

POLICY BRIEF

Citizens' Guide to Initiative 2 *to impose rent-increase limits in Bellingham*

Proposed Initiative would function as rent control, increasing housing unaffordability by further constricting housing supply while contributing to homelessness

By Scott Fallon,
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Key Findings

1. Initiative 2 is a rent control measure that would impose a harsh penalty on landlords who raise rent above a fixed 8% annual threshold.
2. The Initiative would reduce the supply of affordable housing by discouraging builders from creating and maintaining rental units.
3. Initiative 2 is a near carbon copy of a Portland rent-control measure passed in 2017 that has increased housing unaffordability.
4. The negative results of the Portland measure show that Bellingham should expect a double-digit percentage decline in available units if rent control is imposed.
5. Initiative sponsors' claims of success in other cities with similar initiatives are demonstrably false.
6. The experience of other cities shows rent control increases housing unaffordability, falls hardest on low-income renters, and increases homelessness.
7. Initiative 2 does nothing to address the root causes of housing unaffordability in Bellingham.



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Summary

A Bellingham activist group has proposed local Initiative 2, which will appear on the general election ballot in November.

The Initiative almost exactly replicates an ordinance passed in Portland six years ago. Initiative 2 would require landlords who raise rent by more than 8% to pay their tenants a “relocation assistance” fee equal to three months of rent – a financial penalty that is harsher than the one imposed by the Portland ordinance.

Initiative 2 would effectively impose rent control because it would pressure landlords to restrict any rent increases to below 8% and would have the same harmful impacts as rent control.

Both economic theory and real-world results unequivocally show that laws which artificially control rents disincentivize housing providers from creating and retaining an affordable housing supply, driving low-income renters to the financial brink and pushing more people into homelessness.

Bellingham, like Portland, suffers from lack of housing affordability and rising homelessness because of a shortage of housing caused by strict growth management laws, zoning rules, and other housing regulations imposed in the face of high population growth. Initiative 2 does not address any of the root causes and instead would make the problem of affordable housing worse.

Introduction

In the 2021 general election a group called People First Bellingham placed an initiative on the Bellingham ballot modeled on the Renter Relocation Assistance law that was passed in Portland in 2017.

The 2021 measure would have required a landlord to pay relocation fees to tenants if the landlord raised rent more than 8% in a rolling 12-month period. Much of the language of the Portland law was copied verbatim into the Bellingham initiative, except the Bellingham measure would have set the fee at three months market rate rent payments, while the Portland law uses fixed and typically lower fees based on the number of a unit's bedrooms. The 2021 Bellingham proposal was defeated by voters.

People First Bellingham included representatives from other organizations such as Whatcom Democratic Socialists of America and Bellingham Tenants Union. Since 2021 it changed its name to “Community First Whatcom” and placed Initiative 2 on the 2023 general election ballot. This initiative is nearly identical

to the failed 2021 measure with some slight changes which mostly increase the negative impact on the housing market.

Negative impacts of the changes include:

- Increasing the amount of notice landlords must give tenants of rent increases from 90 days to 120 days and that notice requirement applies to any increase amount, not just large rent increases.
- Changing the relocation fee required of landlords from three months market rate rent to the higher of that amount or the actual rent paid in a particular case.
- Increasing the amount of time a tenant can take to relocate from four months to five months.
- Eliminating most landlord exceptions, making nearly all rental housing in Bellingham subject to the law.

Initiative text

The ballot text is:

“City of Bellingham Initiative 2023-02 concerns the adoption of a rental relocation assistance program for tenants.

This measure would require landlords to provide written notice 120 days before increasing rent by more than 8% in a rolling 12-month period; require landlords to pay relocation assistance equal to three times the current fair market monthly rent for Bellingham or three times the tenant’s existing monthly rate, whichever is higher, when increasing rent more than 8%, with limited exceptions; provide tenants receiving assistance a relocation period of 5 months; and authorize private actions and city enforcement.

Should this measure be enacted into law?”¹

Additional provisions include a requirement to make relocation payments to tenants within 31 calendar days of a tenant filing a request for relocation fees. Harsh penalties would apply to landlords who fail to comply with any of the provisions.

