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**HOUSING IS HEALTHCARE:
THE TAX IMPLICATIONS OF
HOMELESSNESS AND ADDICTION**

Taylor A. F. Wolff*

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I. Introduction

The Surgeon General's 2015 Report on Alcohol, Drugs, and Health found that over twenty-seven million people in the United States reported current use of illegal drugs or misuse of prescription drugs, and over sixty-six million people (nearly a quarter of the adult and adolescent population) reported binge drinking in the past month.¹ The misuse of alcohol, drugs, and related disorders "are major public health challenges that are taking an enormous toll on individuals, families, and society."² The estimated yearly impact of alcohol misuse and illegal drug use is \$249 billion and \$193 billion, respectively.³

Most Americans know of at least one person with a substance use disorder, and many know someone who has lost or nearly lost a family member due to substance misuse.⁴ Unfortunately, substance use disorders generate shame and misunderstanding,⁵ and about 40% of individuals who know they have an alcohol or drug problem are not ready to stop using.⁶ Historically, society has treated addiction as symptoms of moral weakness or as a willful rejection of societal norms, leaving these problems to be addressed primarily through the criminal justice system.⁷

Million-Dollar Murray is perhaps the most poignant example of the costs of addiction, suggesting that the problem is centered on a few hard cases.⁸ Murray Barr was a chronically homeless⁹ person and ex-marine

¹ U.S. DEP'T OF HEALTH & HUMAN SERVS., FACING ADDICTION IN AMERICA: THE SURGEON GENERAL'S REPORT ON ALCOHOL, DRUGS, AND HEALTH (Nov. 2016), <https://addiction.surgeongeneral.gov/executive-summary> [hereinafter "The Surgeon General's Report"].

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* According to the report, America's health care system has not given substance use disorders the same level of attention it has given to other health concerns that affect similar numbers of people. *Id.* The report also notes a "treatment gap" as substance use disorder treatment in the United States remains largely segregated from the rest of health care with about only 10% of people with a substance use disorder receiving any type of specialty treatment. *Id.*

⁸ See Malcolm Gladwell, *Million-Dollar Murray*, NEW YORKER, Feb. 13, 2006, at 96.

⁹ *Id.* "Homelessness doesn't have a normal distribution It has a power-law distribution." *Id.* Gladwell cites a study that found that 80% of people who are homeless were commonly homeless for one to two days. *Id.* Ten percent were episodic users who would stay at shelters three weeks at a time and return periodically, particularly in the winter; they were often heavy drug users. *Id.* The last 10% were the chronically homeless, living at shelters sometimes for years at a time. *Id.* This last group was often older, having mental or physical disabilities, and is the type "we think about . . . as a social problem—the people sleeping on the sidewalk, aggressively panhandling, lying drunk in doorways, huddled on subway grates and under bridges." *Id.*

who “if you [totaled] up all his hospital bills for the ten years that he had been on the streets--as well as substance-abuse-treatment costs, doctors’ fees, and other expenses--,” would have cost one million dollars.¹⁰ It “would probably have been cheaper to give [Murray] a full-time nurse and his own apartment.”¹¹ Supportive services like substance abuse treatment, doctors’ care, and permanent housing could have saved tax dollars incurred from emergency services and incarceration.

More recently, Glenn Baker, a man with severe asthma and other chronic medical issues, is known in the medical world as a “superutilizer” or “frequent flier” – people with a mix of chronic medical problems, mental health issues, and homelessness that drive them to visit the hospital far more than the average patient.¹² He admits he often ends up in the hospital not because he was sick, but because he was homeless.¹³ Interestingly, his hospital paid for his housing.¹⁴

The stories of Million-Dollar Murray and Glenn Baker are illustrative of the larger issues of addiction, poverty, and mental illness, and of how lack of housing perpetuates these issues. At the same time, it is important to recognize that much of the homeless population is not male and adult. Single homeless adults are more likely to be male than female, but children under the age of eighteen accounted for 39% of the homeless population in 2003.¹⁵ Furthermore, the number of homeless families with children increased significantly over the past decade.¹⁶ One survey of twenty-seven cities in 2004 found that the homeless population was 49% African-American, 35% Caucasian, 14% Hispanic, 2% Native American, and 1% Asian.¹⁷ The homeless population also consists of

¹⁰ *Id.*

¹¹ *Id.*

¹² Miles Bryan, *A Hospital Offers Frequent ER Patients An Out – Free Housing*, NPR (June 29, 2016, 3:03 PM), <http://www.npr.org/sections/health-shots/2016/06/29/482994000/a-hospital-offers-frequent-er-patients-an-out-free-housing>; see also Michael Lozano, *Avoiding Clinical Bias: Examine ED Super-Utilizers as You Would Any Other Patient*, EMCARE (Feb. 10, 2016), <https://www.emcare.com/news-events/emcare-blog/february-2016/avoiding-clinical-bias-examine-ed-super-utilizers> (“There are many labels used to describe these patients; ‘frequent flyer’ was the term that was in a vogue a while back. What we now see used in the literature is the more descriptive term: high utilizer. The definition varies from study to study, but tends to hover around four or more visits in a year.”).

¹³ Bryan, *supra* note 12.

¹⁴ *Id.*

¹⁵ *Who is Homeless?*, NATIONAL COALITION FOR THE HOMELESS (Aug. 2017), <http://www.nationalhomeless.org/publications/facts/Whois.pdf>.

¹⁶ *Id.*

¹⁷ *Id.* (“[T]he ethnic makeup of homeless populations varies according to geographic location.”).

victims of domestic violence, veterans, persons with mental illness, and persons suffering from addiction disorders.¹⁸ While recognizing the whole homeless population is important, this note focuses specifically on high utilizers because of their disproportionate impact on public funds.

Part II will first discuss the importance of housing people like Million-Dollar Murray who are chronically homeless,¹⁹ specifically through supportive and affordable housing programs.²⁰ In addition to addiction, lack of housing is a healthcare concern facing this population. Tax policy is then framed as a way to resolve the social and economic costs associated with lack of housing for people with substance use disorders. After providing a short history of the “Wet House,” a housing program model that gets chronic alcoholics off the streets²¹ in places like Seattle²² and

¹⁸ *Id.* Moreover,

[s]urveys of homeless populations conducted during the 1980s found consistently high rates of addiction, particularly among single men; however, recent research has called the results of those studies into question. Briefly put, the studies that produced high prevalence rates greatly over represented long-term shelter users and single men, and used lifetime rather than current measures of addiction. While there is no generally accepted “magic number” with respect to the prevalence of addiction disorders among homeless adults, the U.S. Conference of Mayors’ number in 2005 was 30%, and the frequently cited figure of about 65% is probably at least double the real rate for current addiction disorders among all single adults who are homeless in a year.

Id. (citation omitted).

¹⁹ A discussion with Ms. Kara Capone, former Chief Operating Officer of New Reach, a housing program in New Haven, Connecticut revealed how data has been compiled and analyzed to create a vulnerability index. Discussion between author and Kara Capone, former Chief Operating Officer, New Reach (Sept. 21, 2016). This index identifies and prioritizes the street homeless population for housing according to who needs it most based on markers for heightened risk of mortality. *Vulnerability Index: Prioritizing the Street Homeless Population by Mortality Risk*, JUNEAU ECON. DEV. COUNCIL, <http://www.jedc.org/housing-solutions-chronic-inebriates> (last visited March 22, 2018). The data thus helps direct efforts toward providing housing for people who are homeless by targeting those most likely to die in the streets. *Id.* According to one study conducted by Boston’s Healthcare for the Homeless organization, for individuals who have been homeless for at least six months, the following markers place a homeless person at a heightened risk of mortality: more than three hospitalizations or emergency room visits a year; more than three emergency room visits in the previous three months; aged sixty or older; cirrhosis of the liver; end-stage renal disease; history of frostbite, immersion foot, or hypothermia; HIV+/AIDS; tri-morbidity (co-occurring psychiatric, substance abuse, and chronic medical conditions). *Id.*

²⁰ Discussion with Capone, *supra* note 19. The former addresses multiple issues among the medically vulnerable whereas the latter is subsidized by state or federal government. *Id.*

²¹ *What is a Wet House?*, WETHOUSE.COM, <http://www.wethouse.com/> (last visited May. 3, 2018).

²² See Bob Young & Vernal Coleman, *Seattle could open housing for homeless where it’s OK to use heroin*, THE SEATTLE TIMES (Oct. 9, 2017, 4:36 PM), <http://www.seattletimes.com/seattle-news/health/innovative-solution-to-homelessness-housing-where-drug-use-is-ok/>.

Toronto, Ontario, Canada,²³ this note discusses the role and importance of both federal and state regulations for funding this type of housing program. Specifically, this note examines (1) the government programs similar to the “Wet House,” including sober house programs, (2) the state sponsorship or endorsement of nonprofit housing programs and state punishment of these programs, and (3) the use of nonprofit organizations as a means to provide housing programs in order to end homelessness. In discussing nonprofit housing programs, 26 U.S.C. § 501(c)(3) is examined in the context of (1) the need to promote health, (2) the laws of charitable trusts, and (3) the use of medical tax exemptions for hospitals under 26 U.S.C. § 501(r) to facilitate drug addiction treatment in housing programs.

