
	2012	9,075	13,797	2,620,891	8,564	8,564	1,980,125	172	344	45,419				131	452	47,498	208	4,437	547,849
	2013	10,443	15,545	3,087,102	9,869	9,869	2,423,667	191	382	74,216				118	414	56,522	265	4,880	532,697
	2014	11,142	20,578	4,211,740	10,553	10,553	2,731,448	166	332	46,789				148	500	77,288	275	9,193	1,356,215

Table 2au. New Privately Owned Housing Units Authorized
Unadjusted Units for Regions, Divisions, and States

Annual 2005

	Total	1 Unit	2 Units	3 and 4 Units	5 units or More	Num of Struc- tures With 5 units or More
United States	2155316	1681986	39260	44736	389334	22130
Northeast	203804	126555	10410	9327	57512	2741
New England	58742	41812	2066	1283	13581	712
Connecticut	11885	8817	210	135	2723	137
Maine	8969	7810	284	205	670	66
Massachusetts	24549	14585	1000	607	8357	378
New Hampshire	7586	6432	254	148	752	50
Rhode Island	2836	1808	152	86	790	36
Vermont	2917	2360	166	102	289	45
Middle Atlantic	145062	84743	8344	8044	43931	2029
New Jersey	38588	22264	3212	1437	11675	534
New York	61949	25211	4552	5698	26488	1135
Pennsylvania	44525	37268	580	909	5768	360
Midwest	353896	278668	8858	11241	55129	3709
East North Central	233807	182968	5588	8054	37197	2700
Illinois	66942	47705	1360	3314	14563	815
Indiana	38476	32116	1020	702	4638	382
Michigan	45328	38875	464	525	5464	441
Ohio	47727	38306	1050	2466	5905	598
Wisconsin	35334	25966	1694	1047	6627	464
West North Central	120089	95700	3270	3187	17932	1009
Iowa	16766	12812	358	523	3073	159
Kansas	14048	11626	488	456	1478	99
Minnesota	36509	29566	312	571	6060	287
Missouri	33114	25949	1750	1142	4273	290
Nebraska	9929	8687	186	73	983	73
North Dakota	4038	2367	70	140	1461	56
South Dakota	5685	4693	106	282	604	45
South	1039044	826793	12052	11601	188598	10154
South Atlantic	657546	517136	5986	6848	127576	6453
Delaware	8195	6715	242	201	1037	110
District of Columbia	2860	125	76	35	2624	22
Florida	287250	209162	2354	4222	71512	3661
Georgia	109336	94467	734	582	13553	490
Maryland	30180	22909	320	69	6882	325
North Carolina	97910	84975	1212	564	11159	757
South Carolina	54157	43341	482	478	9856	582
Virginia	61518	49959	522	614	10423	450
West Virginia	6140	5483	44	83	530	56
East South Central	111782	94413	1360	1487	14522	944
Alabama	30612	24654	132	171	5655	297
Kentucky	21159	17929	418	546	2266	182
Mississippi	13396	11656	146	114	1480	95
Tennessee	46615	40174	664	656	5121	370

EX. 2

West South Central	269716	215244	4706	3266	46500	2757
Arkansas	17932	13191	800	232	3709	299
Louisiana	22811	20206	386	201	2018	171
Oklahoma	18362	15669	422	169	2102	117
Texas	210611	166178	3098	2664	38671	2170
West	558572	449970	7940	12567	88095	5526
Mountain	256827	221726	2354	5202	27545	1826
Arizona	90851	80804	540	854	8653	576
Colorado	45891	40140	580	653	4518	342
Idaho	21578	19172	460	876	1070	91
Montana	4803	3459	246	415	683	65
Nevada	47728	37546	118	1286	8778	486
New Mexico	14180	13417	22	171	570	34
Utah	27799	24019	342	755	2683	182
Wyoming	3997	3169	46	192	590	50
Pacific	301745	228244	5586	7365	60550	3700
Alaska	2885	1653	502	254	476	39
California	205020	154703	2688	4515	43114	2574
Hawaii	9828	6641	204	328	2655	231
Oregon	31024	23840	970	836	5378	296
Washington	52988	41407	1222	1432	8927	560

