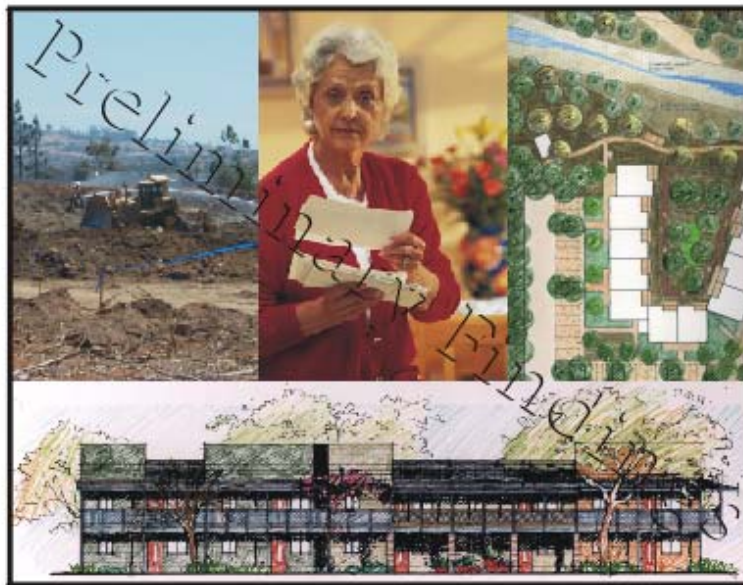


# THE ECONOMIC IMPACT OF REGULATION: 2



*The Case of Brookview Village  
Very Low Income Senior Citizen Housing  
Poway, California*

## Introduction

In September 1999, the Building Industry Association of San Diego County released the first in a series of reports examining the consequences of the regulatory process to the cost of housing. The Economic Impact of Regulation: The Case of the “Smith Family House”- Carlsbad, California traces a fictional family’s home through the development review process in an affluent community in the coastal area of northern San Diego County.

Coincidentally, the name Smith is prominent in this second study of regulatory costs associated with the development of Brookview Village, an affordable housing project that is currently being built for senior citizens in the City of Poway. Mrs. Aleen Smith was one of two women whose complaint that they could not find affordable housing in Poway resulted in a lawsuit against the City by the Legal Aid Society a decade ago. In 1991, a Legal Aid Society lawyer described Poway as “an environment that has become increasingly hostile to those with limited means”. Mrs. Smith sadly passed away several years before the state appeals court ruled that Poway was not complying with a state law requiring that 20 percent of the tax money generated by its redevelopment agency be reserved for low- and moderate-income housing. The money was being set aside but then improperly diverted for other purposes, such as street and sidewalk improvements.

Since the court’s intervention, the City of Poway has become a model for the many communities that are struggling to find a solution to the immense and complex problem of solving the affordable housing crisis. A recent editorial of the San Diego Union-Tribune lauded the City of Poway’s efforts to fill the growing need for affordable housing citing the City’s decision to purchase a vacant lot and seven homes and replace them with 90 apartments for low and moderate-income families. “Aleen Smith probably would have cheered, had she still been alive, at the Poway City Council’s decision to allocate some \$2.5 million to buy property that will be developed into affordable housing.”

In the past several decades, there appears to be a resigned acknowledgement that a housing crisis exists that affects every region in the country and touches all racial, ethnic and age groups, whether they live in urban or rural areas. Although Federal, State and local governments try desperately to attack the problem in many different ways, the evidence suggests the housing crisis is escalating despite a growing economy.

Addressing the housing crisis in any meaningful way will likely require a singleness of purpose aligning the goals and actions of the many participants that affect housing affordability. The purpose of this report is to examine the economic effects of the regulatory process on a particular affordable housing project. California State law requires that every County and City Housing Element include:

“An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis should also demonstrate local efforts to remove governmental constraints that

hinder the locality from meeting its share of regional housing needs...”

Has the regulatory process either directly or indirectly increased the amount that senior citizens, with very low household incomes, will be paying for rent to live in Brookview Village? Did the City and/or Federal government act in a manner that at times contradicted the primary objective of providing affordable housing? Did City regulations limit the availability of affordable housing?

## **Findings**

The following represent preliminary findings of the study. A final study will be available in July 2000.