Part III will provide observations on the recommendation that the “1811” model²⁴ housing program for people who are alcoholics be applied to a housing program for people who are chronically homeless with substance use disorders, specifically, opioid addiction. In discussing how tax policy can address the economic and social costs of chronic homelessness amongst substance users, Part IV concludes with the argument that housing, in whatever form it takes, should be provided to people who are chronically homeless because it is a basic human need. It also suggests areas for future legal research and action.

II. Background

A. Housing the Chronically Homeless: A Healthcare Concern

Seattle’s Heroin Addiction Task Force, made up of representatives from nearly forty organizations ranging from the county sheriff to the State Healthcare Authority to the King County Needle Exchange and the Public Defenders Association (PDA), released a report recommending public awareness about the risks of opioid use, easy access to addiction treatment products and services, anti-overdose medications, and safe drug sites.²⁵ According to Dr. Jeffrey Duchin, task force co-chair, the

²³ *A Day in the Life: The Seaton House Annex Program*, CITY OF TORONTO, <https://web.archive.org/web/20141029200523/http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=ac2baf2c85006410VgnVCM10000071d60f89RCRD> (last visited Mar. 22, 2018).

²⁴ See generally Young & Coleman, *supra* note 22. The “1811” model is a housing program that allows alcohol to be consumed by residents without fear of eviction. *Id.* This note applies the model to a housing program that allows heroin and other drugs to be consumed by residents.

²⁵ Casey Jaywork, *Heroin Task Force Recommends Safe Drug Sites, Among Other Things*, SEATTLE WEEKLY (Sept. 15, 2016, 10:00 AM), <http://www.seattleweekly.com/news/heroin-task->

task force members also support places for people with substance use disorders to use heroin and other drugs besides public restrooms, alleys, or homeless encampments.²⁶ Users could visit a supervised facility where they could get clean needles and anti-overdose medications, as well as medical attention as needed and treatment opportunities.²⁷

While a clean use facility would not directly address homelessness among those with substance use disorders,²⁸ Seattle Mayor Ed Murray has proposed “a dormitory-style homeless shelter modeled after San Francisco’s Navigation Center that would allow pets, partners, storage for personal belongings, and intoxicated residents – unlike some shelters – as a way to coax resident out of encampments.”²⁹ Kris Nyrpo, an outreach worker and drug-policy researcher in Seattle for two decades and a member of the PDA, said, “[Y]ou need to allow people to use on-site, so they don’t in an alley or back in The Jungle.”³⁰

Seattle’s homeless encampments for substance users are illustrative of the larger systemic issues of mental health, poverty, and addiction facing society. Lack of housing exacerbates these issues and thus deserves attention.³¹ Even short-term homelessness and housing insecurity can be devastating.³² The social costs of substandard housing, rental instability, and homelessness include health care costs to treat stress-related diseases such as depression, suicide, and interpersonal violence.³³

force-recommends-safe-drug-sites-among-other-things/; see generally *Heroin and Prescription Opiate Addiction Task Force Final Report and Recommendations*, KING COUNTY’S HEROIN OPIATE ADDICTION TASK FORCE (Sept. 15, 2016), <http://www.kingcounty.gov/~media/depts/community-human-services/behavioral-health/documents/herointf/final-heroin-opiate-addiction-task-force-report.ashx?la=en>.

²⁶ Young & Coleman, *supra* note 22.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* (quotations omitted). The Jungle is one of the homeless encampments in Seattle. *Id.*

³¹ Matthew Desmond, a sociologist and professor of social sciences at Harvard University, states,

Fewer and fewer families can afford a roof over their head. This is among the most urgent and pressing issues facing America today, and acknowledging the breadth and depth of the problem changes the way we look at poverty. For decades, we’ve focused mainly on jobs, public assistance, parenting, and mass incarceration. No one can deny the importance of these issues, but something fundamental is missing. We have failed to fully appreciate how deeply housing is implicated in the creation of poverty. Not everyone living in a distressed neighborhood is associated with gang members, parole officers, employers, social workers, or pastors. But nearly all of them have a landlord.

MATTHEW DESMOND, *EVICTED* 5 (1st ed. 2016).

³² JUDICIARY COMM. CT. GEN. ASSEMB., REPORT OF THE TASK FORCE TO IMPROVE ACCESS TO LEGAL COUNSEL IN CIVIL MATTERS 12 (Dec. 15, 2016).

³³ *Id.*

They also include health care costs to treat environmental diseases such as asthma, lead poisoning, and mold-related infections; low school achievement and employment opportunity; neighborhood deterioration, social service expenses associated with the provision of short term housing, home search services, and relocation; remedial schooling; and criminal justice enforcement.”³⁴

Thus, it is no wonder why some consider housing to be the lynchpin to stability.³⁵ Stable housing is “an important first step toward dealing with any other difficulties” someone might be experiencing.³⁶ Housing is healthcare,³⁷ a basic physiological need on Maslow’s hierarchy in his theory regarding the psychology of human motivation.³⁸ Few would dispute housing is an essential human need.³⁹ It is made a priority in America in various ways, including the home mortgage interest tax deduction⁴⁰ and “Section 8” government housing for low-income households. The single largest funding source for new rental housing is the low-income housing tax credit (LIHTC).⁴¹

However, the supply of affordable rental housing has shrunk while its “need continues to rise. Simply put, Americans do not have income sufficient for decent, safe, and affordable housing.”⁴² They also lack enough income for accessible housing, which makes it especially difficult for poor people with disabilities to find housing outside nursing

³⁴ *Id.*

³⁵ See Young & Coleman, *supra* note 22.

³⁶ *Id.*

³⁷ Discussion with Capone, *supra* note 19. Moreover, “[t]reating housing as part of a patient’s health is an idea that has caught on in recent years, says Dr. Kelly Doran, an assistant professor of emergency medicine at the New York University School of Medicine who studies how homeless people use emergency services.” Bryan, *supra* note 12. In fact, hospitals are investing in housing solutions for permanent patients. See *id.* Investigating these housing programs and alternatives may save money and provide an alternative to housing programs.

³⁸ Saul McLeod, *Maslow’s Hierarchy of Needs*, SIMPLE PSYCHOL., <https://www.simplypsychology.org/maslow.html> (last updated 2016) (discussing shelter as a prerequisite to achieving personal security, health and well-being, and ultimately one’s full potential); see generally A.H. Maslow, *A Theory of Human Motivation*, 50 PSYCHOL. REV. 370, 370 (1943), <http://psych-classics.yorku.ca/Maslow/motivation.htm>.

³⁹ See JUDICIARY COMM. CT. GEN. ASSEMB., *supra* note 32, at 12, 31 (discussing the importance of legal counsel in housing disputes involving evictions and recommending medical-legal partnerships).

⁴⁰ The home mortgage interest tax deduction largely benefits upper class people.

⁴¹ BENNETT L. HECHT, *DEVELOPING AFFORDABLE HOUSING: A PRACTICAL GUIDE FOR NONPROFIT ORGANIZATIONS* 4 (3rd ed. 2006).

⁴² *Id.*

homes or hospitals.⁴³

Nonetheless, a building located at 1811 Eastlake Avenue in Seattle, which houses seventy-five chronic alcoholics who can drink in their rooms and avail themselves, if they choose, of treatment services on-site, “has shown great results, and there is every reason to believe that a similar model for people who use drugs would show equally impressive results.”⁴⁴

The model is replicable for any population with addictions, although a solution does not necessarily have to go that far.⁴⁵ What is needed is a “housing first” policy that takes people as they are without expecting abstinence while offering services that may help treat a person’s drug-use disorders.⁴⁶

Of course, “[t]axpayer-funded housing where illegal drugs are consumed is likely to be controversial,” even in light of a 2009 study published by the *Journal of the American Medical Association* that found the 1811 house for people who are chronic alcoholics in Seattle saved taxpayers \$4 million a year in housing and crisis services that would have been incurred had these people been living on the streets.⁴⁷ The 1811 house also reduced their alcohol use by about one-third.⁴⁸ Even if housing programs that provide a safe place to consume drugs are a form of harm reduction,⁴⁹ no site works without treatment.⁵⁰

B. Framing a Tax Policy that Houses Chronically Homeless People with Substance Use Disorders

Any tax policy that helps people who are chronically homeless should acknowledge the economic and social costs of not providing

⁴³ See Dawn Foster, *Disabled people hit by housing crisis are told: ‘Your life is too expensive,’* THE GUARDIAN (Sept. 18, 2015, 6:14 PM), <https://www.theguardian.com/housing-network/2015/sep/18/disabled-people-housing-crisis-adaptations-accessible-homes>.

⁴⁴ Young & Coleman, *supra* note 22 (quoting Patricia Sully, a Public Defenders Association staff attorney and member of Seattle’s Heroin Task Force).

⁴⁵ *Id.* (quoting Daniel Malone, the head of the nonprofit Downtown Emergency Service Center that built and operates the building known as “1811”).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ See Casey Jaywork, *Safe Drug Sites Could Be a Tough Sell Outside Seattle*, SEATTLE WEEKLY (Sept. 21, 2016, 1:30 AM), <http://www.seattleweekly.com/news/safe-drug-sites-could-be-a-tough-sell-outside-seattle/>; see also Young & Coleman, *supra* note 22.

