

State of the Market 41: Multi-household housing

By David A. Smith

In America, we live under a subtle tyranny – of the homestead vision, the notion that every dwelling must be as self-contained as a homestead. And it's time we had a revolution against it, because it's costly and restricts housing choice and innovation.

Zoning and building codes, enacted over decades for the best of reasons, have driven out of the supply all the interim pre-homestead configurations and tenures – rooming houses, in-law apartments, limited-service flats, and supportive housing variants. Half a century ago, all these were damned as flophouses, health and safety hazards, drug havens, and slums in the making, all contributing to cities' decline. But times have changed, and today these sub-homestead configurations offer opportunities for service-added multi-household housing – *if* they can surmount the obstacle course of operations, ownership, and especially development, meaning zoning and building codes.

The challenge: expanding the range of rental configurations

Houses, apartments, and hotels represent three speeds of turnover, three types of tenure, and three expectations of space and amenities, each to its own ... but if we fall into thinking these are the only ways to house people without special needs, we have grown lazy and needlessly restricted our choices. The America of 1985 could afford to think that way, the America of 2015 cannot.

Consider if you will what we may call the *essence* of a home. At its most fundamental level, a home is the place you return to sleep at night, and where you keep and protect your valuables and your



What (if anything) is wrong with this picture?

loved ones. Beyond personal security, a home is a place of privacy and intimacy.

The home is a *living unit*, but in the urban context it is encased in an *operating structure*. In cities, people share walls, floors, and ceilings with others. The building in which we make our home is a system of systems: boilers, HVAC, elevators, trash compacters, parking garages, security cameras. As we saw in last month's *State of the Market 40, Housing Goes High-Tech*, modern apartments are technologically complex and operationally sophisticated, and that is changing the job profile once known as "landlord". Today's operators, both conventional and affordable, now cover a wide range of services to the building and its systems, and the residents and their needs.

Yet all of this innovation struggles against a prison of our own taking: the tyranny of the homestead vision as expressed in antiquated, restrictive, and exclusionary zoning and building codes. Even well-designed regulations become straitjackets, especially when they have constituencies that profit from barriers to innovation, and hence fight any proposed change.

How we got here: the tyranny of the homestead vision

Though laws about property safety date back to the Code of Hammurabi ("If a builder builds a house for someone, and

does not construct it properly, and the house which he built falls in and kills its owner, then that builder shall be put to death"), building codes and zoning are recent inventions. They emerged as organized phenomena in the late nineteenth century when population pressure and land use economics sent buildings up into the sky and people into closer living proximity and higher density.

The second great wave of code/ zoning revision came after World War II, where the suburban vision of highway and driveway fused with our imagined ideal of the frontier homestead to give us a builder-led campaign to eradicate many non-homestead forms. Believing that urban landlords were slumlords, and that living together promoted licentiousness, reformers were driven by visions of crumbling tenements, filthy flophouses, and sinful brothels. If they could not ban the immoral behavior, they could demolish its venue, with new requirements, justified on the grounds of safety, health, or consumer protection, such as:

- **Anti-density.** Minimum lot sizes, minimum setbacks, maximum height requirements, and minimum parking standards.
- **Anti-cohabitation.** Maximum occupancy per bedroom, restrictions on unmarried cohabitation (with or without children) and roommate situations, prohibition on student occupancy.
- **Anti-crowding.** Minimum bedroom sizes, prohibitions against subdividing flats, limitations on adding partitions or internal non-load-bearing walls.
- **Anti-flexibility.** Mandatory separation of kitchen, ablutions, and bathing from sleeping areas, and minimum kitchen facilities (e.g. stove required, not hot plate or microwave).

In isolation, each of these changes seems perfectly reasonable, and yet when they are all accumulated together, they increased the floor price of housing, and so put out of business many cheaper tenure forms that served an important

socioeconomic need. All of them were gone by the 1970s, when the law imposed on landlords a judicial warranty of habitability, where the landlord became collectibly liable if the property lacked heat, hot water, security, or less dramatic failures like missing smoke detector batteries.

Types of multi-household housing

In the 1950s, it may have been plausible that large-scale slumlords were the predominant species and cohabitation was inherently sinful. Sixty years later, neither is tenable:

- If not fully extinct, slumlords are certainly threatened. Rather, over the last four decades public policy has induced, nurtured, and spawned the growth of Mission Entrepreneurial Entities – housing non-profits, Community Development Corporations, and community lenders we have seen the rise of a whole ecosystem of mission-oriented landlords.
- Cohabitation beyond the nuclear family is increasingly the norm, with specialized tenancies.

Across the country today, socially motivated innovators are rediscovering and reinventing the pre-1950s configuration and tenure forms with bottom-up innovations, usually driven either by large developer/ owner/ managers, or by smaller non-profit community groups. These landlords, professional or mission or both, are committed to solving the housing problems of varied populations.