Table 2au. New Privately Owned Housing Units Authorized
Unadjusted Units for Regions, Divisions, and States

Annual 2009

	Total	1 Unit	2 Units	3 and 4 Units	5 units or More	Num of Struc- tures With 5 units or More
United States	582963	441148	10678	10012	121125	6881
Northeast	68503	45803	2380	1864	18456	1094
New England	19463	13595	582	605	4681	322
Connecticut	3786	2442	78	59	1207	89
Maine	3121	2816	56	72	177	20
Massachusetts	7941	5074	262	174	2431	147
New Hampshire	2287	1662	46	185	394	38
Rhode Island	961	704	84	40	133	10
Vermont	1367	897	56	75	339	18
Middle Atlantic	49040	32208	1798	1259	13775	772
New Jersey	12421	7211	400	206	4604	308
New York	18344	9656	1028	723	6937	294
Pennsylvania	18275	15341	370	330	2234	170
Midwest	100344	74881	2368	2089	21006	1337
East North Central	54421	42272	1124	1017	10008	739
Illinois	10859	7844	274	285	2456	159
Indiana	12555	9666	250	123	2516	195
Michigan	6884	6236	50	81	517	50
Ohio	13343	10593	116	403	2231	202
Wisconsin	10780	7933	434	125	2288	133
West North Central	45923	32609	1244	1072	10998	598
Iowa	7729	5705	230	245	1549	79
Kansas	6677	4272	200	148	2057	117
Minnesota	9425	7314	112	129	1870	91
Missouri	10056	6552	464	336	2704	181
Nebraska	5150	4552	114	28	456	24
North Dakota	3195	1704	44	43	1404	51
South Dakota	3691	2510	80	143	958	55
South	297404	231754	4074	3425	58151	3045
South Atlantic	141978	109336	1376	1224	30042	1483
Delaware	3156	2676	44	32	404	32
District of Columbia	1126	151	82	4	889	6
Florida	35329	26636	272	437	7984	401
Georgia	18228	14674	190	243	3121	178
Maryland	11123	8133	12	60	2918	125
North Carolina	33800	25388	354	178	7880	398
South Carolina	15529	13444	102	71	1912	120
Virginia	21452	16268	274	140	4770	208
West Virginia	2235	1966	46	59	164	15
East South Central	42664	32778	790	1144	7952	511
Alabama	13266	9409	56	177	3624	224
Kentucky	7398	5978	212	321	887	75
Mississippi	6995	5465	242	346	942	63
Tennessee	15005	11926	280	300	2499	149

West South Central	112762	89640	1908	1057	20157	1051
Arkansas	7056	4526	338	175	2017	163
Louisiana	12513	10755	552	92	1114	48
Oklahoma	8753	7290	184	90	1189	67
Texas	84440	67069	834	700	15837	773
West	116712	88710	1856	2634	23512	1405
Mountain	54060	42297	450	1204	10109	571
Arizona	14474	12826	24	130	1494	79
Colorado	9355	7261	142	93	1859	87
Idaho	4863	4274	46	167	376	21
Montana	1686	1363	54	93	176	11
Nevada	6764	4545	20	281	1918	121
New Mexico	4642	4140	4	56	442	48
Utah	9982	6314	148	257	3263	168
Wyoming	2294	1574	12	127	581	36
Pacific	62652	46413	1406	1430	13403	834
Alaska	916	617	76	54	169	6
California	35069	25525	674	717	8153	540
Hawaii	2617	2002	18	56	541	33
Oregon	7039	5278	94	100	1567	114
Washington	17011	12991	544	503	2973	141

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Table 2au. New Privately Owned Housing Units Authorized
Unadjusted Units for Regions, Divisions, and States

