
March 2014

Out with the Old in with the New: Housing Issues for the Middle-Class in Panama City, Panama

Eric J.D. Rogers

Follow this and additional works at: <https://trace.tennessee.edu/tjlp>

Part of the [Law Commons](#)

Recommended Citation

Rogers, Eric J.D. (2014) "Out with the Old in with the New: Housing Issues for the Middle-Class in Panama City, Panama," *Tennessee Journal of Law and Policy*. Vol. 4 : Iss. 2 , Article 11.

Available at: <https://trace.tennessee.edu/tjlp/vol4/iss2/11>

This Policy Notes is brought to you for free and open access by Volunteer, Open Access, Library Journals (VOL Journals), published in partnership with The University of Tennessee (UT) University Libraries. This article has been accepted for inclusion in Tennessee Journal of Law and Policy by an authorized editor. For more information, please visit <https://trace.tennessee.edu/tjlp>.

Out with the Old in with the New: Housing Issues for the Middle-Class in Panama City, Panama

Cover Page Footnote

Eric J.D. Rogers. Study Space Fellow, Center for the Comparative Study of Metropolitan Growth at Georgia State University College of Law. I would like to thank the Center for its fellowship, which enabled me to attend the Panama Study Space.

STUDENT ESSAY

**OUT WITH THE OLD IN WITH THE NEW: HOUSING ISSUES
FOR THE MIDDLE-CLASS IN PANAMA CITY, PANAMA**

*Eric J. D. Rogers**

Introduction

Panama City is currently experiencing unprecedented growth in all sectors of its economy.¹ An abundance of foreign investment, coupled with a stable socio-political environment, and several large infrastructure investments by the Panamanian government, created a boom of economic expansion in Panama's capital city.² This recent surge in enterprise has led to several societal benefits, including growth in the middle-class and an influx in employment.³ However, as with most economic upheavals, this recent surge is not without negative repercussions. In the twentieth century, housing shortages plagued Panama. Exacerbated by the current economic trend, these housing shortages are likely to continue into the twenty-first century.

* Study Space Fellow, Center for the Comparative Study of Metropolitan Growth at Georgia State University College of Law. I would like to thank the Center for its fellowship, which enabled me to attend the Panama Study Space.

¹ CIA WORLD FACTBOOK, PANAMA, <https://www.cia.gov/library/publications/the-world-factbook/geos/pm.html> (last visited Mar. 26, 2008).

² Lourdes Garcia-Navarro, *Panama's Exploding Economy Attracts Investors* (NPR radio broadcast, July 21, 2007) available at <http://www.npr.org/templates/story/story.php?storyID=12043743>.

³ See *infra* text accompanying note 23.

Despite the fact that many prosperous societies have large and stable middle-classes,⁴ the middle-class is often a forgotten segment in an economic analysis.

Despite this growth, one of the biggest problems, facing even middle-class Panamanians, is the inability to maintain adequate housing. This inability to maintain adequate housing leads to increased costs of living, not only from the higher costs of attaining needed resources, but also due to the necessity of renting. These extra costs prevent the middle-class from obtaining valuable assets, both material and financial.⁵ The inability to procure assets thwarts the middle-classes ability to obtaining capital, which is the key to upward mobility in a capitalist economy.⁶

Housing shortages are not merely a lower-class problem in Panama.⁷ With the influx of hundreds of construction projects, as well as foreign residents from the United States, Canada, Europe and elsewhere, there simply is not enough affordable housing for working middle-class Panamanians. The average income in Panama in 2006 was \$4,890.⁸ As a result, middle-class Panamanians are forced outside of Panama City into growing developments of charmless, simple houses dotting the outskirts of the city. As Panama's expansion continues, even these housing options dwindle. The only alternatives left are to join the

⁴ Andrés Solimano, *Asset Accumulation by the Middle-class and the Poor in Latin America: Political Economy and Governance Dimensions* 8 (Macroeconomía del Desarrollo Series No. 55, 2007).

⁵ *Id.* at 13.

⁶ HERNANDO DE SOTO, *THE MYSTERY OF CAPITAL: WHY CAPITALISM TRIUMPHS IN THE WEST AND FAILS EVERYWHERE ELSE* 49, 51 (2000).

⁷ Tiffany Williams, *The Ties that Bind: Capitalizing on the Existing Social Fabric in Public Housing to Revitalize Neighborhoods and Avoid Displacement in Panama City, Panama*.

⁸ Panama Data Profile,

<http://devdata.worldbank.org/external/CPPProfile.asp?PTYPE=CP&CCODE=PAN> (select "Panama" from dropdown list).

informal housing sector by constructing a home even further outside the city or to rent.⁹

To some, housing is merely a shelter, but to others, housing is more than that.¹⁰ Housing affects a society in many different ways: from the economy, to the social fabric of society, to the political stability of a country,¹¹ housing has a wide net of impact. This impact comes from housings influence on everything, from social cohesion and stability, to asset valuation, employment, and wealth.¹²

The lack of adequate title to property, for example, is a problem for those who choose to build their own homes.¹³ Without a stake in the property, a homeowner's ability to use his or her house as an asset is hindered, causing this investment to become nothing more than a temporary shelter. Renters face similar problems. Because the percentage of their income spent on housing increases, renters see little to no return on their investment. These effects of Panama's housing shortage prevent the middle-class from translating wages into investments. During times of prosperity renters remain stagnant, and during times of economic hardship they decline as they have no economic foothold other than wages.¹⁴ Property is a form of physical capital which can play multiple roles.¹⁵ Property can be

⁹ Presentation by Manuel Trute, Urban planner, Panama City (Dec. 14, 2007) (notes on file with the author).

