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# Diverging discourses: State-level preemption of municipal land regulation for housing production in California and Texas

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## ABSTRACT

In this paper, we conduct a comparative analysis of state preemption of municipal land regulations in Texas and California to understand the shifting intergovernmental landscape of land use and affordable housing policy. Using a discourse analysis of media stories, we evaluate the assumptions, motivations, and understandings of actors engaged in state-level preemption across two different ideological and political landscapes. We find that preemption discourses engage normative values and claims that go beyond land use and housing to engender broader debates about the role of government, social inclusion/exclusion, and individualism and property rights. Our analysis makes a unique contribution to the small literature on preemption and municipal land planning by uncovering distinct attitudes regarding the role of government in regulating private property to pursue affordable housing. We conclude by offering insights on how planners and policymakers can situate themselves in different regulatory contexts to engage with emerging discourses to more effectively and equitably influence policy.

## KEYWORDS

Land use; affordable housing; state and local governments

## Introduction

Recent scholarship has drawn attention to the relationship between local land use regulations and housing affordability in the United States. Primarily a municipal competency, land use policies have increasingly become the focus of intergovernmental advocacy from federal and state actors. In recent years, from Oregon to Arkansas, state legislatures have passed preemption bills targeting specific local land use regulations. In this context, preemption can be defined as states using legislation to intervene in local policymaking with the goal of coercively promoting matters of statewide concern (Goodman et al., 2021). Federal actors across the political aisle have also spotlighted the nexus between housing and local land use. Under the Obama administration, the White House published a Housing Development Toolkit in 2016 that addressed regulatory barriers to housing production at the local level (Blumenthal, 2023). In 2019, during the first Trump administration, the White House established the Council on Eliminating Regulatory Barriers to Affordable Housing. In 2022, the Biden administration promoted a Housing Supply Action Plan, which provided incentives for reducing regulatory barriers promoted by zoning and land use. And in 2025, in remarks at the National League of Cities conference, Vice President JD Vance spoke of the importance of zoning reform (Syrek, 2025). While preemption around land use is increasing, there is a considerable variety in the types of regulations targeted by different states, the policy contexts in which preemption activities occur, and the political backgrounds and purported motivations from proponents.

In this paper, we conduct a comparative analysis of preemption efforts in Texas and California—the two most populous in the United States, with considerably different political environments—to

understand the shifting intergovernmental landscape of land regulation and housing. Our research questions include: What are the assumptions, motivations, and understandings behind state-level preemption of local planning measures in California and Texas? Where do policy motivations and assumptions converge? Where are they different? And what types of actors are invested in these preemption processes, and how do they mobilize their viewpoints toward the bills?

To address these questions, we conduct a discourse analysis of four preemption bills: Texas HB 2439 and HB 3167, and California SB 9 and SB 10. We mine the text of the bills and review the narratives about them in popular media to document underlying assumptions about housing outcomes and policy motivations, land use, social inclusion and exclusion, individualism and rights, and attitudes toward government. In the cross-state analysis, we make a unique contribution to the small literature on preemption and planning, employing innovative methodologies to highlight how discourses are embedded with ideologies about the relationship between the government and private property in debates over land use and affordable housing. We conclude by reflecting on these debates while also offering insights on how planners and policymakers can situate themselves in such discourses to more effectively and equitably influence public interventions in land use and affordable housing.

### ***Shifting politics and discourses of state land use preemption for housing production and affordability***

Land use regulation imposes public police power over private property owners, with the rise of zoning corresponding with an assertion of the role of the welfare state (Fischler, 1998). In the United States, land use regulation is primarily a municipal power, enabled by state legislation (National League of Cities, 2016). Increasingly viewed as both a barrier to and vehicle for accomplishing a variety of goals related to housing accessibility, multi-modal transportation and environmental protection, the long established practice of municipal zoning has always carried ideological intentions (Angotti et al., 2016; Hirt, 2014; Sclar et al., 2020). Since its inception, zoning has been used as a tool for social exclusion in urban areas, with single-family zoning serving as a barrier to the construction of multifamily housing and the lower-income, nonwhite residents who occupied it (Pendall, 2000; Whittemore, 2016). Today, zoning reform is often cast as a pathway to achieving a wide range of policy goals, from promoting equity to creating affordable housing (Baker et al., 2022).

Despite critiques of zoning corresponding with an increase in state preemptions of local land use activities across a variety of political contexts, preemption has received little attention in planning and urban policy scholarship (Infranca, 2019). Manville and Monkkonen (2021) diagnose current housing-related preemption efforts as the “antithesis” to localism, which often serves to block specific affordable or higher density housing developments. In analyzing contemporary preemption efforts related to housing, Goodman and Hatch (2022) find that the presence of a conservative state legislature increases the likelihood of preemption while higher percentages of renters, a “professional” legislature, and prior preemptions have the opposite effect. As Schragger (2016) describes, preemption of municipal regulation, or the shifting of power from or away from cities, reflects efforts among state policymakers to “address political pathologies inherent in the relationship between city and capital, government and private enterprise” (p. 253). What remains notable but understudied is the appeal of preemption—and the ideological arguments that underpin its use—as a tool for state legislatures across ideological divides to address housing challenges.

