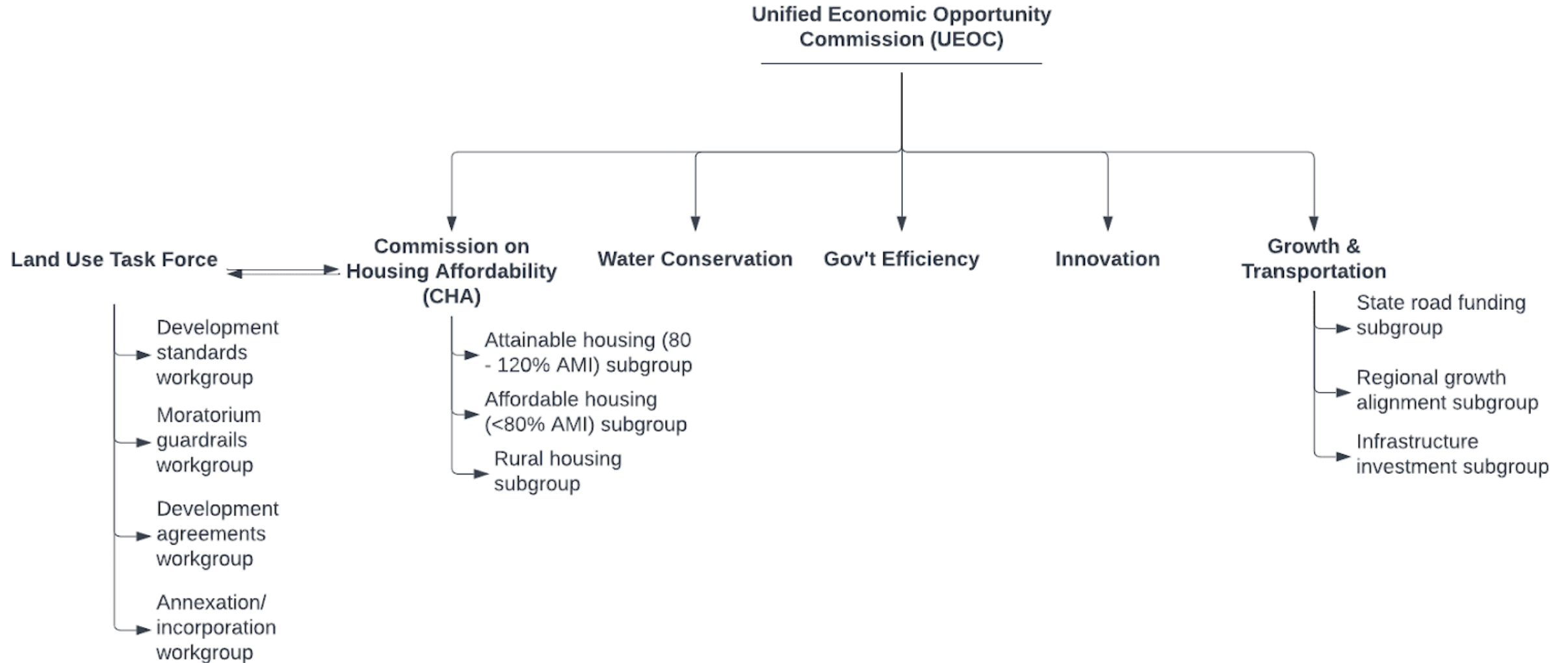


LPC

October 17, 2022



#CITIESWORK



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~~
 - ~~Provide policy direction for upcoming UEOC/CHA/LUTF meetings~~
- ~~Sep 28: UEOC gets recommendations from subgroups, including CHA~~
 - ~~ULCT rep: South Jordan Mayor Dawn Ramsey~~
- ~~TBD in Sep/Oct: CHA, LUTF, and UEOC subgroups~~
- ~~Oct 5-7: ULCT Annual Convention; Board mtg~~
- Oct 17: LPC
- Oct 20: LUTF
- Nov 8: CHA makes final recommendations for 2023
- Nov 22: UEOC makes final recommendations for 2023

