Reform Opportunity Zones

Background

The 2017 Tax Cuts and Jobs Act created a community development tool to encourage private investment in economically distressed areas. The program provides tax benefits for investing in so-called Qualified Opportunity Zones (OZs). The Department of Treasury administers the program, and recently proposed regulations and issued guidance for its implementation. Notably, OZ investments bear no requirement to produce a public benefit for existing members of the community.

To date, Treasury has designated more than 8,700 census tracts as OZs. Thirty-five million Americans live in these OZs. And more than 2 million are tenants in HUD-assisted housing for low-income and very-low income families.

Risks

The previous administration did not apply thoughtful guardrails to the program, and any investments that have been made in the current Opportunity Zone structure will effectively subsidize the displacement of low-income families without significant reforms. Historically, renewal programs have displaced low-income individuals and families and had disproportionate impacts on marginalized communities and people of color. By design, the OZ program continues this pattern. Longtime residents of designated OZs are likely to be priced out of their communities when faced with rising housing costs that result from new investments. Already, OZ designation has increased property values in tight housing markets by more than 20 percent.

Additionally, while the program designates a wide range of urban, suburban, and rural communities as OZs, investors are pouring resources into communities where there is significant demand for commercial real estate development and the high-end housing that accompanies this expansion. The investments in these high-return areas demonstrate that investors are neglecting the more severely disinvested urban and rural OZs, diminishing the overall effectiveness of the program and contradicting its stated goals.

The program did not establish performance standards or metrics for evaluating the economic benefits of OZ investments to communities and residents. Nor did it require tracking of affordability, displacement, or disparate impacts. Metrics and performance standards are necessary to monitor unintended consequences of the program, and protect current residents of OZs.

Finally, OZs currently exacerbate programmatic challenges in federally-assisted programs. For example, voucher families will find it increasingly difficult to use their vouchers in OZs. New investments in these communities will raise property values and may lead OZ landlords who previously participated in the voucher program to begin to refuse vouchers because they can get more for rent in the private market. Increased property values will also incentivize demolition of essential public housing. Demolition and disposition of remaining public housing units disproportionately affects people of color, the elderly, and children. Owners of HUD-assisted multifamily properties will also have incentives to exit HUD programs.

Recommendations

In order to protect current residents in OZ communities and preserve affordability and HUD assistance, NHLP recommends the following:

Implement programmatic improvements and changes for subsidies.

- Prohibit source of income discrimination at the federal level
- Incentivize the use of discretionary Public Housing Authority policies to increase voucher success and utilization rates within OZs
- Revise the FMR calculation methodology so that rental assistance more adequately reflects market rents
- Create new incentives for landlord participation in the voucher and project-based rental assistance programs within OZs
- Improve collaboration between federal, state, and local government agencies who monitor the conditions in residential rental properties
- Streamline Tenant Protection Vouchers and Enhanced Vouchers processes

Increase HUD oversight and enforcement.

- Center tenant rights in federally-assisted properties
- Ensure that preservation strategies are seriously considered prior to demolition or disposition of public housing properties
- Enforce HUD's Section 3 requirements to ensure low-income families benefit from OZ investments
- Improve agencies' oversight and enforcement of physical condition standards federally-assisted properties

Establish metrics and performance standards.

- Reinstate the Affirmatively Further Fair Housing plans and tools to measure and prevent disparate impact of OZ investments on communities of color, families with children, and persons with disabilities
- Collect and make data on OZ investments' impact on communities and residents – in particular, track any change in demographics of assisted-families, displacement of assisted-families from OZs, and preservation of housing affordability in OZs – publicly available

Leverage federal resources.

- Pair HUD assistance programs with tax credits to make new housing developments affordable to extremely low-income families in OZs
- Incentivize private investments for renovating public housing properties through the Rental Assistance Demonstration (RAD) program in OZs
- Develop new Public Housing properties in OZs, and provide new housing assistance payment contracts to increase the number of project-based rental assistance properties in OZs
- Develop a strategy to preserve public housing that cannot be converted under RAD and to prevent demolition or disposition under Section 18
- Incentivize permitted transfers of project-based rental assistance to properties in OZs

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