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Casey Dawkins  
dawkins1@umd.edu

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## THE ENIGMA OF HOUSING CHOICE

Casey J. Dawkins\*

### ABSTRACT

The U.S. faces a housing choice crisis. The growing shortage of affordable rental homes and looming mismatch between the homes offered for sale by baby boomers and the homes sought by the next generation of homeowners point to a need to fundamentally reshape the extent and diversity of the nation's housing options. Housing and land-use policy experts have appealed to the aim of expanding housing choice to justify the removal of regulatory restrictions on certain housing types, the construction of affordable rental housing in transit-adjacent neighborhoods, the elimination of housing market discrimination on the basis of race and ethnicity, and the expansion of tenant-based rental vouchers in low-poverty neighborhoods.

Housing choice expansion is a battle being waged on multiple fronts in defense of a variety of causes, but conceptual confusion threatens to erode the foundation of this fragile alliance. This paper brings clarity to the cause by exploring the concept of housing choice, evaluating the normative arguments in favor of expanding housing choice, and proposing a refined conception of the goal to expand housing choice. I defend a conception of housing choice expansion that prioritizes effective housing choice and tenure and type neutrality. This conception provides a justification for several policy reforms, including an expanded demand-side housing subsidy funded by eliminating homeownership tax incentives, enhancements to renters' rights of occupancy, expansion of flexible tenure arrangements, and reform of local land-use practices.

### INTRODUCTION

U.S. housing policy advocates and scholars have recently called attention to the nation's growing shortage of affordable homes and failure of housing markets to adequately meet the needs of housing consumers. New housing construction has barely kept pace with household growth in the wake of the 2007 mortgage crisis. Since 2011, the number of affordably priced rental homes has declined by four million units, producing a net shortage of seven million rental units that are affordable to extremely low-income households (Joint Center for Housing Studies of Harvard University 2019; Aurand et al. 2020; Dawkins 2021). Arthur C. Nelson,

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\* Professor, University of Maryland Urban Studies and Planning Program

the inspiration for this Festschrift issue of the *Journal of Comparative Urban Law and Policy*, has devoted his career to reshaping the nation's built environment to adequately house future generations. In his projections of future housing demand to the year 2040, Nelson (2020) shows that to adequately house the growing and diversifying U.S. population, the nation's housing stock will need to be significantly retooled to house an additional 26 million households seeking to downsize to smaller homes between 2010 and 2040.

In response to these trends, housing and land-use policy experts call attention to the need to “expand housing choice.” For example, the Smart Growth Network, a partnership between the Environmental Protection Agency and various public and private organizations, cites the goal of creating a “range of housing opportunities and choices” among its list of ten smart growth principles (Smart Growth Network 2015). For smart growth advocates, expanding housing choice means encouraging the construction of attached and multifamily housing units in areas well-served by urban infrastructure. Others understand the expansion of housing choice in terms of the enhancement of opportunities to live in racially and ethnically integrated neighborhoods. Xavier Briggs (2005, 331), a proponent of this view, asserts that “expanding housing choice is a linchpin for any agenda to ensure equal opportunity and reduce inequality in a more and more diverse society.” Edward Goetz (2015, 839) calls upon housing policymakers to commit to “the pursuit of greater choice for people of color and people of limited means” but argues that this aspatial goal should take priority over the goal of trying to promote residential integration. These examples suggest that not only do housing and land-use policy experts not agree on what expanded housing choice means, but they also appeal to different normative frameworks to tackle the moral quandary of why expanded housing choice matters.

This paper explores the concept of housing choice, evaluates the normative arguments in favor of expanding housing choice, and proposes a refined conception of the goal to expand housing choice. I conclude that the goal of expanding housing choice is ambiguous without further elaboration. The goal can be interpreted in terms of many different dimensions of housing choice, and the moral arguments in favor of choice expansion often conflict with one another. I present the case for a conception of housing choice expansion that prioritizes effective housing choice and tenure and type neutrality and explore policy reforms that are consistent with this conception.