¹⁰ Kenro Dowers & Pietro Masci, REFORMING LATIN AMERICAN HOUSING MARKETS: A GUIDE FOR POLICY ANALYSIS 1 (Inter-American Development Bank, 2003) *available at* <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=419948>.

¹¹ *Id.* at v.

¹² *Id.* at 1.

¹³ Shlomo Angel, *The Housing Policy Assessment and Its Application to Panama*, 10 J. HOUSING ECON. 176, 186 (2001).

¹⁴ DE SOTO, *supra* note 6 at 49.

¹⁵ Orazio Attanasio & Miguel Székely, *An Asset-Based Approach to the Analysis of Poverty in Latin America* 8 (Inter-Am. Dev. Bank, Working Paper No. R-376, 1999), *available at* <http://www.iadb.org/res/publications/pubfiles/pubr-376.pdf>.

used “to buffer temporary shocks, [produce] income, and can be accumulated for long-term objectives such as financing consumption after retirement.”¹⁶

Another consequence of the location of these houses is that more money is required to get to and from work and obtain basic goods and services. For example, in 2000, the average commute in Panama City was sixty minutes. This figure will likely increase as more and more people continue to move to the city.¹⁷ Additionally, living inside the city leaves the middle-class with less money to spend on education, quality of life purchases, and housing improvements. The increased cost of living associated with housing, along with the inability of many middle-class citizens to turn wages into investments, stifles upward mobility and exacerbates the wealth disparity in Panama.

Not only does increased wealth disparity hurt the middle-class, but it can also lead to an unstable political system.¹⁸ The lack of socio-political mechanisms to provide for asset accumulation and upward mobility is destabilizing.¹⁹ A population which sees possibility in a capitalist economy is less prone to support destabilizing policies such as populist or authoritarian regimes.²⁰ On the other hand, proper mechanisms which ensure a more equal distribution of asset ownership lead to a safer, more stable country.²¹

This paper will address the current housing issues facing the middle-class living in Panama City and the socio-political implications. Although Panama City currently faces serious housing issues, especially with respect to working and lower income classes,²² this paper will focus

¹⁶ *Id.*

¹⁷ Angel, *supra* note 13, at 194.

¹⁸ Solimano, *supra* note 4.

¹⁹ *Id.*

²⁰ *Id.* at 13.

²¹ *Id.*

²² Williams, *supra* note 7.

on those in the middle-class who usually receive less direct assistance from the government.

Part I analyzes Panama's current economic expansion and the factors driving it. Part II addresses the laws and programs enacted by the Panamanian government which encourage and regulate economic development. Zoning laws, tax incentives, and current government programs aiding the middle-class in obtaining housing will also be explored. Part III focuses on the social and political implications that these laws and economic development have on the middle-class. Part IV explores alternatives and amendments to the current legal framework which could balance Panama's economic development with its need to provide adequate housing to the middle-class.

I. Current Economic

In 2006, Panama's economy grew 8.1%, and is estimated to have grown 7.8% in 2007.²³ This recent economic growth sparked a real estate boom in Panama City, causing the skyline to give birth to dozens of new skyscrapers.²⁴ The amount of construction taking place in Panama City is astronomical given the city's population is a mere .5 million. This construction benefits Panama because it creates jobs and brings in foreign money which stimulates the economy.²⁵ In fact, in 2007, Panama boasted a 7.2% unemployment rate. This rate is a far lower than the 13% unemployment rate which existed for much of the 1990's and early 2000's.²⁶ The newer unemployment rate indicates a promising economic stimulus which could help

²³ CIA FACTBOOK, *supra* note 1.

²⁴ Richard Lapper & Adam Thompson, *Gates Unlocked to Surprise Prosperity*, FIN. TIMES, July 24, 2007, at 1, available at <http://www.ft.com/cms/s/01/40406796-391f-11dc-ab48-000779fd2ac,dwp-uuid=8ad4e3ee-3920-11dc>.

²⁵ *Id.*

²⁶ CIA FACTBOOK, *supra* note 1.

move Panama towards greater wealth equality. A necessary ingredient to expedite this equilibrium will be the placement of the proper mechanisms.²⁷

There are several factors driving the new wave of construction, the influx of capital, and the economic growth in the city formally quiet Latin American capital. The Panama Canal ("Canal") is one of the main catalysts for this explosion.²⁸ In 1999, the United States ceded total control of both the Canal and the entirety of the land making up the Canal Zone.²⁹ Further, Panama now receives all of the fees, tolls, and other revenue generated from the thousands of ships that float through the Canal annually.³⁰ In fact, this revenue makes up 14% of Panama's GDP.³¹ With this increased revenue, Panama was able to invest more in its infrastructure and modernization programs.³² Additionally, the land acquired in the former Canal Zone gave Panama an opportunity to develop other businesses related to shipping, ranging from shipyards to suppliers of provisions and bunker fuels.³³

In addition to Canal ownership, the increasing size of the waterway itself is helping to spur economic growth. In 2006, the Panamanian people voted to increase the size of the locks.³⁴ When the construction is complete, the Canal will be equipped to handle not only twice as much traffic within the thoroughfare, but an increased capacity for larger ships. The Canal, for the first time, will accept Post-

²⁷ Dowers & Masci, *supra* note 10, at 2.

