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**Symposium on Urban Sprawl:
Local and Comparative Perspectives on
Managing Atlanta's Growth**

**EXCLUSIONARY PRACTICES AND URBAN
SPRAWL IN METROPOLITAN ATLANTA***

Arthur C. Nelson[†]

INTRODUCTION

Metropolitan Atlanta's problems related to growth patterns and associated traffic, pollution, and "urban sprawl" are legion.¹ I contend that the principal cause of the current patterns is the practice of exclusionary housing followed both overtly and covertly throughout most of the metropolitan area. Consider the city of Powder Springs, located about twenty miles west of downtown Atlanta. Its comprehensive plan includes a provision stating that "adequate and affordable housing is a critical component of any local government development strategy."² Despite this lofty sentiment, the smallest new single family detached home in a standard development must be 1700 square feet and sit on a lot of not less than 15,000 square feet.³ As a professor of real estate finance who pays attention to housing prices throughout metropolitan Atlanta, I am confident that a new 1700 square foot home on a 15,000 square foot lot will carry a market price in the range of \$160,000 in the Powder Springs

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1. See ARTHUR C. NELSON, *OPTIONS FOR DECISION-MAKING IN METRO-ATLANTA*, at i-iii (1999).

2. CITY OF POWDER SPRINGS, GEORGIA, *COMPREHENSIVE PLAN 82* (1995).

3. CITY OF POWDER SPRINGS ZONING ORDINANCE (R-15 zoning district). The planned unit development district allows single family detached homes as small as 1600 square feet on lots as small as 11,000 square feet.

submarket. Assuming a ten percent down payment, the annual household income required to finance such a home must be in the range of \$60,000 to \$70,000. This is higher than the median household income of the metropolitan Atlanta region.⁴

However, Powder Springs is home to a number of Habitat for Humanity homes, several located in the Whispering Glen subdivision.⁵ To keep costs down, the largest home that Habitat for Humanity will build is about 1050 square feet.⁶ Similarly, in urban areas, lots must be small to keep costs down. Now, the issue pertaining to Habitat homes in urban areas is not one of lot size but instead is one of authorization. According to a Powder Springs city planner: "We do have Habitat homes, in fact I helped build one. They are no longer allowed, however."⁷

In exploring how this state of affairs has come to pass, Part I of this Article begins by comparing metropolitan Atlanta to other major southern metropolitan areas in terms of housing, lot sizes, and other sprawl-related features. Part II examines overt and covert exclusionary housing practices, citing a few examples from around metropolitan Atlanta. Finally, the Article concludes in Part III with a call for proactive efforts to dismantle exclusionary housing practices throughout metropolitan Atlanta.

I. HOUSING PROFILE OF MAJOR SOUTHERN METROPOLITAN AREAS

The major southern metropolitan areas profiled include Atlanta, Dallas, Houston, Miami, Phoenix, and Tampa. These six metropolitan areas all have more than two million people and are among the nation's seven fastest growing areas since 1970.⁸

4. The author estimates median household income from the Census Web site to be approximately \$50,000. See U.S. Census Bureau, *Median Household Income by Metropolitan Statistical Areas (MSA): 1969, 1979, and 1989*, available at <http://www.census.gov/hhes/income/histinc/msa/msa1.html> (last visited Aug. 17, 2001).

5. See Ellen Pratt, *Affordable Housing and Exclusionary Zoning: An Evaluation of Zoning and Subdivision Ordinances*, City & Regional Planning Program, Georgia Institute of Technology (Mar. 22, 2001) (unpublished manuscript cited with permission) (on file with author).

6. See Habitat for Humanity International, *What Are Habitat Houses Like?*, at <http://www.habitat.org/how/whatlike.html> (last visited Aug. 17, 2001).