### **THE DIMENSIONS OF HOUSING CHOICE**

To understand the myriad interpretations of housing choice expansion, it is useful to begin with an examination of a simple model of housing choice. Richard Muth's (1969) monocentric model of intraurban location provides a stylized framework that helps to illustrate the various dimensions of housing choice:

$$\text{Max } U(X, H(z)) \text{ s.t. } Y = P_x X + P_h H(z), T = e(d) + td$$

In this equation, households maximize utility ( $U$ ) – where utility is a function that expresses the well-being that households receive from the consumption of housing ( $H(z)$ ) and other goods ( $X$ ) – by choosing a residential location that is a given distance ( $d$ ) from the central business district. The household faces a household budget constraint ( $Y = P_x X + P_h H(z)$ ) and a time constraint ( $T = e(d) + td$ ). The budget constraint says that all income ( $Y$ ) is spent on housing ( $H(z)$ ) and other goods ( $X$ ), at prices of  $P_h$  for housing and  $P_x$  for other goods. The time constraint says that all time is consumed by leisure ( $e(d)$ ) and commuting, which is equal to the time cost of travel ( $t$ ) times distance ( $d$ ) to the central business district. Housing is a multidimensional good that is represented in terms of a vector of attributes ( $z$ ) that include structure types, local amenities and public goods, and distance to the central business district.

This simple housing choice problem illustrates that policymakers can influence the extent of housing choice in a variety of ways. Policies that increase  $Y$  or reduce  $P_h$  expand housing choice by expanding the capacity of households to rent or purchase the homes that they prefer. Among housing policymakers, there is some debate over the question of whether affordable housing policy should focus narrowly on assisting those earning the lowest incomes versus expanding affordability for a broad range of households. Smart growth policy advocates tend to side with those who call for this broader emphasis, as reflected in the Smart Growth Network’s (2015) goal to provide “quality housing for people of all income levels.”

The goal of expanding housing choice is also a goal of land-use policy reformers who seek to adjust zoning and subdivision regulations to shape the characteristics of the housing stock (the elements of the vector  $z$ ). Smart growth advocates often call for policy reforms that promote multifamily living arrangements, attached dwelling units, high-density apartments, and accessory dwelling units. This policy priority stems from smart growth advocates’ desire to offer alternatives to the suburban large-lot single-family detached homes that have dominated the U.S. residential landscape since World War II (Duany, Plater-Zyberk, and Speck 2010).

In Muth’s (1969) monocentric model of housing choice, the geography of residential location choice is represented by the household’s chosen distance ( $d$ ) from the central business district. In equilibrium, the savings in housing costs from moving one mile away from the central business district are exactly offset by an increase in commuting costs. This produces a particular spatial pattern where housing prices decline with distance from the central business district. Transportation infrastructure investments that reduce commuting costs citywide lead to an outward expansion of the city because households are willing to pay more

to live in distant locations. Land-use policies may disrupt these outcomes by altering the supply of land available for the construction of different housing types at different distances from the central business district (Nelson 1986).

Affordable housing policies targeted to particular geographic areas may also shape the geography of housing choice. For example, the U.S. Department of Housing and Urban Development's Moving to Opportunity demonstration initiative expanded the number of tenant-based rental subsidies awarded to low-income households in selected cities, but these subsidies could only be used to rent housing in low-poverty neighborhoods (Goering and Feins 2003). Similarly, the Low-Income Housing Tax Credit housing production subsidy includes a variety of federal tax incentives that overlap with state incentives to shape the geographic pattern of low-income housing production (Dawkins 2013). Many debates around housing choice address the question of *where* housing choices should be expanded and how regulatory and subsidy policies should be designed to shape the geography of housing choice.

