



The Hellman Company, inc.

Jay Hellman Testimony at District of Columbia Zoning Commission Hearing
on Inclusionary Zoning Case No 04-33
1 August 2005

***The role of government is to make it easier for the private sector
to make money doing the right thing rather than the wrong thing.***

TANSTAAFL *There Ain't No Such Thing As A Free Lunch.*

If you ask the wrong question, you will get the wrong answer.

If the only tool you have is a hammer, all the problems look like nails

The Zoning Commission is a one-trick pony Your only tool is increasing density
This is an incomplete toolbox. It cannot solve this problem

Forgive them, they know not what they do

The three most important things in real estate are: Location, location and location.

How do you make an expensive location cheap? What will the law of unintended consequences do here?

The Zoning Commission failed miserably with their TDR program

The Zoning Commission unknowingly created an arbitrage situation made possible by being able to relocate location As a result a 140 unit apartment building that I was in the process of developing at 651 New Jersey Avenue, NW -- the "gateway" to NoMa -- was killed and instead a larger office building (270,000 sf instead of 200,000 sf) was built at 601 New Jersey Avenue

I had offered \$13,000,000 to the landowner to purchase the 31,000 sf site The C-3-C zoning allowed a 65 FAR office building or 200,000 sf A simple division calculates the value of an FAR sf on this site to be \$65

The sophistry of the Zoning Commission's TDR program used a fiction of a "free market" where sellers and buyers negotiated with each other to determine price The fallacy is profound What the seller is selling is not what the buyer is buying The seller cannot use what he is selling If its value equals the imposition imposed on him by the DC Government ("condemnation" in character) that would be a coincidence To see any relationship between what that damage was and what the value of the TDR is to the buyer is completely without basis

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District of Columbia

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CASE NO. 04-33
EXHIBIT NO. 121
DISTRICT OF COLUMBIA
ZONING COMMISSION
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In the specific instance of 601 NJ Ave, I was outbid for the land by Lowe Enterprises who purchased 75,000 sf of TDRs at \$20 per sf. Since an FAR sf on that site was unquestionably worth \$65 (my all cash offer for the land) the TDR buyer had a subsidy of \$45/sf or \$3,000,000 that I did not have. I was using the HR Overlay to create a mixed-use project on this visible, important site. It is no wonder that I was outbid for the land!

In fact, the subsidy was considerably more

- 1) the additional FAR was a 9th (and potentially a 10th floor) which is the highest value floor
- 2) you do not have to build an additional lobby, garage entry, ramp system, loading dock
- 3) I had increased my offer from \$13 million to \$13,750,000 (\$63.75 per FAR sf)

500 New Jersey Ave, NW is the wrong building because of this Zoning Commission failure.

I won unprecedented zoning variances on July 24, 2001 because of 14 years of homework re-inventing the city in the age of the computer. My deadline for settling on the Amoco site at 500 NJ Ave was December 31, 2001. This was the third contract I had executed with Amoco since 1985 and this time there were no extensions or modifications, 9/11 notwithstanding! Since I had lost so much money as a result of the TDR error at 601 NJ Ave I did not have the financial strength to acquire Amoco and was forced to sell the land. The seeds I had planted with the NAR did not germinate until 2 months later and I was no longer in control. The ANC called me furious with "bait and switch."

Is this really a LEED building? You cannot open a window. The occupant inside is isolated from the environment outside!

The Rent Control program in DC was similarly flawed. It reduced supply in two ways.
(The Zoning Commission didn't make this mistake, but it is a relevant example here.)

Attached to this submission is a one-page System Dynamics diagram showing how the Rent Control program produces immediate gratification in the short run, but the long-term result is to worsen the situation. Like the current debate on Inclusionary Zoning, the concern about rents was that they seemed to be increasing too much too fast.

By artificially controlling rents,

- 1) the incentive to build new rental units disappeared. And,
- 2) the ability to maintain the existing housing stock was compromised.