Those penalties include *doubling* of the relocation fee, a fine of \$500 (which increases with subsequent infractions by the landlord), payment of tenant attorney fees, and reimbursement of other “actual damages”. The landlord would also be found guilty of a civil infraction.

1 Initiative 2023-02, Ballot Title, Final Language, Whatcom County, accessed September 19, 2023, at <https://www.whatcomcounty.us/DocumentCenter/View/77745/Initiative-2023-02-COB-Final-Language>.

Policy analysis: Initiative 2023-23 would impose rent control

Washington law specifically prohibits the imposition of rent control. Sponsors of Initiative 2 claim their measure would not impose rent control because landlords would technically still be free to raise rents as high as they choose.

If the proposed relocation fees for renters were paid out of the city's general tax fund, this might be true. However, the penalties that would be imposed for raising rent above a set level are so punitive that this initiative is equivalent to formal rent control.² This is a clear attempt to engineer an end-run around Washington law.

Using the initiative language example of \$2,000 median rent for a two-bedroom rental, the proposed "relocation" fee would be imposed if the landlord raised the monthly rent by as little as \$160. Should the tenant choose to not renew at the higher rate, the landlord would have to pay the tenant \$6,000 (assuming that rent level were higher than the market rate).

The payback period for the landlord to recoup the relocation fees from a new tenant through the increased rent in this example would be *more than three years*.³

Further, the tenant would have 45 days from receipt of the rent increase notice to request the relocation fee. Once the landlord pays the fee – which must be paid within 31 days of the tenant's request – the tenant could take up to five months to decide whether to move out or accept the higher rent.

During this five-month period, the tenant could keep the \$6,000 (using the example described above) and then decide to vacate the property. Alternatively, the tenant could decide to accept the higher rent and return the fee to the landlord.

However, even if the tenant accepts the higher rent, no interest would be due to the landlord for the up to five months the tenant held the relocation fee. The penalty in effect would be an interest-free loan from the landlord to the tenant forced by city law.

If the landlord is considered not in compliance with any requirement of the law, the penalties include doubling the relocation fee (to \$12,000 in our example) which would more than double the payback period to beyond *six years*.

Few landlords could or would accept such unfavorable financial conditions so Initiative 2 would function as rent control, capping rent increases at 8% or less a year. The Initiative's onerous penalties alone indicate the sponsors' intent to keep rents below that threshold and would, indeed, have that result. This proposal is rent control in effect and impact.

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- 2 "Rent" is defined to include all periodic charges such as the actual unit rent but also parking, utilities and fees. The Initiative is drafted so that landlords could not avoid the rent-control restriction by, for example, increasing the parking fee.
 - 3 This assumes the landlord does not subsequently during the period raise the rent further which may or may not change the payback period, depending on variables such as the increase amount, inflation, tax increases, and such.

That impact would be the same as explicit rent control in suppressing the supply of affordable rental housing by discouraging property owners from entering or staying in the rental market. Even the City of Bellingham legal department expressed concern that the initiative would be found in violation of Washington law prohibiting rent control.

Adverse impact: Damage to low-income renters and the homeless

The negative impact of Initiative 2 would fall heaviest on the most marginalized groups. This is not an academic argument. Real world proof in other cities shows that such attempts to regulate rental rates and lease terms devastate low-income renters.⁴ The experience of Portland provides one of these examples.⁵ Proven negative outcomes include:⁶

- Affordability decreases.
 - New housing construction is inhibited which reduces the supply of housing and in the face of increasing demand decreases affordability.⁷
 - Landlords are incentivized to raise the rent every year to just under the triggering threshold. Under rent control they must raise the rent every year to “bank” increases that would no longer be possible in future years. Rent control puts landlords in a “use it or lose” position regarding rent increases. Initiative 2 would lead to regular 7.9% annual rent increases.
- Quality of housing deteriorates.
 - Under rent control landlords forego maintenance and improvements because they are unable to use higher rents to recoup their investments. The impact is particularly damaging to low-income housing.

4 See for example “What does economic evidence tell us about the effects of rent control,” by Rebecca Diamond, The Brookings Institute, October 18, 2018, at <https://www.brookings.edu/articles/what-does-economic-evidence-tell-us-about-the-effects-of-rent-control/>.