With diverse ideologies at play, there is also a wide array of actors with distinct motivations for drawing links between land use regulations and housing affordability. Examining recent preemptions related to housing, Manji et al. (2023) categorize legislative motivations into four categories: legislation that requires municipalities to plan for affordable housing, legislation that creates state standards for land use regulation, legislation that provides incentives for housing production, and legislation that creates penalties for municipalities that fail to produce additional housing investment. Policies promoting the preemption of land use to address affordable housing are in part motivated by a “Yes

in My Backyard” (YIMBY) supply side argument of the housing debate (Davis & Huennekens, 2022). Among urban economists who tend to favor private incentives for housing creation, there is general acceptance that more supply eventually adds to lower costs across an entire housing market (Been et al., 2023), while the homebuilding industry has estimated that up to 40% of multifamily development costs result from regulations (Thompson & Pagan, 2022). On the other hand, housing advocates have also contested zoning regulations on the grounds that such changes will further inequality by producing more private, non-subsidized housing (Angotti et al., 2016). While the outcomes of zoning’s impact on housing production remain mixed and context-dependent (see Freemark, 2023; Gabbe & Kahn, 2023; Glaeser & Gyourko, 2002; Manville et al., 2022; Stacy et al., 2023), it is clear that the seemingly technical process of zoning has long been embedded within distinct ideological viewpoints, while also being a product of existing policy constraints at the municipal level.

Regardless of empirical outcomes, cities and a few states, led by California, are now using land use and building regulations as a tool for promoting housing affordability, including through speeding up approval processes or amending or eliminating single-family zoning to open large swaths of previously off-limit areas to infill and accessory dwelling units (ADUs). Minneapolis, Minnesota, was one of the first large cities in the United States to effectively abolish single-family zoning, in turn facilitating new development options for private property owners (Kuhlmann, 2021). In California, Senate Bill 9, which facilitated lot splits and ADU construction, had reportedly limited impacts on private housing construction in its first year (Garcia & Alameldin, 2023). However, another study found that ADUs in California are adding a whole new avenue for additional construction among private homeowners and developers that is leading in new housing construction and growing year over year (Marantz et al., 2023).

With tenuous federal and state funding for affordable housing (Romm, 2025), focus on regulatory reform of municipal land regulation ultimately reflects the limited public tools at local planners’ and policymakers’ disposal. With ever-decreasing municipal budgets and the rise of public-private initiatives to fulfill basic urban services, the expectations of what zoning is intended to accomplish in the absence of an adequate welfare state have increased considerably, particularly in regard to the promotion of affordable housing (Sclar et al., 2020). As zoning has become a primary tool for achieving particular outcomes related to development, it has also veered out of the exclusive domain of technocrats into broader public discourses (Demsas, 2024; Grabar, 2021).

With some exceptions (Davis & Huennekens, 2022; Manville & Monkkonen, 2021), scholars have yet to adequately examine how public perceptions surrounding different zoning and land use tools interact with ideological viewpoints on the role of the public versus private sectors. Examining such discourses are critical, as they concurrently shape the political landscape of zoning practice. How advocates and residents engage in local policies and community issues is inevitably shaped by collective understandings, drawn from individual and group experiences, as well as media narratives. Indeed, the nexus between “the urban” and “the media” is seen as a powerful political force that shapes and problematizes life in the city (Rodgers et al., 2009, 2014). A “communicative turn” in the field of urban planning has for decades acknowledged the critical role of discourse in rationalizing public decision making (Healey, 1996). As Bridge (2009) asserts, within this understanding, media plays a role in informing substantive content—as well as emotions and power dynamics—in how participants understand and engage in urban democracy. For instance, past research has shown a positive relationship between newspaper readership and institutional forms of participation, including voting and contacting local officials (McLeod et al., 1999).

More specifically, media discourses inform a mixed range of public perceptions, debates, and advocacy efforts on issues of local importance, such as affordable housing and zoning. For example, in a case study of media discourses in Boise, Idaho, Martin (2011) highlights a shift away from the conception of affordable housing as rental housing for the poor toward an unproblematic notion of affordable homeownership opportunities. In observing “discourses of disaster” surrounding public housing in the U.S., Goetz (2013) connects the negative media narratives about public housing complexes to policy decisions that removed hundreds of thousands of public housing units—and

residents—across U.S. cities through the HOPE VI program. And in chronicling debates surrounding YIMBY land use arguments occurring on Reddit, Davis and Huennekens (2022) find significant divergences in posters' responses to more specific issues. In particular, they find differences in how Not in My Backyard (NIMBY) arguments are countered as well as in the perceptions of approaches to addressing housing affordability, including the roles of institutional racism, filtering, and rent control.

In conclusion, the intergovernmental policy landscapes of municipal zoning and land regulation, and the discourses surrounding them, have shifted in recent years. Informed in part by a growing body of empirical evidence on the undesirable effects of existing practices and in part by general deregulatory attitudes and ideologies, state legislatures have taken an increasingly active role in preempting municipal land regulation. While preemption is a tool utilized by state legislatures across political contexts, it is likely that media coverage and public understandings about land regulation, and its perceived relationship to the roles of the public versus private sector, vary considerably across locations where preemption is emerging as a key policy tool for addressing housing. In the analysis below, we examine state preemption of local regulations across two distinct regulatory environments to reflect on discourses in the shifting landscape of land use regulation in the United States. First, we justify our comparative case selection and methodologies for analyzing preemption in California and Texas. We then provide an overview of our methods before presenting the results and discussion.