7. Pratt, *supra* note 5.

8. See NELSON, *supra* note 1, at 2.

Of these six cities, why is Atlanta singled out as having the greatest degree of urban sprawl? To help answer this question, a series of tables, comparing Atlanta's development patterns with those of its southern peers, must be examined.⁹

Table 1 compares metro Atlanta to its southern peers in terms of average size of single family detached homesites.¹⁰ The average lot size for Dallas, Houston, Phoenix, and Tampa is roughly one-quarter acre (0.24), with Tampa having a slight variation at 0.22 acres.¹¹ In contrast, the average single family detached lot size for metro Atlanta is 0.78 acres, more than three times the size of that of its peers.¹²

TABLE 1. Average Single Family Detached Residential Lot Sizes Among Major Southern Sunbelt Metropolitan Areas

Metro Area	Acres
Dallas	0.24
Houston	0.24
Phoenix	0.24
Tampa	0.22
Average	0.24
Atlanta	0.78

Sources: U.S. CENSUS BUREAU & U.S. DEP'T OF HOUS. & URB. DEV., AMERICAN HOUSING SURVEY (1994) (Dallas and Phoenix); U.S. CENSUS BUREAU & U.S. DEP'T OF HOUS. & URB. DEV., AMERICAN HOUSING SURVEY (1996) (Atlanta); U.S. CENSUS BUREAU & U.S. DEP'T OF HOUS. & URB. DEV., AMERICAN HOUSING SURVEY (1998) (Houston and Tampa).

9. Miami is excluded from this comparison due to its unusual development pattern given its unique geographical location (it is hemmed in by the Atlantic Ocean to the east and the Everglades to the west and south).

10. See Table 1.

11. See *id.*

12. See *id.*

Table 2 compares the southern cities in terms of existing housing distribution.¹³ For the most part, all of the cities have similar distributions among single family detached and multiple family housing types, although Atlanta has slightly more single family and slightly fewer multiple family percentages.¹⁴

TABLE 2. Existing Housing Distribution Among Major Southern Sunbelt Metropolitan Areas

Metro Area^a	Single Family Percent^b	Multiple Family Percent^c
Dallas	60.9%	39.1%
Houston	64.3%	35.7%
Phoenix	60.9%	39.1%
Tampa	62.4%	37.6%
Average^d	62.1%	37.9%
Atlanta	66.3%	33.7%

Notes:

- a. Sources: U.S. CENSUS BUREAU & U.S. DEP'T OF HOUS. & URB. DEV., AMERICAN HOUSING SURVEY (1994) (Dallas and Phoenix); U.S. CENSUS BUREAU & U.S. DEP'T OF HOUS. & URB. DEV., AMERICAN HOUSING SURVEY (1996) (Atlanta); U.S. CENSUS BUREAU & U.S. DEP'T OF HOUS. & URB. DEV., AMERICAN HOUSING SURVEY (1998) (Houston and Tampa).
- b. Single family detached units only.
- c. All attached housing types.
- d. Weighted average.

13. See Table 2.

14. See *id.*

Table 3 makes the same comparison as Table 2, but compares the cities with respect to homes built in the most recent four years reported.¹⁵ While the southern peer metropolitan areas averaged about 70% new single family residential construction (with a range of 80% for Phoenix and 65% for Dallas), 86% of new housing in the metro Atlanta area consisted of single family detached homes.¹⁶

TABLE 3. New Housing Distribution Among Major Southern Sunbelt Metropolitan Areas

Metro Area ^a	Single Family Percent ^b	Multiple Family Percent ^c
Dallas	64.8%	35.2%
Houston	68.4%	31.6%
Phoenix	79.6%	20.4%
Tampa	68.8%	31.2%
Average ^d	70.4%	29.6%
Atlanta	85.5%	14.5%

Notes:

- a. Sources: U.S. CENSUS BUREAU & U.S. DEPT OF HOUS. & URB. DEV., AMERICAN HOUSING SURVEY (1994) (Dallas and Phoenix); U.S. CENSUS BUREAU & U.S. DEPT OF HOUS. & URB. DEV., AMERICAN HOUSING SURVEY (1996) (Atlanta); U.S. CENSUS BUREAU & U.S. DEPT OF HOUS. & URB. DEV., AMERICAN HOUSING SURVEY (1998) (Houston and Tampa).
- b. Single family detached units only.
- c. All attached housing types.
- d. Weighted average.

