



LPC

September 12, 2022

Resolution 2022-001

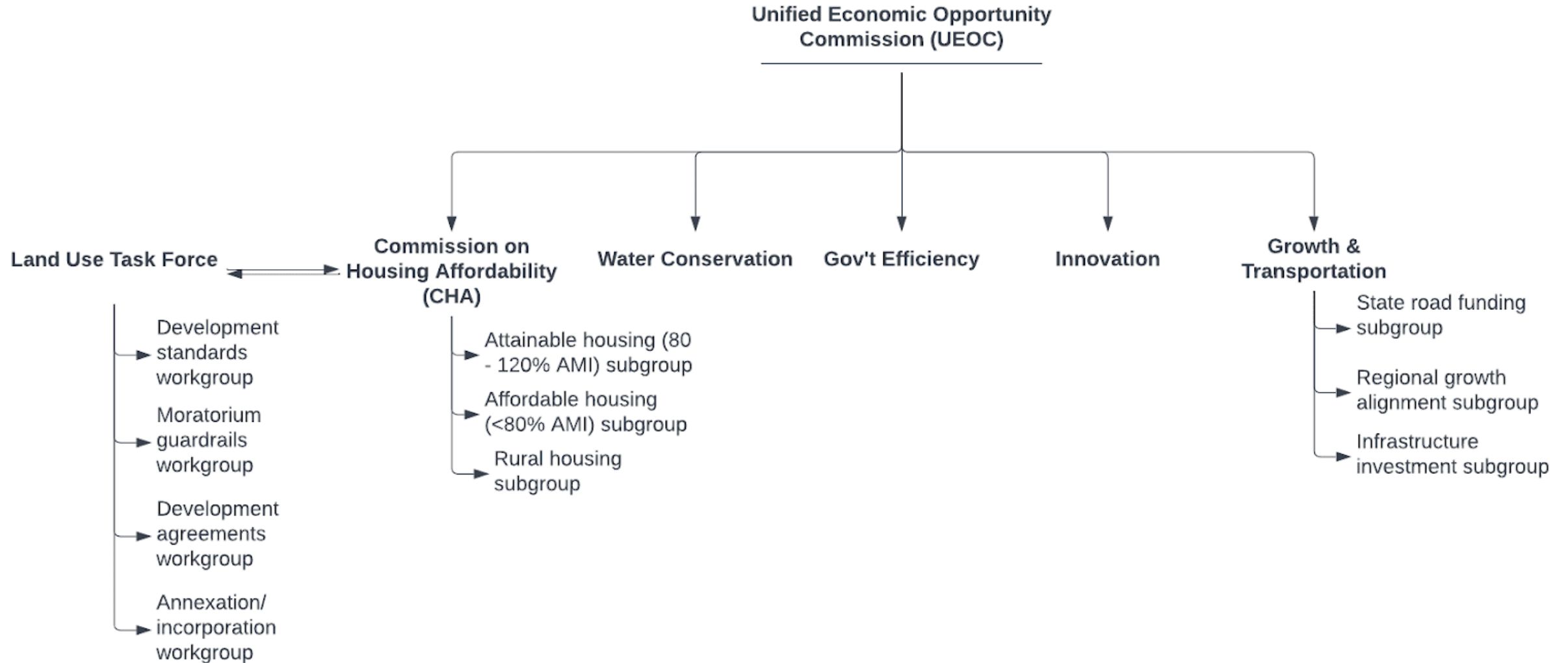
- A resolution concerning state limitations on local government short-term rental ordinances.
- Submitted by Short-term Rental LPC Subgroup.
- If approved by LPC, will proceed to consideration by the general membership at Annual Convention

Voting procedure

- IF you are an LPC voting member (or an alternate), you may cast a vote. See ulct.org/lpc for more details.
- Upon a motion being made:
 - If you are online, type “yes” or “no” into the chat box. Please ensure your Zoom screen name reflects your identity. If it doesn’t include your name/city in the vote.
 - If you are in person, raise your hand when prompted to do so.