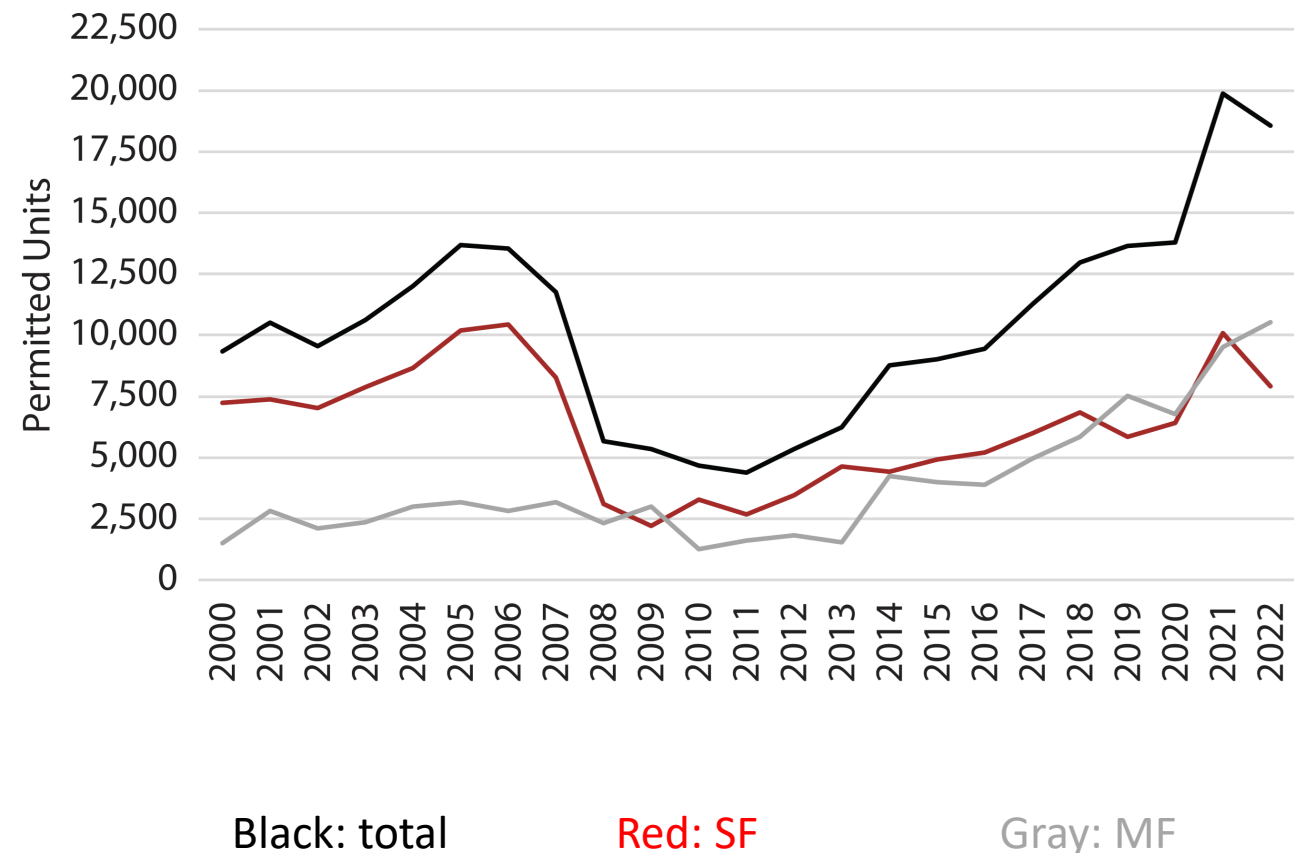
What are state leaders trying to achieve?

- *Sum: perception that local gov'ts stop housing supply for first time homebuyers*
- Gov. Cox: “sleepwalking toward California ... more housing supply” ... good and bold policy on housing
- Speaker Wilson: systemic change ... local gov't bureaucracy is causing the problem ... challenges in getting the right kind of projects entitled”
- Pres. Adams: more small lots, more units for first-time homebuyers
- Sen. Fillmore: local gov'ts prioritize commercial over residential
- HB 462: “methodology for determining whether a local gov't is taking sufficient measures to protect and promote moderate income housing”
 - 75/82 cities to date submitted 2022 HB 462 MIHP reports