Annual 2014

	Total	1 Unit	2 Units	3 and 4 Units	5 units or More	Num of Struc- tures With 5 units or More
United States	1046363	634597	15080	14721	381965	14394
Northeast	118458	54541	3090	2833	57994	2351
New England	28958	16765	770	715	10708	465
Connecticut	5329	2760	120	203	2246	106
Maine	3242	2713	86	73	370	29
Massachusetts	14486	7330	362	317	6477	245
New Hampshire	3403	2188	96	63	1056	32
Rhode Island	952	796	38	30	88	13
Vermont	1546	978	68	29	471	40
Middle Atlantic	89500	37776	2320	2118	47286	1886
New Jersey	28155	11019	762	402	15972	811
New York	36286	10386	1138	1052	23710	795
Pennsylvania	25059	16371	420	664	7604	280
Midwest	164034	99888	3146	3055	57945	2459
East North Central	88821	56191	1642	1818	29170	1411
Illinois	20578	10553	332	500	9193	275
Indiana	17816	12140	362	201	5113	299
Michigan	15933	12381	246	263	3043	175
Ohio	19872	12535	290	679	6368	380
Wisconsin	14622	8582	412	175	5453	282
West North Central	75213	43697	1504	1237	28775	1048
Iowa	10256	6989	338	221	2708	139
Kansas	7459	4874	302	147	2136	102
Minnesota	16990	10689	110	181	6010	152
Missouri	16003	9072	460	462	6009	220
Nebraska	7605	4744	132	24	2705	106
North Dakota	12178	4531	84	22	7541	245
South Dakota	4722	2798	78	180	1666	84
South	519509	343036	5320	5235	165918	5874
South Atlantic	258019	175983	1792	2350	77894	2509
Delaware	5194	4144	130	107	813	45
District of Columbia	4189	288	30	26	3845	31
Florida	84075	56250	654	1094	26077	968
Georgia	39423	27503	124	547	11249	311
Maryland	16331	10541	186	27	5577	140
North Carolina	49911	35051	368	136	14356	491
South Carolina	27537	21464	112	92	5869	249
Virginia	28682	18834	150	181	9517	222
West Virginia	2677	1908	38	140	591	52
East South Central	57408	39016	702	944	16746	838
Alabama	13369	9506	122	206	3535	146
Kentucky	9536	6073	276	320	2867	334
Mississippi	6871	5548	52	184	1087	78
Tennessee	27632	17889	252	234	9257	280

QUESTION



Home > Research > Housing Economics > Special Studies > State and Metro Area House
Prices: the "Priced Out" Effect

State and Metro Area House Prices: the "Priced Out" Effect

August 1, 2014

By Natalia S. Siniavskaia, Ph.D.

Report available to the public as a courtesy of HousingEconomics.com

One of the often overlooked impacts of building regulations is their effect on housing affordability. Every time a local or higher level government issues a new construction regulation it raises construction costs by, for example, increasing the price of construction permits or impact fees. Higher costs invariably translate into higher home prices and higher prices in turn disqualify more households from being able to afford new homes. NAHB Economics relies on its Priced Out model to evaluate effects of pending new regulations on housing affordability in local markets. The model estimates how many households can qualify for a mortgage before and after a house price increase. The resulting difference is the number of priced out households.

NAHB regularly updates the Priced Out model to account for changing economic environment. This article presents and discusses the new 2014 priced out estimates for the United States and 324 metro areas. The 2014 estimates show that nationally a \$1,000 increase in the home price leads to pricing out about 206,269 households. The size of the impacts varies across states and metro areas and largely depends on their population, income distribution and new home prices.

The Priced Out Methodology and Data

Most home buyers take out a mortgage to finance a purchase of a new home, so the Priced Out model uses ability to qualify for a mortgage as an affordability standard. To qualify for conventional loans, housing expenses should not exceed 28 percent of homebuyers' gross monthly income. Monthly housing costs include principal and interest on the mortgage, property taxes and homeowner's Insurance – often abbreviated as "PITI". The affordability standard is thus a ratio of housing expenses to income, and the number of households that qualify for a mortgage to buy a home of a given price will depend on the income of households in an area and current mortgage rates.