²⁸ Adam Thompson, *Panama Exudes Pride as Widening of Canal Begins*, FIN. TIMES, Sept. 3, 2007, at 1.

²⁹ Brad Reagan, *The Panama Canal's Ultimate Upgrade*, POPULAR MECHANICS, Feb. 2007, available at <http://www.popularmechanics.com/technology/transportation/4212183.html?page=1>.

³⁰ *Id.*

³¹ *Id.*

³² Lapper & Thompson, *supra* note 24.

³³ *Id.*

³⁴ Thompson, *supra* note 28.

Panamax ships, which represent about 37% of the world's container ships.³⁵ The expansion is designed to assure investors that the economy will continue to grow in the coming years and that the Canal will remain a relevant trade route in the 21st century.³⁶ By investing in such large infrastructure projects, the Panamanians are encouraging foreign companies to risk millions of dollars in developing the country.³⁷ These investment firms include United Kingdom-based London & Regional. Recently awarded a contract that could be worth up to \$10 billion dollars, the firm plans to create an urban city center on what used to be the Howard US Air Force base.³⁸

The second major catalyst driving Panama's economic growth is the rapid growth of real estate construction, the majority of which is in high-rise condominiums. Much of this housing development is aimed at "baby boomer" retirees and second home buyers from the US, Canada, and Europe.³⁹ Almost thirty thousand condos went on the market between July 2006 and July 2007, totaling about \$5.7 billion in sales.⁴⁰ As of July 2007, there were 175 projects under construction and 120 more that have been approved by the government, but have yet to begin construction.⁴¹ Of these current projects 11,000 more condos were expected to go online in the second half of 2007.⁴²

³⁵ Reagan, *supra* note 29.

³⁶ *Id.*

³⁷ Richard Lapper & Adam Thompson, *Panama Builds on Economic Boom*, FIN. TIMES, July 11, 2007, available at <http://www.ft.com/cms/s/7834d0e4-2fd6-11d0-a68f-000077fd2ac,dap-uid=>.

³⁸ *Id.*

³⁹ Lapper & Thompson, *supra* note 24.

⁴⁰ Eliza Barclay, *Latin America's Real Estate Panamania*, FORTUNE, July 5, 2007, available at http://money.cnn.com/magazines/fortune/fortune_archive/2007/07/09/100122336.

⁴¹ *Id.*

⁴² *Id.*

The political and social stability of Panama is also one of the driving factors for the large immigration of people and finance. According to the World Bank report on government stability, Panama has remained very constant in all six areas that are computed to determine a country's constancy over the past ten years. Those areas are voice⁴³ and accountability, political stability and absence of violence, government effectiveness, regulatory quality, rule of law, and control of corruption.⁴⁴ In fact, based on this stability, a large number of the upper and middle-class from Venezuela and Columbia have migrated into Panama City. Searching for less restrictive government policies, increased investment opportunities, and an escape from the possibility of threat of violence and social unrest, often-times these expatriates are finding the answer on the shores of Panama rather than their native countries.⁴⁵

The preceding factors constitute the main catalysts for the sudden growth of Panama's economy. Foreign investors see a great deal of potential in Panama City as both a hub of shipping and industry, as well as a retirement mecca for North Americans and Europeans.⁴⁶ The Panamanian government enacted focused legislation to regulate the current growth and to alleviate the burden being placed on the middle-class.⁴⁷ The current mechanisms that are in effect in Panama will be discussed in the following section.⁴⁸

⁴³ *Country Data Report for Panama, 1996-2006*, World Bank Institute, 2006, available at <http://info.worldbank.org/governance/wgi2007/pdf/c171.pdf> (voice has to do with the freedom of press).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Garcia-Navarro, *supra* note 2.

⁴⁷ *See infra* Part II.

⁴⁸ *Id.*

II. The Legal Framework

a. La Hipotecaria

One program that the Panamanian government enacted to deal with the housing issue is called La Hipotecaria.⁴⁹ La Hipotecaria is a non-bank institution in Panama that is designed to provide middle income people with loans for residences. The Government gives a tax credit at the end of the year to compensate home buyers for the difference between the preferential rates and the actual market rates. In doing so, the La Hipotecaria allows a portion of the population to afford housing that would otherwise not. One problem with this initiative is that it only addresses the demand side of the market. The middle-class are able to afford the housing, but it is either non-existent or is way outside of the city center.⁵⁰ The average income of those that borrow money from La Hipotecaria have a monthly income between \$400-\$800. The average loan size that is given is around \$23,000, and roughly 500 are given every month. This equates to 6,000 loans every year.⁵¹ Further, the program is only open to those that are salaried employees,⁵² excluding non-salaried employees, small business owners, and those working in the informal sector.⁵³ Furthermore, these preferential loans are only available for new housing, and not for the resale of old housing.⁵⁴ This distorts the resale value of middle-class

⁴⁹ La Hipotecaria is Spanish for "*The Mortgage Store*." See La Hipotecaria, www.lahipotecaria.com (last visited Mar. 26, 2008).

⁵⁰ *Id.*

⁵¹ La Hipotecaria, Company Profile, http://www.lahipotecaria.com/english/generales_empresa.htm (last visited Mar. 26, 2008).

⁵² Angel, *supra* note 13, at 197.