⁵⁰ Jaywork, *supra* note 25.

housing. As in the story of Million-Dollar Murray, a man whose homelessness led to incarceration and medical expenses in excess of what permanent housing with support services would have cost,⁵¹ the chronically homeless population is an economically expensive, but politically unsympathetic group.⁵² The left and the right of the political spectrum are going to view differently any benefit received by people who are homeless, especially people who are chronically homeless. By understanding how the left and the right view various housing programs, one can recommend a tax policy that facilitates providing housing to those who most need it.

The chronically homeless population:

costs the health-care and social-services systems far more than anyone had ever anticipated. . . . [I]n New York at least sixty-two million dollars was being spent annually to shelter just those twenty-five hundred hard-core homeless. . . . The University of California, San Diego Medical Center followed fifteen [people that had been] chronically homeless [] and found that over eighteen months those fifteen people were treated at the hospital's emergency room four hundred and seventeen times, and ran up bills that averaged a hundred thousand dollars.⁵³

The person who falls down and hits his or her head ends up costing at least \$50,000.⁵⁴ Meanwhile, that person is going through alcoholic withdrawal and has devastating liver disease that only adds to his or her inability to fight infections.⁵⁵ Some might view people who are chronically homeless as having no other existence, identity, or role other than getting intoxicated. However, this note argues that housing is a prerequisite to self-determination, another theory of motivation concerned with supporting one's natural or intrinsic tendencies to behave in effective and healthy ways.⁵⁶

⁵¹ Gladwell, *supra* note 8.

⁵² The Surgeon General's Report, *supra* note 1. This note recognizes and challenges the stigma associated with both addiction and homelessness in society.

⁵³ Gladwell, *supra* note 8.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ See SELF-DETERMINATION THEORY, <http://selfdeterminationtheory.org/> (last visited Mar. 19, 2018). According to Capone, housing creates stability in one's life and, in turn, motivates that person (e.g., to take better care of medical issues and other activities going on like finding a job). Discussion with Capone, *supra* note 9. She explained that a person who has been chronically homeless needs a sense of equity in the house (i.e., possessions) in order to make that person more likely to remain in the housing program. *Id.*; see, e.g., Young & Coleman, *supra* note 22.

The good news is that the problem is concentrated so that it is a matter of a few hard cases that can be cared for and improved, even if those few hard cases are hard and include those people struggling with the stigma of being seen as the “falling-down drunks with liver disease and complex infections and mental illness.”⁵⁷ They require time, attention, and lots of money even though enormous sums of money are already being spent on people who are chronically homeless.⁵⁸

The cost of services for people who are homeless is about \$10,000 a year per person.⁵⁹ However, an efficiency apartment in Denver averages \$376 a month (or just over \$4500 a year).⁶⁰ This means that housing and caring for people who are chronically homeless at most cost \$15,000, which is about a third of what the person would cost on the street.⁶¹ The hope is that once the people in the program get stabilized they will get jobs and pay rent, which would make annual cost of the program about \$6000.⁶²

In terms of policy options, any housing policy that focuses on people who are chronically homeless will probably not appeal to the right of the political spectrum, because it involves “special treatment” to those who do not “deserve” special treatment.⁶³ It will also probably not appeal to the left “because [the] emphasis on efficiency over fairness suggests the cold number-crunching of Chicago-school cost-benefit analysis.”⁶⁴

⁵⁷ Gladwell, *supra* note 8. This group of people struggle with the stigma faced by many people with disabilities, including being told that your life is too expensive. See Foster, *supra* note 43.

⁵⁸ *Id.*

⁵⁹ Gladwell, *supra* note 8.

⁶⁰ Gladwell, *supra* note 8.

⁶¹ Foster, *supra* note 43.

⁶² Gladwell, *supra* note 8; see also Jaywork, *supra* note 49.

⁶³ See Michael Bagge, *Planned Poverty's Pitfalls and Pratfalls—Ain't We Got Fun?*, 69 N.Y. ST. B.J. 26, 26 (1997) (considering the disqualifications, sanctions, and crimes that police the boundaries between the deserving poor and the “artificial” poor who have been perceived as abusing the ready availability of public assistance). The term “deserving poor” has been a phrase bandied about in the Medicaid debates since its origin in the 1960s and tracks back to Biblical understandings of charity. E-mail from Jennifer L. Herbst, A.B., M. Bioethics, J.D., LL.M., Prof. of Law & Medical Sciences, Quinnipiac Univ. School of Law (QUSL), to Taylor Wolff, J.D. (Mar. 10, 2017, 11:57 AM ET) (on file with author). Interestingly, alliances between the left and the right have started to form in the context of reducing incarceration, and in providing education and mental health support for people who are incarcerated because of a combination of the financial cost-benefit data that is attractive to many people on the right and the care principle that is attractive to many people on the left. *Id.*

⁶⁴ Gladwell, *supra* note 8; see also Jaywork, *supra* note 49; see generally *Heroin and Prescription Opiate Addiction Task Force Final Report and Recommendations*, KING COUNTY'S HEROIN OPIATE ADDICTION TASK FORCE (Sept. 15, 2016),

Based on the framing of tax policy as a social and economic matter, however, we can better determine whether the government, a for-profit business, or a nonprofit should provide housing for people who are chronically homeless and substance users. Regardless of what form it takes, this note argues that a housing-first policy is the lynchpin to stability for this population, and that tax policy can help provide housing to these people.

C. The Wet House: An "1811" Model for Chronically Homeless Alcoholics

A Wet House "is a residential facility for chronically alcoholic and homeless men and women."⁶⁵ Based on the idea of harm reduction, meaning reducing harm that they can do to themselves,⁶⁶ Wet Houses allow residents to consume alcohol on the premises without rehabilitation being a requirement to stay⁶⁷ as long as they receive preventative medical care.⁶⁸

Seaton House, a "dry" homeless shelter built in 1931 in Toronto, Ontario, Canada, during the Great Depression, eventually opened a Wet House in 1997 called the Seaton House Annex Harm Reduction Program.⁶⁹ Given that most "dry" homeless shelters "understandably forbid the use of alcohol and drugs," this means that "chronic alcoholics must remain on the streets."⁷⁰ On the streets, they are more likely to commit offenses occasionally considered "crimes of misery," which involve criminal laws that forbid conduct naturally flowing from life on streets as experienced by the desperately impoverished mentally ill, chronically alcoholic, and/or drug-addicted, including public urination, petty theft,

addiction-task-force-report.ashx?la=en.

⁶⁵ *What Is a Wet House?*, <http://www.wethouse.com/> (last visited Mar. 19, 2018).

⁶⁶ *A Day in the Life: The Seaton House Annex Program*, *supra* note 23.

⁶⁷ Arielle Berlin, *Inebriated in Seattle*, ABC NEWS (July 24, 2005), http://blogs.abcnews.com/theblotter/2006/07/inebriated_in_s.html.

⁶⁸ Matt Baume, *City's "Wet House" Idea*, NBC BAY AREA, <http://www.nbcbayarea.com/news/politics/Citys-Wet-House-Idea.html> (last visited Mar. 19, 2018).

⁶⁹ *A Day in the Life: The Seaton House Annex Program*, *supra* note 23; *see also Seaton House Shelter for Men Opens Anew*, CITY OF TORONTO (June 19, 2001), <http://wx.toronto.ca/inter/it/newsrel.nsf/9da959222128b9e885256618006646d3/b2f97337732ccec485256df600461079?OpenDocument>.

⁷⁰ John B. Mitchell, *Crimes of Misery and Theories of Punishment*, 15 NEW CRIM. L. REV. 465, 497 n.144 (2012).

disorderly conduct,⁷¹ and panhandling.⁷² The exception to this widely established “dry” rule in shelters is the Wet House, where chronic alcoholics can drink and have access to supportive services.⁷³

D. Federal and State Funding Regulations of the Wet House as a 501(c)(3) Organization

Funding of Wet Houses has been regulated by the government since Wet Houses first emerged in America. The 1811 house, for example, is a nonprofit, meaning it is a § 501(c)(3) organization. However, not all nonprofit organizations are eligible for the § 501(c)(3) tax exemption.⁷⁴ Furthermore, § 501(c)(3) is statutory, not regulatory.⁷⁵ The Inter-

⁷¹ *Id.* at 498 n.152.

⁷² Discussion with Capone, *supra* note 19 (defining panhandling as begging for food or money); see *Panhandling*, MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/panhandling> (last visited Jan. 13, 2018) (“To ask strangers for money in a public place (such as on a sidewalk).”).

⁷³ Mitchell, *supra* note 70.