Gardner Institute most recent data

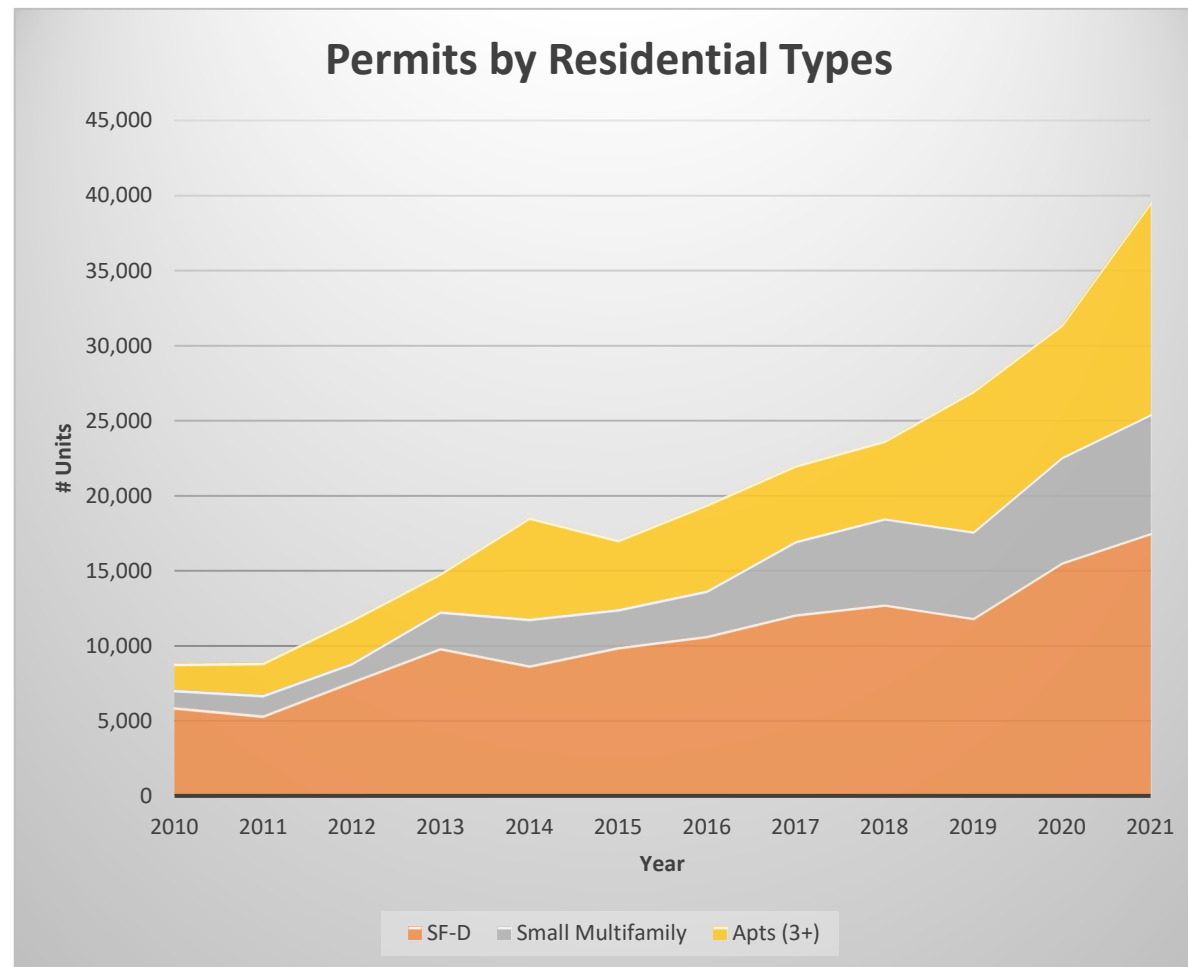
- Housing gap, 2018: 56,000 units
- Housing gap, July 22: 31,000 units
- Summer 2022: decrease in single family housing production
- Single family = 43% of all units, **LOWEST EVER % OF NEW UNITS**
- Townhomes = **MOST EVER IN THIS TIME FRAME**

Figure 2: Permits Issued for Residential Units in Utah, January–June 2000–2022



Data, data, data

- **79/83 cities submitted MIH to DWS as of today**
- **Data is the antidote to anecdotes**
- Active surveys: (city managers)
 - 1) Entitled lots (not just permits)
 - 2) Residential and commercial processing time (Sen. Fillmore)
 - 3) Size of residential lots



ULCT framing questions for CHA

- 1) Will the proposals result in good planning for growth?
- 2) Will the proposals results in more housing units that are actually affordable to the buyer or renter?
- 3) Do the proposals respect the traditional land use planning role of local gov'ts?