⁵³ *Id.*

⁵⁴ *Id.*

housing, as it limits the number of people who can afford to buy it.⁵⁵

The La Hipotecaria program is innovative and has opened up credit to a segment of the population that would otherwise be unable to afford a house. It is not, however, completely flawless.⁵⁶ Certainly, the program must exclude some who cannot prove their creditworthiness, otherwise it would go bankrupt. The problem is with the manner in which they determine credit. Many people who could make the payments are excluded because of the manner in which they make their money.⁵⁷ There need to be other methods of proving credit than just showing proof that an individual has a salaried job.⁵⁸ Creating a mechanism that will allow non-salaried persons to obtain preferential loans will help ensure that certain segments of the population are not arbitrarily excluded. The goal of housing mechanisms should be to include as many people as possible without jeopardizing the program. Including those that can prove their credit, even if they do not have a traditional salary, will be a step in that direction. One such option that will open up the program is to allow for a rental trial period to establish credit.⁵⁹

b. Zoning Laws

Panama City's main tool for controlling development is density restrictions. The law stipulates that only a certain amount of "dwellings" are to be built on a specific tract of land.⁶⁰ The density zoning restrictions were enacted

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.* at 201.

⁵⁹ *See infra* note 150.

⁶⁰ "Por la cual se crea la corporacion Azucarera La Victotria," Ley No. 9. de 25 de enero de 1973; Gaceta Oficial No. 17.276 (viernes 2 de febrero de 1973).

in 1973, and they have not been updated to reflect the changing development in the city.⁶¹ There are no current height restrictions in Panama City, except for the historical colonial center, Casco Antigua.⁶² This has created high rise buildings that are fifty stories tall, but only have two dwellings per floor.⁶³ As a result, Panama's population density in 2000 was only 5,835 people per square kilometer.⁶⁴ This is about 500 less than the ordinary lower-middle-income country and about 800 less than the ordinary upper-middle-income country.⁶⁵ When comparing Panama City to other cities around the world, Panama City is not maximizing the potential of its urban land.⁶⁶ Therefore, Panama needs to update a zoning plan that is over thirty years old to effectively concentrate the growing population in the city.

The drawback to light density zoning is that it makes building middle-class housing in the city economically disadvantageous. If a developer is limited in the amount of units he or she can put on a tract of land, then the logical response to ensuring a larger profit is to build more expensive units. This is not to say that there should not be certain restrictions on density, but to blanket the entire city with a very low density restriction is to artificially deflate the housing market. This then causes urban sprawl. Other cities have dealt with this issue in various ways.⁶⁷ Mechanisms exist that can maintain sustainable

⁶¹ *Id.*

⁶² Indira Lakshmanan, *In Panama City's Old Quarter, a Rebirth Takes Place*, BOSTON GLOBE, Jan. 22, 2007, available at http://www.boston.com/news/world/articles/2007/01/22/in_panama_citys_old_quarter_a_rebirth_takes_place.

⁶³ Kevin Brass, *Developers Press Ahead in Panama City*, INTERNATIONAL HERALD TRIBUNE, Jan. 31, 2008, available at <http://www.iht.com/articles/2008/01/30/properties/repan.php>.

⁶⁴ Angel, *supra* note 13, at 194.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ See *infra* Section IV.

growth in a city center, while at the same time ensuring that ample housing exists for middle income dwellers.⁶⁸ Some of these options include inclusionary zoning and infill housing coupled with effective investment in the city infrastructure.⁶⁹

c. Tax Incentives

Another mechanism used by the government to stimulate and control growth is tax incentives. One such law gave complete property tax relief to any housing valued at \$30,000 or less and completed by August of 2005.⁷⁰ The law also dictates that if the property is worth more than \$30,000, then taxes must only be paid on the amount greater than \$30,000.⁷¹

The legislature decided to make this incentive permanent and expanded it to include all property. The current property tax structure in Panama exempts the first \$30,000 of value in the property from any property tax.⁷² The rate of tax on the property then increases as the value of the property increases. This property tax structure does not directly encourage the new construction of middle-class housing. If the exemption were given only to property under \$30,000, then there would be an incentive to keep the property at a lower cost.

The programs and incentives created by the Panamanian government are far from what is necessary to maintain a stable balance in the real estate market. The main

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ Property Tax Exonerations/Incentives for New Construction, <http://www.panamarealtor.com/real-estate-law-incentives/tax-exonerations> (last visited Mar. 26, 2008).

⁷¹ *Id.*

⁷² Panama Tax Code, art. 764, *available at* <http://www.panamarealtor.com/real-estate-law-incentives/panama-real-estate-taxes>.

focus of the actions taken are to help the middle-class obtain financing or to ease the burden of taxes once they purchase the property. There are, however, no substantial programs that stimulate the construction of middle-class housing, especially in areas close to job centers and transit routes. The lack of housing on the market has created many difficulties for the middle-class, and it will continue to exacerbate the wealth disparity that already exists in Panama.⁷³ The following section will address the implications that the housing shortage has on the average middle income Panamanian.⁷⁴

III. Socio-Economic Implications

The impact of the current housing shortage is much more than a momentary setback for the middle-class. The implications of a continued disenfranchisement of the middle-class to the outskirts of the city and a continued inability to find adequate housing could lead to much greater social and political problems for Panama.⁷⁵ In a capitalist society, a house represents more than a dwelling or a shelter for a family. A house is an asset that can allow a person to build capital and develop credit in order to procure other assets.⁷⁶

Asset building is an integral part of upward mobility in an economy.⁷⁷ One of the key factors to building a stronger middle-class is providing better access to housing, which is one of the main assets a population accumulates.⁷⁸

⁷³ Solimano, *supra* note 4, at 13.