#### **THE MORAL FOUNDATIONS OF HOUSING CHOICE**

As revealed by the discussion in the previous section, the aim of expanding housing choice has many possible interpretations, depending on which elements of the housing choice set policymakers seek to expand and which policy levers are pushed. Regardless of whether housing choice is understood in terms of housing affordability, housing type, or housing in particular locations, arguments justifying the expansion of housing choice often appeal, implicitly or explicitly, to a variety of different normative arguments about the proper role of government vis-à-vis private choices. These arguments, in turn, point to different distributional ideals of housing choices and housing choice attributes. This section compares and contrasts seven different moral frameworks that underlie the different interpretations of housing choice expansion espoused by housing and land-use practitioners.

##### ***Utilitarian Choice***

The housing choice model sketched in the previous section forms the basis for the standard utilitarian model of housing choice. The limitations of this model provide points of departure for the remaining housing choice frameworks examined in the remainder of this section. According to the utilitarian framework, the value of a choice lies in its beneficial consequences for an individual's well-being, and the goal of policy should be to maximize the sum of these beneficial consequences across the population. In equilibrium, households' marginal rate of substitution between housing and other goods is equal to the ratio of the housing unit's price to the price of other goods. The law of diminishing marginal utility implies that a more equal distribution of housing is more likely to maximize aggregate utility than a

highly unequal distribution, but equality of choice has no intrinsic value other than as a means to maximize utility (Dawkins 2021).

One important limitation of utilitarianism is that it licenses morally objectionable tradeoffs to increase aggregate utility. If aggregate utility reaches its maximum only when some go homeless, the utilitarian has no complaint with this outcome. When exercising housing choice, households also incur considerable costs that are often ignored by the standard utilitarian model of household choice. Moving is time-consuming and costly, and home purchases require expensive home inspections, appraisals, and legal expertise. Homebuyers must also spend time evaluating mortgage financing options. If these costs are large enough, some potentially beneficial housing options will remain unchosen and some pareto efficient exchanges will go unrealized (Dawkins 2021). Another implication of moving and transaction costs is that households become more likely to adjust housing consumption only when faced with large, unavoidable changes in household circumstances.

Many have proposed modified versions of utilitarianism that respond to one or more of these objections. Moving and transaction costs can be easily addressed by incorporating these costs into the household's utility maximization problem. Others have proposed modified versions of utilitarianism that weight utility functions to emphasize egalitarian objectives. Prioritarianism is one alternative to utilitarianism that gives precedence to the concerns of those with the greatest needs. According to this perspective, those who enjoy the least utility should receive the highest weight in the utility maximization calculus (Arneson 2000). Another reason to employ an appropriately weighted aggregate utility function is that housing is a positional good, which implies that its relative value is at least as important as its absolute value. Due to the positionality of housing, households often overconsume housing to signal social status and "keep up with the Joneses" (Dawkins 2017; Dawkins 2021).

Not all objections to utilitarianism can be addressed through better cost accounting and utility weights. If equality, a comparative and relational ideal, has intrinsic value, this value will be ignored by any perspective that understands value in terms of the aggregation of consequences. For example, Ronald Dworkin (1977) objects to utilitarianism because it considers individuals' "external preferences" over others' access to society's resources. John Rawls (1971) makes a similar argument, objecting to utilitarianism because it considers "offensive tastes" for discrimination against others. If people of color face constrained housing options due to white households' aversion to living in racially integrated neighborhoods, the standard utilitarian framework offers no objection this injustice unless it reduces the sum of aggregate utility. The remaining perspectives depart from utilitarianism

to address more fundamental questions about choice that are not easily addressed within the utilitarian framework.

### ***Expanding the Diversity of Choice***

Smart growth policy guides often refer to the goal of expanding the diversity of housing choice. For example, the Ahwahnee Principles, which many credit for catalyzing the smart growth movement in the early 1990s, assert, “A community should contain a diversity of housing types to enable citizens from a wide range of economic levels and age groups to live within its boundaries” (Local Government Commission 1991). In terms of the monocentric model of housing choice, diversification of housing choice is equivalent to maximizing the diversity of observable housing attributes ( $z$ ) across the spectrum of housing options that housing consumers face.