But it took years for these negative impacts to be observed and then measured and then understood.

This was exactly the reverse of what is needed -- see "Economics 101" immediately below.

You cannot violate the basic laws of economics: Supply and Demand

It would behoove us all to begin with a realization that the problem we are discussing this evening is one we are fortunate to have. We live in an economy that is a prolific generator of jobs.

Look at the "Rust Belt" problem. A factory closes, and the major primary job engine disappears. The price of housing goes down as people leave to find jobs elsewhere. There is more housing supply than there is demand. The price goes down. Homeowners are hurt.

Look at the article in the Washington Post, July 30, 2005 *Virginia Millionaire Buys Himself a Ghost Town: Businessman Has Big Plans for Canadian Mine Site*, by Doug Struck, page A1. It is the story of "Krishnan Suthanthiran, a Virginia businessman, purchasing Kitsault, Canada, a ghost town abandoned by miners' families more than 22 years ago and preserved like a museum." In the late 1970s, Amax of Canada Limited chose to reopen a local mine, Amax created a modern, planned community to house 1,200 miners and their families. It was an ideal place for a family. But just as the families were getting settled, the price of molybdenum plunged, from a \$15-a-ton high to \$3. Then, in November 1982, it ordered the operation closed, and within months, the town was abandoned. Kitsault was left empty and eerie.

Another example is **Bruges, Belgium**

(see <http://www.brugesinfo.com/brugge-belgium-history.php>)

The history of Bruges begins around 2000 years ago. At this time there was a Gallic-Roman settlement on the site of the city. The inhabitants survived and prospered by agriculture and trade. ... By the 11th century Bruges had become an important commercial center for Europe. ... The decline of Bruges' wealth started in the 15th century due to the unstoppable silting up of the Zwin and the competition with the bigger harbor of Antwerp. The city did struggle through the following centuries and at one time was Belgium's poorest city. New industries were tried but with little success. The city again began to attract attention in the late nineteenth century when it was discovered by international tourism and tourists.

We have a system imbalance: we produce less housing than is needed.
None of the "un-affordable" housing is vacant

Every home built is purchased and occupied. Is a person who can afford housing less of a human being than one who cannot?

The fact that prices of homes have risen rapidly in the past several years is not rocket science.

1. We have more demand than supply
2. The cost of money has dropped significantly,
3. Government regulations and impositions have increased the cost of housing

TOD -- land-use and transportation are two sides of same coin

Increasing supply of housing at Metrorail served locations delivers double benefit as it also reduces transportation costs to residents

- Cleveland Park project _____ was forced by community opposition to higher density notwithstanding Metrorail and Metrobus and location on Connecticut Avenue to be dramatically reduced in size and increased in price
- FNMA gives mortgage credit for living close enough to Metrorail to reduce commute costs

Employer-provided housing

The White House,

Dorms at universities

Factory towns / mining towns prior to inventing automobiles

Plantations in the agricultural age

Housing for faculty at Stanford University

Fairfax County makes rental condo available to firefighters near work at reduced rent
(see article in Washington Post, *To Fill Jobs, Some Counties Become Landlord, Too*, Sandhya Somashekhar, Washington Post Staff Writer, Saturday, July 23, 2005, B01)

The military provides housing for those it needs in certain locations

This is a regional problem: it cannot be solved by a single jurisdiction unilaterally

We must create a better balance between jobs and housing The population of the Washington metropolitan area is now greater than 5,000,000. DC needs the suburbs! We must learn to coexist

Virtual Adjacency®: the evolution of computer and communication technology will change the world.

Transforming bedroom communities into balanced live/work places is the goal Please read the article entitled Telecommunities in the May 2005 issue of URBAN LAND magazine (enclosed) This will also dramatically change how we use our transportation infrastructure.