5 “The unintended consequences that Portland isn’t tracking,” editorial, The Oregonian, February 22, 2023, at <https://www.oregonlive.com/opinion/2022/07/editorial-the-unintended-consequences-that-portland-isnt-tracking.html>.

6 “What does economic evidence tell us about the effects of rent control,” by Rebecca Diamond, The Brookings Institute, October 18, 2018, at <https://www.brookings.edu/articles/what-does-economic-evidence-tell-us-about-the-effects-of-rent-control/>. The study finds that, “Rent control appears to help affordability in the short run for current tenants but in the long run decreases affordability, fuels gentrification and creates negative externalities on the surrounding neighborhood.”

7 “Single family detached rental housing trends from 2015 to 2020 in the Portland metro region,” ECONorthwest, March 25, 2023, at https://assets.noviams.com/novi-file-uploads/mfnw/Files/article/Portland_Metro-Detached_Housing_Rental_Stock_Analysis-Updated_Report-3-25-22_002_.pdf.

- Gentrification increases and accelerates.
 - Rent control discourages landlords and builders from taking risks with marginal renters. They would not want to take a chance on a renter who may be more at risk of late payments, missed payments, and unpaid rent. Instead, they would seek to rent to high-income tenants who are perceived as more willing and able to absorb rent increases above the 8% threshold rather than choosing to move and triggering the relocation fee.
 - Rent control drives landlords and developers to convert to and build condos rather than apartments, reducing rental supply further and driving low-income renters out of neighborhoods in favor of high-income consumers who can afford to buy rather than rent.⁸
- Diversity decreases.
 - As gentrification kicks in, low-income and other marginalized groups are forced to compete with high-income renters for scarce properties.
- Mobility is reduced.
 - Under rent control, tenants are incentivized to stay in their rent rate-capped housing rather than move. This is common in New York City and San Francisco, for example, and is effectively a subsidy for the rich at the expense of the poor.⁹ In a market without rent regulations, as a tenant's earning power and income increases over time they typically move to higher-end housing, freeing up affordable housing for lower-income tenants. The gap grows each year between the artificially lower rent on their current housing and market rates on new housing until not giving up the rent-controlled apartment becomes overwhelmingly compelling.
- Homelessness expands.
 - Those clinging to the lowest-priced rentals are forced out of the market by the supply shortages that push those with higher income to compete for those rentals which drives up their rental rates. Sponsors of the initiative point to the similar laws passed in Portland and Seattle, but that is

8 In San Francisco rent control measures were found to reduce rental supply by 15%. See "The effects of rent control expansion on tenants, landlords and inequality: Evidence from San Francisco," by Rebecca Diamond, Tim McQuaid, and Franklin Qian, Stanford University, March 4, 2019, at <https://web.stanford.edu/~diamondr/DMQ.pdf>. Similar results were seen in Berlin, where the city "saw a significant drop in rental listings because tenants were not moving from their rent-capped apartments. Renters navigating the market then found it almost impossible to find a new home." See "Would rent control solve affordable housing crisis?" by Ria Ryder-Marks, The Columbian, August 5, 2023, at <https://www.columbian.com/news/2023/aug/05/would-rent-control-solve-affordable-housing-crisis/>.

9 Rent control reduced mobility by 20%. See "The effects of rent control expansion on tenants, landlords and inequality: Evidence from San Francisco," by Rebecca Diamond, Tim McQuaid, and Franklin Qian, Stanford University, March 4, 2019, at <https://web.stanford.edu/~diamondr/DMQ.pdf>.

problematic because homelessness in Portland is up 20%.¹⁰ And only the much larger cities of New York and Los Angeles have more homeless than Seattle, where homeless numbers continue to increase.

Initiative 2 ignores the root cause of housing unaffordability

Much of the damage done by rent control measures such as Initiative 2 comes from policymakers ignoring basic principles of economics and not considering the root causes of the problems they seek to address. Price controls always worsen the long-term harm imposed on those most impacted.