⁷⁴ According to 26 U.S.C. § 501(a), an organization described in § 501(c) shall be exempt from taxation unless the organization is operated for the primary purpose of carrying on a trade or business for profit, § 502, or engaged in a prohibited transaction defined by § 503. The list of exempt organizations under § 501(c) includes 501(c)(3) organizations, described as follows:

Corporations, and any community chest, fund, or foundation, organized and operated exclusively for . . . charitable [purposes] . . . , no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

26 U.S.C. § 501(c)(3) (2018).

⁷⁵ According to Treas. Reg. § 1.501(c)(3)-1(a), in order to be exempt as an organization described in § 501(c)(3), an organization must be organized and operated exclusively for at least one of the exempt purpose or purposes specified in § 501(c)(3) like charity. Charity is enumerated as an exempt purpose in Treas. Reg. § 1.501(c)(3)-1(d)(1)(i)(b). The Treasury Regulations define charity and elaborate as follows:

The term charitable is used in section 501(c)(3) in its generally accepted legal sense and is, therefore, not to be construed as limited by the separate enumeration in section 501(c)(3) of other tax-exempt purposes which may fall within the broad outlines of charity as developed by judicial decisions. Such terms includes: Relief of the poor and distressed or of the underprivileged; . . . and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency. . . . The fact that an organization, in carrying out its primary purpose, advocates social or civic changes or presents opinion on controversial issues with the intention of molding public opinion or creating public sentiment to an acceptance of its views does not preclude such organization from qualifying under section 501(c)(3) so long as it is not an action organization of any one of the types described in paragraph (c)(3) of this

nal Revenue Service issues numerous Treasury Regulations that interpret and build on the statutory provision in the Internal Revenue Code. For example, Treas. Reg. § 1.501(c)(3)-1(a) requires that a 501(c)(3) organization pass two tests in order to claim a tax exemption. The first is an organizational test.⁷⁶ The second is an operational test.⁷⁷ In application of the organizational and operational tests, to determine whether an entity is tax exempt as charitable organization, the term “exclusively” does not mean “solely” or “absolutely without exception,” but presence of a single nonexempt purpose, if substantial in nature, will preclude exempt status, regardless of number or importance of truly exempt purposes.⁷⁸ Furthermore, an organization is not organized or operated exclusively for one or more of the exempt purposes specified in the regulations unless it serves a public rather than a private interest.⁷⁹ Thus, § 501(c)(3) limits tax exemptions of the organization and tax deductions by donors only to those funds received by nonprofit organizations that are organized and run for charitable purposes.⁸⁰

As a form of affordable housing, the Wet House may also be entitled to the federal low income housing tax credit (LIHTC) under 26 U.S.C. § 42. As a result of the LIHTC created by the Tax Reform Act of 1986, the role of states in affordable housing has risen while the role of

section.

Treas. Reg. § 1.501(c)(3)-1(d)(2). Moreover, the presence of a single nonexempt purpose, if substantial in nature, will preclude exempt status, regardless of the number or importance of truly exempt purposes. 26 U.S.C. § 501(c)(3); Treas. Reg. § 1.501(c)(3)-1(a)(1) (2017); *Quality Auditing Co. v. C.I.R.*, 114 T.C. 498, 504 (2000).

⁷⁶ See generally Treas. Reg. § 1.501(c)(3)-1(b) (requiring that the organization’s articles of organization (a) limit the purposes of such organization to at least one of the enumerated purposes and (b) do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes).

⁷⁷ See generally Treas. Reg. § 1.501(c)(3)-1(c) (“An organization will not be so regarded [as operated exclusively for one or more exempt purposes] if more than an insubstantial part of its activities is not in further of an exempt purpose.”).

⁷⁸ 26 U.S.C. § 501(c)(3); Treas. Reg. § 1.501(c)(3)-1(a)(1); *Quality Auditing Co.*, 114 T.C. at 504 (2000).

⁷⁹ Treas. Reg. § 1.501(c)(3)-1(d)(ii) (“Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.”).

⁸⁰ Some state courts have found that federal regulations that interpret federal tax exemption law are incorporated into state statutes exempting property of a nonprofit home for the aged from ad valorem taxes. See, e.g., GA. CODE ANN. § 48-5-41(a)(12)(A) (2017); see also *Lamad Ministries, Inc. v. Dougherty Bd. Of Tax Assessors*, 602 S.E.2d 845, 853 (Ga. Ct. App. 2004).

the federal government has declined.⁸¹ Unlike prior federal housing programs that were largely managed and approved by the U.S. Department of Housing and Urban Development (HUD), Congress delegated the task of awarding these credits to the states.⁸² Since the credit was first introduced in 1986, each state has found the best way to allocate the credit, most often through their housing finance agency, and each state has developed its own affordable housing expertise and development priorities (for example, people who are homeless) in the process and, in certain cases, its own state funded housing programs.⁸³

E. Federal or State Programs Similar to the Wet House

While tax benefits for nonprofits that provide housing for people who are chronically homeless with substance use disorders means less revenue for the government to expend on other services, taxpayers ultimately benefit from nonprofits that provide housing to this population by reducing expenditures needed for incarceration and hospitals. However, tax benefits should not be viewed as the purpose for nonprofits to give housing. The purpose is to improve the health of the homeless population by providing housing.⁸⁴

Indeed, the Wet House is essentially a form of affordable housing, although it is called supportive housing⁸⁵ because it combines affordable housing with supportive services.⁸⁶ Sober living house programs, methadone clinics, and safe consumption sites are also similar to the Wet

⁸¹ HECHT, *supra* note 41, at 6 (“The role of the states in financing affordable housing continues to grow especially as federal programs and funds become more scarce. The states have become increasingly important players since the enactment of the federal Low Income Housing Tax Credit (LIHTC) in 1986.”).

⁸² *Id.*

⁸³ *Id.* (“In short, the increased professionalism at the state level has led to a much more sophisticated and more highly funded response to affordable housing issues in that state.”).

⁸⁴ See IHC Grp, Inc. v. C.I.R., T.C.M. (RIA) 2001-247 (T.C. 2001), *aff’d sub nom*, 325 F.3d 1188 (10th Cir. 2001) (holding that promotion of health for benefit of the community is a charitable purpose, as would support tax-exempt status, even though furnishing medical care and operating health maintenance organizations are not listed in regulations as qualifying exempt activity); see also IHC Health Plans, Inc. v. C.I.R., T.C.M. (RIA) 2001-246 (T.C. 2001), *aff’d*, 325 F.3d 1188 (2001).

⁸⁵ See *Supportive Housing*, CSH THE SOURCE FOR HOUSING SOLUTIONS, <http://www.csh.org/toolkit/public-housing-agencies-toolkit/primer-on-homelessness-and-supportive-housing/supportive-housing/> (last visited Mar. 19, 2018).

⁸⁶ Discussion with Capone, *supra* note 19.

House in that they provide supportive services as a form of harm reduction.⁸⁷ Like the Wet House, these organizations can promote health for the benefit of the community. A further analysis of these organizations reveals how a § 501(c)(3) organization similar to the 1811 model might incorporate supportive services to help people with substance use disorders like opioid addiction. It also reveals that the treatment offered for opioid users may differ from those offered for alcoholics.

Sober living houses, also known as halfway houses or recovery houses,⁸⁸ are group homes for people recovering from alcohol or substance use disorders. They provide a “dry” environment to residents in that alcohol or drug misuse is forbidden and even a ground for removal. Sobriety is often a prerequisite to living in a sober house. Residents follow certain rules and contribute to the home by doing chores, and the homes “can support sobriety and help alcoholics or addicts adjust to life without their addictions” by providing the twelve step program, meetings, and therapy.⁸⁹ They are sometimes used to help the transition from rehabilitation centers to living independently without using drugs or alcohol.⁹⁰ The average stay at a sober house ranges anywhere from one to six months and health insurance sometimes covers all or a portion of the cost of the stay.⁹¹ Residents must be able to support themselves by paying their rent and purchasing their own food.⁹² The main financial benefit is that there is no required security deposit, first and last months’ rent, or credit checks performed.⁹³ Rent includes utilities and most places allow rent to be paid on a weekly basis.⁹⁴ While most are privately owned, some are owned by businesses and charity organizations.⁹⁵ There is little government aid for people living in sober houses, but there is some government support, including food assistance through the federal Supplemental Nutrition Assistance Program (SNAP) and the federal health insurance program, Medicaid.⁹⁶ Depending on the state or locality, there

⁸⁷ See Young & Coleman, *supra* note 22.

⁸⁸ *Government Aid for People Living in Sober Houses*, ORCHID (Jan. 8, 2014), <http://www.orchidrecoverycenter.com/blog/government-aid-people-living-sober-houses/>.

⁸⁹ *Sober Living Homes and Housing Options*, REHABS.COM, <http://www.rehabs.com/about/sober-living/> (last visited Feb. 19, 2018).

⁹⁰ *Id.*

⁹¹ *Government Aid for People Living in Sober Houses*, *supra* note 88.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Sober Living Homes and Housing Options*, *supra* note 89.