15. See Table 3.

16. See *id.*

Table 4 compares the cities in terms of “affordable”¹⁷ and “large lot” housing distribution.¹⁸ Atlanta is substantially lower than the other cities in the supply of affordable housing types (34% to 46%).¹⁹ Indeed, all of the other metro areas contain between 43% and 55% of all housing in affordable varieties.²⁰

TABLE 4. Distribution of Affordable and Large Lot Housing Among Major Southern Sunbelt Metropolitan Areas

Metro Area ^a	Affordable Housing Percent ^b	Large Lot Percent ^c
Dallas	43.1%	39.4%
Houston	43.2%	24.2%
Phoenix	44.9%	39.0%
Tampa	53.5%	14.5%
Average ^d	46.2%	29.3%
Atlanta	34.1%	62.2%

Notes:

- a. Sources: U.S. CENSUS BUREAU & U.S. DEP'T OF HOUS. & URB. DEV., AMERICAN HOUSING SURVEY (1994) (Dallas and Phoenix); U.S. CENSUS BUREAU & U.S. DEP'T OF HOUS. & URB. DEV., AMERICAN HOUSING SURVEY (1996) (Atlanta); U.S. CENSUS BUREAU & U.S. DEP'T OF HOUS. & URB. DEV., AMERICAN HOUSING SURVEY (1998) (Houston and Tampa).
- b. For simplicity, it is assumed that affordable housing types include all attached housing and single family detached homes on lots less than one-quarter acre. Not all such units are affordable as that term may be applied by the U.S. Department of Housing and Urban Development.
- c. Lots greater than one-quarter acre.
- d. Weighted average.

17. “Affordable” housing translates into all forms of attached housing and housing on less than one-quarter acre. Not all housing characterized as “affordable” is truly affordable based on standards established by the U.S. Department of Housing and Urban Development; however, the category is a reasonable indicator of its propensity to be affordable.

18. See Table 4.

19. See *id.*

20. See *id.*

The figures shown in Table 5 are even more dramatic. Among new housing units constructed in the past four years, approximately 39% of such housing among the sunbelt cities ranked in the affordable category (ranging from 29% in Phoenix to 44% in Tampa).²¹ Atlanta's affordable new housing fell well below that of its peer cities at a measly 15%.²²

TABLE 5. Distribution of New Affordable and Large Lot Housing Among Major Southern Sunbelt Metropolitan Areas

Metro Area ^a	Affordable Housing Percent ^b	Large Lot Percent ^c
Dallas	42.2%	34.5%
Houston	36.5%	27.7%
Phoenix	28.6%	45.0%
Tampa	43.8%	22.4%
Average ^d	37.8%	32.4%
Atlanta	15.4%	81.5%

Notes:

a. Sources: U.S. CENSUS BUREAU & U.S. DEPT OF HOUS. & URB. DEV., AMERICAN HOUSING SURVEY (1994) (Dallas and Phoenix); U.S. CENSUS BUREAU & U.S. DEPT OF HOUS. & URB. DEV., AMERICAN HOUSING SURVEY (1996) (Atlanta); U.S. CENSUS BUREAU & U.S. DEPT OF HOUS. & URB. DEV., AMERICAN HOUSING SURVEY (1998) (Houston and Tampa).

b. For simplicity, it is assumed that affordable housing types include all attached housing and single family detached homes on lots less than one-quarter acre. Not all such units are affordable as that term may be applied by the U.S. Department of Housing and Urban Development.

c. Lots greater than one-quarter acre.

d. Weighted average.