Value pluralism provides one argument in support of housing choice diversification. According to Isaiah Berlin (1971, 169), “the ends of men are many, and not all of them are in principle compatible with each other.” Individuals and families seek housing for a variety of different reasons, including comfort, privacy, safety, aesthetics, and social affiliation. For many, housing not only produces these and other beneficial consequences, but it also provides a platform for the cultivation of life plans that are grounded in a comprehensive conception of the good life. Furthermore, American households come from a variety of different social and economic backgrounds, cultures, and religious traditions that value the home in different ways. The physical heterogeneity of the housing stock increases the likelihood that each house will be valued differently by those who seek to inhabit it. These facts suggest that it is difficult and often impossible to compare the benefits that one household receives from living in a given home with the benefits that another household would receive from living in the same home. Standard utilitarian models of household choice, which require utility functions to be of a form that can be aggregated across and compared between households, fall apart in the face of extreme value pluralism. The pluralism, heterogeneity, and incommensurability of housing’s value provides a reason to promote the diversity of housing’s observable attributes, as reflected in the elements of  $z$ , to increase the likelihood that households exhibiting diverse preferences will find suitable housing units.

There are a few problems with this perspective. First, the strength of this argument hinges on the truth of the value pluralism claim. Although it is not very difficult to demonstrate that preferences for housing are diverse and that housing is heterogeneous with respect to its attributes, there is no reason to accept the stronger claim that all of the benefits of being housed are irreducibly incommensurable. Preferences for at least some of housing’s attributes, such as its space or physical

quality, are shared more widely than the incommensurability claim would suggest, and most everyone recognizes the value of having some place to call home.

Policies designed to maximize housing diversity may also have implications that some housing diversity advocates may not accept. For example, in an urban community where large-lot, single-family dwellings are scarce, the goal of maximizing housing diversity justifies the downzoning of urban land, even if high land costs preclude the construction of low-density housing units. A policy of maximizing housing diversity is also consistent with the promotion of urban-scale development within rural areas not served by infrastructure, a goal that flies in the face of smart growth advocates' compact growth policy objectives.

The Ahwahnee Principle of promoting a "diversity of housing types to enable citizens from a wide range of economic levels and age groups to live within its boundaries" (Local Government Commission 1991) may also encourage questionable housing policy priorities. When planners apply the housing diversity goal to prices and affordability levels, diversity enhancement may take priority over the goal of housing those facing the most severe housing needs. For example, policies that seek to diversify the housing stock through the promotion of "workforce housing" and "missing-middle" housing for moderate-income households may reduce the resources available and attention given to the housing needs of the unemployed and those earning incomes below the poverty line.

Another reason to promote housing diversity is that diverse housing is an instrumental means of creating neighborhoods that are integrated by socioeconomic class. If spatial proximity breeds social propinquity, residential integration may help to build social capital among those from different socioeconomic backgrounds. Higher levels of social capital may, in turn, help to disseminate information about economic opportunities and help to foster the social solidarity needed for a healthy democracy (Anderson 2010). Justifying the diversification of housing choice on the basis of diversity's connection to residential integration has implications for the geographic scale at which to promote housing diversity. Housing that is diverse citywide may still be segregated at the scale of individual neighborhoods, which implies that housing diversity is best promoted at the local level (Dawkins and Kim forthcoming).

The integrationist argument for housing diversity is limited by its appeal to a number of questionable empirical claims. A diversity of housing types does not necessarily equate to population diversity. Emily Talen (2010) examines a large sample of new urbanist housing developments that promote diversity through design. She finds that housing is affordable to those earning the area median income or less in fewer than one-quarter of the developments examined. Even if residential developments with a diversity of housing types successfully foster mixed-income settlement patterns, there is nothing about living in proximity that guarantees

meaningful social interaction across socioeconomic class. New mixed housing type communities also often displace incumbent low-income residents and destroy the social fabric of existing communities (Chapple and Goetz 2011).