## **Materials and methods: Discourse analysis across two distinct state contexts**

### ***Comparative case selection and context***

In this paper, we take a multiple case study design approach where the state of California and Texas serve as distinct comparative cases, and the preemption legislation is the unit of analysis. As Yin (2009) highlights, in multiple case study designs, deliberately selecting cases at opposite ends of a given spectrum can be analytically useful in deciphering “some important theoretical condition, such as good and bad outcomes” (p. 52). In addition to being at the opposite extremes of the political ideological spectrum, with California being traditionally led by Democrats and Texas by Republicans, the two states utilize considerably different governance arrangements for legislative decision-making. California has a professional state legislature, where members serve as full-time state employees during their appointment terms and the legislature convenes regularly scheduled sessions throughout the year (National Conference of State Legislatures, 2021). In contrast, Texas state legislators are part-time employees who work an average of 70 days per year and hold full-time jobs outside of their elected roles. Furthermore, Texas is only one of four state legislatures that does not meet annually, convening official legislative sessions every other year (Kramer, 2025).

Policymakers at both state and local levels, and residents of each state have also had very different experiences with urban growth and development. Historically California has been defined by decades of persistent growth, growing steadily by 33 million people between 1940 and 2016 and experiencing a slowdown only in the last decade (Fulton, 2022). This persistent growth has left California in a longstanding housing crisis with some of the highest home prices in the nation. Texas, in contrast, has experienced its highest rate of population growth in the last two decades; between 2000 and 2022, Texas grew more than any other state, adding more than 9 million new residents (Melhado, 2023). As such, affordability is just beginning to become a concern as newcomers (including from California) drive up housing costs. Alongside these differentiated growth trends, the states have developed significantly different policy landscapes and degrees of state involvement in regulating privately owned land and influencing municipal housing policy, which we describe in more detail below.

Since the 1970s, California has operated with a robust state-level planning structure, including an executive branch comprehensive planning agency called the Office of Planning and Research (State of California's Governor's Office, 2023). As such, the state actively provides clear guidelines—and mandates—for municipal planning activities, enabling intergovernmental collaboration in a state where half of the land is owned by the federal government (Fulton,

2022). Texas's approach to urban growth and development has been quite different. With a political culture less supportive of government regulation, and 93% of land privately owned (Texas Parks & Wildlife Department, 2025), state and local policies tend to favor private property interests. In the absence of state-level planning structures the management of recent population growth, concentrated in a handful of metropolitan areas, has been almost exclusively the responsibility of local governments, with few state laws governing land use planning or housing production.

These differences in political culture and development trends can also be observed in the activities of each state legislature related to housing. Since 2017, California's Democrat-controlled state legislature has proposed over 100 bills addressing land use, permitting, and other initiatives to facilitate housing development (Fulton et al., 2023). Many of these laws involved superseding local police power, including through preempting local zoning regulations to facilitate smaller-scale infill development, expediting the construction of affordable housing or ADUs, or requiring specific reporting or compliance procedures from municipalities (The Turner Center, 2022). Notably, many of these initiatives create incentives for private landowners to develop housing instead of supporting direct public investment in housing construction. Over time, this robust professional engagement has created a dynamic polity in discussions about land use and affordable housing across California, including a high public literacy—and degree of advocacy—surrounding these issues.

Legislative activity in Texas has been considerably more constrained regarding housing policy. For example, while California recently passed 17 ADU-related bills (Fulton et al., 2023) and proposed numerous bills to streamline the California Environmental Quality Act (CEQA), a cumbersome environmental review process that can dampen housing construction, Texas state lawmakers had taken almost no initiative—outside of the limited preemption of local regulations—to address emerging housing issues in the state. Indeed, state preemption of local development regulations in Texas has largely been a reaction to local ordinances and regulatory efforts that conservative state leaders did not politically support. For example, in 2005, the legislature preempted mandatory inclusionary zoning as a response to a city council bill passed in Austin, Texas; in 2015 they preempted gas and oil well regulations adopted in response to a 2014 citizen initiative in Denton, Texas. In this and other efforts, the state has cast itself as a protector of private property and business rights, even as it overrides citizen ballot initiatives and other local legislative outcomes supported by municipal residents. As Governor Abbot explains, Texas has “sued the federal government multiple times because of the heavy hand of regulation from the federal government—trying to run individuals’ lives, encroaching upon individual liberty. At the same time, we are ensuring that people and officials at the local level are not going to be encroaching upon individual liberty or individual rights” (Gleason, 2022).

This is not to assume that states have monolithic or uncontested political landscapes, which clearly emerge in debates over land use preemption. For decades, California has had a strong “NIMBY” political culture fueled by private property owners’ desire to restrict development (Fulton, 2022). For instance, in Berkeley, tensions emerge between a politically active constituency that is contesting growth from an environmental protection standpoint, and a city and state trying to enhance affordability in one of the most expensive regions in the country (Duane, 2023). California embodies some of the complicated dynamics that emerge when a strong state actor asserts police power over well organized and politically involved property owners to regulate the actions of local governments to achieve policy goals. Similarly, in Texas, there are tensions between responsibilities placed on local leaders to provide quality of life and basic public services demanded by increasingly affluent populations, and the perspectives of state leaders who prioritize the status quo of low regulation, eschewing efforts to expand the policy toolkits of local governments to address growth problems. As such, Texas embodies the complicated dynamics that emerge when a weak state actor asserts its police power to promote market-based deregulation while also purposefully weakening an increasingly well-organized and politically involved group of local policymakers and property owners. As Schragger (2016) notes, minimizing the power of local governments is a political choice intended to serve the needs of state officials.