21. See Table 5.

22. See *id.*

Until recently, Atlanta enjoyed favorable housing prices relative to its southern peers.²³ This is reflected in Table 6, which compares housing costs as a percentage of household income.²⁴ In 1993 Atlanta's total housing costs (including transportation costs) were the lowest among its southern peers, but by 1998 costs reached the region's average.²⁵ Indeed, while housing costs for the peers rose just an average of 0.2% (ranging from -1.4% in Dallas and Tampa to 3.5% in Houston), costs for metro Atlanta rose a whopping 17.1%.²⁶ This figure may be accounted for due to the shift of Atlanta's housing stock away from affordable types of housing to large lot varieties.²⁷ As a consequence, Atlanta's housing costs are rising.²⁸

TABLE 6. Change in Total Housing Costs Among Major Southern Metropolitan Areas, 1993-1998

Metro	Total Housing as Percent of Income 1993^a	Total Housing as Percent of Income 1998^a	Percent Change
Dallas	47.3%	46.6%	-1.4%
Houston	45.1%	46.7%	3.5%
Tampa	48.9%	48.3%	-1.4%
Average^b	47.1%	47.2%	0.2%
Atlanta	39.3%	46.1%	17.1%

Notes:

a. Source: U.S. DEP'T OF COM., CONSUMER EXPENSE SURVEY (1996 & 1998). This figure includes all household housing and transportation costs.

b. Unweighted average.

23. See Table 6.

24. The housing prices in Atlanta, Dallas, Houston, and Tampa are compared. Comparable data for Phoenix is not available. See *id.*

25. See *id.*

26. See *id.*

27. See *id.*

28. See *id.*

There is a price to pay for having three times the average lot size and considerably less than half the average in terms of affordable housing. For example, low density housing is normally associated with greater dependency on the automobile as well as longer travel times.²⁹ This can result in less leisure time available for recreation and, hence, may lead to increased obesity in the population.³⁰ Table 7 shows that while Georgia ranked fourth lowest in the nation in the percent of its population considered obese in 1991, by 1998 its rank had fallen to twenty-ninth in the nation.³¹ Indeed, its *rate* of change in obesity was the greatest in nation.³²

TABLE 7. Change in National Obesity Rankings Among States With Major Southern Sunbelt Metropolitan Areas

State	Obesity Rank 1991	Obesity Rank 1999	Obesity Rate
Arizona	17	1	2
Florida	12	19	42
Texas	26	39	31
Georgia	4	29	47

Source: Ali H. Mokdad et al., *The Spread of the Obesity Epidemic in the United States, 1971-1998*, at 282 J. AM. MED. ASS'N 1519-22 (1999).

What is the reason for these patterns and trends? The answer may lie in the exercise of exclusionary housing practices, especially in rapidly growing areas of metropolitan Atlanta.

29. See P. NEWMAN AND J. KENWORTHY, *CITIES AND AUTOMOBILE DEPENDENCY* 34-39 (1989).

30. See *id.*

31. See Table 7.

32. See *id.*

II. EXCLUSIONARY HOUSING PRACTICES IN METROPOLITAN ATLANTA

Exclusionary housing practices, usually characterized as exclusionary zoning, are defined by some as:

zoning which . . . has as its real purpose, or its actual result or effect, not the promotion of the health, safety, morals, or the general welfare of a community, but rather the achievement of a form of economic segregation by restricting land usage to low population density, high-cost, residential development which is in turn calculated to block, or at least limit, the influx into a community . . . of persons having low or moderate incomes³³

Recent analysis establishes the relationship between low-density zoning and racial exclusion.³⁴ Using data from twenty-five metropolitan areas, including Atlanta, this study shows that low-density zoning imposes a long-lasting ceiling on housing densities, sustaining racial exclusion in communities using such controls.³⁵

The result of exclusionary zoning is urban sprawl.³⁶ Large minimum lot sizes consume undeveloped land at a faster pace than higher density zoning, thereby forcing development further away from the urban core.³⁷ This results in isolated subdivisions far from shopping and employment centers, increased traffic congestion, and an overall decline in environmental quality.³⁸

Such zoning and related housing practices come in overt and covert forms. Let us consider overt forms first. An illustration of overt exclusionary practices is the fashioning of local ordinances in such a way as to increase the cost of housing. Zoning

33. J.R. Kemper, Annotation, *Exclusionary Zoning*, 48 A.L.R.3d 1210, 1212 (1973) (citing Paul Davidoff & Linda Davidoff, *Opening the Suburbs: Toward Inclusionary Land Use Controls*, 22 SYRACUSE L. REV. 509, 519 (1971)).

