



Dear Honorable Members of the Kentucky Housing Taskforce,

On behalf of Americans for Prosperity – Kentucky (AFP-KY), thank you for the opportunity to provide testimony and share our perspective on Kentucky’s housing challenges. We commend the Taskforce for its thoughtful work thus far in examining the complex factors contributing to the Commonwealth’s housing crisis.

Kentucky’s housing challenges do not lend themselves to a one-size-fits-all solution. However, we are encouraged by the Taskforce’s focus on innovative, practical approaches. AFP-KY respectfully submits the following comments and policy recommendations, which we believe can help advance housing affordability, expand opportunity, and strengthen property rights across the Commonwealth.

AFP’s Vision for Housing Opportunity

Americans for Prosperity (AFP) works to advance policies that create an economy in which every individual has the opportunity to achieve success and realize their full potential. Unfortunately, overly burdensome regulations related to housing, land use, and zoning have contributed to higher housing costs and reduced access to economic opportunity.

When housing is prohibitively expensive, individuals and families are often unable to move to areas with greater job growth or to establish stable roots in their communities. These constraints limit mobility, stifle entrepreneurship, and undermine overall economic growth.

Thoughtful reforms to housing policy can strengthen property rights, enhance economic opportunity, and improve quality of life for Kentuckians. AFP-KY believes housing policy should prioritize free-market solutions that allow individuals to live where they choose, afford homes that meet their needs, and pursue better lives without unnecessary government interference.

Policy Recommendations

To advance these goals, AFP-KY respectfully recommends that the Taskforce consider the following policy reforms:

1. Permitting Shot Clocks: The Permitting Approval Timeliness Act

Unpredictable and protracted permitting processes remain a major barrier to development. AFP-KY supports legislation requiring local governments to process housing

permit applications within a clearly defined timeframe. Establishing such “shot clocks” would reduce costs associated with delays, promote efficiency in the approval process, and provide developers and builders with much-needed regulatory certainty.

2. By-Right Housing Development Act

Projects that comply with existing zoning and land-use regulations should be approved administratively as a matter of right, without unnecessary discretionary review. This reform would streamline approvals for single-family homes, multifamily developments, and accessory dwelling units (ADUs) that meet established standards, while preserving local authority over zoning designations.

By-right development enhances predictability, reduces costs, accelerates project timelines, and ultimately expands housing supply to better meet demand.

3. Third-Party Challenges to Development Permits Act

Frivolous or obstructionist lawsuits from non-adjacent property owners frequently delay or derail otherwise lawful housing projects. AFP-KY supports legislation limiting standing in such cases to owners of directly adjacent properties who can demonstrate clear and convincing evidence of material harm. This approach balances the protection of legitimate interests with the need to prevent abuse of the judicial process that impedes housing growth.

4. Flexible State Building Code Reform

AFP-KY supports updating Kentucky’s building code to allow for greater flexibility and innovation while maintaining essential safety standards. Overly rigid or outdated code requirements can unnecessarily increase construction costs and restrict the types of homes that can be built.

North Carolina’s recent enactment of House Bill 488 expanded the categories of properties eligible under its residential building code, reducing regulatory burdens and promoting housing diversity. Kentucky should consider a similar framework to remove barriers to development and encourage innovation in residential construction.

Our Commitment

Addressing Kentucky’s housing crisis will require collaboration, creativity, and a commitment to reducing barriers that hinder growth. By embracing the reforms outlined above, the Commonwealth can ensure that government regulations do not stand in the way of Kentuckians striving to build better lives for themselves and their families.

AFP-KY stands ready to work alongside the Housing Taskforce and the General Assembly to advance policies that protect property rights, promote affordability, and strengthen communities across the Commonwealth.

Thank you for your time and consideration. We appreciate the opportunity to contribute to this important discussion and look forward to continued engagement as the Taskforce advances its work.

Respectfully submitted,

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THE BY-RIGHT HOUSING DEVELOPMENT ACT

Summary: This policy is designed to increase the production of housing by streamlining the approval process for development when that proposed development meets all the rules for such development in a given community. In that way, the policy does not interfere with local considerations, but it does speed up the process for approval. In doing so, this policy addresses statewide housing shortages and promotes affordability by reducing the delays in the approval process that increase the costs of building. With so many individuals in need of housing, projects that meet municipality or county requirements should be prioritized, and local governments should not be responsible for delayed access to housing.