People use two currencies to purchase their home: 1) cash and 2) time

Virtual Adjacency® The Hellman Transform (enclosed);

Larry Silverman story about his son *I got off I-270 when I could afford the houses.*

We must re-engineer the relationship between home and work: Commuting problems will only worsen.

Our road networks are congested to dysfunction Virtual Adjacency will enable us to bring work to people, instead of bringing people to work

The problem of cities is poverty. The solution is education. Everything else is a Band-Aid.

If I give you a fish, you will eat a meal. If I teach you to fish, you will eat for a lifetime.

Our long term goal should be to raise everyone's living standard and earnings ability

Confucius *The journey of a thousand miles begins with the first step.*

Virtual Adjacency will enable us to radically improve education -- especially in the inner city where poverty is problem #1 (We must also re-engineer our criminal justice system and defeat homelessness -- education is the key to all of these)

* Bandwidth is the foundation to enable this Government must accelerate deployment of fiberoptic networks to every building!

Government regulatory-imposed costs have raised the cost of housing considerably

<get data from NAHB / Laura Yaffe>

The Zoning Commission should ask the DC Council and the Federal Government to solve this problem:

There is no question that what we are talking about here is "apple pie and motherhood " Who doesn't want every human being to own their own home?

The proposed text amendment starts with the assumption that mixed housing, in every respect, is in the public interest The question is one of scale There is in fact one mixed-use development that accommodates all human life -- Buckminster Fuller called this "Spaceship Earth "

Who would ask the Ritz Carlton hotel to have rooms at the same price as a Holiday Inn, or Motel 6 ?

Who would ask Mercedes to sell a car at the same price as Chevrolet or Hundai?

The political jurisdictions we have inherited are space-domain concepts. As technology has evolved, the nature of work has changed and patterns of land-use have changed. People live in the Time-Domain as much as they live in the Space-Domain. Political jurisdictions are defined in the Space-Domain. It is why, for example, DC wants to create a commuter tax.

** Imagine that everyone is earning the same amount of money, and it is all considerable. Then today's imbalance in supply and demand would not be an "affordable" housing issue, it would not be a workforce housing issue -- it would be more analogous to traffic congestion. Everyone that sits in traffic is upset about wasting time and the inefficiency of stop and go driving. If we had the number of automobiles today that we had horses in the year 1900, when the biggest political issue in the NY mayoral campaign was how deep will the manure get in the streets before the city will pay to clean it.

** remember the panic on EEF's -- then the DOT COM BOOM CRASHED

We must increase people's earnings ability. Education is the only solution.

Everything else is a Band-Aid!

"I do believe in education," he said. "If you're going to eliminate poverty, you need to eliminate ignorance." Krishnan Suthanthiran quoted in Washington Post article referenced above.

Look at the GI Bill: It did four things:

It was a massive public investment in its citizens that paid off magnificently. And, since it was earned by its recipients, there was no "loss of self-esteem" issue in accepting the help.

The lesson that applies here is that we have to re-engineer our

1) unemployment compensation system: education and training are required by a technology-change driven economy.

2) welfare system: education, training and jobs -- otherwise, medical care.

1. education -- this increased earnings ability dramatically
2. Low interest mortgages -- this made the monthly payment more affordable
3. Health benefits -- this improved the workers ability to pay for housing
4. Unemployment benefits -- this improved the workers ability to pay for housing

Levittown, Long Island was built after WWII with GI's able to purchase \$8,000 homes with 4% mortgages -- their monthly payment was \$60.