### ***Prioritizing Particular Choices***

Justifications for housing policies often appeal to an idealized conception of what constitutes a worthwhile and flourishing way of living to justify the promotion of particular housing choices that are consistent with that ideal. Throughout American history, homeownership policies have been justified by appealing to claims that homeowners are better citizens or that suburban lifestyles are superior (Dawkins 2021). For example, Herbert Hoover, in his 1931 address to those attending his President's Conference on Home Building and Home Ownership, asserted that homeownership makes for "happier married life" and "better citizenship" (Zundell, 2000, 44-45). New urbanists and smart growth advocates have offered similar arguments to justify compact living arrangements and traditional neighborhood designs.

Policy justifications of this sort often appeal to a perfectionist morality, which Steven Wall (1998) defines as any moral framework that is committed to the promotion of an ideal of human flourishing, the good life, or human excellence. Although perfectionist frameworks abound in housing and urban policy circles, policies justified by appeals to controversial ideals of human flourishing fail to respect those who do not organize their lives in accordance with those ideals, even if the ideal of human flourishing is a sound one. If some version of value pluralism is true, it is even more likely that any given ideal of how life should be lived will not be shared by everyone. Perfectionist justifications for policy intervention may also be objectionably paternalistic and manipulative, violating the liberal "harm principle" which states that "the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others" (Mill 1978 [1859], 9). As Jeremy Waldron puts it, "messing with the options" that someone faces by altering the availability and payoffs of different choices "treats the agent as someone incapable of making independent moral decisions on the merits of the case" (Waldron 1989, 1145-1146).

### ***Choice Neutrality***

In direct contrast to the perfectionist view that public policies should be designed to promote particular choices to nudge households towards an ideal of human excellence, liberal theorists such as John Rawls (1971; 1993) argue that the government should maintain a stance of neutrality and refrain from actions that are justified by appeals to controversial ideals of how life should be lived. According to this view, the government's proper role is a noninterventionist one defined by minimal constraints on the exercise of individual choices. This argument is

consistent with the value pluralism thesis without having to commit to the veracity of a potentially unverifiable view about the nature of value. According to neutralists, there are many different reasonable conceptions of the good life, and governments should not weigh in on which of these conceptions is correct. The proper role of government is to create an environment that enables the unconstrained pursuit of a variety of life paths.

Although the liberal neutrality framework is essentially a noninterventionist view, liberal egalitarians such as John Rawls still find room for a government role in the redistribution of economic resources. For Rawls (1971), free and equal individuals would rationally consent to an institutional arrangement that distributes society's "primary goods" to maximize advantages for those who are least advantaged. The neutralist perspective also provides a justification for radical policy reforms that would have the effect of diversifying housing choices within most U.S. communities. Traditional U.S. zoning ordinances tend to prioritize the proliferation and preservation of single-family detached homes on large lots (Hirt 2014). For the neutralist, this form of regulation is objectionable if it unfairly privileges a single housing type by appealing to a controversial claim about that housing type's connection to the good life. The elimination of single-use zoning would help to ensure that land-use policies do not stifle housing diversity by unfairly privileging one housing type over another. As discussed later in this paper, the neutrality framework provides a justification for radical housing and land-use policy reforms that would fundamentally reshape the housing options facing U.S. housing consumers.

### ***Expanding the Capacity for Choice***

One limitation of the views discussed so far is that none, with the possible exception of Rawls's (1971; 1993) liberal egalitarian framework, explicitly address the capacity of households to exercise housing choice. Returning to the housing choice model described in the previous section, increases in income and reductions in housing prices expand the capacity of households to actually rent or purchase the homes that they prefer. Home seekers also require adequate information about housing options, technical expertise to assess the quality and condition of homes, and time to evaluate alternatives. Furthermore, housing consumers of color often face discrimination in the housing market, which closes off certain housing options made available to others. A full consideration of the capacity for choice elevates the importance of *effective choice*, which Tim Brown and Peter King (2005, 68) define as "the opportunities for self-creation and the ability to affect the context (i.e. one's current situation) itself, and, second, the access to resources that translates choice into empowerment."