⁹⁶ *Government Aid for People Living in Sober Houses*, *supra* note 88.

may also be rental assistance and other supportive services for homeless people with substance use disorders and individuals with disabilities.⁹⁷

Unlike sober houses which provide housing and supportive services in a “dry” environment, methadone clinics do not provide housing. Instead, a methadone clinic is a place where a person who is addicted to opioid-based drugs like heroin or prescription painkillers can receive medication-based therapy.⁹⁸ Indeed, “[m]ethadone has been legal in America since 1947.”⁹⁹ The treatment is often referred to as replacement therapy because patients receive methadone, or the brand name version known as Dolophine, which is an opioid analgesic used to block the effects of opiate pain medications.¹⁰⁰ It thus “suppresses drug withdrawal symptoms for about a day.”¹⁰¹ Although the treatment is prescribed by a doctor and is considered effective during the treatment and rehabilitation process as part of a comprehensive treatment, it is not a cure for addiction issues.¹⁰² Furthermore, “[t]he two main types of methadone clinics are public and private,” but in the United States “all are strictly regulated by state and federal laws.”¹⁰³ Even though methadone cannot be used for any substance use disorder and “should be avoided if alcohol or other opioid-based substances have been consumed,” methadone clinics also offer patients supportive services like counseling.¹⁰⁴

While methadone clinics provide a place to receive methadone to suppress opioid cravings and withdrawal symptoms, as well as to receive other supportive services, safe consumption site provide a place for people to consume alcohol and drugs on the premises.¹⁰⁵ Moreover,

[w]hile controversial, safe drug sites have been shown to reduce overdoses. Evaluations of Insight, an injection-only safe drug site that’s been open in Vancouver, B.C., since 2003, have found it phenomenally effective in reducing overdose deaths, public injecting, and dirty-needle sharing and in increasing participation in addiction treatment—all without any discernible negative side effects. It even

⁹⁷ *Id.*

⁹⁸ *What to Know about Methadone Clinic*, AMERICAN ADDICTION CTR., <http://americanaddictioncenters.org/methadone-addiction/clinic-facts/> (last visited May 5, 2018).

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ Tina Rosenberg, *Injecting Drugs, Under a Watchful Eye*, N.Y. TIMES (Jan. 18, 2017), <https://www.nytimes.com/2017/01/18/opinion/injecting-drugs-under-a-watchful-eye.html>.

seems to save taxpayers money by reducing “downstream” costs from emergency services and incarceration. As DePaul University researcher Greg Scott told *Seattle Weekly* earlier this year, “People will [use drugs] no matter what. They will do it between parked cars, in vacant buildings. In very, very dangerous situations, they will use those substances, and there’s no changing that.” Once you accept that fact, he said, safe drug sites become an obvious choice.¹⁰⁶

Interestingly, “[i]n New York, Linda Rosenthal, who represents Manhattan’s Upper West Side in the State Assembly, is preparing to introduce legislation laying the legal groundwork that would allow cities to establish injection sites.”¹⁰⁷ Her belief is that “the facilities should go into buildings that already serve injecting drug users with services such as needle exchange, detox, counseling and connection to social programs.”¹⁰⁸ In fact, “[t]he New York City Council is funding a \$100,000 study by the Department of Health and Mental Hygiene that will look at the feasibility and possible impact of sites in New York City.”¹⁰⁹ Funding came out of an already budgeted sum designated for HIV prevention¹¹⁰ as part of the council’s “comprehensive work to end the HIV/AIDS epidemic, combat the spread of infectious diseases, and help save lives.”¹¹¹ One Brooklyn City Council candidate slammed the body for voting to study setting up sites, saying that “any funds spent on this issue should be focused on breaking the addict’s dependency on drugs, not taking a step that basically decriminalizes the use of heroin.”¹¹² Although such a facility would not make heroin legal, it would still have to address federal anti-drug laws.

In sum, while safe drug consumption sites utilize harm-reduction tools like clean needles to prevent the spread of diseases,¹¹³ an affordable housing (and by scholarly extension supportive housing) program

¹⁰⁶ Jaywork, *supra* note 49; Gladwell, *supra* note 8.

¹⁰⁷ Rosenberg, *supra* note 105.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ Erin Durkin, *Brooklyn City Council candidate Bob Capano slams plans to study supervised injection facilities for heroin users in NYC*, NY DAILY NEWS (Nov. 27, 2016, 12:22 PM), <http://www.nydailynews.com/new-york/city-council-candidate-slams-plan-supervised-injection-spots-article-1.2888952>.

¹¹² *Id.*

¹¹³ Jaywork, *supra* note 49; Gladwell, *supra* note 8.

stresses the importance of stability as a basic human right¹¹⁴ and stresses the healthcare concern of homelessness. Housing and accompanying supportive services benefit the community by promoting health of a population that is poor, distressed, and often underprivileged. They also may help prevent mental health, poverty, and addiction. Although the opioid crisis¹¹⁵ can be viewed as a healthcare concern separate from housing, this note focuses on how the epidemic is exacerbated because of the housing crisis. The variety of programs similar to the Wet House thus lays the foundation for a § 501(c)(3) nonprofit organization applying the 1811-for-alcoholics model in a housing program for opioid users.

F. State Sponsorship and Punishment of Housing Programs

Historically, federal policy relating to affordable housing did not exclusively focus on supply or demand, but in recent years has focused on stabilizing and growing the affordable housing industry or sector through insuring that both new and existing developments are financially structured to remain in housing stock for the long term.¹¹⁶ Public housing policy led to “projects” of concentrated low-income people in a limited number of neighborhoods, “but the Affordable Housing Act of 1990 authorized funds that would demolish the worst of these project developments.”¹¹⁷ It intended to create “mixed-income” communities.¹¹⁸

In terms of who and where people are getting evicted under state law and whether they are getting evicted for drug offenses, Matthew Desmond, a sociologist and researcher of poverty and racism in America

¹¹⁴ See MICHELLE ALEXANDER, *THE NEW JIM CROW* 148 (2012).

¹¹⁵ According to one source, [t]hese [safe injection] facilities, like all harm reduction measures, are always part of a larger antidrug strategy. The response to America’s opioid crisis requires legal crackdowns on the supply chain, especially fentanyl shipped from China; intensive prevention measures; and no-waiting, locally available long-term treatment, especially the most effective treatment, which uses Suboxone or methadone.

Tina Rosenberg, *Injecting Drugs, Under a Watchful Eye*, N.Y. TIMES (Jan. 18, 2017), <https://www.nytimes.com/2017/01/18/opinion/injecting-drugs-under-a-watchful-eye.html>.

¹¹⁶ HECHT, *supra* note 41, at 9.

¹¹⁷ *Id.* at 9–10.

¹¹⁸ *Id.*

at Princeton University, provides a starting point by discussing the private housing market¹¹⁹ and how researchers can focus their efforts.¹²⁰

While Desmond advocates for a sociological analysis of eviction based on the private rental market,¹²¹ Michelle Alexander, a highly acclaimed civil rights lawyer, advocate, and legal scholar at Stanford Law School and Ohio State University, advocates for a discussion of race and the War on Drugs, including its effects on publicly funded housing.¹²² Instead of focusing on the private rental market like Desmond, Alexander analyzes how drug policy has shaped public housing in America.¹²³ Her research suggests that some laws may need to change. As discussed

¹¹⁹ Matthew Desmond states,

I wondered how we in the research community could have overlooked something so fundamental to poverty in America: the dynamics of the private housing market. The answer, I would later come to realize, was in the way we had been studying housing. By and large, poverty researchers had focused narrowly on public housing or other housing policies; either that, or they have overlooked housing because they were more interested in the character of urban neighborhoods—their levels of residential segregation or resistance to gentrification, for example. And yet here was the private rental market, where the vast majority of poor people lived, playing such an imposing and vital role in the lives of the families I knew in Milwaukee, consuming most of their income; aggravating their poverty and deprivation; resulting in their eviction, insecurity, and homelessness; dictating where they lived and whom they lived with; and powerfully influencing the character and stability of their neighborhoods. And we hardly knew a thing about it.

MATTHEW DESMOND, *EVICTED* 332 (1st ed. 2016).

¹²⁰ *Id.* at 333. Matthew Desmond states,

Every city creates its own ecosystem, but in some cities this is much more pronounced. Milwaukee is a fairly typical midsize metropolitan area with a fairly typical socioeconomic profile and housing market and fairly typical renter protections. It is far better suited to represent the experiences of city dwellers living in Indianapolis, Minneapolis, Baltimore, St. Louis, Cincinnati, Gary, Raleigh, Utica, and other cities left out of the national conversation because they are not America's biggest successes (San Francisco, New York City) or biggest failures (Detroit, Newark). That said, it is ultimately up to future researchers to determine whether what I found in Milwaukee is true in other place. A thousand questions remain unanswered. We need a robust sociology of housing that reaches beyond a narrow focus on policy and public housing. We need a new sociology of displacement that documents the prevalence, causes, and consequences of eviction. And perhaps most important, we need a committed sociology of inequality that includes a serious study of exploitation and extractive markets.

Id.

¹²¹ *Id.*

¹²² See generally ALEXANDER, *supra* note 112. Importantly, she finds that “[p]eople of all races use and sell illegal drugs at remarkably similar rates,” *id.* at 99, despite the way that certain drugs like heroin, crack, opium, and marijuana have become associated with particular racial groups. As someone who is not black, I recognize that my focus in this note on the opiate epidemic involves a drug that has gained national attention in part because it efforts mostly white communities. Indeed, “white youth have about three times the number of drug-related emergency room visits than their African American counterparts.” *Id.*

¹²³ See generally ALEXANDER, *supra* note 112.

in Part III of this note, changes in law might also be needed to apply the 1811 housing model to a § 501(c)(3) nonprofit organization that provides supportive housing for people who are chronically homeless with substance use disorders.