⁷⁴ See *infra* Section IV.

⁷⁵ Solimano, *supra* note 4, at 5 (explaining that when middle and lower income classes of people are unable to obtain assets they have no upward mobility, and without upward mobility, democracy is much harder to maintain).

⁷⁶ DE SOTO, *supra* note 6, at 51.

⁷⁷ Solimano, *supra* note 4, at 15.

⁷⁸ *Id.*

Hindering an individual's ability to obtain housing thwarts the main avenue to upward mobility. When that happens, the gap between the wealthy and the poor will increase, and a greater squeeze will be put on the middle-class. Economic inequality already plagues Panama, and according to the Gini index, an indicator of income inequality, Panama is the fourteenth worst country for wealth disparity in its citizenry.⁷⁹ If this problem is exacerbated because of unsatisfactory housing policies, then political turmoil could follow. When populations have no possibility of a better future, they are more likely to favor more radical regimes, and when that happens, foreign investment ceases to flow.⁸⁰

The housing problems for the middle-class hinder the ability to acquire assets in two ways. First and foremost, the shortage of affordable housing in the city for the middle-class eliminates the possibility of a segment of the middle-class to acquire the most common asset.⁸¹ A survey taken in 1995 of middle-class housing showed that 35% of the middle-class in Panama City were not homeowners.⁸² This segment of the population will remain economically stagnant during economic booms because they are unable to translate wages into an investment. During economic downturns this group will decline in the social ladder because of the inability to acquire any lasting asset.

The income this group earns is spent on rent, which supplies a present need but offers no long-term benefit. As long as economic times are stable in Panama, this segment will not suffer. The problems arise when wages and jobs are cut due to an economic downturn. In the event of recession, renters will be one of the most vulnerable groups of people because they have no savings or assets to rely on in

⁷⁹ CIA FACTBOOK, *supra* note 1.

⁸⁰ Solimano, *supra* note 4, at 16.

⁸¹ *Id.* at 15.

⁸² HAROLD KATSURA & CLARE ROMANICK, HOUSING DEMAND AMONG PANAMA'S MIDDLE- AND LOW-INCOME POPULATION 3-4 (1996).

this situation.⁸³ If the middle-class had adequate access to housing, the wealth disparity would shrink, and the middle-class would be more stable during economic downturns.⁸⁴

The second problem is that the housing that exists or is being built for the middle-class does not allow for further asset accumulation or savings accumulation. This situation will exacerbate the wealth disparity in Panama.⁸⁵ The current trend in housing development for the middle-class is to build rows of identical houses on the outskirts of the city. These houses are usually sold for around \$20,000 but lack access to any of the essentials necessary for sustainable living, such as schools, health care, grocery stores, or jobs.⁸⁶ They are placed there for one reason only: to provide shelter to the middle-class. Most everything the middle class needs is in the center of the city.⁸⁷ Even though this group can afford the houses, the added costs to basic necessities make it more difficult for income to be saved or invested in other assets. An example of the added costs a person living in these dwellings incurs is the commute to work. Buses are the only public transportation that exists in Panama City.⁸⁸

Aside from the fare for each destination, a rider must consider the cost of the time commuting, which can exceed two hours each way.⁸⁹ The only alternative to commuting via bus is to own a car or take a taxi.⁹⁰ When taking a car from these neighborhoods, the commute is usually an hour each way in gridlocked traffic.⁹¹ Thus, a person living

⁸³ Solimano, *supra* note 4, at 8.

⁸⁴ *Id.*

⁸⁵ Solimano, *supra* note 4, at 5.

⁸⁶ Trute, *supra* note 9.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ Jason Margolis, *Part II: Developing Panama City*, THE WORLD, May 22, 2007, available at <http://www.theworld.org/?q=node/10252>.

⁹⁰ *Id.*

⁹¹ *Id.*

in the outskirts may own a house, but getting to the city for basic necessities or work requires a car, gas, maintenance, and other expenses that go along with long commutes to work. These added expenses eliminate a person's ability to save money and to acquire assets, such as better housing or improvements on the housing they already own. The added costs of living outside of the city center restrict the mobility, both physically and economically, of the citizenry.

IV. Alternative Regulatory Mechanisms

There are many regulatory or legal options that the Panamanian government can choose to employ in an effort to deal with the current housing situation in the capital city.⁹² This section will address some of the overarching policies and laws that need to change, in order to effectuate a better balance between the current economic growth and the need for adequate housing for the middle-class.

In regards to housing, a major problem that arises in many urban areas is the scarcity of land. Panama City is no different. The government has not aided in this problem by its policies either. Currently, zoning regulations are artificially depreciating the amount of possible dwellings in the city.⁹³ Because Panama City places restrictions on the amount of dwellings that may be placed on a certain hectare, the total possible amount of dwellings is minimized. This not only limits the amount of people who can move to the city, but it also raises the price of the existing dwellings.⁹⁴ Panama must first alter its density zoning laws to afford the possibility of more middle-class housing in the city. As mentioned, the middle-class has a dire need to be

⁹² Dowers & Masci, *supra* note 10, at 12.

⁹³ *Supra* note 59.