CHA slide from Sep 19 (ULCT survey results: green is comfortable, gold is somewhat comfortable, orange is somewhat concerning, red is very concerning)

Topic	Potential consensus	No consensus as of yet
1) Development standards	Residential road cross-section w/local flexibility	“all public improvements”; spelled out processes, shot clocks, etc.
2) Referendum	Higher standard for rezones that facilitate MIH in GP (standard TBD)	Making general plans binding, zoning by-right; “compelling” standard to deny rz
3) Administrative actions	define land use authority process, e.g. modify role of public hearings	Making zoning “administrative”; subsequent appeal standards
4) HB 462 non-compliance	Eligibility for state \$ (e.g. State Infras. Bank); new city \$ (Board ok, Aug 22)	“sticks” like withholding class B&C (Board rejected, Aug 22), award attorneys fees
5) Development fees	None	Separate accounting for dev. fees; only spent on dev. services
6) Econ. dev. incentives	HB 151 model	Any and all incentives
7) Development agreements	Compel decision in timely way	Deemed “approved” after X time; disagreement over actual decision
8) Local land use processes timeliness	Expedited MIH process (maybe)	Shot clocks w/fee refunds after shot clocks expires; expedited rip cord
9) Short term rentals	None	Add’l regulatory authority
10) Maximize MF (condos, smart density)	\$ for parking structures, wood to steel	TBD

Oct 5: need to discuss highlights and vote on direction

#CITIESWORK

Topic	ULCT proposal for UEOC/CHA (survey in colors)	Potential results
1) Development standards	Residential road cross-section w/local flex	Reduce dev. costs, impact on price TBD
2) Legislative authority: referendum	Higher signature level for rezones for MIH	Less referendum risk may facilitate MIH
3) Administrative land use authority (SEE SUBS HANDOUT)	<u>modify land use authority process</u> a) notice, b) public input, c) role of leg. body, d) appeal body, e) standing	Improve local gov't efficiency, predictability for property owner Would be "systemic change" in land use process
4) HB 462 consequences note: DWS data coming, methodology for "sufficient measures for MIH"	<u>A) Tightened rip cord for non-compliant</u> <u>B) 5th 5th for cities; State Infra Bank for MIH</u> i) portion to cities, ii) base on compliance	A) City proactively plans via 462 or reactively plan via tight time frame for leg or admin review of MIHP; B) 5 th 5 th is a "carrot" for compliance
5) Local land use processes timeliness	<u>Expedited MIH process</u> (rip cord? Other TBD); ORPO hosted hotline w/ULCT & PRC reps	State prioritizes housing in local process; trouble shoot problems quickly
6) Economic dev & housing	Follow HB 151 or SAP model	Integrated planning
7) Short-term rentals	<u>Code enforcement clarity</u> , sales tax req'ts	Get STRs convert to long-term housing
8) Property tax	<u>Reduce residential deduction for multifam</u>	Incentivize multifamily in commercial area
9) Fees/state grants	A) Real estate transaction price disclosure B) State grants to reimburse city fees C) Loans from wood to steel; <u>condos</u>	A) Data about actual costs AND prices B) City waives fees for MIH w/state reimb C) Maximize density; owner v. renter

Land use law 101 (from LPC, 9/12)

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

Poll questions (online & in the room)

- 1) What do you think about the concept/principle of a state-mandated time requirement (shot clock) for subdivision review of proposals with a certain threshold of moderate-income housing (threshold % TBD)?
- 2) If a statewide shot clock were proposed for subdivisions with a moderate-income housing component, what would be the fewest number of business days which would be appropriate for your city?
- 3) How do you feel about the concept/principle of clarifying that the local legislative body cannot function as an appeal authority with some exceptions (i.e., small communities)?

Other Annual ideas to reduce housing prices (what local gov't can actually influence)

- Fees

- Refund some impact fees to actual buyers after X years
- State reimbursement for local fee reduction for MIH

- Process

- Limit on number of pre-application mtgs
- Templates for ordinances
 - Water wise landscaping
- Require stating on agendas what is administrative & legislative
- Reduce the 12 month period for similar re-applications
 - Moderate income housing proposal only?