<http://www.blue-dragons.com/preserve/dahs1997/levittown.htm>

<http://tiger.uic.edu/%7Epbhales/Levittown/building.html>

<http://www.personal.psu.edu/users/m/x/mxc496/levittown.htm>

The story Levittown began with the victorious homecoming of the young soldiers of WWII. Reunited with the significant others they had left behind to fight the war and armed with the promises made by the GI Bill of Rights, they were ready to settle down and start families. The only problem was that there was a severe lack in affordable housing to accommodate the desire to leave the city. William Levitt, one of the sons in Levitt & Sons—a building company, was also one of these men returning home (he was a lieutenant in the Navy). Conceived a way to meet this need and build houses quickly. Their first development of this sort was the Levittown they sited in Long Island, New York, which opened in 1947. This development was a huge success and eventually contained more than 17,000 homes. After their accomplishment in New York, Levitt & Sons bought land in what was then a predominantly rural Bucks County to cater to the suburban dreams of the 1950s.

The location was ideal because it could provide housing for people working in both Philadelphia, Pennsylvania and Trenton, New Jersey (Roughly a 20-30 minute ride to and from each city). The idea of a planned community that was the basis of the Levittown in New York was carried out even further with the desire to make it a “self contained planned community,” complete with schools, places of worship, recreational areas, and shopping facilities (<http://members.etc>) He called his philosophy for building a democracy in real estate and once said in a promotional film that, “We believe that every family in the United States is entitled to decent shelter (<http://www.capitalcentury.com/1951.html>). Because people at this time had lived the Great Depression, they related well to his statement. These houses were affordable partly because of the GI Bill and partly because of the assembly line type procedure that allowed, at the height of construction, for 200 homes to be built cheaply in a week's time

The Story of the GI Bill WETA documentary --

Sunday, July 31, 2005 8 00pm <http://www.weta.org/fm/docs.php>

The Story of the GI Bill examines that extraordinary package of educational and financial support affectionately - and often reverently - known as the GI Bill. Signed into law as the war ended, the GI Bill propelled millions of Americans into the middle class. It helped push the nation's economic growth to levels that were simply unimaginable when the war began and was a crucial factor in the longest period of sustained prosperity in the nation's history.

Most of DC is a “suburb” -- detached single family homes with trees and land

Most of the land area of DC is a suburb! I challenge anyone standing on Foxhall Road to tell me that they are not in Great Falls What about AU Park? And hundreds more neighborhoods

The Zoning Commission is powerless to solve this problem

The ZC has just one tool The ZC can make the land cost of an “affordable unit” almost “free” by granting “bonus” density

This is dangerous, thin ice.

How was the original base density determined? Was this consciously (by the Office of Planning and by the Zoning Commission) set at a number lower than was “correct” so it could at some time in the unknown future be increased for some other reason?

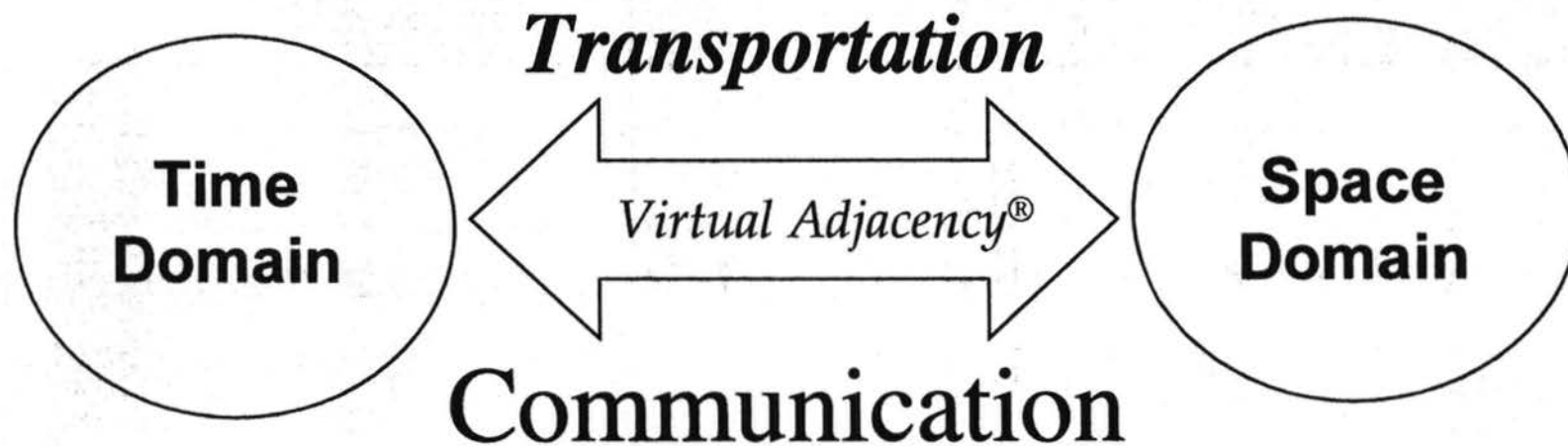
When government acts in arbitrary and theoretically flawed ways, the law of unintended consequences has a field day Go back to my paragraphs on TDRs and on Rent Control