According to Alexander, drug policy from the 1988 Reagan administration was “extraordinarily punitive, extending beyond criminal punishments and including civil penalties for drug offenders.”¹²⁴ Also, “[t]he Anti-Drug Abuse Act of 1988 gave public housing authorities the ability to evict any tenant who allows any kind of drug-related criminal activity to occur on or near the premises of public housing.”¹²⁵ Moreover, during the Clinton Administration, funding once used for public housing was redirected to the construction of prisons.¹²⁶ Washington, D.C. decreased funding for public housing by \$17 billion, a reduction of 61%, and boosted corrections by \$19 billion, an increase of 171%, which effectively made prisons the nation’s main housing program for the urban poor.¹²⁷ In order to prove that he could be “‘tough,’” Clinton “made it easier for federally assisted public housing projects to exclude anyone with a criminal history – an extraordinarily harsh step in the midst of a drug war aimed at racial and ethnic minorities.”¹²⁸ His ‘One Strike and You’re Out’ Initiative was promised to be “‘the toughest admission and eviction policy that [the U.S. Department of Housing and Urban Development, hereinafter referred to as HUD] has implemented,’” by removing residents that committed crime and peddled drugs.¹²⁹ The Clinton administration thus left countless poor people, particularly racial minorities targeted by the War on Drugs, without public housing, homeless, and locked out not only of mainstream society, but their own homes.¹³⁰

The Anti-Drug Abuse Act of 1988, which was passed by Congress as part of the War on Drugs, specifically called for strict lease enforcement and eviction of tenants who engage in criminal activity.¹³¹ The Act,

¹²⁴ *Id.* at 53.

¹²⁵ *Id.*

¹²⁶ *Id.* at 57.

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.* at 145. According to Alexander, the act granted public housing agencies the authority to use leases to evict any tenant, household member, or guest engaged in any criminal activity on or near public housing premises. In 1996, President Clinton, in an effort to bolster his “tough on crime” credentials, declared that public housing agencies should exercise no discretion when a

together with the Quality Housing and Work Responsibility Act of 1998, “not only authorized public housing agencies to exclude automatically (and evict) drug offenders and other felons; it also allowed agencies to bar applicants *believed* to be using illegal drugs or abusing alcohol—whether or not they had been convicted of a crime.”¹³² Unfortunately, appealing a public housing agency decision is difficult without an attorney and most cannot afford the legal expertise.¹³³

Responding to the new legislation and President Clinton, HUD developed “guidelines to press public housing agencies to ‘evict drug dealers and other criminals’ and ‘screen tenants for criminal records.’ HUD’s ‘One Strike Guide’ calls on housing agencies to ‘take full advantage of their authority to use stringent screening and eviction procedures.’”¹³⁴ The guide encouraged authorities both to screen all applicants’ criminal records and to develop exclusion criteria, noting that “agency ratings and funding are tied to whether they are ‘adopting and implementing effective applicant screening,’ a clear signal that agencies may be penalized for not cleaning house.”¹³⁵

Across the United States, public housing agencies have adopted these exclusionary policies denying public housing even to those with the most minor criminal backgrounds.¹³⁶ Indeed, the “crackdown inspired by the War on Drugs has resulted in unprecedented punitiveness, as housing officials began exercising their discretion to deny poor people access to public housing for virtually any crime.”¹³⁷ Almost any offense that even slightly suggests an applicant will not be a good tenant will trigger exclusion, even without an actual conviction or finding of a formal violation.¹³⁸ The most controversial aspect of the HUD regulatory regime is the “no fault” clause contained in every public housing lease

tenant or guest engages in criminal activity, particularly if it is drug-related. In his 1996 State of the Union address, he proposed “One Strike and You’re Out” legislation, which strengthened eviction rules and strongly urged that drug offenders be automatically excluded from public housing based on their criminal records.

Id.

¹³² *Id.* (emphasis in original).

¹³³ *Id.* at 145; see also JUDICIARY COMM. CT. GEN. ASSEM., *supra* note 32, at 12.

¹³⁴ ALEXANDER, *supra* note 114, at 145.

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *Id.* at 145–46.

¹³⁸ *Id.* at 146. It is important to note that “because African Americans and Latinos are targeted by police in the War on Drugs, it is far more likely that they will be arrested for minor, nonviolent crimes. Accordingly, HUD policies excluding people from housing assistance based on arrests as well as convictions guarantee highly discriminatory results.” *Id.*

that requires public housing tenants to do more than just pay their rent on time, keep noise down, and keep their homes in good condition:

The “One Strike and You’re Out” policy requires every public housing lease to stipulate that if the tenant, or any member of the tenant’s household, or any guest of the tenant, engages in any drug-related or other criminal activity on or off the premises, the tenancy will be terminated.¹³⁹

Before the ‘One Strike and You’re Out’ policy, a tenant could not be evicted unless she had some knowledge of or participation in alleged criminal activity.¹⁴⁰ In *Rucker v. Davis*, “the Ninth Circuit Court of Appeals struck down the ‘no-fault’ clause, on the grounds that the eviction of innocent tenants—who were not accused or even aware of the alleged criminal activity—was inconsistent with the legislative scheme. The U.S. Supreme Court reversed.”¹⁴¹ The Court ruled that, under federal law, public housing tenants could be evicted regardless of whether they had knowledge of or participated in alleged criminal activity.¹⁴² The Court further ruled that “these tenants could be held civilly liable for the nonviolent behavior of their children and caregivers. They could be tossed out of public housing due to no fault of their own.”¹⁴³

While Alexander acknowledges that policies barring or evicting people associated with criminal activity may seem like a reasonable approach to dealing with crime in public housing, especially when crime has gotten out of control, she also states that the problem is twofold.¹⁴⁴ According to Alexander,

The vulnerable families have nowhere to go, and the impact is inevitably discriminatory. People who are not poor and who are not dependent upon public assistance for housing need not fear that, if

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.* at 146–47; see generally *Rucker v. Davis*, 203 F.3d 627 (9th Cir. 2000).

¹⁴² ALEXANDER, *supra* note 114, at 147. Moreover, “[a]ccording to the Court, William Lee and Barbara Hill were rightfully evicted after their grandsons were charged with smoking marijuana in a parking lot near their apartments. Herman Walker was properly evicted as well, after police found cocaine on his caregiver. And Perlle Rucker was rightly evicted following the arrest of her daughter for possession of cocaine a few blocks from home.” *Id.*; see *Rucker v. Davis*, 203 F.3d 627 (9th Cir.), *reh’g granted, order vacated*, 222 F.3d 614 (9th Cir. 2000), and *on reh’g en banc*, 237 F.3d 1113 (9th Cir. 2001), *rev’d sub nom.* *Dep’t of Hous. & Urban Dev. v. Rucker*, 535 U.S. 125 (2002).

¹⁴³ ALEXANDER, *supra* note 114, at 147.

¹⁴⁴ *Id.*

their son, daughter, caregiver, or relative is caught with some marijuana at school or shoplifts from a drugstore, they will find themselves suddenly evicted—homeless. But for countless poor people—particularly racial minorities who disproportionately rely on public assistance—that possibility looms large. As a result, many families are reluctant to allow their relatives—particularly those who are recently released from prison—to stay with them, even temporarily.¹⁴⁵

This is particularly troubling when one considers that about 65 million people have criminal records, including tens of millions of Americans who have been arrested but never convicted of any offense, or convicted only of a minor misdemeanor, because “they too are routinely excluded from public housing.”¹⁴⁶

One study in California reported that about 30–50% of individuals on parole in San Francisco and Los Angeles were homeless.¹⁴⁷ As Alexander states, “Access to decent, stable, and affordable housing is a basic human right, and it also increases substantially the likelihood a person with a past criminal record will obtain and retain employment and remain drug-[free] and crime-free.”¹⁴⁸ Moreover, “[r]esearch conducted by the Corporation for Supportive Housing in New York State shows that the use of state prisons and city jails dropped by 74 percent and 40 percent respectively when people with past criminal records were provided with supportive housing.”¹⁴⁹ However, “[t]he permanence of one’s social exile is often the hardest to swallow. For many it seems inconceivable that, for a minor offense, you can be subjected to discrimination, scorn, and exclusion for the rest of your life.”¹⁵⁰

Thus, regardless of whether housing takes a public or private form,

¹⁴⁵ *Id.* Furthermore, “[n]o one knows exactly how many people are excluded from public housing because of criminal records, or even the number of people with criminal records who would be ineligible if they applied. There is no national data available.” *Id.*

¹⁴⁶ *Id.* at 147.

¹⁴⁷ *Id.* at 148. Alexander says that thousands of people denied housing assistance or evicted from their homes “become homeless.” *Id.* at 147. Moreover, “nearly a quarter of guests in homeless shelters had been incarcerated within the previous year—people who were unable to find somewhere to live after release from prison walls.” *Id.* (citing a study conducted by the McCormick Institute of Public Affairs).