34. See Rolf Pendall, *Local Land Use Regulation and the Chain of Exclusion*, 66 J.A.M. PLAN. ASS'N 125, 135 (2000).

35. *Id.* at 138, 140.

36. See *id.* at 140; see also JULIAN CONRAD JUERGENSMEYER & THOMAS E. ROBERTS, *LAND USE PLANNING AND CONTROL LAW* 270 (1998).

37. See Rolf Pendall, *Do Land Use Controls Cause Sprawl?*, 26 PLAN. & DESIGN 555 *passim* (1999).

38. Amicus Brief of Greater Atlanta Home Builders Ass'n et al. at 8, *Henry County v. Tim Jones Prop.*, 539 S.E.2d 167 (Ga. 2000) (No. S00A1200).

ordinances that require large minimum lot sizes are commonly associated with exclusionary zoning. Other exclusionary mechanisms include requiring large minimum house sizes,³⁹ restricting apartment buildings to four attached units per acre⁴⁰ (a density that is comparable to the average single family detached lot sizes among Atlanta's southern peers), and requiring wider subdivision streets than needed.⁴¹ It may be difficult to defend minimum house sizes based on the police power function of zoning because building codes, which have no such minimums, provide for the public health, safety, and general welfare.⁴²

Overt exclusionary practices are transparent because they are in writing. On the other hand, covert exclusionary practices are not as easily detected because they occur on a case-by-case basis. A typical covert action, seen in *Henry County v. Tim Jones Properties*,⁴³ recently led to a ruling by the Georgia Supreme Court that such practices result in a regulatory taking.⁴⁴ A review of the covert actions leading to that legal challenge is instructive.

In March 1997, Tim Jones Properties (TJP) proposed to rezone approximately 129.7 acres of land, which was zoned Residential-Agriculture (RA), one-acre minimum lot size,⁴⁵ to Planned Development (PD).⁴⁶ In general, the proposal called for 26.3 acres of commercial development (up to 263,000 square feet of space) and 103.4 acres composed of 401 cluster residential homes with lot sizes averaging about 6000 square feet.⁴⁷ The

39. These exclusionary methods are applied in Powder Springs. Other examples are found throughout metropolitan Atlanta. For example, Henry County requires a minimum of 1300 square feet for developments on less than one-acre lots, and Conyers requires a minimum of 1400 square feet.

40. See, e.g., HENRY COUNTY ZONING ORDINANCE § 3-7-149 (1999).

41. The author is familiar with numerous suburban jurisdiction's street standards that typically call for the smallest residential street to be thirty-six to forty-two feet in width and designed to accommodate travel speeds of fifty miles per hour or more. Recent studies indicate that such streets are more appropriate when designed to about two-thirds of those standards. See REID EWING, BEST DEVELOPMENT PRACTICES 69-72 (1998).

42. See JUERGENSMEYER & ROBERTS, *supra* note 36, at 270.

43. 539 S.E.2d 167 (Ga. 2000).

44. *Id.* at 169.

45. One-acre minimum lot size is the minimum density for areas not served by public sewer. The rezoning request included plans by TJP to extend sewer to the area.

46. 539 S.E.2d at 168.

47. *Id.*

residential portion was to be rezoned to multiple family residential (R-M), the only zoning category allowing for apartments and cluster housing.⁴⁸