The American Community Survey (ACS) which replaced the decennial Census long form provides the detailed income distribution for the United States and all states and metro areas with population of 65,000 people or more annually. The most recent income estimates are now available for 2012. To adjust for expected 2012-2014 income growth, NAHB uses the annual estimates of median family income published by the Department of Housing and Urban Development (HUD) for every state and county. The 2014 estimates were made available in December 2013[1]. To adjust for population growth, NAHB relies on annual household estimates reported by the ACS and extrapolates the most recent household growth into 2014. Table below shows the projected US household income distribution that underlies the 2014 priced out estimates.

EX. 3

US Household Income Distribution for 2014			
Income Range:		Households	Cumulative
\$0 to	\$10,219	9,037,576	9,037,576
\$10,220 to	\$15,328	6,661,937	15,699,513
\$15,329 to	\$20,438	6,469,445	22,168,958
\$20,439 to	\$25,548	6,640,002	28,808,960
\$25,549 to	\$30,658	6,039,287	34,848,247
\$30,659 to	\$35,768	6,199,590	41,047,837
\$35,769 to	\$40,877	5,664,673	46,712,511
\$40,878 to	\$45,987	5,635,887	52,348,398
\$45,988 to	\$51,097	4,943,760	57,292,157
\$51,098 to	\$61,317	9,372,913	66,665,070
\$61,318 to	\$76,646	11,849,492	78,514,562
\$76,647 to	\$102,195	14,015,339	92,529,901
\$102,196 to	\$127,744	9,281,283	101,811,184
\$127,745 to	\$153,293	5,330,786	107,141,970
\$153,294 to	\$204,391	5,436,702	112,578,672
\$204,392 to	More	5,371,513	117,950,185

Other assumptions used in the priced out calculations are a down payment equal to 10 percent of the purchase price and a 30-year fixed rate mortgage. The mortgage interest rate is set at 4.5 percent with zero points. For this typical loan, the model also assumes lenders require private mortgage insurance with an annual premium of 45 basis points[2]. Effective local property tax rates come from the 2012 ACS. The ACS reports both median home values and real estate taxes paid and, thus, allows estimating the effective property tax rates for all metro areas. For the US, the median rate is \$12 per \$1,000 of property value. Property hazard insurance rates are constructed based on the 2007 ACS Public Use Microdata Sample (PUMS)[3]. For the US as a whole, the insurance rates work out to \$5 per \$1,000 of property value.

House Prices

The priced out analysis requires a representative house price as a starting point. Data availability pretty much limits the choices to basic summary statistics, like the median or average home price. Of the two, the median usually makes a better starting point for priced-out calculations, as the average tends to be skewed upward by a handful of expensive homes, while the median typically lies in the center of the price range where more new homes are built. To analyze changes in regulatory or other construction costs, prices of new homes are most relevant, since new homes are the ones directly affected by new regulations.

The median new home price for the United States is set at \$275,000 for 2014. It is based on monthly median new home prices reported by the Census Bureau over 2013 and the first four months of 2014. First, the average of monthly medians is estimated over 2013. It is then adjusted for expected inflation based on price appreciation that took place over the first four months of 2014.

To estimate median new home prices for states and metropolitan areas, NAHB relies on data reported by the 2013 Census Bureau's Building Permits Survey and Survey of Construction (SOC). The Permits Survey provides both the number and aggregate value of new housing units authorized by building permits and, thus, allows calculating average permit values for all states and metro areas. For metro areas where average permit values are highly volatile and likely to have a large margin of error, the averages are smoothed out across most recent years.

Permit values, however, do not include brokerage commissions, marketing/finance costs, the cost of raw land and may not include the cost of lot's development. These additional costs are likely to differ across geographic areas but not available for metro areas. Nevertheless, the SOC provides enough data to tabulate median new home prices for all nine Census divisions and, consequently, division-wide ratios of median new home prices to average permit value. The ratios are then used as scaling mark-ups to convert state and metro average permit values into median new home prices. The resultant median new home prices range from less than \$116,704 in Brownsville-Harlingen, TX to more than \$878,625 in Bridgeport-Stamford-Norwalk, CT (see Table 2).