⁹⁴ John J. Delaney, *How We Got into a Workforce Housing Crisis: And Why Getting out of It Will Not Be Easy*, LAND USE INST. (ALI-ABA COURSE STUDY MATERIALS) 5 (2006).

closer to necessary resources and work.⁹⁵ One of the reasons why there are density restrictions in place is because there is a limited ability of the current infrastructure to handle more people. Infrastructure development is an important part of developing housing for a wide array of the population. The following zoning changes will not be possible if the proper infrastructure is not in place. Solutions for improving the infrastructure in the city will be discussed later in this section.⁹⁶

A zoning tool that has been implemented in various urban areas to directly deal with the problem of middle-class housing shortages in the United States is inclusionary zoning.⁹⁷ The main function of inclusionary zoning is to lift certain density restrictions on a development, but in return, the developer must make a certain number of the units affordably priced for the middle-class. This ensures that only those in the middle-class are purchasing these units.⁹⁸ This type of zoning is in place in states as different from one another as, for example, California and Maryland.⁹⁹ This housing is usually set aside for those households that make between 80% and 120% of the average income.¹⁰⁰ In order to offset the added cost to developers, the government can give density bonuses or tax incentives. The goal is to mix the levels of income in a specific area and allow the middle-class easy access to job markets and transportation hubs.¹⁰¹

Another development technique that is being utilized in markets with housing crises is infill housing. Infill housing is a technique of ensuring that land in an urban

⁹⁵ *Id.* at 7.

⁹⁶ *See infra* notes 113-33.

⁹⁷ Delaney, *supra* note 94, at 8.

⁹⁸ *Id.* at 9.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

setting is being fully utilized to its maximum potential.¹⁰² The purpose of infill housing is to create denser housing in areas that are not being properly utilized. It can involve the creation or modification of condos, apartments, townhouses, or single family homes. The purpose of the development is to place more dwellings in areas that can sustain them.¹⁰³ Usually such housing redevelopment is done near existing or planned transit routes, job centers, or within walking distance of amenities and services.¹⁰⁴ The placement of these dense centers of housing is important because if they are near these public amenities, they allow middle and low income households to reap the benefits of their location.¹⁰⁵ It will also require specific funding for the improvement of the infrastructure in that area to deal with the increased population.¹⁰⁶

Infill housing does not come without its own problems and obstacles. Because it entails developing denser housing in already established areas of a city, city officials will often face a backlash from those already living in the area.¹⁰⁷ This problem is to be expected, as bringing denser housing can cause many more difficulties for the pre-existing communities, such as higher congestion and greater pressure on the existing infrastructure.¹⁰⁸ Depending on the political structure for zoning decisions, legislative amendments to the city's general plan and zoning regulations may be required in order for an infill development to be built.¹⁰⁹

¹⁰² Jonathan C. Curtis & Mary C. Klima, *Department Practice Tips: The Challenges of Infill Housing*, 27 LOS ANGELES LAW 12 (2005).

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 2.

¹⁰⁵ *Id.*

¹⁰⁶ See *infra* notes 113-33.

¹⁰⁷ Curtis, *supra* note 102, at 3.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

Since there can be a wide array of problems to acquiring infill housing approval and development, the initial time and capital investment into these types of projects is essential. A team of professionals that are not only knowledgeable about infill developments but are also familiar with the city, its infrastructure, and government is essential to getting an infill project started and ensuring that it is in the proper area of a city.¹¹⁰ Infill housing should be left to the private sector to build, but there are several legal mechanisms the government can use to encourage this type of efficient development. Examples of policies that have been used are lower impact fees if a developer upgrades infrastructure, a smoother and faster process of permit acquisition, lessening of zoning restrictions, or tax break incentives.¹¹¹ Flexible land use policies and building restrictions can improve the private provision of serviced land and houses, which makes them available to households across the wealth spectrum.¹¹² Infill housing is an individualized process of urban development, so each project may require different incentives and may encounter various problems. Knowledgeable professionals and a thorough understanding of the city are essential to effective infill projects.¹¹³

In order to facilitate these types of specific zoning development, the city also needs to invest in the infrastructure of these areas.¹¹⁴ The term infrastructure refers to a wide variety of things such as water supply, sewage systems, traffic lights, green space and road conditions.¹¹⁵ It is necessary that a given area's infrastructure be up to date if

¹¹⁰ *Id.*

¹¹¹ *Id.* at 2.

¹¹² Dowers, *supra* note 10, at 81.

¹¹³ Curtis, *supra* note 102, at 4.

¹¹⁴ Angel, *supra* note 13, at 205.

¹¹⁵ Catherine Michel, *Brother, Can You Spare a Dime: Tax Increment Financing in Indiana*, 71 IND. L.J. 457, 458 (1996).

more people are going to live in that area.¹¹⁶ In order to develop infrastructure, many urban areas across the United States utilize a funding tool known as tax increment financing (TIF).

A TIF finances redevelopment and community improvement in a specific area of a city. In the area set apart for the TIF, the property taxes are frozen at a particular level.¹¹⁷ Once the level of property taxes has been frozen, all of the revenue generated by the property taxes will go into a fund for the redevelopment of that area.¹¹⁸ The projected increase in tax revenue that will occur because of the redevelopment is then calculated.¹¹⁹ From that projected amount, bonds are issued by the government and placed in a special account that can only be used to fund projects in that area.¹²⁰ As the tax revenue is generated over the years, the bonds are paid back by the increases in the tax revenue.¹²¹ The tax revenue raised will be used to combat the issues that normally arise in densely populated areas.¹²² TIF funds are commonly used to build and maintain roads. Traffic is a constant problem in Panama City, which is evidenced by the long commute times of workers in the city.¹²³ TIF funds would need to be used to create new roads, improve existing ones, and install traffic lights. The Panamanian General Assembly would have to pass a law that would allow the Ministry of Housing to issue bonds for these particular projects.