In August 1997, the Henry County Board of Commissioners approved the commercial rezoning but denied the R-M zoning.⁴⁹ Instead, it conditioned residential development to Single Family Residential (R-2) (18,000 square feet minimum lot size) for seventy-five percent of the site and to Single Family Residential (R-3) (12,000 square feet minimum lot size) for the remaining twenty-five percent.⁵⁰ It also required other things such as three-sided brick or stucco exteriors, sodded yards, and a recreation area that would include tennis courts, a clubhouse, and an Olympic-sized swimming pool.⁵¹ Neither the house size requirements nor the amenity requirements were contained in the text of zoning or subdivision ordinances.⁵² TJP concluded that the conditions would result in a total of 175 homes and eliminate prospects for a reasonable economic return.⁵³ In early 1998, TJP filed suit in the Henry County Superior Court, alleging that the rezoning constituted an unconstitutional taking and exclusionary zoning.⁵⁴ The trial court found that the zoning text amendments constituted exclusionary zoning and that the conditions imposed on TJP constituted an unconstitutional taking.⁵⁵ The Georgia Supreme Court affirmed the lower court's ruling on the unconstitutional taking but made no ruling on exclusionary zoning.⁵⁶

48. The minimum lot size in the R-M zone was 5445 square feet. *See id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.*

53. *Id.*

54. *Id.* In May 1998, during the pendency of TJP's lawsuit, Henry County eliminated the cluster housing option from the R-M zone and changed the minimum lot area to one acre with no more than four attached units per acre. *Id.* Henry County's only cluster housing opportunity was thus eliminated, and apartments were for all practical purposes made economically infeasible. *Id.* In February 1999, Henry County again amended its zoning ordinance to, *inter alia*, increase the minimum floor area for R-3 residences from 1050 to 1300 square feet and increase the minimum floor area for R-2 residences from 1300 to 1800 square feet. *Id.*

55. *Id.*

56. *Id.*

III. DISMANTLING EXCLUSIONARY HOUSING PRACTICES

Exclusionary housing practices may be the single greatest contributor to the form of development seen in Atlanta. These practices lead to average lot sizes for single family detached homes that are among the nation's largest, resulting in perhaps the lowest rate of production of affordable housing types in the nation. If exclusionary housing practices have influenced metropolitan Atlanta's development pattern, they must surely be linked to the region's failure to meet federal ambient air quality standards.⁵⁷ Given these obvious problems, one must ask whether exclusionary housing practices can be dismantled, and if so, how? The answer lies in three approaches: (1) removing local government authority to regulate housing production except for meeting building codes; (2) imposing inclusionary housing requirements on new development; or (3) fashioning a regional fair share housing allocation program.

Preventing local governments from regulating housing requirements may be difficult because the Georgia Constitution gives local governments the authority to plan and zone.⁵⁸ However, this does not prevent the General Assembly from enacting legislation prescribing the manner in which local governments may engage in planning and zoning. For example, the General Assembly could establish criteria for the content of plans for housing,⁵⁹ and it could require that land use decisions are consistent with plans and zoning.⁶⁰ The overall effect may be

57. Clean Air Act, 42 U.S.C. § 7401 (1994); *see also* ENVTL. PROT. DIV., GA. DEPT OF NAT. RES., STATE IMPLEMENTATION PLAN FOR THE ATLANTA OZONE ATTAINMENT AREA (1998).

58. GA. CONST. art. IX, § 2, ¶ 4.

59. The Georgia Code provides that all counties and municipalities of the state of Georgia shall prepare comprehensive plans meeting certain *minimum standards and procedures*. *See* O.C.G.A. §§ 50-8-1 to -17 (1998). The Georgia Department of Community Affairs (DCA) and the Regional Development Center (RDC) review locally prepared plans to ensure they are consistent with state requirements. *See id.* A key provision of the DCA rules pertaining to the implementation of comprehensive planning legislation states that "[i]t is the responsibility of local governments in the State of Georgia hereunder to serve the essential public interests of the state by promoting the establishment, implementation, and performance of coordinated and comprehensive planning by municipal and county governments." RULES OF THE GA. DEPT OF COMM. AFFAIRS § 110-3-2-.03(4).

60. The Georgia Planning Act attempts to assure that the land use regulations and decisions based on them are consistent with the comprehensive plan. *See* O.C.G.A.

to prevent local governments from imposing conditions on housing development or to establish guidelines that limit local governments' ability to engage in exclusionary zoning. It is conceivable that the General Assembly could directly dictate the conditions under which local governments may regulate housing through the existing constitutional provision that provides:

(a) Without limitation of powers granted [elsewhere in the Constitution], the General Assembly shall have the power to provide by law for:

....