¹⁴⁸ *Id.* at 148.

¹⁴⁹ *Id.* Unfortunately, “[p]risoners returning ‘home’ are typically the poorest of the poor, lacking the ability to pay for private housing and routinely denied public housing assistance—the type of assistance which could provide some much-needed stability in their lives.” *Id.*

¹⁵⁰ *Id.* at 163.

it is a basic human right for all.¹⁵¹ It is necessity that is costing society more to ignore than to implement.¹⁵² Most importantly, to the extent that the government has intervened, through laws and regulations, the results have been discriminatory and exclusionary for those who most need it.

G. Sources of Funding for Housing

There are four basic sources of capital for affordable housing: loans, grants, equity, and sales proceeds.¹⁵³ Loans come from private for-profit lenders, and from both private and public not-for-profit lenders.¹⁵⁴ Grants come from private and public nonprofit organizations.¹⁵⁵ Equity comes from (1) the person sponsoring the housing program, the investors (if any), (2) the purchasers of ownership entities (cooperatives, condominiums, or single-family homes), or (3) the proceeds from sales of ownership units.¹⁵⁶

Each source of funding has its restrictions and has its advantages.¹⁵⁷ For example, grants are sums of money that must be spent in an agreed-on manner but, unlike debt incurred with loans, does not have to be paid back.¹⁵⁸ Like grants, equity and sales proceeds do not have to be paid back.¹⁵⁹ But unlike grants, they are not restricted on how the money must be spent because it is the housing program sponsor's own money.¹⁶⁰ The legal and tax implications of funding options for nonprofit developments

¹⁵¹ See *id.* at 148. While this is a more complicated claim than a single person's work can support, this note acknowledges that the claim of a "basic human right" begs the question of, what is a right? Also, it begs the question of how a right to housing can exist in the United States when the federal constitution is framed in terms of protecting citizens from government, not assuring citizens the basics needed for life, liberty, and the pursuit of happiness. In response to these concerns, one could argue that providing supportive housing to people who are chronically homeless with substance use disorders may protect citizens from the government's criminal justice system in terms of discriminatory arrests and sentencing.

¹⁵² See GLADWELL, *supra* note 8.

¹⁵³ HECHT, *supra* note 41, at 88. Capital is generally defined to be money or property.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ *Id.* In general, "the nonprofit sponsor, like the for-profit housing developer, is going to need equity to complete its housing development," *id.* at 245, which may include the state LIHTC, *id.* at 246-58, and Fannie Mae's American Communities Fund, Real Estate Investment Trusts, the historical investment tax credit, and the new market tax credits, *id.* at 246-265. A full discussion of equity as a funding source is beyond the scope of this note.

¹⁵⁷ See generally HECHT, *supra* note 41 at 88-104.

¹⁵⁸ *Id.* at 102.

¹⁵⁹ *Id.* at 103.

¹⁶⁰ *Id.*

is further analyzed below in preparation for discussing the recommendation that the 1811 housing-for-alcoholics model be applied to a house allowing drug use on premises. Funding options for government and for-profit developers is beyond the scope of this note.

I. Nonprofits

Under 26 U.S.C. § 501(c)(3), the IRS has been charged by Congress with regulating the use of tax exempt status by charitable organizations and the use of tax deductions by donors. Whether an organization is for profit or not-for-profit is not determined or governed on a federal level, but rather by state law.¹⁶¹ Certain nonprofit organizations (e.g., those that are organized and run for charitable purposes) may qualify for federal income tax exemption pursuant to § 501(c)(3). Furthermore, under the laws of charitable trusts,¹⁶² a charitable trust must be dedicated to a charitable goal.¹⁶³ There are a variety of advantages to charitable trust status not found in other types of trust, including exemption from most forms of tax if the charitable trust seeks exemption from tax as a charitable organization.¹⁶⁴ As mentioned above, nonprofits have access to several sources of capital that may either come from government, for-profit, and nonprofit organizations. In addition to government and for-profit sources, a nonprofit housing program sponsor may look to private nonprofit entities for loans and private nonprofit foundations for grants.¹⁶⁵ Private nonprofit entities are usually critical because of limited public resources and some private for-profit lenders specialize in certain types of real estate lending like construction or permanent loans.¹⁶⁶ Moreover, private nonprofit foundation grants may come from local community foundations or national nonprofit foundations, although the former is more targeted to improving a specific community.¹⁶⁷ National foundations, however, often have more resources and can use them on

¹⁶¹ See, e.g., GA. CODE ANN. § 48-5-41(a)(12)(A) (2017).

¹⁶² It is important not to equate nonprofit organizations with charitable trust because the two are different concepts and are treated differently by both state and federal law. See generally *Validity of charitable trust in respect to certainty of beneficiaries designated as "the poor," "the needy poor," "the worthy poor, etc.* 99 A.L.R. 657 (1935).

¹⁶³ 26 U.S.C. § 4947(a)(1); *Charitable Trusts*, IRS, <https://www.irs.gov/charities-non-profits/private-foundations/charitable-trusts> (last visited Feb. 20, 2018).

¹⁶⁴ *Charitable Trusts*, *supra* note 163.

¹⁶⁵ HECHT, *supra* note 41, at 236.

¹⁶⁶ *Id.* at 149.

¹⁶⁷ *Id.* at 236.

any one project.¹⁶⁸ Living cities, formerly the National Community Development Initiative, was established as a private-sector fund to provide grants and loans for community development, and historically Fannie Mae Foundation was the other significant national funder of housing activities.¹⁶⁹

Nonprofit hospitals are also tax-exempt under § 501(c)(3). The Affordable Care Act (ACA) created additional requirements specific to nonprofit hospitals, which are codified in § 501(r). Most hospitals do not receive specific funds to provide community health. Nonprofit hospitals are allowed to hold on to the funds that they would otherwise be paying as taxes to the federal government only if they provide a meaningful “community benefit.” In the past, this was generally assumed and enforced through Internal Revenue Service (IRS) rulings and guidance before the ACA, but is now a statutory requirement.¹⁷⁰ In 2011, the total amount of these funds added up to \$24.6 billion value, which is money that would have been paid had the hospitals been for-profit organization.¹⁷¹

Under the ACA, in order to receive tax-exempt status under 26 U.S.C. § 501(r)(3) these hospitals must regularly survey and respond to community health needs, which “expands hospitals’ roles beyond providing clinical care and calls for them to engage with their communities.”¹⁷² Section 9007 of the ACA signals Congress’ expectation that hospitals’ charitable obligations extend to caring for those unable to pay, as well as “inquiring about and responding to the health of their communities,” leaving the specifics and “responsibility to the Internal Revenue Service—as the agency responsible for administering the Tax Code—to spell out what hospitals must do to meet this new requirement.”¹⁷³ New IRS regulations and a new estimate of the amount hospitals spend for community benefits in the nation indicate that hospitals are valuable at

¹⁶⁸ *Id.* at 237. Moreover, “they historically have not provided grants for specific affordable housing developments unless they were part of a larger effort.” *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ Mary Crossley, Elizabeth Tobin Tyler & Jennifer L. Herbst, *Tax-Exempt Hospitals and Community Health Under the Affordable Care Act: Identifying and Addressing Unmet Legal Needs as Social Determinants of Health*, 131 LAW AND THE PUB.’S HEALTH 1 (2016).

¹⁷¹ *Id.* at 1 n.2.

¹⁷² *Id.* at 1.

¹⁷³ *Id.* at 2.

addressing the root causes of poor health.¹⁷⁴ The regulations guide non-profit hospitals conducting community health needs assessments (CHNA), “most of which had probably never conducted one.”¹⁷⁵ Treasury Regulation Section 1.501(r)-3(c) (2014) of the new regulations require that a hospital also develop an implementation strategy to meet each health need identified by the CHNA, including the actions it will take, the resources it will commit, and the organizations with which it will collaborate to address the need.¹⁷⁶

The Republican-majority Congress is expected to revamp the ACA,¹⁷⁷ if not repeal it entirely, as well as HUD’s “Section 8” housing because they desire a fair market system for rents.¹⁷⁸

It has been suggested, however, that President Trump will most likely repeal the ACA.¹⁷⁹ During his campaign, President Trump has been clear that action needs to be taken because health care remains unaffordable.¹⁸⁰ According to one source,

it seems likely that tax-exempt hospitals will continue to have to comply with the requirements of section 501(r), including the requirement to have a financial assistance policy and make it widely available, perform a community health needs assessment at least once every three years, and refrain from extraordinary collection actions without first making reasonable efforts to determine whether a patient is eligible for financial assistance. Repeal of section 501(r) was not included in the 2015 [Congressional Republican budget reconciliation legislation to repeal the core provisions of the ACA which Barak Obama ultimately vetoed], so there is no indication whether it could be included in budget reconciliation legislation. Even if it could be repealed as part of budget reconciliation, the original champion of section 501(r) was Republican Senator Grassley of Iowa, who has been reelected to another term. He has been active in following the implementation of section 501(r) and

¹⁷⁴ *Id.* at 1.

¹⁷⁵ *Id.* at 1–2.