Key dates

- Sep 12: LPC at 12, LUTF at 2
- Sep 13: Comm. on Housing Affordability gets recommendations from subgroups
 - City reps: Orem Council Member Tom Macdonald (ULCT), SLC's Andrew Johnston (ULCT), SLC RDA Director Danny Walz (RDA Rep.)
- Sep 19: Board mtg
- Sep 28: UEOC gets recommendations from subgroups, including CHA
 - ULCT rep: South Jordan Mayor Dawn Ramsey
- Oct 5-7: ULCT Annual Convention
- Oct 17: LPC
- Nov 8: CHA makes final recommendations for 2023
- Nov 22: UEOC makes final recommendations for 2023



Land use law 101

Legislative Action (create the policy; *land use regulation*; referable)

- 1) Adoption, amendment of general plan
- 2) Adoption, amendment of land use ordinances
- 3) Zoning/re-zoning
- 4) Annexation

- Exercise of legislative authority if ... 1) “involves the promulgation of laws of general applicability; or 2) it is based on the weighing of competing policy considerations” (*Carter v. Lehi*)

Administrative Action (apply the policy; *land use decision*; non-referable)

- Note: state law allows for planning commission or city council hearings on some of these

- 1) Conditional use permits
- 2) Issuance of building permits
- 3) Land use application approvals
- 4) Site plan reviews
- 5) Subdivision reviews

- “the opposition of neighbors is not one of the considerations to be taken into account” when determining whether to issue a development permit (*Davis County v. Clearfield City*)

Land use law 101

Rip cord: 10-9a-509.5(2)

- *Each land use authority shall substantively review a complete application & shall approve or deny each application with reasonable diligence*
- *After a reasonable period of time, an applicant may request the land use authority take final action within 45 days*
 - Land use authority shall approve or deny application
 - Legislative body shall approve or deny the petition

Moderate income housing (MIH) update

- Definition: *“housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located”*
- Gardner: gap closed from 56,000 housing units to 31,000 housing units
- 100,000+ building permits in last 3 years but economy slowing
- Cities plan for housing but cities don't build housing

HB 462 potential next steps after housing data collection (Oct 1) & reporting (Dec)

- Status quo:
 - 3 or 5 menu items to be eligible for Transportation Invest. Fund (TIF) & Transit TIF (TTIF)
 - Cities that select 5/6 menu items = “higher prioritization” (TBD)
 - Concern about ability of small cities to comply; equity issues between cities of +/-5,000
 - Oct 1: local gov’t deadline; Dec 2: DWS deadline for report and “methodology”
- Option 1: *Board begrudgingly agreed*
 - HB 462 compliance = access to other state controlled \$
 - Examples: state infrastructure bank, ARPA local match
- Option 2 (CHA): *Board rejected*
 - HB 462 non-compliance = class C revenue withheld from cities (gas tax)
- Option 3: *Board begrudgingly agreed*
 - HB 462 compliance = NEW city-controlled tools or revenues

Perceived problem: planning, zoning, public clamor, 462	PRC proposal	ULCT concerns	Possible alternatives	LPC survey results to date (Sep 11)
1) “public clamor” part 1: GP & zoning (legislative actions)	A) Make general plans binding & zoning administrative; B) by right MIH development when GP calls for MIH so that clamor won’t prevent MIH re-zone	A1) Moves zoning map to GP; A2) courts would still say zoning is legislative; A3) neuter residents; B) by right development may lack infrastructure	1) Raise referendum signature thresholds; 2) 2/3 majority makes MIH rezone non-referable	All PRC proposals are very concerning ; referendum changes are very comfortable
2) “public clamor” part 2: GP & zoning (legislative actions)	Threshold for city to deny rezone for MIH that GP calls for	New standard for legislative approval	Thoughts? <i>i.e. “shall rezone for significant MIH unless compelling reason?”</i>	Not asked
3) “public clamor” part 3: admin actions	Public input on admin acts prevents approval	State law allows public input on admin acts now, has value but tough on LU authority	Thoughts about narrowing public input for admin acts in code?	Not asked
4) HB 462 MIHP non-compliance	A) Withhold B&C funds, B) allow plaintiff to sue city, get attorneys fees	Precedent of limits on B&C; precedent of attorneys fees award	1) Wait for DWS report; 2) Board ok with other \$ as incentives for compliance	All PRC proposals are very concerning ; more incentives are somewhat comfortable