Martha Nussbaum (2000) and Amartya Sen (1985) offer a useful framework that incorporates an emphasis on the capacity to exercise choice. Their "capabilities

approach” departs from utilitarianism by appealing to the idea that what matters, from a social policy perspective, is not the utility conveyed from the consumption of goods but the ability of households to use goods to do and be something. According to this view, housing is important because it enables households to be sheltered, raise a family, or build social connections. As Nussbaum argues,

. . . giving resources to people does not always bring differently situated people up to the same level of capability to function. The utility-based analysis also encounters a problem: traditionally deprived people may be satisfied with a very low living standard, believing that this is all they have any hope of getting. A capabilities analysis, by contrast, looks at how people are actually enabled to live. Analyzing economic and material rights in terms of capabilities thus enables U.S. to set forth clearly a rationale we have for spending unequal amounts of money on the disadvantaged, or creating special programs to assist their transition to full capability. (Nussbaum 2000, 99)

Because the capabilities approach prioritizes the elevation of everyone to a minimally acceptable level of capability to function, the capabilities approach can be understood as a *sufficientarian* understanding of effective choice. Harry Frankfurt describes sufficientarianism as follows: “With respect to the distribution of economic assets, what is important from the point of view of morality is not that everyone should have the same but that each should have enough. If everyone had enough, it would be of no moral consequence whether some had more than others. I shall refer to this alternative to egalitarianism—namely, that what is morally important with respect to money is for everyone to have enough—as ‘the doctrine of sufficiency’” (Frankfurt 1987, 21–22). Nussbaum (2006) appeals to this idea to argue that “an adequate house or other shelter seems to be inherent in the idea of human dignity,” but “it is not at all clear that an equal house is required by the very idea of human dignity or even of equal human dignity; for indeed a mansion may not be better than a modest house. House size, above a certain threshold, does not seem intrinsically related to equal dignity” (Nussbaum 2006, 293). Karen Chapple and Edward Goetz (2011) draw upon this idea to object to the “equity regionalist” housing choice perspective that tends to downplay the significance of the social contexts affecting housing choice while elevating the choice to move over the choice to stay.

### ***Neutralizing Unlucky Choices***

The luck egalitarian perspective offers a slightly different way of understanding effective choice. For luck egalitarians such as Ronald Dworkin (2000), Richard Arneson (1989), and G. A. Cohen (1989), the proper role of government is to equalize opportunities for choice by eliminating undeserved constraints on the exercise of choice, such as those arising from bad luck, inherited

disadvantages, or social class. The role of housing policy, according to the luck egalitarian framework, is to redistribute society's resources to compensate individuals for the unequal housing opportunities that can be traced to differences in unchosen circumstances, while ignoring inequalities that result from unconstrained free choice.

The luck egalitarian perspective provides a framework for integrating fair housing policy objectives into a broader housing policy framework. If someone faces a limited range of housing options due to housing market discrimination on the basis of race or ethnicity, the luck egalitarian view provides a justification for policies such as the Fair Housing Act (1968) that seek to eliminate the racial and ethnic gaps in housing options. Furthermore, the luck egalitarian perspective provides a rationale for equalizing geographic opportunities by neutralizing the disadvantages that arise from being born in a location that provides limited opportunities for economic and social advancement (Dawkins 2017).

As a basis for understanding housing choice, the luck egalitarian perspective has certain limitations. Luck egalitarians tend to be more concerned with identifying the proper scope of responsibility than with expanding the capacity for choice among those who face limited options (Anderson 1999). In contrast to capability theorists, luck egalitarians would find no fault with some losing their homes, if the choice of being homeless could be shown to be attributable to factors within the control of the person rendered homeless. Furthermore, it is hard to argue, as some luck egalitarians do, that someone should be held responsible for choices made in accordance with the "adaptive preferences" that were formed in response to an oppressive social environment (Sunstein 1991).