Despite these differences in political ideology, development histories, and state governance structures, the state legislatures of Texas and California have both preempted municipal land regulations to address housing affordability in the last five years using similar strategies. Both states adopted laws to expedite planning review processes, by creating a 30-day project review “shot clock” for all proposed projects in Texas and by exempting certain projects from more stringent (public, environmental) review in California. Both states also preempted local development regulations, preempting low-density development in California and supplanting local design standards with the international building code standards as the only legal standards for new development in Texas. Though different in action, the bills we analyze in both states take an approach that can fall under Manji et al.’s (2023) characterization of legislation that creates statewide standards for land use regulation in an attempt to interfere in municipal planning functions with the goal of expediting housing construction.

We focus our analysis on a set of preemption bills adopted in Texas and California in 2019 and 2021, respectively: Texas HB 2439 and HB 3167, and California SB 9 and SB 10. We selected this set of four bills due to their similarity in timing within the shifting national policy discourses about municipal land regulation. Both sets of bills were adopted after municipal land regulations had entered the federal policy domain, including through the Trump administration’s 2019 creation of the White House Council on Eliminating Regulatory Barriers to Affordable Housing. Both sets of bills were also identified in the legislative record as having a primary purpose of increasing the production of housing, albeit using different preemption strategies and without explicit affordability requirements or subsidies in any of the legislation. Finally, both preemption efforts elicited concern among planning professionals in each state about how the shifting landscapes of state policy would influence local planning activities and outcomes.

In California, the 2021 legislative session was particularly impactful and garnered both professional and national attention. SB 9 allowed for the development of accessory dwelling units (ADUs) as-of-right in areas zoned for single-family if it met certain requirements, including preserving existing affordable housing, limiting demolition of existing buildings, and residing outside of a historic district (2021). SB 10 allowed cities to facilitate infill development by exempting projects that met certain criteria from a lengthy and costly CEQA review if approved by the local council (2021). Both bills promoted ties between changes to municipal regulations and affordable housing while directly implicating the state in preempting localities to address the housing crisis.

In Texas, the 2019 legislative session used preemption to take aim at both building regulations and planning processes. HB 2439 passed a ban on any local requirements for building materials, such as stone and brick, defaulting to standards of the International Building Code (2019). That same session, the legislature passed HB 3167, which created penalties for local development review processes that took longer than 30 days (2019). The bills were cast as development-friendly initiatives that preempted local material requirements or review timelines that would allow for private actors to more speedily construct housing across the state.

Put side by side, Texas and California are therefore useful cases of comparison of similar goals of preemption around land regulation for affordability across divergent socio-political contexts, with distinct attitudes toward the boundaries between the roles of the private versus public sectors. These four bills have the same related policy goals of expediting and facilitating housing construction using state-level legislative nudges aimed at the private sector. However, set against considerably different contexts, these common goals make them good cases to observe how the different assumptions, motivations, and understandings of preemption around municipal regulation play out in the two most populous states in the U.S. As such, the bills are useful avenues for further examining our research questions: what are the assumptions, motivations, and understandings behind state-level preemption of local planning measures in California and Texas? Across the two states, where do policy motivations and assumptions converge? Where are they different? And what types of actors are invested in and impacted by these preemption processes, and how do they mobilize their viewpoints toward the bills?

## Data and methods

To better understand the shifting landscapes of municipal land regulation in the United States, we conducted a discourse analysis of preemption legislation and related media coverage. We first reviewed the legislative text, amendments, and voting records for four preemption bills obtained from online repositories maintained by each legislature. We used this data to understand the broader legislative context for housing preemption and to document legislative discourses, such as the justifications given by bill sponsors for the legislation.

We assembled a novel database of media stories published in local and national outlets about the four bills to better understand the differences in how housing preemption was being framed, challenged, and shaped across the two states. We utilized two online sources to identify media stories. We first searched for news articles in NexusUni using the search terms “Bill Name” + “State” (ex. SB 9 + California) for a two-year period around the bills’ adoption, i.e., one year prior to and one year after passage of each of the preemption bills. This initial search produced a total of 120 media stories, with the overwhelming majority (114) focused on California. Due to the limitations of the search results in NexusUni for the Texas case, we also conducted a search using Google News. This second search produced an additional 22 news stories for Texas. After removing media articles for duplication and accounting for errors in search outcomes (such as incorrect bill numbers or the same bill numbers from other states) we identified a total of 119 unique media stories about the four preemption bills (94 in California and 25 in Texas). We consider this disparity in news coverage a finding in and of itself, as the lack of discourse surrounding the bills in Texas compared to the abundant discourse in California suggests important differences in the actors interfacing with policy and planning landscapes within these two states, which we discuss in the findings section.

We loaded the media stories into MAXQDA, a mixed methods coding software, and conducted multiple phases of iterative coding, working from a predetermined codebook that we refined through a dialogical and inductive process (Bingham, 2023). We coded the stories in three groups: titles, editorials, and news stories, using each phase of coding as an opportunity to discuss and refine the codebook. When coding titles, we assigned a story’s tone and sentiment to one of three categories: in support, neutral, or against, referencing its attitude toward the bill mentioned. Each coder assigned the story to a category, and in the instances that we had a disagreement, we talked through our respective reasoning and motivations for each title, eventually coming to a 100% consensus on the sentiment of each story.