The ZC’s one tool is no where near sufficient to solve this problem And like Paul Volker “solving” inflation in the ‘70s by an unprecedented outrageous increase in interest rates 1979-1980 (bringing prime to 21 5% – he caused a recession in the short run, and the collapse of S&L’s 10 years later, and outrageous corporate activity like Enron and WorldCom. Any private businessman whose activity involved long term investing, like R&D does, was destroyed. Is it any wonder that all that counted was this quarters earnings?)

The Hellman Transform

per Robert Metcalfe, Ph.D. (ethernet / 3Com)

People “live” in two different dimensions — time and space,
and they shift between them without realizing.

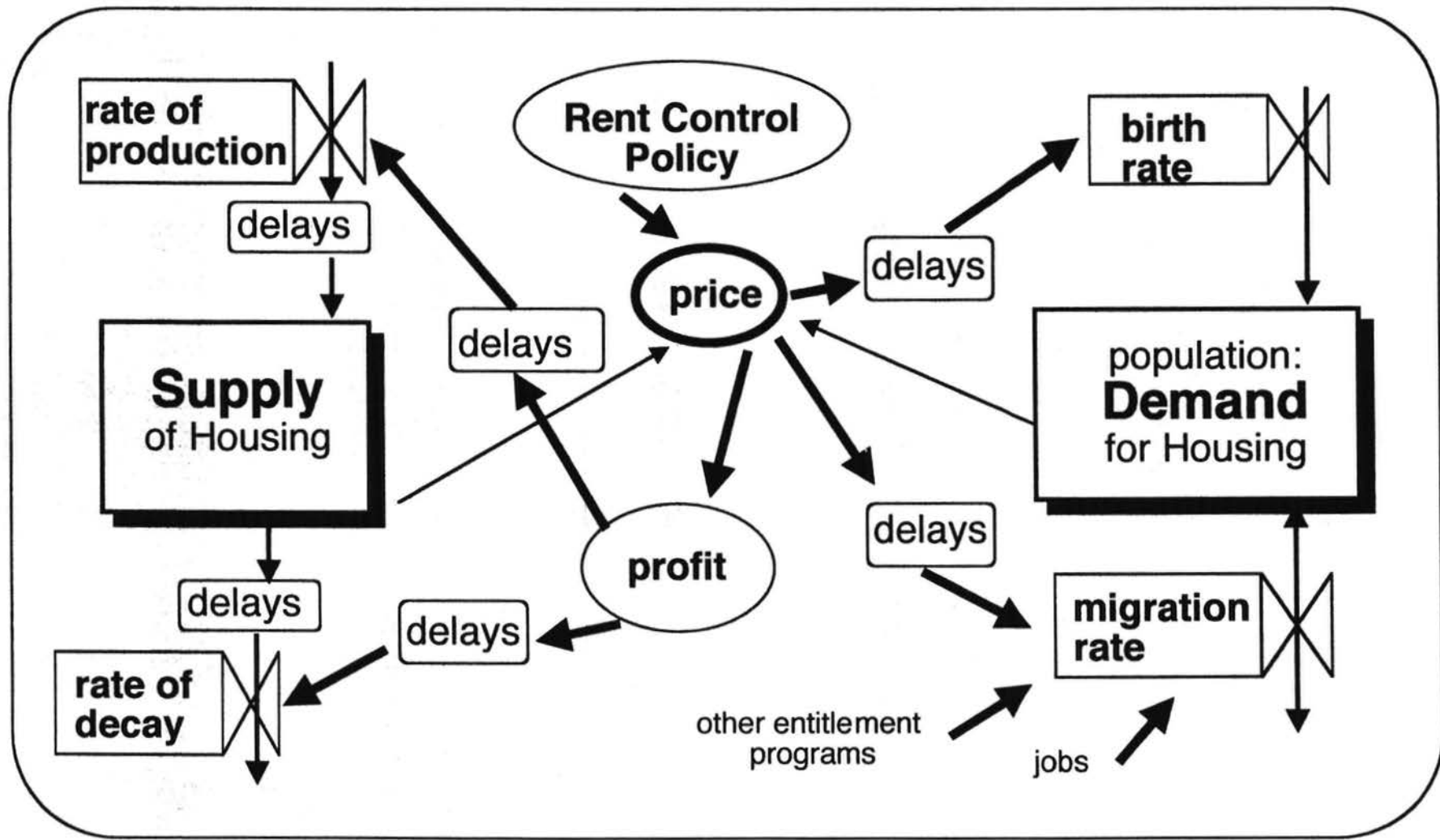


The days of people putting up with commutes that they hate
to arrive at a building they do not enjoy are numbered.
Be where you want to be, do what you have to do.®



The S&L / Bank crisis
How do the basic laws of
economics apply?

Short Term vs Long Term an example: Rent Control



Trend Summary

- **Computers will continue to get smaller, more powerful, cheaper.**
- **Video screens will get larger, thinner, higher resolution, cheaper.**
- **Communications networks will become high-bandwidth, cheaper.**
- **Transportation congestion will continue to worsen.**
- **We can no longer build our way out of transportation problems.**
- **Much of what we think of as a "transportation problem" is in fact a "communications problem".**
- **Urban decay and suburban sprawl are no longer tolerable**
(e.g. Maryland "Smart Growth" Law of 1996).
- **Office buildings will become more like clubs than factories**