The By-Right Housing Development Act

Section 1: Purpose

The purpose of this Act is to promote the development of housing by streamlining the approval process for by-right development, including single-family homes, multifamily housing units, and accessory dwelling units (ADUs). By facilitating the construction of additional housing units, this Act aims to address statewide housing shortages and promote affordability.

Section 2: Definitions

For the purposes of this Act:

- (a) "By-right development" refers to the approval of proposed housing projects as a matter of right if they comply with established land use regulations, without the need for discretionary review or approval.
- (b) "Single-family homes" means a dwelling either detached or semidetached, arranged, intended, or designed to be occupied by a single family.
- (c) "Multifamily housing unit" refers to a residential building containing two or more housing units, such as apartment buildings, condominiums, or townhouses.
- (d) "Accessory dwelling unit (ADU)" means a secondary housing unit that is subordinate to the primary dwelling unit on the same lot and may include a separate kitchen, bathroom, and entrance.



Section 3: By-Right Housing Development

- (a) All proposed housing developments, including ADUs and multifamily housing units, that meet the criteria outlined in the zoning code and land use regulations shall be approved by-right, without the need for discretionary review or approval by planning commissions, zoning boards, or other regulatory bodies.

Section 4: Monitoring and Compliance

- (a) Regulatory authorities shall monitor compliance with approved by-right housing developments to ensure adherence to applicable regulations and standards.
- (b) Non-compliance with by-right approvals may result in enforcement actions, such as fines, penalties, or project modifications to bring the development into compliance.

Section 5: Restrictive Covenants or Condominium Association or Homeowners' Association (HOA) Regulations

- (a) Nothing in this act shall be construed to invalidate or limit the legality, enforceability, or effect of restrictive covenants or Condominium Association or Homeowners' Association (HOA) regulations. Courts shall recognize and enforce such covenants and Condominium Association or HOA regulations in accordance with applicable laws.

Section 6: Appeal Process for Denied Permit Applications

- (a) The court shall review the decision of the permitting authority de novo. The inquiry in such a case shall extend to the questions whether the permitting authority has proceeded without, or in excess of, jurisdiction; whether there was a fair process; and whether there was any abuse of discretion.
- (b) Abuse of discretion is established if the court determines that the permitting authority's findings are not supported by clear and convincing evidence in the light of the whole record.
- (c) If the court overturns the denial, it may remand to the permitting authority or direct the permitting authority to grant the permit.
- (d) The court retains authority to exercise equitable authority where appropriate and shall award the successful applicant attorney fees and expenses. In no



circumstances will attorney fees or expenses be awarded to the government or a third party challenging a permit.

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THE PERMITTING APPROVAL TIMELINESS ACT

Summary: This policy is designed to increase the production of housing by ensuring timely decisions on permit applications and providing transparency in the permitting process. The policy respects local considerations in the permitting process while establishing firm guidelines to ensure local governments make timely decisions in accord with fundamental fairness. In doing so, this policy addresses statewide housing shortages and promotes affordability by reducing the delays that increase the costs of building and, therefore, make it harder for individuals and families to find homes.

The Permitting Approval Timeliness Act

Section 1: Purpose

- (a) The purpose of this Act is to ensure timely decisions on permit applications, provide transparency in the permitting process, and protect the rights of applicants.

Section 2: Definitions

- (a) For the purposes of this Act:
 - 1. "Permitting Authority" refers to the governmental entity or department responsible for reviewing and issuing permits within the jurisdiction.
 - 2. "Applicant" refers to any individual, organization, or entity submitting a permit application for review and approval.

Section 3: Timeliness of Permitting Approvals

- (a) The permitting authority shall process permit applications in a timely manner and shall issue a decision on each application within 60 days of the submission.
- (b) If the permitting authority fails to issue a decision within 60 days of the filing of a complete application, the permit shall be automatically granted to the applicant.



Section 4: Decision on Permit Application

- (a) If the permitting authority denies a permit application or approves the permit with conditions, the permitting authority shall provide the applicant with specific reasons for the denial and or approval with conditions. The permitting authority need not give reason for its approval of a permit application.
- (b) The reasons for denial or conditions of approval shall be based on applicable laws and regulations clearly established for the issuance of permits.