Landlords do not raise rents in a vacuum. They do so only when market conditions allow and that happens only when there are more renters than places to rent. Rising prices signal to other potential market entrants increased opportunity, thereby leading to the creation of more rental units. Price controls short circuit that market signal process which leads to rental demand further exceeding the housing supply.¹¹

Basic economics are at work in the Bellingham housing market to create the unaffordability crisis. Population in the city has increased dramatically over the past 20 years while city, county, and state policies have not allowed the housing supply to keep pace. In the past two decades the population of Bellingham has grown by approximately 25,000 people or about 35% (and this ignores growth outside the city limits which also puts pressure on housing costs).¹² Three quarters of that growth has come from immigration into the city.¹³

However, fewer housing units were built during those two decades than in the preceding 20 years when population increase was lower. The ratio of housing units built per new person has dropped from 0.59 to 0.41, a decrease of over 30%.

Predictably, the vacancy rate has plummeted and is now less than 60% of what it was just 15 years ago.

A primary cause of the drop in new housing construction is the harmful impact of growth management laws. The Urban Growth Area housing restrictions implemented by Whatcom County increase the cost of housing within Bellingham.

10 “Portland-area homeless count jumped 20%,” by Emily Harris, Axios Portland, May 12, 2023, at <https://www.axios.com/local/portland/2023/05/12/2023-homeless-count-in-multnomah-county>

11 “Rent growth is slowing (where housing got built),” by Eric Levitz, Intelligencer, New York Magazine, August 4, 2023, at <https://nymag.com/intelligencer/2023/08/rent-growth-is-slowing-where-housing-got-built.html>.

12 “Bellingham housing statistics,” Planning and Community Development Department, City of Bellingham, accessed September 19, 2023, at <https://storymaps.arcgis.com/stories/3e1c77f31cbf4cc8bf94b39f62970fdf>.

13 “Housing FAQs,” Community Planning, City of Bellingham, accessed September 19, 2023, at <https://cob.org/services/planning/key-housing-questions>.

As an example of this impact, studies of Seattle and King County are instructive. Seattle has experienced similar population and job growth as Houston.¹⁴ However, Houston's housing affordability is much better than Seattle's, with housing costing only a fraction of that in Seattle. The difference is that housing in Houston is not subject to artificial growth management limits.¹⁵

One can argue the relative merits of living in the Puget Sound area compared to Houston, of course, including whether the preserved open space in the former improves the quality of life. In fact, some proponents of growth management do just that and claim that the higher cost of housing is worth it. (This view is often expressed by people who already own houses, and is a key driver of NIMBYism.)

What rent control and stabilization proponents cannot deny, though, is that the higher prices are caused by an induced housing shortage and that housing shortage not only leads to higher costs for those who can afford it, but it also pushes low-income renters out and creates more homelessness.

Quality of life is impacted by more than available open space. It is impacted when people have to pay a much higher mortgage payment or rent and their adult children find it difficult to find housing locally. Nationally the percentage of 18-34 year-olds still living with their parents has doubled in the past 20 years.¹⁶ Working class families are particularly impacted when there is less supply of employment that would have come from building and maintaining additional housing.

Other significant causes of the policy-induced housing supply shortage include:

- Zoning regulations. Restrictive zoning laws artificially inflate the price of land per house in Seattle by \$200,000 and in Portland by \$80,000.¹⁷
- High permit fees charged by the city and other government agencies. In Bellingham, in addition to permit, planning, and inspection fees, a duplex builder, for example, would face other fees per unit including over \$4,000 for Park Impact, over \$4,000 for School Impact, and over \$2,000 for Transportation Impact fees.
- Rising property taxes which make it more expensive to own rental housing. Other initiatives such as Proposition 5 passed in 2022 in Whatcom County to fund daycare escalate property taxes and those increases are passed along to renters.

14 "Seattle metro area population 1950 – 2023," Macrotrends, accessed September 19, 2023, at <https://www.macrotrends.net/cities/23140/seattle/population>.

15 "The new feudalism: Why states must repeal growth-management laws," by Randal O'Toole, Policy Analysis No. 802, The CATO Institute, October 18, 2016, at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2877824.

16 "Cities with the most adult children living at home," Lattice Publishing, March 2, 2020, at <https://www.latticepublishing.com/blog/cities-with-the-most-adult-children-living-at-home>.

17 "The impact of local residential land use restrictions on land values across and within single family housing markets," by Joseph Gyourko and Jacob Krimmel, National Bureau of Economic Research (NBER), July 2021, at <https://www.nber.org/papers/w28993>.