Perceived problem: local land use processes, fees	PRC proposal	ULCT concerns	Possible alternatives	LPC survey results to date (as of Sep 11)
5) “local land use process takes too long”	A) Redlines deemed approved after 3 reviews if applicant “materially complies”; B) more shot clocks with fee refunds after shot clock expires	A) Deemed approved means applicant won’t fix redlines; B) delay often due to applicant	1) Tighten the rip cord time frame for significant MIH? 2) Expedite process for significant MIH?	PRC proposals are very concerning ; not asked on rip cord; expedited process was somewhat concerning
6) “local gov’t won’t make a decision” (i.e. dev. agreements)	Deemed approved after X time	Applicant will have no reason to work with city; bad projects go forward	Deemed denied after short time frame to trigger appeal so that process moves	Somewhat concerning (“approved”)
7) Role & accounting of development fees	Put dev. fees in restricted accounts & only use for development services	Won’t account for year- to-year diffs; already do fee studies; how to account for admin costs?	How would this actually result in MIH?	Somewhat concerning (ULCT letter to State Auditor in spring 2022)

Perceived problem: infrastructure, dev. standards, STRS	PRC proposal	ULCT concerns	Possible alternatives	LPC survey results to date (as of Sep 11)
8) Infrastructure: funding	Expand PIDs, seek other financing tools	Must have local gov't approval for new mill levy for PIDs	1) State Infra. Bank (SIB), 2) new revenues due to 462 compliance	Very comfortable on SIB, somewhat comfortable on new \$; very concerning on PIDs
9) Infrastructure: development standards	Consistent infra standards for all public improvements	One size misfits all (soil, geology, connection to other roads, etc.)	Consistent standards for residential roads (base, width, etc.) w/some local flexibility	Very concerning on uniform standards; somewhat comfortable on consistent w/flex
10) Infrastructure: moratorium use	Stop cities from "stacking" moratoriums	Must ensure cities can pause growth for valid reasons (i.e. water shortage)	Clarify intersection of moratoriums and pending ordinances; clarify timing	Not asked
11) Short-term rentals	They see little impact on housing; concerned about more regs on prop. rights	19,000+ STRs (Gardner) impacts housing availability; health, safety, welfare; neighborhoods QOL; equity w/hotels	Clarify local regulatory authority & revenue; clarify state req'ts; ensure compliance w/state & local law	Very comfortable on more reg. authority; very concerning with more STRs in residential zones

Additional survey Qs

Poll Q 1: Local gov't shall rezone to allow for MIH according to their general plan unless there is a “compelling” reason not to do the rezone

Poll Q 2: Modify the role of public input in administrative actions

- could include timing of public input, manner of participation, use of evidentiary hearings, roles of Planning Commission & city council

Poll Q 3: Modify the current “rip cord” in state law to have a narrower time frame for proposals with significant MIH

- Answers: very comfortable, somewhat comfortable, somewhat concerning, very concerning