their purpose is to facilitate face-to-face interaction of human beings.



[The Washington Post]

METRO

SATURDAY, JULY 23, 2005

To Fill Jobs, Some Counties Become Landlord, Too

By SANDHYA SOMASHEKHAR
Washington Post Staff Writer

When Sarah Joliat was hired as a firefighter in Fairfax County, her excitement quickly gave way to alarm at the sky-high cost of an apartment in the area for herself and her 13-year-old son.

Then she learned about a new county program offering subsidized housing to fire department recruits and their families. Instead of commuting from Fredericksburg or Winchester, which are more affordable, she would be able to temporarily rent a three-bedroom condominium just a short distance from work for \$800 a month.

"I was ecstatic," said Joliat, 34, who before getting the job had been working at Starbucks and living with a friend to make ends meet. "There was no way I would have been able to live in the county otherwise."

See HOUSING, B6, Col. 1



BY TETONA DUNLAP — THE WASHINGTON POST

Without the Fairfax-subsidized housing, "there was no way I would have been able to live in the county," says firefighter Sarah Joliat. She pays \$800 a month for a three-bedroom condo.

VIRGINIA

Subsidized Housing
Helps Fill Key Jobs

HOUSING, From B1

Increasingly, governments in affluent areas across the country are considering similar steps to provide partly subsidized "workforce housing," a term that has cropped up in the past few years to describe affordable housing programs targeted at the middle-class workers who make up the core of the local workforce, said David Jeffers, director of Fannie Mae's community business center in Northern Virginia.