Metro Priced Out Results

Table 1 and Table 2 present the priced out results and data that underlie the estimates for all states and 324 metropolitan areas. In addition to median new home prices, the tables display income needed to qualify for a mortgage to buy a median price new and the number of households that will be priced out of the market for a new home if its price increases by \$1,000.

A typical household in Brownsville-Harlingen, TX, where half of all new homes are sold for less than \$116,704, needs an annual income of \$35,831 to qualify for a mortgage, while a household in Bridgeport-Stamford-Norwalk, CT will need to earn \$240,996 to qualify for a new home loan. Clearly, these differences are driven by large divergences in new home prices across metropolitan areas. The more expensive new homes, the higher monthly principal and interest payments, the higher income required to qualify for a mortgage. But the relationship is not always linear as property tax and insurance payments also affect monthly housing costs. For example, even though Brownsville-Harlingen, TX metro area has the lowest median price new homes, the income needed to qualify for a mortgage to buy these

homes are not the lowest in the nation. Sumter, SC, Florence-Muscle Shoals, AL, Valdosta, GA, Clarksville, TN-KY all have new homes that are more expensive but require a lower income to qualify for a mortgage. This is a result of higher property tax and insurance payments in Texas.

Next, the priced out model estimates how many households in each state and metro area actually earn enough income to qualify for new home loans. Not surprisingly, in Bridgeport-Stamford-Norwalk, CT metro area where new homes largely target the high income households, only 1 percent of all households residing in this metro area earn enough money to qualify for a new home loan. Among other metro areas with least affordable new homes are Buffalo-Niagara Falls, NY, Barnstable Town, MA, Sebastian-Vero Beach, FL, and Napa, CA where less than 15 percent of all households can afford a median price new home. In sharp contrast stand metro areas like Dover, DE and Jacksonville, NC where two out of three households residing in these metros can afford a median-priced new home.

These differences translate into different effects of adding \$1,000 to a new home price. When starting affordability of new homes is low the priced out effects will be small since they would only affect a few households at the thin end of the household income distribution. On the contrary, if new homes are widely affordable, rising home prices would affect a bigger slice of households in the thicker part of the income distribution and the priced out effects will be larger.

Increasing a price of a new home in New York-Northern New Jersey-Long Island, NY-NJ-PA, by \$1,000 disqualifies 5,742 households from buying a new home. This is by far the largest priced out effect among metropolitan areas, mainly as a result of being the most populous metro area with more than 7 million households. The second largest number of priced out households is in Chicago-Naperville-Joliet, IL-IN-WI, where more than 5,325 households are priced out. The Chicago metro is half the size of the New-York metro area but the priced out effects are similarly large. This is because the Chicago area is relatively more affordable to begin with. Close to a third of all local households are able to afford new homes here while in the New-York area only 19 percent of households can qualify for new home mortgages before any price hikes.

Los Angeles-Long Beach-Santa Ana, CA - the second most populous metro area with more than 4 million households but low affordability - registers only the sixth highest number of priced out households, 3,813. Ahead of Los Angeles on the priced-out effects list are three large metro areas with more affordable new homes. In Houston-Sugar Land-Baytown, TX and Atlanta-Sandy Springs-Marietta, GA, where almost half of all households can afford new homes, the priced out effects exceed 4,000 households. In Philadelphia-Camden-Wilmington, PA-NJ-DE-MD where 41 percent of households can afford new homes an increase in new home price of \$1,000 disqualifies 3,914 households.