We then turned to the sentiments and themes expressed in the story titles. In our first round of thematic coding for the story titles, we had 45% intercoder agreement, with 76% of documents having 100% agreement. Coder 1 had 61 coded segments while coder 2 had 42 coded segments. In a subsequent round of coding, we discussed our distinct coding styles and frequencies and reapplied the framework accordingly, where one coder added more codes and the other added fewer. In the next round, we had an overall intercoder agreement of 60%, with 84% of documents with 100% agreement. Coder 1 had 54 coded segments and Coder 2 had 42 coded segments. We then identified three codes that were causing most of the discordance in our framework due to the phrases not having been applied equally—with one coder taking a more liberal approach and one a more conservative one. As a result, we redefined the scope and definition/applications of three codes: overriding local control, NIMBYism, and multifamily housing. We then independently re-coded all the titles for the three specific codes, which resulted in 77% intercoder agreement, with 84% of documents in 100% agreement. We went through one by one for the 16% of documents that ranged from 0% to 67% agreement. Some were oversights by one of the coders (e.g., affordability was not coded as affordable housing when it should have been) and other discrepancies required deliberation on the meaning and definition in relation to our research question. For example, one coder would determine something that spoke to blocking multifamily development, when referring to homeowners, as coded with a NIMBY sentiment. We discussed each distinct code until we were in 100% agreement for the coded titles.



After this round of dialogical coding, we applied the coding framework to the full text of the 41 editorials<sup>1</sup> in the dataset. For this set of stories, we also identified the authors of the editorials and any institutional affiliations they had to get a sense of the various actors—and their ideologies—promoting opinion-based narratives in the dialogues at play across the two states. In this and subsequent phases of coding, in lieu of quantifying intercoder agreement, we instead sought to respectively interpret stories and come to an agreement on common and overarching themes. We first operationalized this by applying the refined coding framework and respectively adding several codes, also memoing while we coded. Then, after coding all the editorials, we met and merged codes that we saw as near synonyms or evoking similar meanings, such as “housing density” and “housing production.” We then discussed codes that did not align, deciding which ones were relevant enough to the research questions to keep in the coding framework and removing extraneous codes. For example, Coder 1 identified “business opportunities” in this round of coding, which we determined as not core to the central questions. We then finalized the top-level codes, which had five overarching themes and a total of 43 subcodes (Table 1).

We applied the coding framework to the remaining 78 news stories. In this round, we also added codes and took notes, discussing some emerging takeaways after respectively coding a set of 20 stories. Our goal was not to quantify our intercoder agreement or the percentage of codes, but instead to distill up codes into general themes and takeaways. After we respectively coded stories, we compared our top 5 most common codes/subcodes by state, looking at editorials and the stories as distinct from one another. In all cases, at least 4 of the top 5 codes were the same. As such, while we differentiate between types of coverage in the narratives below, we spoke through major themes across all article types, dialogically arriving at the core takeaways that emerged in the dataset. We also looked at the sources

**Table 1.** Coding system by codes and subcodes.

| Codes                                   | Subcodes   |
|---|--|
| Individualism/Rights                    | Generational Divides<br>Consumer and Cultural Preferences<br>Property Rights/Freedom   |
| Land Use and Development                | Single Family<br>Multifamily/Duplexes<br>Environmental Issues<br>Infrastructure improvements/fear of overdevelopment   |
| Housing Outcomes and Policy Motivations | Housing Shortage/Affordability Crisis<br>Housing Supply/Production<br>Increase Housing Options<br>Housing Density<br>Developer Gains<br>Affordable housing   |
| Inclusion/Exclusion                     | Homelessness<br>Renter (in)equity<br>Gentrification/displacement<br>YIMBY<br>NIMBYism<br>Racial (in)equity/fair housing<br>Socioeconomic (in)equity/Exclusionary zoning  |
| Attitudes Towards Government            | Overriding/Maintaining local control<br>Support/Need for preemption<br>Bad Policy<br>Democracy/Participation<br>Political Dysfunction<br>Legal action/Legality<br>Lack of capacity<br>Incrementalism<br>Efficiency<br>Caution/Skepticism<br>Red Tape/ Regulatory Hurdles |

and timing of the stories overall, providing some descriptive statistics on media coverage across the two states and four distinct bills. We present these results in more detail below.

Results

Overarching analysis of stories across the two states

Before turning to the media narratives, we first evaluate the extent of coverage across the two states, both by type and over time. As Table 2 highlights, the media coverage in Texas was almost entirely provided by local news outlets while the media coverage in California had a diverse array of coverage that included local reporting but also blog posts/news roundups, newswires/press releases, policy institute or academic commentaries, and even national news outlets. In fact, 19% of media coverage of the California bills were either news stories or editorials in national news sources, including premium outlets like the *New York Times*. In addition to legal blogs and academic and policy-based sources, there were also specialty publications covering matters of statewide politics. More specifically, across the California stories, 22 were in CalMatters, a nonpartisan, nonprofit news organization that acts as a statewide news source and political watchdog and speaks to an audience of informed readers who follow state and local policy.