### ***Beyond Choice***

For many affordable housing advocates, housing satisfies the basic human need to be protected from harmful environmental conditions, and the urgency of this need justifies governmental provision of a minimally adequate home to everyone. There are two elements of this perspective. First, the urgency of human needs implies that choice should play a less significant role in housing's allocation, because no one should have to face the choice between being housed or not being housed (or being housed while forgoing access to other important needs) (King 2003). Second, the distribution of housing and its attributes is less important than providing adequate shelter to each and every person.

According to this view, choice-based perspectives are inadequate because they assume that housing should be allocated through markets. David Madden and Peter Marcuse (2016, 56) appeal to Karl Marx to argue that the commodification of housing through the elevation of its exchange value relative to its use value fosters residential alienation, and this estrangement from one's residential environment is

a precondition for all forms of private property. Madden and Marcuse's (2016) proposed solution to residential alienation is the full decommodification of housing through government provision of housing.

This view asks too much from the concept of need. Although housing satisfies an important need, the need for shelter is a contingent fact that varies by climactic conditions. In most temperate climates, something recognizable as a home is not necessarily required to protect someone from harmful environmental conditions. A lean-to or a tent may provide sufficient protection from environmental threats in the absence of extreme weather events. The housing needs perspective also tends to focus too narrowly on biological needs while ignoring the higher-order needs of psychological fulfillment and self-actualization that are met through active participation in the decisions that shape one's path in life (Dawkins 2021).

The commodification of housing and conversion of residential space into a tradeable market good may or may not foster residential alienation. If individuals acquire homes that embody their ideals of a well-lived life and enjoy the freedom to personalize homes in accordance with their tastes and preferences, these choices may help to secure a meaningful attachment to place, even if the home was acquired through a market-based transaction (Dawkins 2021). Furthermore, the exercise of choice gives meaning to the choices made, because the homes selected through choice have positional value relative to the housing options that were rejected. If housing is allocated through a command-and-control allocation mechanism that eliminates choice through the full decommodification of housing, these meaningful attachments to chosen homes will be lost.

### **HOUSING CHOICE REVISITED**

As illustrated in the previous section, the aim of expanding housing choice can mean different things to different people, and these differences can often be traced to divergent views about the moral significance of housing choices. In this section, I defend a hybrid normative framework that combines elements of the effective choice and neutrality perspectives. I argue that when it comes to housing choice, housing policy advocates should first prioritize the enhancement of effective choice for those who face the most severe housing needs, and secondly, promote tenure and type neutrality. This dual emphasis provides a moral framework that is consistent with a wide variety of housing policy reforms.

Homelessness and housing insecurity are arguably the most significant moral concerns facing housing policymakers. Regardless of one's conception of the good life, it is hard to live a life in accordance with that conception in American society without access to a home and the security that comes from knowing that a home will be available for an extended time. Homes secure important social bases

of self-respect, and access to a home is a precondition for accessing many of the rights and benefits of American citizenship. For example, the right to privacy is meaningless for those who have no place in which to exercise privacy. Public education and many other important local public goods and services are provided only to those who can verify local residency. Importantly, those without homes are often socially stigmatized and face the threat of cruel and unusual punishment due to laws that criminalize sleeping in public (Dawkins 2021). At a minimum, housing policy should guarantee that everyone has an acceptable number of housing options, regardless of their socioeconomic status.

One simple way to implement this ideal in practice is to substantially expand the coverage of the tenant-based Housing Choice Voucher (HCV) subsidy while converting it to a cash subsidy or refundable tax credit, as Senator Cory Booker proposed during his bid to become the Democratic Party's presidential nominee during the 2020 campaign season. Converting the HCV to a cash subsidy would eliminate the potential for source-of-income discrimination, a problem that currently plagues the HCV program. Expanding HCV coverage to provide a monthly subsidy, at the current average HCV payment of \$834, to all who are currently homeless (567,715, based on the most recent count by Henry et al. (2020)) or experience "worst-case" housing needs (7,716,000 households according to Watson et al. (2020)) would cost roughly \$82.9 billion annually. By comparison, HUD currently spends \$18.8 billion for its tenant-based subsidy programs (US Department of Housing and Urban Development 2020). This funding amount seems substantial, but \$82.9 billion is still substantially less than the approximately \$209 billion in forgone income tax revenue awarded to homeowners for the mortgage interest deduction, state and local property tax deduction, home sale capital gains tax deduction, and exclusion of imputed rental income (Office of Management and Budget 2019).