¹⁷⁶ *Id.* at 4 (citations omitted) (suggesting medical legal partnerships).

¹⁷⁷ Elena Kaplan & Catherine E. Livingston, *The Future of the Affordable Care Act*, JONES DAY (Nov. 2016), <http://www.jonesday.com/the-future-of-the-affordable-care-act-11-16-2016/>.

¹⁷⁸ Discussion between author and Professor Stephanie Jacobson, an expert in social work and discharge planning of Quinnipiac University’s School of Social Work, and Ms. Katherine Lauretano, a state-level health policymaking and community advocacy expert, during the non-profit class of Professor Jennifer L. Herbst at Quinnipiac University School of Law on Nov. 10, 2016.

¹⁷⁹ Kaplan & Livingston, *supra* note 177.

¹⁸⁰ *Id.*

may advocate to retain it.¹⁸¹

Although a repeal seems unlikely under the current political climate because millions would lose insurance,¹⁸² it might mean that hospitals will have less motivation to house people who are homeless.

In fact, a nonprofit hospital may be a good option for providing housing. Interestingly, some hospitals are now paying for housing homeless people in their communities, as in the case of Glenn Baker.¹⁸³ In 2016, the University of Illinois Hospital's pilot project in partnership with Chicago's Center for Housing and Health used \$250,000 of its own money to get twenty-five patients like Baker out of the emergency room and into housing.¹⁸⁴ The hospital program pays about \$1000 a month for the patients' apartments in contrast to hospital care costs of about \$3000 per day.¹⁸⁵ The health care costs of the fifteen people that the hospital has helped house so far are down by 42%.¹⁸⁶ The focus, however, is on getting patients healthy.¹⁸⁷ According to Dr. Kelly Doran, an assistant professor of emergency medicine at the New York University School of Medicine who studies how homeless people use emergency services, treating housing as part of a patient's health is an idea that has caught on in recent years, although the new thing here is that the hospital is putting forth money for this program.¹⁸⁸

¹⁸¹ *Id.*

¹⁸² Tami Luhby, *Who Wins and Who Loses Under Obamacare Replacement Bill*, CNN (Mar. 9, 2017), <http://money.cnn.com/2017/03/06/news/economy/republicans-obamacare-repeal-replacement-bill/> ("Republican lawmakers have repeatedly skirted criticism that the bill will likely leave millions uninsured, but reviews of preliminary drafts by the Congressional Budget Office confirmed the problem . . ."). Furthermore, this specific provision does not appear to be in the proposed bill. *Full text: GOP plan to repeal and replace Obamacare*, CNN (citing Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act), <https://www.cnn.com/2017/03/06/politics/house-republicans-obamacare-repeal-replace-text/index.html> (last updated Mar. 6, 2017, 7:42 PM).

¹⁸³ Bryan, *supra* note 12.

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

III. Observations

As discussed above, lack of housing amongst chronically homeless people with substance use disorders is a specific health care problem that has not got the public's attention. It is an issue because of social costs¹⁸⁹ and economic costs.¹⁹⁰ It is also an issue because of the current lack of housing available to people unless an applicant to a facility fits into a narrow category of people¹⁹¹ and on condition that the applicant refrain from certain behaviors like drug use. This results in some people being excluded from § 501(c)(3) nonprofit organizations that could otherwise provide supportive housing for the benefit of the community. As discussed above,¹⁹² tough-on-crime laws may be causing the shortage of housing programs for chronically homeless people with substance use disorders. Even with the financial motivation of the tax law for cooperation between housing and nonprofits, and the ACA's provision regarding cooperation between housing and nonprofits, laws might need to be changed to further help in the creation of housing for chronically homeless people with substance use disorders. For example, Congress might have to authorize legislation that indicates that substance use disorders and ongoing drug use is not grounds for eviction.¹⁹³

With potential changes in law in mind, the 1811-for-alcoholics housing program could and should be applied to a housing program for opioid and other drug users.¹⁹⁴ By providing chronically homeless people an affordable home with supportive services, the 1811 model gives

¹⁸⁹ For example, poor health, safety, low school achievement, discrimination.

¹⁹⁰ For example, incarceration costs and emergency room costs at hospitals.

¹⁹¹ For example, disability, HIV/AIDs, veteran, family. While it is important to have housing for these groups, one could argue that the law is not doing enough to improve the lives of chronically homeless people with substance use disorders.

¹⁹² ALEXANDER, *supra* note 114.

¹⁹³ Perhaps a government waiver for the 1811 model-for-heroin could allow nonprofits to provide housing to this group and still receive tax exemptions as long as proposals to individual states by nonprofit developers meet the requirement of promoting community health benefits.

¹⁹⁴ The exact form that this housing policy should take is beyond the scope of this note. However, this housing program could be operated using a nonprofit/business hybrid model that allows a nonprofit umbrella organization to use a business subsidiary as a nonrestrictive funding source. This hybrid model is both possible and desirable. In fact, the current tax code puts restrictions on nonprofits in terms of the types of funding they can receive, but a business is free from these restrictions. By combining the two into a hybrid model, the housing program gets the benefits of charitable donations, as well as a nonrestrictive funding source. Moreover,

[a]n organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an

people the stability needed to work on other issues like addiction. The model also saves taxpayers millions of dollars that would otherwise be spent on incarceration and emergency room expenses. As discussed above, there is no reason why the model for alcoholics would not apply to opioid and other drug users. The model assumes that addiction is a disease whether the addiction is to alcohol or other illicit substances. However, one should not assume that the supportive services are the same for alcoholism as compared to addictions to other substances. This note recognizes that the kind of supportive service provided by a 1811-for-heroin housing program may be different than a 1811-for-alcoholics. For example, it may involve methadone, anti-overdose medications, or detox services.

IV. Conclusion

In whatever form it takes, housing is a basic human need that must be provided to people who are chronically homeless. Future legal research on this topic might involve alternative ways to support housing under the 1811 model. For example, the model could be given a reduced property tax rate as opposed to tax exemptions because it is unlikely that Congress would support any tax-free housing program for the chronically homeless. Whereas tax exemptions may give the impression that chronically homeless people are getting a free break, the requirement that the housing program pay taxes at a lower rate could be perceived as a way for those living in the housing program to give back to the community.¹⁹⁵ Also, developers of housing programs could be provided a streamlined, less regulated application for LIHTCs and other sources of

unrelated trade or business, as defined in section 513. In determining the existence or nonexistence of such primary purpose, all the circumstances must be considered, including the size and extent of the trade or business and the size and extent of the activities which are in furtherance of one or more exempt purposes. An organization which is organized and operated for the primary purpose of carrying on an unrelated trade or business is not exempt under section 501(c)(3) even though it has certain religious purposes, its property is held in common, and its profits do not inure to the benefit of individual members of the organization. See, however, § 501(d) and § 1.501(d)-1, relating to religious and apostolic organizations.

Treas. Reg. § 1.501(c)(3)-1(e)(1),

¹⁹⁵ Perhaps it is a good idea to have a property tax on the housing program that helps offset some of the costs for funding programs or perhaps it is a good idea to reduce property taxes to help the programs thrive. In any event, the practical and philosophical differences between tax exemptions, reduced taxed rates, and tax credits is beyond the scope of this note, as is when and why each of these tax tools makes political or administrative sense in the context of supportive housing.

capital to motivate the creation of these housing programs.¹⁹⁶ In the long-term, the savings resulting from supportive housing for the chronically homeless to the federal government, the state government, and municipalities may help such a program pay for itself by reducing downstream costs. By reducing expenditures toward incarceration or emergency room visits to housing in whatever form it takes, this could ultimately reduce government deficits. Furthermore, the savings resulting from this type of affordable housing to landlords, the business community, non-profit developers, and hospitals may help promote the public health benefit of getting people who are chronically homeless off the streets in various states and localities.¹⁹⁷

Even without 26 U.S.C. § 501(c)(3)'s financial motivation for cooperation between housing and nonprofits, and even without the Affordable Care Act's financial motivation for cooperation between housing and hospitals, there is a need for local advocacy. As in the case of Seattle's homeless encampment, called The Jungle, and the story of Million Dollar Murray in Reno, Nevada where homelessness and addiction lead to enormous incarceration and hospital costs, there is no doubt that chronic homelessness is a health concern in multiple communities across the nation. Without a supportive house, it becomes even more difficult for people in these communities to manage addiction, mental illness, and to get out of poverty. Thus, these issues become perpetuated and made worse by housing instability.

¹⁹⁶ Of course, management of a housing program is paramount, involving important legal documents and securities law. HECHT, *supra* note 41 at 713–61 (3d ed. 2006) (providing suggestions on completing development and maintaining ownership). As suggested by JUDICIARY COMM. CT. GEN. ASSEM., *supra* note 32, medical-legal partnerships, if enacted, could be used to streamline the process.

¹⁹⁷ Another area for future legal research might involve what states and localities would most benefit from the 1811 model. Moreover, it is clear that housing security is a local, not federal issue. Although the bulk of the law cited in this note is federal law (e.g., section 501(c)(3), section 501(r), section 8 housing, etcetera), future legal research could involve the feasibility of the 1811 model in targeted states and localities.

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