There are also important divergences between the timing of media coverage in Texas and California (Table 3). In the Texas context, almost the entirety of media coverage about the bills occurred following their passage, the only exception being 12% of the stories about HB 2439 that were published prior to passage. On the other hand, in the California context there was a substantial amount of coverage pre-passage. More specifically, 27% of stories about SB 10 and SBs 9 and 10 together were published prior to the bills’ passage, while 39% of stories about SB 9 were published prior to its passage. In part we see this outcome of the legislative governing structures in both states, with California’s professional legislator attracting more media attention than the part-time legislator in Texas, where bills are developed and debated on a more constrained timeframe. This imbalance in

Table 2. Story and outlet type by state.

| Story Types                                    | Total Count of Story Types | Percentage of Story Types (by State) |
|--|----------------------------|--------------------------------------|
| <b>California Stories Total</b>                | <b>94</b>                  | <b>79%</b>                           |
| Financial Blog Post/News Round-Up              | 1                          | 1%                                   |
| Legal Blog Post/News Round-up                  | 12                         | 13%                                  |
| National News Editorial/Opinion                | 4                          | 4%                                   |
| National News Story                            | 14                         | 15%                                  |
| Newswire or Press Release                      | 26                         | 28%                                  |
| Policy Institute/Think Tank/Academic Blog Post | 8                          | 9%                                   |
| State or Local Editorial/Opinion               | 23                         | 11%                                  |
| State or Local News Story                      | 19                         | 20%                                  |
| <b>Texas Stories Total</b>                     | <b>25</b>                  | <b>21%</b>                           |
| Newswire or Press Release                      | 1                          | 4%                                   |
| State or Local Editorial/Opinion               | 6                          | 24%                                  |
| State or Local News Story                      | 18                         | 72%                                  |
| <b>Grand Total</b>                             | <b>119</b>                 |                                      |

Table 3. Media coverage pre- and post-passage by state and Bill.

|              | Texas Bills |         |                | California Bills |      |           |
|--------------|-------------|---------|----------------|------------------|------|-----------|
|              | HB 2439     | HB 3167 | HB 2439 & 3167 | SB 10            | SB 9 | SB 9 & 10 |
| Pre-Passage  | 18%         | 0%      | 0%             | 30%              | 39%  | 27%       |
| Post-Passage | 82%         | 100%    | 100%           | 70%              | 61%  | 73%       |

media coverage may also be reflective of residents' interests and engagement with policymaking and the existence of nonpartisan policy newsrooms, such as CalMatters, that shape media coverage.

Beyond the quantity of coverage, we also observed differences in the sentiments of story titles across the two states. In the Texas case, there was more negative and neutral/mixed coverage, with 44% of titles having a tone indicating a lack of support for the bills, 44% appearing neutral, and only 12% reflecting support for the bills. In California, there was more positive and neutral/mixed coverage, with only 15% of titles having a tone indicating a lack of support for the bills, 46% appearing neutral/mixed, and 39% reflecting support for the bills. While there was not polling on public opinion in the Texas context, this support differed from a poll commissioned by the AIDS Healthcare Foundation about SB 9 and 10 prior to passage, which showed 63% of voters in opposition to SB 9 and 67% in opposition to SB 10 (Kenslea, 2021). Despite this divergence in public versus media support in the California context, as we detail in the background, we focus on the media viewpoints as past research has shown how discourses iteratively can influence both public perceptions and policy.

Similarly, in our analysis of sentiments and authors of editorials, we observed differences in the diversity of actors and views across the two states. Of the 41 editorials, 35 were in California, with a wide range of actors with distinct viewpoints put forward in the bills (Figure 1). Similar to sentiments across all the stories, four of the six editorials in Texas put forward either a negative or neutral/mixed viewpoint about the bills. The diversity and organization of actors were also clear in the divergences between the editorial authors across the two states. In the California context, we categorized nine different types of actors. Actors from outside of the news media ranged from a robust legal blogging network that focused on issues of land use and real estate to conservative think tanks to equity-based groups. More specifically, only nine stories were written by staff at local or national newspapers, while the remaining 26 were by a diverse range of organized business, advocacy, governmental, or political interests. On the contrary, in the six editorials in the Texas case, three were penned by state or local opinion columnists/journalists, with one dissenting article penned by an individual advocate and two supporting articles by real estate professionals, demonstrating a much smaller ecosystem of implicated actors.

Taken together, the broader extent and timing of the media coverage in California as compared to the Texas case allows for more diverse, in-depth, and positive analysis by media outlets serving a wider array of readership. It also speaks to differences in the breadth of the media landscape and legislative context in each state, which is also likely tied to the substantive content of the bills. In California, the bills sought to increase density, while the Texas bills dealt with building codes and timelines; at the

Summary of Types of Editorial Authors and Attitudes Towards Bills  
(Six Texas Authors Noted in Parentheses)

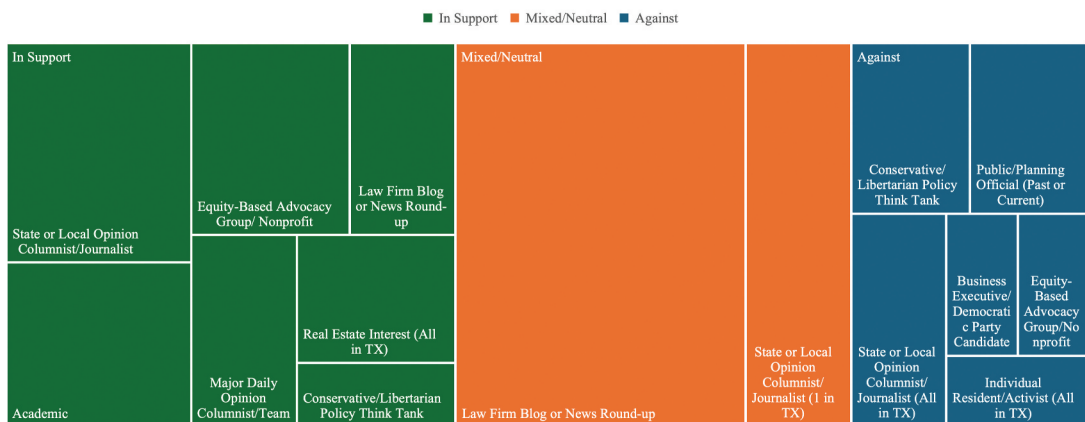


Figure 1. Summary of types of editorial authors and attitudes towards bills (Six Texas authors noted in parentheses).