- Building regulations which increase costs and have long approval times.
- Requirements for low-income unit inclusion in larger projects.
- Lengthy environmental reviews.
- Historical preservation regulations.
- Local NIMBY opposition to even small building projects.

The rent control and renter relocation fees proposed by Initiative 2 would do nothing to address the root causes of housing unaffordability and would instead worsen it. As a Stanford study found, “...forcing landlords to provide insurance to tenants against rent increases can ultimately be counterproductive.”¹⁸

Defects in ordinance design

While rent control inevitably worsens affordable housing outcomes, most ordinances acknowledge that inevitability and attempt to mitigate some of the damage through provisions to incentivize favorable behavior from landlords and developers. This Bellingham initiative excludes those mitigating provisions. For example:

- There is no provision exempting new rental buildings for a number of years, which is usually included so as not to discourage new supply from coming on the market. The city of St. Paul famously attempted to enact rent control without such a provision and the number of cancelled planned developments exploded. The city council was forced to amend the law in an emergency effort.
- Inflation and tax increases are ignored in favor of a fixed 8% rate increase cap.¹⁹ In years when inflation is high landlords have no means to keep up under this initiative, further depressing the attractiveness of entering the rental market, introducing another brake on supply increasing, and further damaging housing affordability.
- Eight percent is an arbitrary level. Sponsors brush aside this complaint by accusing landlords of gouging tenants. A blanket statement such as that leaves no room for factoring in inflation and other real costs landlords face.
- To avoid the staffing and delays required for means testing (as is required by a similar measure in Seattle), the initiative makes the relocation fee required

18 “What does economic evidence tell us about the effects of rent control,” by Rebecca Diamond, The Brookings Institute, October 18, 2018, at <https://www.brookings.edu/articles/what-does-economic-evidence-tell-us-about-the-effects-of-rent-control/>.

19 Some rent control ordinances in other cities have included provisions to account for inflation, but even then such provisions fail to account for the fact that inflation does not fall uniformly across all goods. Additionally, in the case of housing, artificial non-market inflationary impacts can be caused by increased property taxes and other government actions.

for all renters regardless of income, which will greatly expand the negative impact of the measure and force landlords to subsidize high-income renters.

False arguments made by Initiative 2 sponsors

Some of the arguments and rationale put forward by the initiative sponsors are untrue.

- Sponsors say fees such as first and last month rent and security deposits are wiping out the savings of renters. While fees can burden some renters, the sponsors overstate by ignoring that these are not fully recurring costs after a tenant finds that first rental. With a subsequent move the tenant does not pay the last month's rent (that is, there is no double paying of rent when a new last month's fee is required at a new rental). If tenants leave a rental in good condition they get some or all of their security deposit returned. The Initiative sponsors exaggerate when they imply moving requires a cost fully equal to first month rent, last month rent, and security deposit.
- Compounding that error, the sponsors claim that they are merely forcing landlords to pay the costs they impose on tenants. It would likely not cost \$6,000+ to move to a comparably priced new apartment in our example. This demonizing of landlords also ignores the fact that landlords raise rent in response to market forces they don't control. As already noted, these market forces are in the case of Bellingham housing highly skewed by government policies.
- Initiative sponsors claim that their proposal has been successful elsewhere. This is not supported by real-world results, especially since this proposed measure has more extreme requirements than similar measures. Portland fees can be lower – \$3,300 for a one bedroom rental rather than the higher of three months market rate or actual rent proposed here. Further, the Portland law on which the initiative is modeled became mostly moot when an Oregon state law capping rental increases kicked in a couple years later. But in the period when the relocation fee measure had full effect the number of single family detached rental units in the city of Portland declined from 27,656 units to 23,669, a loss of 3,987 units or 14%.²⁰ That rate was double the decline in the metro area outside Portland where the relocation measure was not in effect (but impact was also felt by other anti-development laws in Oregon). The exact Portland measure that this initiative copies caused the vacancy rate to plummet. Low vacancy rates are explicitly acknowledged in the text of this initiative as a cause for housing unaffordability, so there is no support for its sponsors to claim such a measure has been successful elsewhere. Explicit rent control elsewhere, including in Seattle and Portland, has not been successful because both housing unaffordability and homelessness increased as a result.

