

January 31, 2020

Benjamin Solomon Carson Sr.
United States Secretary of Housing and Urban Development
451 7th Street SW
Washington, DC 20410

Re: Request for Information on Eliminating Regulatory Barriers to Affordable Housing; HUD No. 19-171; posted 11/26/2019

Dear Secretary Carson and members of the Housing and Urban Development staff,

On behalf of the R Street Institute, we respectfully submit these comments in response to the Request for Information on Eliminating Regulatory Barriers to Affordable Housing.

R Street is a free-market think tank that takes a pragmatic approach to public policy challenges. We have studied housing issues since 2015, with a particular focus on California. We applaud HUD for its effort to curb regulatory barriers impeding the availability of affordable housing, and we are pleased to hear of this request for information. We write today to bring your attention to the benefits of state and local efforts to curb homelessness using existing infrastructure.

A promising method for addressing homelessness would involve focusing on policies that may penalize the unsheltered homeless, or those “who live outside or in unfit sleeping environments, such as cars, streets or abandoned buildings.”¹ These individuals face challenges above and beyond those that other low-income people face. We focus our comments on those who live in their vehicles, a practice that falls in legal gray areas at best and, at worst, is banned entirely. More specifically, HUD can support, publicize, study and potentially serialize efforts to help these people by:

- Providing guidance to nonprofit organizations on how to design fiscally responsible safe parking lots that can run independently at the local level;
- Providing guidance to state and local governments on laws that prevent private parking lots from being used for auxiliary residential purposes;
- Studying and making policy recommendations on how to make it easier for the homeless and those otherwise without a permanent address to obtain identification documents and thus find employment and participate in civic life.

A. Safe Parking Los Angeles

Within Los Angeles County, over 15,700 people live inside their vehicles each night,² which accounts for more than one third of the homeless population in the area.³ Meanwhile, Safe Parking Los Angeles—a nonprofit that serves the homeless who live in vehicles—offers parking lots that provide security to people

¹ “Exploring the Crisis of Unsheltered Homelessness,” National Alliance to End Homelessness, June 20, 2018. <https://endhomelessness.org/exploring-crisis-unsheltered-homelessness>.

² See “Safe Parking Los Angeles,” accessed Jan. 28, 2019. <https://www.safeparkingla.org>.

³ Caleigh Wells, “LA County Opens Another Parking Lot For Homeless People To Sleep Safely In Their Cars,” *LAist*, Jan. 9, 2019. https://laist.com/2019/01/09/la_county_opens_another_parking_lot_for_homeless_to_sleep_safely_in_their_cars.php.

who would otherwise live inside their vehicles despite safety and legal compliance concerns.⁴ After undergoing an intensive application and vetting process, patrons who are accepted into the program can sleep safely at night in their cars on the lots with someone onsite to secure the premises.⁵

The project opened its first lot in March 2018 and has been receiving about 250 applications every 30 days. Safe parking programs are not limited to Los Angeles; similar lots in San Diego and Santa Barbara⁶ indicate demand to serialize the program.

In the United States as a whole, more than 500,000 people experience homelessness on any given night.⁷ Although this number has slowly decreased since 2007, it is nonetheless deeply concerning. Safe parking lots like those offered by Safe Parking Los Angeles have the potential to make a significant dent in this number by helping 200,000 unsheltered people nationwide.⁸ HUD should therefore consider expanding cheap and safe alternative housing options using models similar to that of Safe Parking Los Angeles, especially in places where conventional homes and shelters are expensive and difficult to maintain due to impractical building codes, zoning regulations, and ongoing rent subsidizations for low-income individuals and families.

Supporting and expanding safe parking lots has the potential to increase affordable housing options. We recognize, however, that safe parking lots—at least those run by nonprofit organizations—may function largely as a band-aid rather than as a long-term solution. As such, HUD should provide guidance to organizations on how to design fiscally responsible safe parking lots that can run independently at the local level. Specifically, this should involve a system in which patrons who are able may pay fair prices for the services they receive in the parking lots. Existing safe parking lots should also be encouraged to look to extend their impact by gearing their operations toward other market-based solutions to the problem of homelessness.

B. Lessons from Banning Pay Toilets

While each situation varies, bathroom access is an issue often influenced by socio-economic factors. Homeless populations as well as people living in unconventional homes are often forced to use either free but unsanitary or nonfunctional public toilets, or facilities provided by private businesses that cannot expressly charge for their use. Most free facilities are kept in unusable conditions because the government entities that oversee them are burdened with a wide range of responsibilities and have limited budgets.⁹ Meanwhile, with many American states and localities outlawing pay toilets,¹⁰ private businesses that are unable to charge for the use of their facilities often require payment for goods and services before permitting people to use their restrooms.

⁴ Monica Humphries, “These parking lots give homeless people a safe place to sleep for the night,” *Nation Swell*, March 26, 2019. <https://nationswell.com/california-safe-parking-lots-homeless>.

⁵ “FAQ,” Safe Parking Los Angeles, accessed Jan. 28, 2019. <https://www.safeparkingla.org/faq>.

⁶ Humphries. <https://nationswell.com/california-safe-parking-lots-homeless>.