local level, the prospect of added density tends to provoke more debate than procedural changes. Discourses were prevalent both before and after the bills' passage in California, indicating an ongoing dialogue about the potential ramifications of the legislation that could impact advocacy over a longer legislative session, with generally more positive sentiments toward the bills. In Texas, where legislative work is conducted part-time over 70 days a year, the primarily neutral and negative coverage occurred after the bills were passed. The lack of media focus in Texas also likely yields an iterative relationship, where less coverage results in fewer implicated actors. These findings situate the narratives described in more detail below, with Texas having a more limited scope in the extent and reach of their discourses than that of California.

## ***Analysis of themes in media coverage***

### ***Land use and development***

Given the focus of preemption bills on municipal land regulation, we anticipated that technical terms related to land use and development would appear often in media coverage across both states. Instead, we observed considerable differences across the two cases that are, in part, a function of the legislative text itself. In media stories about California, there was prominent use of technical terms such as "single-family," "multi-family," and "lot splits," and discussion of environmental concerns related to development in media coverage. Examples referencing the legislation in California utilized technical language from the legislative text. In Texas, preemption efforts targeted building materials regulations and procedural rules that applied universally to all development (with an exception for development governed by Homeowners Associations and preexisting Historic Districts or Main Street corridors) and did not attempt to increase density or negate certain land uses, as done in California. As a result of preempting building code regulations, rather than zoning, media discourses in Texas likely did not garner as much attention, nor did they utilize technical terms associated with zoning in the way we observed in California.

Media stories used land use and development terms to provide context for the preemption bills in California, employing technical language that may indicate an informed readership well versed in the connections between land use reform and housing production. For example, in a CalMatters piece, the author writes, "As long as multifamily homes are illegal on more than two-thirds of the residential land in California, we will never be able to build enough housing to meet the needs of our state, let alone reduce housing prices." It is notable, given the housing production goals of the preemption legislation in Texas, that media coverage did not include more robust discussion about the broader context of housing needs, and the role that specific types of housing investment plays in upholding or undermining affordability. Indeed, "multi-family" was the only term in this coding category that appeared in a story about Texas, singularly mentioned in a *Galveston County Daily News* article discussing League City's current building requirements, i.e., "new multifamily structures must also have 100% masonry on street-facing walls."

### ***Housing creation/density/outcomes/motivations***

In the discourses related to housing, we identified six subcodes: housing shortage/affordability crisis, housing supply/production, housing density, affordable housing, increasing housing options, and developer gains. The clearest divergence between narratives in the two states is in how they refer to housing affordability. In the California context, affordable housing was the most frequently employed code in this thematic category, followed by references to a housing affordability "crisis." This narrative thread was often followed by a discussion of increasing housing supply and/or production, showing a line of thinking around reducing zoning barriers as a path toward affordability. The promotion of affordability was tied to YIMBYs, local governments providing affordable rental opportunities or increasing supply, and the power of SB 9 to promote lot splits and density. As an editorial in the JD Supra Legal blog described, "these new laws represent a significant shift in California's housing policy, demonstrating a willingness to explore innovative approaches to tackle the complex challenge of

housing affordability and availability.” The prominence of affordable housing narratives around SB 9 and 10 is particularly notable considering that neither bill had any direct provision or regulation for the creation of affordable housing. Nonetheless, the bills were cast as a state regulatory effort to improve affordability within a context of production.

In Texas, affordable housing came up as a top code in this category but there was no discussion of housing as a crisis, nor were local governments promoted as responsible for addressing any shortage of affordable housing. Instead, affordability was often discussed in relation to homebuilders passing on savings to consumers. For instance, in a Community Impact (a Houston local news blog) story summarizing HB 2439, the reporter wrote, “Construction industry associations favored the bill and touted its intended effect of simplifying codes—likely resulting in savings for consumers and builders by eliminating restrictions on the construction process.” Similarly, in an interview with a homebuilder in the *Dallas Builder Journal* that references the same bill, the builder described how lessening the regulatory burden would play a role in reducing costs, stating how, “Houston seems to me to be really focused on affordability, and they get there because there is less municipal involvement.” In these narratives, local government regulation is cast as a hindrance to promoting affordability in the Texas bills, showing a promotion of the relationship between affordability and deregulation.

In both states we also saw discourse emerge around the bills’ potential to enhance real estate interests, which we coded as developer gains. In the California context, there was a string of debates on developer benefits, with a diverse array of actors presenting contrasting views. On one hand, actors who did not support densification described the bills as a boon to developers. As a CalMatters story highlights, “Many critics of the bill—including Livable California, a group that supports single-family neighborhoods and local control—emphasize that the legislation doesn’t require that any units be affordable or capped at a certain price. So it would only really benefit wealthy people and developers, they say.”

In contrast, some real estate-friendly actors cast the bill as less impactful than dissenters’ interpretations, at times using language of affordability or exclusion to express support for the bill as a form of deregulation that could also benefit developers. In a press release that chronicles Congressional testimony from the conservative American Enterprise Institute, Ed Pinto expresses support for the bills promoted by Democratic legislators on the grounds of both private property and righting exclusionary wrongs. In expressing support for the legislation, Pinto describes how, “California’s ADUs law and SB 9, for example, relax single-family zoning by restoring property rights and relying on private enterprise.” He also simultaneously warns how “federal mandates and subsidies are not the answer. They have crashed and burned every time,” while cautioning how “one needs to be both patient and careful, reversing the effects of the federal government’s 100-year-old exclusionary zoning policies will take decades.”