Reforming income tax policy to redirect a portion of homeownership tax expenditures to a guaranteed housing subsidy would expand effective housing choice for those facing the most severe housing needs while also improving tenure neutrality. Current income tax policy treats homeowners and renters unequally by rewarding those with mortgages who live rent-free in the homes that they own. As described in more detail in Dawkins (2021), tenure neutrality also provides a justification for a variety of property-based reforms that put renters on more equal footing with homeowners in terms of the advantages conveyed through housing occupancy. Even if income tax policy is fully neutralized with respect to tenure, homeowners still enjoy more secure residential tenure arrangements than renters because landlords define the terms of rental contracts, retain the right to enter into rental homes unannounced, and in most states, may raise rents upon lease renewal or evict tenants for trivial causes. Policies such as just-cause anti-eviction statutes,

implied warranties of habitability, and rent controls help to elevate renters' tenure security to a level more comparable to that enjoyed by homeowners. Laws that enable and encourage hybrid tenure arrangements also enhance tenure security and expand effective housing choice. For example, limited equity cooperatives convert tenants to shareholders through the creation of a durable right of occupancy that includes the rights to exchange and alienate ownership shares upon residential mobility. Similarly, shared-equity homeownership opportunities and community land trusts allow homeowners to forgo the ability to earn housing equity or the right to own the land underneath homes in exchange for a durable right of occupancy (Dawkins 2021). Tenure neutrality, when viewed in conjunction with a commitment to expanding effective choice, levels the playing field between homeowners and renters while expanding durable and secure housing opportunities for everyone.

The ideal of neutrality also provides a justification for radical reforms of local land-use practices. Given that most zoning policies unfairly privilege the owned single-family detached home, neutrality justifies reforms that would enable a wide range of undersupplied affordable housing types, including multifamily housing, accessory dwelling units, tiny homes, and manufactured housing. Furthermore, a focus on the expansion of effective choice reminds housing policymakers to prioritize the choices of those facing the greatest housing needs over the choices of moderate-income households seeking workforce housing.

The 2019 housing policies adopted in the state of Oregon provide examples of the types of reforms that are consistent with a combined emphasis on effective choice and neutrality. Oregon Senate Bill 608 restricts yearly rent increases to 7 percent and provides just-cause protections against evictions. House Bill 2001 requires cities with a population of 10,000 or more to allow duplexes in single-family zones. The city of Portland, Oregon, is going one step beyond the state mandate by revising its zoning ordinance to allow duplexes and triplexes in single-family zones (Axel-Lute 2019). The Oregon case provides lessons to housing movements in other states that are mired in tensions between supply-side zoning reform proponents and tenants' rights advocates. An emphasis on expanded capacity for effective choice, when combined with a neutral approach to the regulation and taxation of tenures and types, provides a large tent under which many housing advocates can find shelter.

## CONCLUSION

As this paper has demonstrated, housing choice is a contested concept. Housing and land-use policy experts appeal to a variety of different moral arguments to justify the maximization of benefits from choice, diversification of housing choice, prioritization of particular choices, neutral attitudes about choice, and expansion of effective choice. Others deny the importance of housing choice. This paper analyzed the normative foundations of these different perspectives and proposed a hybrid framework that incorporates elements of the effective choice and neutralist perspective. To expand effective choice, I proposed redistributing current homeownership tax expenditures to an expanded housing subsidy targeted to those facing the most severe housing needs. I also demonstrated how tenure neutrality provides a justification for a variety of property-based reforms that place renters and owners on more equal footing. The principle of housing type neutrality complements these reforms by providing a justification for a wide variety of local land-use reforms that enable the production of multifamily housing, accessory dwelling units, tiny homes, and manufactured housing.

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