Those in the target population — firefighters, teachers, nurses and other moderate-income workers — aren't poor, but they don't make enough money to live in the places they serve, he said. So they commute from hours away, straining their families and clogging up traffic for a paycheck that, for now, seems worth the trip.

Fewer than a quarter of Montgomery County's firefighters live where they work, according to a recent report. The same holds true in Fairfax, where some firefighters commute from as far away as Pennsylvania, Delaware and West Virginia.

Many experts predict that these moderate-wage employees eventually will tire of that way of life and seek work closer to home, causing worker shortages in the communities they leave behind, Jeffers said.

This has been a wake-up call to local governments, he said. "People are starting to say, 'Hey, wait a minute, now [the affordable housing crisis] is not just the poor and the near-poor — it's starting to affect firefighters and middle managers,'" Jeffers said. "This is not just do-gooderism. This is about people we never thought we would be without."

Montgomery officials are considering increasing the number of workforce housing units; the shortage could be a central issue in next year's race for county executive. Fairfax's top elected official, Board of Supervisors Chairman Gerald E. Connolly (D), said in his 2003 inauguration speech that building affordable housing for public safety workers and teachers would be a top priority during his term.

Not surprisingly, many of the workforce housing programs begin with emergency personnel and teachers, who put a sympathetic face on the affordable housing issue, Jeffers said. But the real problem will be the entire service sector, including car mechanics, grocery workers, as well as others in the private sector.

Fairfax officials say they will first focus on emergency personnel who would be critical in case of a Sept. 11-style disaster.

"On this day and age, you want to have your public safety personnel close by," said Paula Sampson, director of the Fairfax County Department of Housing and Community Development.

Fairfax's year-old firefighter and paramedic housing program, which places eligible recruits in one of 10 low-rent Fairfax area condominiums owned by the county, is aimed at providing affordable housing to new firefighters and paramedics for a couple of years, during training and the start of their careers.

It is the first such program county housing officials plan over the next few years, paid for through a combination of federal dollars and an \$18 million affordable housing fund set up this year by the Board of Supervisors. In the next few months, housing officials hope to announce two more projects to provide between 45 and 60 new low-rent apartments and townhouses for Inova Health System hospital workers. Those units would be built by the county.

Like hospitals across the United States, Northern Virginia's Inova Health System is experiencing a nursing shortage. There are nearly 400 open nursing positions, or almost 10 percent of its nursing staff, hospital officials said.

Like the firefighters' program, the Inova partnership is designed to help the hospital recruit and retain nurses and other emergency workers temporarily. The hope is that they later can afford to rent locally or qualify for a first-time buyers program, Sampson said.

"We wanted to be able to offer something special to individuals who are moving from a job to a career, with the hopes that once they've moved from a job to a career, they can be on their own," she said.

But becoming financially secure in a place as expensive as Fairfax County — where Census data show the median single-family home price soars past \$500,000 and almost 40 percent of households' incomes are more than \$100,000 a year — can be beyond the reach of many people.

A starting Fairfax firefighter is paid about \$43,000 a year, jumping to about \$53,000 after five years. A beginning nurse working a 40-hour week in Northern Virginia can expect a salary of just under \$50,000, according to Inova.

For Sarah Joliat, two years in a subsidized apartment won't help her save enough money for a down payment on a house. It probably won't even be enough to allow her to rent a place in the county, she said. Ever since she moved in, she said, she has scanned apartment listings to check for affordable options, with dismal results.

Until she figures out what she is going to do in the future, Joliat is enjoying the ample space and full amenities — including a washer and dryer purchased by the fire department — of her condo, she said.

She also loves living so close to work that her son and his babysitter can drop by the fire station after school or during summer vacation to play catch in the yard or just hang out at the station, she said.

"At this point, I have no idea what I'm going to do after," she said. "I'm just hoping for the best."