Other land use

- Annexation re-codification
 - Technical updates
 - Potential policy changes
- “gut check” panel of ULCT, UAC, & Property Rights land use experts
 - Nominate attorneys via keilers@ulct.org
- Public assets inventory
- UEOC: Developer infrastructure districts (DIDs)
- ULUI & Envision Utah
 - Outreach to community leaders
 - Ordinance review

- Home Builders Assoc. dialogue
 - Communication between builders & local gov'ts
 - Consistent expectations
 - HBA asked cities to seek candid feedback, “fear of being black balled”
 - General complaint list about cities
 - Sometimes city at fault, sometimes not
 - Northern UT HBA asked:
 - Builders tracking inspections, timing
 - Cities tracking pain points w/developers

Homelessness next steps

Background:

- Large shelter cities
 - Ogden
 - Salt Lake
 - South Salt Lake
 - Midvale
 - St. George
- Small shelter cities
 - Logan
 - Tooele*
 - Richfield
 - Cedar City
- Overflow cities
 - Millcreek
 - Flexing shelters (see above)

Interim Policy Topics:

1. Seasonal Overflow
 - SLCo seasonal overflow
2. Permanent Supportive Housing (PSH)
 - Need better data on existing PSH
3. Mitigation fund
 - \$5 million of state money
 - ~\$5.7 million of city money in 2022
 - Shelter cities expenses are still higher than available funds
 - Potential increase in local contributions?
 - Recognition of PSH in the formula?

Assembling workgroup. Submit nominations to Molly (mwheeler@ulct.org).

Upcoming Issues – TIF Audit

- TIF Audit



KEY FINDINGS

- ✓ Five of the ten project areas that we sampled had significant fund balances, with millions in unexpended TIF funds.
- ✓ TIF project areas have varying levels of analyses. Most of the sampled project areas provided either blight analyses or benefit analyses. While these analyses are helpful in determining the presence of health/social problems and identifying the nature of investment, they do not adequately justify the use of TIF funds.
- ✓ Even though all agencies in our sample complied with the statutory requirement of establishing project area plans, none of the ten agencies were able to show evidence that project area plan objectives had been tracked. Furthermore, only four agencies were able to provide evidence that developer objectives had been tracked.



RECOMMENDATIONS

We recommend that the Legislature consider revising statute:

- ✓ To include guidance on managing unexpended TIF funds once a collection period expires.
- ✓ To require local governments to make financial information such as receipts, expenditures, account balances, and fund transfers publicly available for each project area.
- ✓ To require local governments to conduct a robust justification study known as a “but for” analysis that adequately justifies the use of TIF funds.

Contact ULCT executive team & key dates

Cameron Diehl (Exec. Dir.):
cdiehl@ulct.org

Justin Lee (Dir. Of Gov't
Relations): jlee@ulct.org

Oct. 17: LPC

Oct. 19: legislative interim

Oct 20: Land Use Task Force

Nov. 8: Commission on Housing Affordability

Nov. 14: LPC, Board meeting

Nov. 16: final legislative interim

Nov. 22 (for now): UEOC

Dec. 14: LPC, Board meeting

Jan. 17: 2023 session begins; LPC will start Jan. 24

Jan. 18: Local Officials Day

Land use law 101 (from LPC, 9/12)

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*)

Perceived problem: planning, zoning, public clamor, 462	PRC proposal	ULCT concerns	Possible alternatives	LPC survey results to date (Sep 12)
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	<i>i.e. shall rezone for significant MIH unless “compelling” reason?</i>	In-person LPC: somewhat concerning
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?	In-person LPC: Somewhat comfortable
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 12)
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 LPC in person on rip: 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 12)
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

Potential land use poll questions

Timing:

- Shot clocks for all subdivisions?
- Shot clocks for simple subdivisions?
- Shot clocks for subdivisions that have a certain threshold of moderate income housing?
 - 90 days and threshold
- Shot clocks for subdivisions based on size of city/other factors?
- Shot clocks for review of proposal with certain threshold of MIH? (not just subdivisions)

Appeals:

- Should the leg body act as the appeal authority?
- Should we modify who has standing to bring a land use appeal?

HB 462 non-compliance consequences:

- Statutory time frames for considering land use applications or rezone petitions for MIH? “reasonable period of time” in the rip cord
- Default zoning outcome during period of non-compliance?
 - State density bonus of 2 MIH units per acre?
 - Preempt legislative authority, but cities either proactively plan or plan reactively
- Pay into a housing mitigation fund?