### General

1. In the past several decades, there appears to be a resigned acknowledgement that a housing crisis exists that affects every region in the country and touches all racial, ethnic and age groups, whether they live in urban or rural areas. Although Federal, State and local governments try desperately to attack the problem in many different ways, the evidence suggests the housing crisis is escalating despite a growing economy.
2. California State laws recognize that governmentally created impediments to the affordability of housing at all levels should be removed. Land use controls, building codes and their enforcement, site improvements, fees, development exactions, and local processing and permit procedures can diminish the supply and cost of housing.

### Dimensions of the California Housing Crisis

3. Locked Out: California's Affordable Housing Crisis, a May 2000 study prepared by the California Budget Project (CBP), notes the “strong economy has exacerbated the state’s housing problems.” California housing prices are almost 90% higher than the national average. The state’s homeownership rate is the second lowest in the nation. Less than one out of twenty new homes sold in 1999 was affordable to household incomes at or below the median for California renter households.
4. California renters, who account for 43% of all households, face the greatest affordability challenge. In 1997, nearly a quarter of all renter households in the state’s metropolitan areas spent more than half of their incomes on rent. The low-income renter is hardest hit in a tight market. Nearly two-thirds of low-income renters paid more than half of their income for housing in 1997, and 86% spent over the recommended 30 percent of their income toward housing.
5. According to a recent study released by the National Association of Home Builders, San Diego County presently ranks eighth on the list of least-affordable housing markets in the nation. The homeownership rate of 56% in San Diego lags far behind the national rate of

67%. Only one-third (33%) of San Diego households can afford to buy a median-priced home, compared to 55% nationally.

6. The vacancy rate within San Diego County for apartments, which reached almost 9% in the late 1980's, has dropped to .85-2.0%. A 5 to 6 percent vacancy rate is considered healthy. Low-income renters outnumber low-cost rental units by a ratio of 2:1. Forty-five percent (45%) of all renters in San Diego cannot afford fair-market rent on a two-bedroom apartment.

### City of Poway Profile

7. Incorporated in 1980, Poway is strategically located in the middle of San Diego County, approximately 20 miles northeast of downtown. Poway offers convenient freeway access to Riverside, Orange and Los Angeles County, as well as Mexico. It has been described as a family-oriented community with a population nearing 50,000 and a land area of 39.1 square miles. The Poway Unified School District has received many national and state honors. "The City in the Country" reflects Poway's status as having the lowest population density of the 18 incorporated cities.
8. Poway has the highest percentage (81%) of owner-occupied housing in the County. As noted, the average selling price of a single-family home in 1999 was approximately \$225,000. In the first quarter of 2000, the median selling price for a single-family home sold in Poway was \$360,000. Prices of the 55 homes that were sold ranged from \$193,000 to over \$2,000,000. The ability of Poway residents to afford higher priced housing is reflected in their status as the city having the third highest median household in the County.
9. In 1983, the Poway City Council established the 8,200-acre Paguay Redevelopment Project Area to eliminate or mitigate blight within the project area. One of the fundamental purposes of redevelopment is to increase, improve, and preserve the community's supply of low- and moderate-income housing. State law requires that at least 20% percent of tax increment revenue collected by a redevelopment agency must be expended to increase, improve and/or preserve the supply of low-and moderate-income housing in the community.
10. Nearly a decade ago, litigation was filed against the City of Poway for not complying with redevelopment laws requiring expenditures for low- and moderate-income housing. Under the terms of a settlement, the City has become a recognized as a model for other communities because of their many efforts. The Agency is expected to have over \$29 million dollars available for its affordable housing program from July 1999 to June 2004.

### Brookview Village History

11. On June 17, 1994, the Redevelopment Agency purchased a 6.7-acre site for the specific purpose of developing an affordable housing complex for households with low- and moderate-incomes. The City incurred \$1,159,330 in costs associated with the acquisition

of the property including \$1,130,000 for the land. Nearly four years later, the Redevelopment Agency selected Brookview Senior Housing Partners as the most qualified development team for the site. The principal team member of the preferred group was the San Diego Interfaith Housing Foundation (SDIHF), a local nonprofit organization comprised of a coalition of eight religious groups.