¹¹⁶ Angel, *supra* note 13, at 205.

¹¹⁷ Neighborhood Capital Budget Group, *How Do TIF's Work?*, available at http://www.ncbg.org/tifs/tif_how.htm (last visited April 8, 2008).

¹¹⁸ *Id.*

¹¹⁹ Michel *supra* note 115, at 458.

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *See supra* note 91.

The key to TIF is that the tax revenue generated from a specific area can only be used for improvements in that area. By allowing a city to target areas for growth, it gives it more control over urban planning.¹²⁴ Along with the previously mentioned zoning tools, the city could adequately control the amount and placement of middle-class housing. Panama City could create a TIF to both redevelop an underused part of the city, and to ensure that an adequate amount of middle-class housing is available. In order to accomplish this, the city could use inclusionary zoning to make sure developers put up more than just high-end units.

Another area of city infrastructure that needs to be addressed is public transportation.¹²⁵ Without some system of public transportation the city cannot sustain a large migration of people into the city center.¹²⁶ The city already has a plan in place for public transit, but the national government has stalled the project.¹²⁷ Their plan is to mimic the system of long, accordion-style buses with dedicated lanes that has proven effective in Curitiba, Brazil.¹²⁸ The buses would essentially act as an aboveground subway.¹²⁹ The bus stops would be glass tubes that more closely resemble train stops than bus stations.¹³⁰ The Curitiba system is able to carry about the same amount of passengers as a subway would, and it cost 100 times less.¹³¹ This system needs to be a top priority if the city wants to continue to grow in an efficient manner. The areas around the bus “sta-

¹²⁴ *Id.*

¹²⁵ René Paniza, City Planner, Presentation in Panama City (Dec. 11, 1999) (notes on file with author).

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ Arthur Lubow, *The Road to Curitiba*, N.Y. TIMES, May 7, 2007, available at http://www.nytimes.com/2007/05/20/magazine/20Curitiba-t.html?pagewanted=1&_r=2&th&emc=th (last visited April 8, 2008).

tions” would be ideal areas to implement some of the zoning mechanisms discussed earlier. They would be close to transit centers which would make the daily commute for middle-class citizens more affordable.

None of these proposed solutions alone can solve the housing problems in Panama City. Rather, it will take the implementation of all of the aforementioned mechanisms to achieve a better situated and housed middle-class. Without ensuring that the infrastructure in a newly rezoned area is adequate to support the increased density, the problems will only be exacerbated. If the water system, for example, cannot support the increased population then the idea of making resources more available to the middle-class by moving them into the city becomes a futile objective. Also, if roads and public transportation are not improved, then commutes to work will not decrease even though the people live closer to their employment. If, however, the government works to balance the current high-end housing growth in the city center with an adequate amount of middle-class housing and proper infrastructure, there can be an alleviation of the current housing problems.

Outside of getting more middle-class housing in the city center, the government can also help the middle-class by improving their current housing situation. A large percentage of middle-class households choose to incrementally build their own houses, as opposed to purchasing them.¹³² In 1996, 70% of the middle to lower-middle income home owners built their houses.¹³³ One way the government could facilitate this type of construction is through the use of microfinancing.¹³⁴ Microfinancing for housing entails small loans, usually between \$250 to \$5,000, and a relatively short amortization period, between 2 to 10 years.¹³⁵

¹³² Katsura, *supra* note 82, at 17.

¹³³ *Id.*

¹³⁴ Dowers, *supra* note 10, at 73.

¹³⁵ *Id.* at 77.

These smaller loans can be used to either improve one's house or to expand it.¹³⁶ The obstacle to establishing a microfinancing market in a developing country is that these types of loans are often not profitable for banks.¹³⁷ These small loans require high transaction and monitoring costs and low repayment rates.¹³⁸ Because of these economic hurdles, the market, on its own, will often not supply these types of loans even though the demand exists for them.¹³⁹

Microfinancing is an example of how innovative governmental policies can encourage the marketplace to perform differently than it would under normal conditions.¹⁴⁰ The Panamanian government could enact a program that would guarantee these microloans for private banks, thus taking the risk factor out of the equation for the banks.¹⁴¹ Another alternative would be for the government itself to create a program that gave out these loans.¹⁴² However, many housing economists believe that government policies work best when they enable the marketplace as opposed to becoming a market player.¹⁴³ Encouraging and incentivizing nongovernmental organizations to offer microloans is also a very effective way to fill this gap in the market.¹⁴⁴ An example of a microfinance bank that has flourished is the Grameen Bank.¹⁴⁵ This bank gives out small loans to impoverished individuals in Bangladesh to allow them to start businesses and obtain housing.¹⁴⁶ It has allowed individuals unable to enter the normal credit and

¹³⁶ *Id.*

¹³⁷ PATRICE FRANKO, THE PUZZLE OF LATIN AMERICAN ECONOMIC DEVELOPMENT, 407 (2007).

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ See Dowers, *supra* note 10, at 78.

¹⁴¹ *Id.*

¹⁴² Angel, *supra* note 13, at 202.

¹⁴³ *Id.*

¹⁴⁴ See Dowers, *supra* note 10, at 78.