²⁰ “Single family detached rental housing trends from 2015 to 2020 in the Portland metro region,” ECONorthwest, March 25, 2023, at https://assets.noviams.com/novi-file-uploads/mfnw/Files/article/Portland_Metro-Detached_Housing_Rental_Stock_Analysis-Updated_Report-3-25-22_002_.pdf.

- Sponsors claim the measure would reduce homelessness. Research from the University of Washington shows, however, that restrictive housing regulations that suppress new supply *cause* homelessness.²¹ By disincentivizing building and conversion to rentals, as rent control measures always do, this measure would increase homelessness. Initiative 2 would create the opposite of what its sponsors claim.
- Sponsors point to “corporate greed” as the source of rising rents, but in Bellingham only 13.9% of housing is made up of complexes with more than 20 units, and even that figure is skewed by apartment complexes around Western Washington University that cater to students.²² The burden of Initiative 2 would fall most heavily on smaller landlords.

There are positive alternative solutions

There are positive solutions that would increase the supply of affordable housing without imposing harsh rent control measures which increase homelessness and hurt low-income renters.

Long term solution: Policymakers should repeal many of the state, county, and municipal restrictions on building housing and reduce the network of taxes and regulations imposed on existing rentals. Doing so would signal to developers and landlords (current and future) that the financial risk is worth taking, and that they should enter the market, stay in the market, invest to improve their existing supply, and bring more supply and choices to renters. The positive actions of policymakers in Montana and Minneapolis offer real-world evidence that this is the answer.²³

Short term: In the effort to support renters currently impacted by the housing shortage, there is no ideal solution, just as there was never such a solution that both severely restricted building and also provided ample supply of housing in the face of population growth. Of the possible short-term measures to consider, though, a landlord-funded renter relocation fee program as proposed by Initiative 2 is among the worst because it would undermine a long-term solution by disincentivizing developers and landlords.

Still fraught with negative side effects but less onerous would be a temporary program with a set end date that provided aid to low-income renters derived from general tax funds. Landlords would not be disincentivized by such a solution. However, even this is a problematic “solution” because it would require that the

21 “UW expert says the housing market is the key factor causing homelessness,” by Kim Malcom and Andy Hurst, KUOW radio, August 2, 2022, at <https://www.kuow.org/stories/why-is-homelessness-such-a>.

22 “Bellingham, WA housing statistics,” Infoplease, June 5, 2020, at <https://www.infoplease.com/us/census/washington/bellingham/housing-statistics>.

23 “The anti-California: How Montana performed a housing miracle,” by Annie Lowry, The Atlantic, August 9, 2023, at <https://www.theatlantic.com/ideas/archive/2023/08/rural-montana-housing-crisis-supply/674950/>, and “Minneapolis has a NIMBY message for America: Build more houses and get rid of suburban-style zoning and inflation will disappear,” by Mark Niquette, August Saraiva and Bloomberg, August 9, 2023, at <https://fortune.com/2023/08/09/minneapolis-housing-zoning-real-estate-inflation-yimby-nimby-minnesota/>.

work to remove anti-development and anti-landlord regulations is underway when that is not yet happening.

It would also exacerbate the supply/demand distortion by creating more demand without increasing supply. More dollars would be chasing the same limited supply which would lead to even higher price increases.

Policymakers cannot solve this problem without an immediate elimination of state and local anti-housing and anti-rental regulations. Fast permitting allowing a wider variety of housing types in areas previously off limits to rentals and development would signal to existing landlords that they cannot raise rents too much in the face of new competition or they will lose their tenants. If the root problem is not solved there will inevitably be more major costs and those costs will fall hardest on the poor.

Conclusion

As with any attempt to impose rent control, Initiative 2 would worsen the plight of renters in Bellingham, with an especially damaging impact on low-income and marginalized renters. While the Initiative acknowledges Bellingham's low vacancy rate, the measure would worsen the vacancy rate problem by disincentivizing the creation of new rental housing.

Trying to emulate Portland policies will inevitably create Portland-style results. Witnessing the deteriorated conditions along Interstate 5 when driving through the formerly livable City of Roses should eliminate any doubt that trying the same tactics in Bellingham would bring any improvement to housing affordability here. Initiative 2 would discourage increases in the housing supply and would have predictably negative results for the poorest communities.

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