12. On February 9, 1999, the Poway City Council approved a proposal to construct a 102-dwelling unit project for low-income senior citizens known as Brookview Village. The 84 one-bedroom and 18 two-bedroom units will satisfy the housing needs of senior citizens with very low household incomes (20%-50% of Area Median Income) or a maximum of \$21,000 for two people. Monthly rental prices will be starting at \$195.00 including utilities.
13. The City Redevelopment Agency made several significant financial contributions to Brookview Village. The property is subject to a 55-year ground lease to the developer for \$1.00. Low and no-interest loans, which were provided by the City, acted as seed money for SDIHF to obtain additional public funds, as well as private financing through the use of Federal and State tax credits.

#### Regulatory Impacts

14. Aspects of the City's regulatory process, particularly fees charged by Poway, will have less positive economic consequences for the project. California cities charge the largest number and highest amount of fees in the country. The pass-through of government fees to renters can add a burden and limit the ability to provide affordable units.
15. Poway's currently adopted Housing Element indicates, "City fees should be reviewed to determine if waiver or subsidy by the City may be beneficial for the provision of affordable housing." In the instance of Brookview Village, the City did not offer to waive, reduce or defer their fees. Fees were a significant part of the overall costs of Brookview Village, accounting for \$920,910 or almost 7.5% of total project costs of \$12,276,833. A proposed amendment to the Housing Element deletes references concerning the possibility of the City waiving or decreasing fees based on the premise that Poway's fees are commensurate with other communities. The proposed revision only suggests the City will continue "where possible and appropriate" to introduce measures to remove constraints to the development of housing.
16. Development impact fees enable local government to shift at least part of the capital-financing burden to new development and coordinate the needs/timing of new development with infrastructure. A reduction or elimination of several fees for Brookview Village, as an affordable project, may have been appropriate.
  - Park Fees: The project was required by the City to pay \$214,200 for park fees. Demand for city parks from the project should be minimal. Brookview Village includes age-appropriate, onsite recreational facilities, and passive trails. Senior

citizens, in general, do not place as much demand for recreational facilities as adults and family households.

- **Traffic Fees:** Circulation studies forecast that Brookview Village will generate only 408 trips per day, or less than 2% of the traffic on Pomerado Road. Senior citizens living along a transit corridor produce less traffic than a typical multifamily project. Brookview Village was assessed a full traffic mitigation fee of \$67,320 by the City despite having redevelopment funds designated for improvements within the Pomerado Road corridor. The project was neither relieved nor given credit for making frontage improvements to Pomerado Road (\$189,289), or installing a traffic signal (\$139,000) at the intersection of Pomerado and Robison Boulevard. While both improvements are directly related to the project, their completion also benefits the larger community.
  - **Drainage Fees:** Brookview Village was assessed \$122,400 to correct deficiencies in the City drainage system. The project sponsor, however, spent another \$722,000 to create a naturalized flood control channel including environmental mitigation. While the naturalized channel will act as an amenity, it will also require ongoing maintenance. A condition of approval of the project requires establishment of a creek maintenance reserve account for periodic desilting, maintenance of plant materials, and an emergency reserve for tree removals that may be needed during years with high precipitation. It is estimated the annual cost per dwelling unit is \$36.00, which is equivalent to a monthly utility payment for a senior citizen living on a limited income. Most City residents do not pay a separate fee for this service.
  - **School Fees:** The Poway Unified School District reduced per square foot fees for Brookview Village to a commercial rate because the project will be restricted to senior citizens. The district does not provide a comparable reduction of school fees for projects simply because they are affordable. According to district staff, a reduction for affordable units is not provided because the Poway Unified School District would not be compensated for the loss.
17. The City of Poway's Fire Department required an upgraded commercial sprinkler system for Brookview Village rather than the residential sprinkler system typically used for multifamily projects. Application of the higher commercial standard increased the cost of the project by approximately \$91,200.
18. The State mandates the use of a density bonus and other incentives to encourage the development of affordable housing. Incentives include reducing site development standards, modifying zoning code or architectural design requirements such as setbacks, lot coverage, ratio of parking spaces, and other mutually agreed upon changes.
- **Density Bonus:** The City uses an Affordable Housing Overlay (AH) to function like a density bonus except the increased density is not determined by a fixed percentage but rather on a site-specific basis under the specific plan process. The Housing Element notes that, "Additional densities allowed will exceed the traditional 25 percent, in many cases, by a great deal."