¹⁴⁵ Grameen Bank, <http://www.grameen-info.org/bank>.

¹⁴⁶ *Id.*

loan sector to develop assets.¹⁴⁷ A similar microfinance program in Panama could offer the same benefits to some sectors of the middle-class. The Grameen Bank is a private entity, so the Panamanian government would need to create incentives to encourage the development of such a program.¹⁴⁸

In order to encourage private organizations to offer microloans for home improvements, the government could institute a program similar to La Hipotecaria, but for microloans. Often, the rates offered for smaller loans are higher as a result of the added costs of this type of financing for banks.¹⁴⁹ If the government were to subsidize the rates they would become more affordable to a wider base and would lower the cost for housing improvements by those participating in the program.¹⁵⁰ This program should not be open to a group as large as La Hipotecaria. The majority of those that incrementally build their houses are in the lower part of the middle-class. Thus, limiting the section of the population that may take advantage of the program would ensure that the funds invested are reaching those that most need the assistance, the lower strata of the middle-class.

Finally, the government needs to expand its subsidized loans to include households made up of non-salaried workers.¹⁵¹ One option would be to develop hire-purchasing housing. Families that did not meet the criteria for preferential housing loans could rent a house for several years to prove their creditworthiness, and then purchase it.¹⁵² The government would not have to manage this pro-

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ See Alfredo Stein and Luis Castillo, *Innovative Financing for Low-Income Housing Improvement: Lessons from Programmes in Central America*, 17 *Environment and Urbanization* 47, 52 (2005).

¹⁵⁰ *Id.* at 56.

¹⁵¹ Angel, *supra* note 13, at 201.

¹⁵² *Id.*

gram, but it could give preferential rates to developers on their loans during the period in which they hold and rent the asset.¹⁵³ By offering lower rates on loans to developers during the rental period, the developers are more likely to go along with these programs. It does not affect their profit margin as much to keep properties for longer periods of time because they have to pay less in interest on their outstanding loans.¹⁵⁴

V. Conclusion

Housing in today's economies is more than just a place to rest one's head. It is a stepping stone to greater wealth and upward mobility.¹⁵⁵ A house is one of the more common assets people acquire.¹⁵⁶ It can be used as collateral to allow the owner to invest in other markets, and it can also give financial security during economic downturns.¹⁵⁷ If a country impedes the middle-class's ability to obtain adequate housing it stifles their economic future, and exacerbates the gap between rich and poor.¹⁵⁸

The current housing policy framework in Panama does not adequately protect and encourage the middle-class during this current economic boom.¹⁵⁹ The current financing programs, such as La Hipotecaria, extend housing credit to some of the middle-class who would otherwise be unable to obtain a mortgage, but they also exclude a large cross-section of the middle-class at the same time.¹⁶⁰ The zoning laws of Panama City are not flexible enough to

¹⁵³ *Id.* at 202.

¹⁵⁴ *Id.*

¹⁵⁵ Dowers, *supra* note 10, at 1.

¹⁵⁶ Solimano, *supra* note 4, at 16.

¹⁵⁷ *Id.* at 16.

¹⁵⁸ *Id.*

¹⁵⁹ *See supra* Part I.

¹⁶⁰ *See supra* text accompanying notes 56-59.

allow for efficient use of urban land.¹⁶¹ As a result of the density restrictions on development in the city, Panama City has a lower population density than the average city of similar wealth.¹⁶²

These shortcomings in Panama City's framework place a heavy financial toll on the middle-class. Because the middle-class must put forth a much greater financial effort to obtain adequate housing, their ability to move up the economic ladder is diminished.¹⁶³ Stagnant economic mobility in a country can have tumultuous political consequences.¹⁶⁴ As stated earlier, the political stability of Panama is one of the driving forces behind the current economic boom.¹⁶⁵ If the widening socioeconomic gap were to create an unstable political situation, an economic downturn would likely follow.¹⁶⁶ Therefore, housing policies that enable the middle-class to obtain adequate housing would benefit the country as a whole, and help ensure that the current wave of fortune does not subside.

In order to fix the current framework, Panama needs to look to more progressive methods of urban planning including inclusionary zoning and infill housing.¹⁶⁷ These zoning policies will promote a more efficient use of the land in Panama City.¹⁶⁸ Along with more efficient use of the land, the city needs to invest more in developing the infrastructure of the city.¹⁶⁹ Without better infrastructure, the city cannot handle greater population density.¹⁷⁰ As for financing, the government needs to help develop a strong

¹⁶¹ See *supra* text accompanying notes 61-67.

¹⁶² Angel, *supra* note 13, at 194.

¹⁶³ Solimano, *supra* note 4, at 19.

¹⁶⁴ *Id.*

¹⁶⁵ See *supra* Part I.

¹⁶⁶ Solimano, *supra* note 4, at 18.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

microfinance market that will enable the middle-class to build, improve, and enlarge their housing.¹⁷¹ The government also needs to expand the preferential housing loan program to include the segment of the middle-class made up of non-salaried workers.¹⁷² A hire-purchasing program would open up the system to this disenfranchised group.¹⁷³ The government needs to ensure that the current prosperity in Panama does not land in the hands of the few, but rather facilitates greater equality. With greater equality, greater stability and economic growth will follow.¹⁷⁴

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ See *supra* text accompanying notes 152-54.

¹⁷⁴ Solimano, *supra* note 4, at 21.