(3) The participation by the state and political subdivisions and instrumentalities of the state in federal programs and the compliance of laws relating thereto, including but not limited to the powers, which may be exercised to the extent and in the manner necessary to effect such participation and compliance, to tax, to expend public money, to condemn property, and to *zone property*.⁶¹

Thus, an important justification for the state's involvement in local zoning matters is maintaining eligibility to receive federal transportation funds that are conditioned on attaining federal air quality standards.

Inclusionary housing programs essentially require either new development or the funding of local governments or agencies to create a proportionate share of affordable housing.⁶² While it may be a stretch to have the General Assembly use its powers to require inclusionary housing programs as a "procedure," it is not a stretch to condition receipt of state funds on the adoption of inclusionary housing policies and programs. Such conditional funding appears to be permitted under the Georgia Constitution.⁶³ Under such an arrangement, inclusionary

§§ 50-8-1 to -17 (1998). A key provision of the rules implementing comprehensive planning legislation provides that "the governing body of municipalities and counties shall have the authority and responsibility to . . . [d]evelop, establish, and implement land use regulations that are consistent with the comprehensive plan . . ." RULES OF THE GA. DEPT OF CMTY. AFFAIRS § 110-3-2-.03(4).

61. GA. CONST. art. III, § 6, ¶ 3 (emphasis added).

62. For a discussion on inclusionary housing and housing "linkage," see DOWNTOWN LINKAGES (Douglas R. Porter ed., 1985); see also JUERGENSMEYER & ROBERTS, *supra* note 36, at 270.

63. See GA. CONST. art. VII, § 3, ¶ 3.

housing programs would give local governments the authority to maintain control over all land use regulations affecting residential development, except for the modification of them to include such programs.

Regional fair share housing programs require every jurisdiction within a region to provide for its pre-calculated share of the region's low and moderate income housing.⁶⁴ Financial incentives or disincentives are needed to make this approach work.⁶⁵ Because the Georgia Constitution gives the General Assembly the ability to condition receipt of state funds on compliance with state laws, this approach is reasonable.⁶³ In some ways this is the most flexible of all three approaches. This approach hinges on the establishment of a housing target, perhaps by the Atlanta Regional Commission, for half the counties in metropolitan Atlanta (accounting for three-quarters of the metropolitan area's population), leaving local governments free to pursue whatever means necessary to meet that target. Local land use regulations need not be changed provided that housing targets are met.

CONCLUSION

Metropolitan Atlanta is not the only area in which exclusionary housing practices exist.⁶⁷ It may, however, be the poster child not only for urban sprawl but also for exclusionary tendencies. The moniker may seem inconsistent with the observed predilection of Georgia courts to extend more constitutional protections to Georgia citizens than offered by the federal court system as a whole.⁶⁸ The delay of Georgia courts in addressing exclusionary housing practices may seem surprising. That they will address exclusionary housing issues in the near future seems inevitable. Therefore, local governments would be

64. See Edward G. Goetz, *Fair Share or Status Quo?*, 20 J. ALL. PLAN. EDUC. & RES. 37-39 (2000).

65. See ALAN MALLACH, INCLUSIONARY HOUSING PROGRAMS 166-95 (1984).

66. See *supra* note 61 and accompanying text.

67. Courts have addressed exclusionary housing explicitly since the middle 1970s. See *S. Burlington County NAACP v. Township of Mount Laurel*, 336 A.2d 713 (N.J. 1975), *cert. denied*, 423 U.S. 808 (1975).

68. See Amicus Brief of Greater Atlanta Home Builders Ass'n et al. at 3-4, *Henry County v. Tim Jones Prop.*, 539 S.E.2d 167 (Ga. 2000) (No. S00A1200).

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wise to be proactive in addressing their fair share of regional affordable housing needs before the Georgia courts or the General Assembly compels it.