At the other end of the spectrum are small and often unaffordable high new home priced metropolitan areas. In Barnstable Town, MA where half of all new homes sell for more than \$616,381, adding another thousand to a price, affects only 24 households, since there were only a few of them who could afford such expensive new homes in the first place. In Napa, CA, where new homes are similarly unaffordable the priced out effects are only limited to 19 households. Looking at the affordable metro areas, where close or more than fifty percent of households can afford new homes, the priced out effects are typically large and can often disqualify thousands of new home buyers, as in case of Houston-Sugar Land-Baytown, TX, Atlanta-Sandy Springs-Marietta, GA, Las Vegas-Paradise, NV MSA, Baltimore-Towson, MD among other metro areas.

Among the states, Texas registers the highest priced out effects where more than 18,000 households can be pushed out of the market for a median-priced new home here if its price increases by \$1,000. California that is more populous but has less affordable new homes register the second highest priced out effects - 14,423 households.

Conclusion

Quite frequently and often unintentionally local regulations raise construction costs and trigger hikes in home prices. NAHB consistently relies on the priced out model to estimate the impacts of price changes. Even though the model does neither answer all questions nor estimate effects of regulation on new home sales or housing starts, it highlights often overlooked effects of regulation on affordability of new homes. The new 2014 estimates show that, in relatively affordable metro areas, hundreds and sometimes thousands of households can be priced out of the new home markets as a result of prices rising by \$1000.

Note: Regulatory Costs Boost Home Prices by up to 39 Percent More than Building Fee Increases

Hidden in median new home prices is the cost of government regulations. NAHB research shows that, on average, regulations imposed by government at all level account for 25 percent of the final price of a new single family home built for sale[4]. Every time a local or regional government raises construction costs by, for example, increasing the price of construction permits or impact fees, the cost of building a house rises. In fact, the final price of the home to the buyers will usually go up by more than the increase in the government fee. This is because each time construction costs increase other costs such as commissions and financing charges automatically rise as well. As a result, most cost increases are passed on to the buyers with additional charges. The size of these charges depends both on the type of fee/cost increase and when it is imposed in the development/construction process. NAHB estimates that the add-on charges range from 0 percent if a fee is imposed directly on buyers to 39 percent if cost is incurred when applying for site development approval (see Table 3). So that for every \$1 increase in fees incurred, for example, when acquiring a building permit, the final price of a new home to its final customer rises by \$1.20. Alternatively, every \$833 increase in fees results in a \$1,000 increase in house prices.

Table 3: Additional Charges on Building Fees

Building Costs/Fees	Add-on Charges
Imposed directly on buyer	0%
During construction	16%
At start of construction	18%
When building permit acquired	20%
During development	37%
When applying for site development approval	39%

Resources:

Download the Full Article (PDF)

Table 1 - Metro (PDF)
Table 2 - State (PDF)
See other Special Studies

Footnotes:

[1] In cases, where counties comprising a metro area are estimated to have different median incomes, an estimate for the county containing the core urban area listed first in the name of the metro area is set to represent the median family income for the entire metro area.

[2] In the PITI formula, mortgage insurance is essentially treated as part of the interest payment. Like interest on the loan, it is a percentage of the declining mortgage balance.

[3] Producing metro level estimates from the ACS PUMS involves aggregating PUMA level data according to the latest definitions of metropolitan areas. Due to complexity of these procedures and since metro level insurance rates tend to remain stable over time, NAHB revises these estimates only periodically.

[4] See P. Emrath "How Government Regulation Affects the Price of a New Home", Housing Economics Online, July 2011.

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State & County QuickFacts

NOTE: This version of QuickFacts will no longer be updated with new data. Please visit the new for the latest data.