⁷ “State of Homelessness,” National Alliance to End Homelessness, accessed Jan. 28, 2020. <https://endhomelessness.org/homelessness-in-america/homelessness-statistics/state-of-homelessness-report>.

⁸ “Exploring the Crisis of Unsheltered Homelessness.” <https://endhomelessness.org/exploring-crisis-unsheltered-homelessness>.

⁹ Sophie House, “Pay Toilets Are Illegal in Much of the U.S. They Shouldn't Be,” *Citylab*, Nov. 19, 2018. <https://www.citylab.com/perspective/2018/11/pay-toilets-should-have-another-chance-world-toilet-day/576169>.

¹⁰ Aaron Gordon, “Why don't we have pay toilets in America?,” *Pacific Standard*, June 14, 2017. <https://psmag.com/economics/dont-pay-toilets-america-bathroom-restroom-free-market-90683>.

Given the barriers to fulfilling a basic human need, some have offered creative solutions that show promise to improving bathroom access, such as the development of “guerrilla toilets”—informal toilet facilities that serve homeless populations.¹¹ But individual charity is limited in the number of people it can help, and illegally constructing sanitation facilities has real risks. At the same time, government intervention is also limited in terms of time and resources.

Ultimately, the best way to increase the impact of bathroom-access measures is to deregulate markets and allow consumers to demand the appropriate supply of toilets in places where they are needed. Allowing parking lot owners to install toilets and other amenities, for example, could lead to further solutions that government entities alone cannot devise. In the future, HUD may also want to consider providing guidance to state and local governments on how to allow safe parking organizations to legally add further amenities—including bathrooms, showers and other ancillary services that are free for patrons to use—to their lots.

Policymakers should keep in mind that heavy regulation, like the ban on pay toilets, always has the potential to create negative externalities. To stimulate the kind of growth that can sustain a large population of people with complex housing needs, the government cannot prevent the market from fulfilling consumer demand for unorthodox types of infrastructure, including bathroom facilities.

C. Problems Involving Residency Requirements

Apart from parking lots and amenities provided on site, homeless populations encounter obstacles relating to residency requirements, which can hurt their ability to travel, obtain jobs, and participate in civic life. The current requirements for obtaining a driver’s license, for instance, include proof of residency. Many homeless individuals and those living in shelters are unable to obtain driver’s licenses or even jobs because they do not have a housing address.¹² Those who live in their vehicles often use mail-forwarding services or the mailing addresses of their families and friends to receive mail, vote, and maintain access to government identification and public services,¹³ which poses its own set of problems. Improved state rules for creating a legal permanent address would provide homeless and members of America’s mobile workforce a more reliable way to get a driver’s license or passport, register a vehicle, file taxes, and obtain banking accounts, credit cards, and insurance.¹⁴

Rules for registering a legal permanent address vary across states, and while harmonizing residency rules would improve the situation, states have little incentive to do so on their own. Although HUD’s power to change these rules is limited, the rules’ effect on America’s homeless and mobile population creates a real nexus for housing regulators to offer policy alternatives. For example, HUD could acknowledge the issue by requiring its staff to consider the administrative burden borne by those without a permanent address as part of the “costs” side of the ledger for any new rulemaking activity it undertakes. Another solution could involve extending some form of electronic residency to members of the mobile workforce and the homeless, a policy tool analogous to one that has been successful in Estonia.¹⁵ As a national housing regulator, HUD could

¹¹ Gabriel Spitzer, “Seattle Man’s Toilet Kit For The Homeless Brings Privacy, Opens Doors,” *WAMU*, Aug. 3, 2019. <https://www.npr.org/2019/08/03/746581586/seattle-mans-toilet-kit-for-the-homeless-brings-privacy-opens-doors>.

¹² Teresa Wiltz, “Without ID, homeless trapped in a vicious cycle,” Pew Charitable Trusts, May 15, 2019. <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2017/05/15/without-id-homeless-trapped-in-vicious-cycle>.

¹³ “Picking a domicile state, getting mail, and voting,” *Technomadia*, July 25, 2012.

<https://www.technomadia.com/2012/07/chapter-9-nomadic-logistics-domicile-mail-taxes-banking-and-voting>.

¹⁴ *Ibid.*

¹⁵ See “E-residency,” Government of Estonia, accessed Jan. 28 2019. <https://e-resident.gov.ee>.

produce a report that documents best practices and other guidelines for how states may set up analogous mobile residency programs.

D. Conclusion

Subsidizing or reducing rent prices in cities has been ineffective in helping the homeless and unnecessarily penalizes the tenant, the landowner, and the government, all of which need to subsidize the costs. A better approach would be for HUD to encourage municipalities to give property owners more rights as to what takes place on their properties, including auxiliary housing and pay toilet uses. In light of the growing rates of homelessness and individuals living inside their vehicles due to rising rent prices in cities, HUD has an important role to play in shaping alternative housing options and providing support for those who are willing and able to remain or reintegrate into local economies.

Respectfully Submitted,

Franklin Sooho Lee, Research Assistant, R Street Institute

Nick Zaiac, Resident Fellow, Transportation and Infrastructure, R Street Institute