Section 5: Appeal Process for Decisions on Permit Applications

- (a) The circuit court has jurisdiction over appeals of permit application decisions by the permit applicant. Other parties do not have standing to appeal the decision. On appeal, the court shall review the decision of the permitting authority de novo. The inquiry in such a case shall extend to the questions of whether the permitting authority has proceeded without, or in excess of, jurisdiction; whether there was a fair process; and whether there was any abuse of discretion.
- (b) Abuse of discretion is established if the court determines that the permitting authority's findings are not supported by clear and convincing evidence in the light of the whole record.
- (c) If the court overturns the denial or rejects the conditions of approval, the court shall direct the permitting authority to grant the permit.
- (d) The court retains authority to exercise equitable authority where appropriate and shall award the successful applicant attorney fees and expenses. In no circumstances will attorney fees or expenses be awarded to the government or a third party challenging a permit.

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THIRD-PARTY CHALLENGES TO DEVELOPMENT PERMITS ACT

Summary: This policy is designed to increase the production of housing to address statewide housing shortages without interfering with local government control of permitting decisions. It blocks third-party objectors from suing to stop an approved development permit unless the objector has an adjacent property and can prove by clear and convincing evidence that the approved development will create a particularized harm to the objector. The objector who sues and loses pays the attorney's fees and costs for the builder/developer.

Third-Party Challenges to Development Permits Act

Section 1: Definitions

(a) For the purposes of this Act:

- (1) "Development Permit" means any authorization, license, or approval issued by the relevant authority for the construction, alteration, or use of a property, including but not limited to building permits, zoning permits, land use permits, plat approvals, lot splits, infrastructure approvals, and environmental permits.
- (2) "Relevant Authority" refers to the governmental entity or department responsible for issuing development permits within the jurisdiction.
- (3) "Third Party" refers to any individual, organization, or entity other than the permit applicant or relevant authority.
- (4) "Common Law Nuisance" means a substantial and unreasonable interference with the use and enjoyment of neighboring property, as defined by applicable common law principles.
- (5) "Expedited Review Process" refers to a streamlined procedure established by the governing body to resolve disputes related to development permits in a timely and efficient manner, which may include accelerated court proceedings, mediation, or alternative dispute resolution mechanisms.



Section 2: Presumption of Validity

(a) Development permits issued by the relevant authority shall be presumed valid and enforceable unless proven otherwise through a legal challenge.

Section 3: Standing of Adjacent Property Owners

(a) Only property owners: (1) with property physically adjacent to the property that is the subject of the development permit; and (2) that can demonstrate a concrete and particularized harm to their physically adjacent property shall have standing to challenge development permits.

Section 4: Limitation on Third-Party Challenges

(a) Notwithstanding any other provision of law, third-party challenges by those with standing pursuant to Section 3 of this Act to development permits shall be limited to instances where the proposed development presents a clear and immediate threat to health, safety, or welfare, or constitutes a common law nuisance.

Section 5: Burden of Proof

(a) Parties challenging development permits pursuant to this statute bear the burden of proof by clear and convincing evidence. Evidence may include expert testimony, scientific data, or other relevant information substantiating the alleged harms, but may not include anecdotal evidence.

Section 6: Expedited Review Process

(a) To minimize delays and uncertainty associated with legal challenges to development permits, the relevant authority shall establish an expedited review process for resolving disputes within 60 days.

Section 7: Transparency and Accountability

(a) Relevant authorities responsible for issuing building permits shall maintain transparency and accountability in their decision-making processes, providing clear rationale for permit decisions.



Section 8: Right to Appeal

(a) A property owner whose permit is denied because of a third-party challenge pursuant to this Act may immediately appeal the decision to the relevant court of appeal.

Section 9: Attorney's Fees

(a) If a third-party challenger to a permit loses the challenge, then the challenger shall pay the permit-holder for all attorney's fees and expenses that the permit-holder incurs because of the challenge. A permit holder shall not be liable for attorneys' fees or costs in favor of a third-party challenger if the third-party challenger wins a challenge pursuant to this statute.

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