Illinois

People QuickFacts	Illinois	USA
Population, 2014 estimate	12,880,580	318,857,056
Population, 2010 (April 1) estimates base	12,831,587	308,758,105
Population, percent change - April 1, 2010 to July 1, 2014	0.4%	3.3%
Population, 2010	12,830,632	308,745,538
Persons under 5 years, percent, 2014	6.1%	6.2%
Persons under 18 years, percent, 2014	23.2%	23.1%
Persons 65 years and over, percent, 2014	13.9%	14.5%
Female persons, percent, 2014	50.9%	50.8%
White alone, percent, 2014 (a)	77.5%	77.4%
Black or African American alone, percent, 2014 (a)	14.7%	13.2%
American Indian and Alaska Native alone, percent, 2014 (a)	0.6%	1.2%
Asian alone, percent, 2014 (a)	5.3%	5.4%
Native Hawaiian and Other Pacific Islander alone, percent, 2014 (a)	0.1%	0.2%
Two or More Races, percent, 2014	1.8%	2.5%
Hispanic or Latino, percent, 2014 (b)	16.7%	17.4%
White alone, not Hispanic or Latino, percent, 2014	62.3%	62.1%
Living in same house 1-year & over, percent, 2009-2013	86.8%	84.9%
Foreign born persons, percent, 2009-2013	13.8%	12.9%
Language other than English spoken at home, pct age 5+, 2009-2013	22.3%	20.7%
High school graduate or higher, percent of persons age 25+, 2009-2013	87.3%	86.0%
Bachelor's degree or higher, percent of persons age 25+, 2009-2013	31.4%	28.8%
Veterans, 2009-2013	727,919	21,263,779
Mean travel time to work (minutes), workers age 16+, 2009-2013	28.0	25.5
Housing units, 2014	5,307,222	133,957,180
Homeownership rate, 2009-2013	67.5%	64.9%
Housing units in multi-unit structures, percent, 2009-2013	32.9%	26.0%
Median value of owner-occupied housing units, 2009-2013	\$182,300	\$176,700
Households, 2009-2013	4,772,723	115,610,216
Persons per household, 2009-2013	2.63	2.63
Per capita money income in past 12 months (2013 dollars), 2009-2013	\$29,666	\$28,155
Median household income, 2009-2013	\$56,797	\$53,046
Persons below poverty level, percent, 2009-2013	14.1%	15.4%
Business QuickFacts	Illinois	USA
Private nonfarm establishments, 2013	315,364 ¹	7,488,353
Private nonfarm employment, 2013	5,209,070 ¹	118,266,253
Private nonfarm employment, percent change, 2012-2013	1.7% ¹	2.0%
Nonemployer establishments, 2013	928,461	23,005,620
Total number of firms, 2007	1,123,817	27,092,908
Black-owned firms, percent, 2007	9.5%	7.1%
American Indian- and Alaska Native-owned firms, percent, 2007	0.5%	0.9%
Asian-owned firms, percent, 2007	5.3%	5.7%
Native Hawaiian and Other Pacific Islander-owned firms, percent, 2007	0.1%	0.1%
Hispanic-owned firms, percent, 2007	5.0%	8.3%
Women-owned firms, percent, 2007	30.5%	28.8%
Manufacturers shipments, 2007 (\$1000)	257,760,713	5,319,456,312

EX. 4

Merchant wholesaler sales, 2007 (\$1000)	231,082,768	4,174,286,516
Retail sales, 2007 (\$1000)	165,450,520	3,917,663,456
Retail sales per capita, 2007	\$12,947	\$12,990
Accommodation and food services sales, 2007 (\$1000)	25,469,026	613,795,732
Building permits, 2014	20,579	1,046,363

Geography QuickFacts

	Illinois	USA
Land area in square miles, 2010	55,518.93	3,531,905.43
Persons per square mile, 2010	231.1	87.4
FIPS Code	17	

1: Includes data not distributed by county.

(a) Includes persons reporting only one race.

(b) Hispanics may be of any race, so also are included in applicable race categories.

D: Suppressed to avoid disclosure of confidential information

F: Fewer than 25 firms

FN: Footnote on this item for this area in place of data

NA: Not available

S: Suppressed; does not meet publication standards

X: Not applicable

Z: Value greater than zero but less than half unit of measure shown

Source U.S. Census Bureau: State and County QuickFacts: Data derived from Population Estimates, American Community Survey, Census of Population and Housing, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits

Last Revised: Tuesday, 01-Dec-2015 16:11:42 EST

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