The appraisal of the Brookview Village site prepared for the City calculated the potential yield for the site. “After required dedications for public right-of-way and open-space needs, the subject property will exhibit a net usable area of approximately 5.52 acres. Based upon a density of 25 units per acre, the anticipated yield is estimated to be 138 units.” Although the approved specific plan permits a density of up to 25 units with application of the “density bonus” available through the application of the AH Overlay, Brookview Village was limited to 102 dwelling units. The resulting net density of 18.5 dwelling unit per acres is: (1) a 25% reduction from the maximum theoretical density and (2) falls short of the maximum density (20 dwelling unit per acre) allowed by city zoning without a bonus.

- **Parking:** Although the City provided a reduction in parking standards, a minor additional decrease would have allowed for the development of 10 additional dwelling units.
- **Height Limitations:** Although the buildings could have been cost effectively expanded to three stories, the City’s zoning ordinance and possible neighborhood concerns made this option infeasible. The 138 dwelling unit project described in the appraisal report could have been achieved with the addition of third stories and reduced parking.
- **Creek Design:** A naturalized channel is typically preferred to a concrete-lined box channel when either significant environmental species are present or for aesthetic reasons. Although no significant resources were present on the Brookview Village site, the alternative of a concrete-lined box channel was never seriously considered because of potential opposition from permitting agencies and the City. No plant species listed as threatened, endangered, rare or otherwise sensitive by the U.S. Fish and Wildlife Service, California Department of Fish and Game, or California Native Plant Species were observed or expected onsite. Similarly, no animal species listed as threatened, endangered, rare or otherwise sensitive by the USFWS or CDFG were detected or expected.

The drainage channel will be engineered so as to handle water at 2,000 cubic feet per second peak flows. In addition, mitigation of temporary direct impacts will be performed onsite at a ratio of 2:1 acres. A number of engineering and environmental mitigation measures will increase the depth and width of the 700-lineal-foot drainage channel. Specific improvements to the drainage channel will include installation of concrete box culverts on the drainage channel site entrance and exit, armorflex concrete retaining linings on the drainage channel banks, riprap, boulders, and creek maintenance access road. In addition, freshwater marsh, southern willow scrub and sycamore woodland will be created onsite to mitigate the temporary direct impacts associated with improving the drainage channel to satisfy USFWS and CDFG requirements.

A concrete-lined channel would have offered several benefits. The cost of an eight-foot high concrete-lined channel is estimated to be approximately \$450,000 or \$272,000

less than the naturalized channel. This estimate excludes the cost of environmental mitigation. Creating a naturalized channel also results in a loss of potentially developable land. If a concrete-lined alternative was used in combination with reduced parking standards, the project could have potentially accommodated 123 dwelling units.

19. A primary concern for the suppliers of market rate housing is the amount of time necessary to secure approvals to proceed with development. Every month of review time affects housing affordability because of additional financing costs, property taxes and administrative overhead. The economic consequences of processing delays for Brookview Village were essentially a non-issue because most pre-development costs were covered by a no-interest loan extended by the Redevelopment Agency. The San Diego Interfaith Housing Foundation characterized the City of Poway as “extremely helpful and cooperative” during the two-month entitlement review process.
20. Although less than one quarter of an acre of land, within the jurisdiction of the Army Corps of Engineers, was proposed for disturbance, and no endangered or threatened species were involved, review of the permit by the Federal government lagged. Nearly nine months after submittal, the application had still not been reviewed. On November 11, 1999, the President of San Diego Interfaith Housing Foundation sent a letter to Senator Barbara Boxer enlisting her assistance to prompt the ACOE to review their proposal. The federal permit eventually became effective on January 19, 2000, nearly 11 months after submittal. The inaction of the ACOE had several implications. According to the San Diego Interfaith Housing Foundation, the delay in receiving federal permits jeopardized the project because it was a source of great concern to the private financing partner. The developer also paid consultants during this time from their own line of credit. The cost of the delay is estimated to be approximately \$10,000 in finance carry.