These 'non-homestead rentals' include:

- **Basement/ attic flats** that put to use 'excess' space in larger homes, where the aging homeowner does not want to move but has rooms that are idle and chores that need doing. A bargain struck with a younger, more active tenant, where rent is lower in exchange for upkeep/ light maintenance services, turns an over-housed under-maintained single-family dwelling into a multi-

household home that benefits both parties.

- ***In-law apartments***, or as they have been more formally called, Accessory Dwelling Units, where an aging parent or grandparent can live as independently as she wants, with her loved ones immediately nearby and on-call.
- ***Generation-skipping households***, where grandparents raise grandchildren because one or more parents is absent for an extended period.
- ***Formalizing legal roommates***, by codifying the permissibility of unrelated adults living together and sharing kitchens, bathrooms, and non-sleeping quarters. Many cities place limits on unrelated people living together yet we all know that roommate doubling and tripling up is an essential component of flexing housing cost and allowing people to move to where the lower-paid starter jobs are being formed.
- ***Rooming houses***, which are returning in New York City and elsewhere. Some of these new ones are adopting the late nineteenth-century Settlement House model, where like-minded morally dedicated individuals shared kitchens, bathrooms, and toilets, pooling their earnings and their labor to divide up responsibilities.
- ***Single-Room-Occupancy (SRO)***, with an emphasis on homogenous populations (often principally men), where some of the 'normal' living skills (e.g. cooking) are provided or supported communally. Think simple, spartan, cleaned and catered (no hoarding and no vermin), but with a lockable door for security and privacy.
- ***Supportive housing***, as profiled in *State of the Market 38*, which couples a small-but-homestead apartment with an in-property service package reflecting that though we hope and desire the occupant to become self-sufficient eventually, she or he will not be self-sufficient at move-in, and we seek to make a positive change.

- ***Congregate care***, where elderly (usually widowed) individuals live in independent apartments within a larger building structure whose operator offers them group meals and group activities.
- ***Assisted living and nursing homes***, which have long been recognized as an important tenure and service configuration.

As we go up and down this list of alternative non-homestead rental arrangements, two things stand out – they cover a continuum of price points (some are cheaper than traditional rental, some more expensive) and a continuum of service configurations. In turn, they are generating new business models for owners and managers.

They are, in short, innovation at its best.

Yet instead of property owners being free to innovate and customize, virtually none of these configuration-tenure models are legal as-of-right; instead they must be legislated into the zoning laws, one by one, and often locality by locality. These can be brutal political battles. San Diego took years to allow the old Baltic Hotel to be converted into an SRO. New York City is currently grappling with roommate requirements. Virginia adopted a statewide a 'Kate and Allie' ordinance allowing two single parents with a total of up to six dependents to live together in a single household, and Fairfax County is going through a painful and contentious restructuring of its building codes.

These fights are politically tough because, in addition to prejudice and fear, lawmakers find themselves stumbling over definitional challenges. Why is 'transient occupancy' a bad thing in SRO's but a good thing in hotels? Why is it legal to allow middle-income traveling businesspeople to use subcompact accommodations (like the extreme Yotel) or to rent from strangers (as via Airbnb and similar facilitated peer-to-peer linkages), yet deny them to lower-income families and individuals who need lower-cost service-configured choices?

Conclusion: rethink the range of rental apartments, and change the rules

Buildings last longer than zoning laws, and both last longer than 'typical' tenure patterns. At its essence, an apartment is a safe space where the resident can be private at his, her, or their choice. Yet some clusters of resident types voluntarily give up their right to complete privacy in exchange for access to additional services that help them live their lives better. That's the motive force behind the new non-homestead tenures, and it is one whose demand will continue to grow.

On the supply side, things that are economically necessary eventually are created. At one time or another, all of us have probably lived with unrelated people in an apartment that had only one name on the lease. Would our lives really have been improved if a city official showed up, clipboard in hand, told us we were being exploited, and forced us to pay three times as much for an apartment meeting all requirements?

Necessary things that are not legalized are driven underground (for example, with families in high-cost areas illicitly doubling or even tripling up), where they are of lower quality, higher cost, and creating greater health and safety risks than if they were legalized. Submerging these tenures also deprives the residential rental industry of the chance to lead in both policy and economics: to build successful new businesses around new tenure and service models that reduce the cost of occupancy and create more flexibility alternatives.

If we believe that these non-homestead rentals are a wave of the future, then we have to challenge the tyranny of the homestead vision.

We can't expect others to make our policy for us. It is incumbent on the apartment industry to make the case for the change, and lead the change, at the state and local level, both by advocacy, amendment, experimentation, and demonstration.

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