UEOC Growth and Transportation update

- Alignment subgroup
 - Review of 30ish state programs/policies on shared goals for growth
 - Transportation, economic opportunity, housing, open space, fiscal efficiency, etc.
- Infrastructure subgroup
 - State Infrastructure Bank for water/sewer in addition to roads w/focus on areas lacking infrastructure
- Transportation funding subgroup (alphabetical order)
 - Electric vehicle charging station tax
 - 5th 5th
 - county imposed .20 exclusively for transit that expires in June 2023
 - Motor fuel tax indexing cap
 - Retail delivery fee (Colorado was the first)
 - Road usage charge (RUC) with city participation
 - Transportation utility fee
 - Zero fare transit

Transportation outside of UEOC:

- 1) Railroad crossings
- 2) UDOT's implementation of HB 462 (prioritization for cities that do 2+ add'l menu items)
- 3) State & local coordination on Main Streets

CHA: affordable housing subgroup proposals

- 1) Olene Walking Housing Fund: \$15 million ongoing to fund more projects
- 2) Housing grants: \$15 million for project based grants to take advantage of the Federal Low Income Housing Tax Credits to pay for up to 70% of the cost to acquire/build deeply affordable housing and provide on-site services
- 3) Deeply Affordable Housing Fund: \$150 million in one-time funds
 - Got \$168 million in requests for last year's \$55 million
 - \$55 million = affected 1,078 income restricted units

Commission on Housing Affordability

Members

- a. One senator (**Sen. Lincoln Fillmore**)
- b. Two representatives (**Reps. Steve Waldrip, Joel Briscoe**)
- c. Dept. Workforce Services (**Casey Cameron**)
- d. Division Housing and Community Development (**Christina Oliver**)
- e. Governor's Office of Economic Opportunity (**Kyle Palmer**)
- f. Utah Transit Authority (**Beth Holbrook**)
- g. Utah Housing Corporation (**Dave Damschen**)
- h. State homelessness coordinator (**Wayne Niederhauser**)
- i. Utah Homebuilders Association (**Chris Gamvroulas**)
- j. Utah Association of Realtors (**Mike Ostermiller**)
- k. Public housing authorities (**Janice Kimball**)
- l. ULCT (**Councilmember Tom Macdonald, Andrew Johnston**)
- m. Utah Redevelopment Association (**Danny Walz**)
- n. County of first class (**Mike Gallegos**)
- o. County of the third, fourth, fifth, or sixth class (**Jeffrey Jones**)
- p. Nonprofit housing organization (**Mike Ackerlow**)
- q. Rural Communities (**Matthew Loo**)
- r. Salt Lake Chamber (**Ginger Chinn**)

HB 440 potential next steps

Short-term (September)

- OHS rejected the SL COM plan, so OHS can preempt local zoning per HB 440 to site an overflow facility w/buffers
 - ULCT negotiated buffers into HB 440 based on residential areas, distance to schools, churches, etc.
- **HOWEVER**, if OHS can't find a site that is consistent with the buffers, OHS and legislators are interested in reducing the buffers in a special session in Sep
 - Chance of special session

HB 440 potential next steps

2023 session

- 1) Another homeless resource center?
- 2) Permanent overflow facility?
- 3) SL Coalition prefers a facility in “core cities” (in or adjacent to cities with HRCs), so how do other cities in SL County contribute?
 - Permanent supportive housing?
 - Financial contribution to mitigation fund?
 - Modify mitigation fund formula?
- 4) What is the role/contribution of other counties & cities?

Upcoming Meetings & Reports

- Sep 15 – Justice Court Stakeholder Call – email jlee@ulct.org
- LLL & Utah Foundation Report
- Legislative Audit on TIF, RDA – September 20 @ 1:00 p.m.
Legislative Audit Subcommittee

Future Meeting Topics

- Municipal Vacancies
- Public Noticing
- RAP/ZAP Tax
- Approval Voting
- Liability
- Gravel Pits
- Water
- Paramedics
- Special Service Districts
- Fire Code
- Lemonade Law
- AND MORE!

Upcoming Events

- ULCT Annual Convention – October 5-7
- LPC October 16
- Sign up for Friday Facts weekly email