Similar tactics were used not only by conservative actors but by those in the real estate industry. A story in the *Real Deal* cited the how, “[The California Association of Realtors] said the change would limit speculative development and gentrification in lower-income communities of color.” Meanwhile, a press release from the Los Angeles County Real Estate Investors Association advertised how, “With the passage of Senate Bills 9 and 10, you can now construct 2–3–4 units on your land for more rental income. (And 10 units if your property is near a transportation hub.) This is great news for real estate investors like you and me.” In the above examples, there is a mobilization of discourses by unlikely actors to more likely ends; a conservative think tank cautioning against misconceptions of SB 9 related to middle and working-class communities of color while actually promoting property rights and private enterprise and real estate professionals speaking to limiting speculation and gentrification while also promoting the potential of financial gains the bills would provide for their industry.

In the Texas context, benefits to developers were tied to savings that builders pass on to consumers. In the Houston Community Impact summary of HB 2439, the journalist describes how, “The law received support from most state lawmakers and building industry associations, who said a more open

market for building materials could result in lower construction costs for buyers and builders.” On the other hand, in a quote in the *Denton Record-Chronicle* that mentions both HB 2439 and HB 3167, Denton’s city attorney described that there were less “heavy handed” ways to promote affordability, stating that, “I see this bill as a way for developers and builders to have leverage with cities in developer’s agreements.” Statements from housing builders also brought into question whether the key mechanism of removing building materials standards would be effective, with a homebuilder in the *Dallas Business Journal* asserting that, “Nobody’s changing their existing product. We’re not going out and challenging our architectural teams to change our exterior cladding and adjust.” Even when developer gains are called into question in the Texas case, they are not discussed in the context of reducing affordability but instead in the role of usurping local control.

### **Attitudes toward government**

The third category of codes captured statements that expressed attitudes toward government and the public sector regulation of land. We identified 11 subcodes capturing different attitudes or statements about public management and regulation of land and/or housing. These included statements about specific public policy actions (i.e., bad policy, caution or skepticism about the impacts of public policy, overriding or maintaining local control), statements about public decision-making processes (i.e., democracy and participation, red tape and regulatory hurdles, efficiency, political dysfunction) and statements related to policy implementation (i.e., lack of capacity, legal action/legality of preemption, incrementalism) and, as well as statements about the support or need for preemption.

Unsurprisingly, given the focus on preemption of municipal land regulation, the most common code in this category for both California and Texas was “overriding or maintaining local control.” In both cases, statements in media stories made clear that state preemption of local land regulation deviated from established practices. For example, a story in the *Galveston County Daily News* explains how, “When a new state law takes effect next month, city administrators will no longer be able to regulate which materials builders use in new construction.” In a similar statement specific to California, a *New York Times* article states how “zoning has historically been regarded as a local issue, which is why opponents of S.B. 9 and other state-level measures describe them as government overreach.” Other times, media coverage aimed to place the specific legislation into a broader context. As mentioned in the *Galveston County Daily News* article on the Texas legislation, “Tuesday’s proposal illustrates the growing limitations state leaders have placed on local municipalities.” Similarly in media coverage of the California case we commonly observed statements such as this one in a *New York Times* article, “It is part of a nationwide trend in which other states faced with similar growing housing affordability problems have assumed more power over housing, which has traditionally been the province of local government.”

In both states, media stories emphasized disagreement among public officials about the appropriate role of local action and regulation. A story in the *Austin American-Statesman* quoted Austin, Texas Mayor Steve Adler decrying state preemption as against Texas culture; “This again is our state government striking a blow against local liberty. It’s a sad day and unlike the spirit of Texas.” In contrast, another story in Houston Community Impact summarized the perspective of a city council member in League City, Texas, Hank Dugie, who supports local control but “Cities, he said, should not regulate buildings much beyond zoning and codes to make sure they are safe.” Similarly in California, some elected officials and advocacy organizations categorized state legislation as a usurpation of local control. In a press release published by the League of California Cities titled, “More than 240 California cities of all sizes, regions, and demographics send Governor Newsom letter urging a veto of Senate Bill 9” the author warns that SB 9 “would undermine community input and the local review process.” Others saw state action as increasing the agency of local governments. For example, a press release put out by Vendaval, an affordable housing developer, claims that “the legislation gives local governments another tool to voluntarily increase density and provide affordable rental opportunities to more areas of California.”



While media coverage of both the Texas and California cases emphasized themes related to overriding or maintaining local control, there was divergence between the two cases in the prominence of other codes within the “Attitude Toward Government” theme. The second most common subcode in the California case was legal action/legality followed by support or need for preemption and caution or skepticism about the impact the legislation would have on housing in the state. The focus on legal action reflects the policy making environment in California, where courts are a common method for settling conflicts between different levels of governments, government actors, and other stakeholders. Indeed, in response to the state legislation, the AIDS Healthcare Foundation leadership issued a press release saying, “we believe the provision is clearly unconstitutional and are therefore seeking to invalidate that provision and the entire law.” Similarly, a story discusses how the California’s Attorney General filed a brief in defense of SB 10 while a press release from the Attorney General’s office details the legal actions taken by the state’s Housing Task Force in sending, “letters notifying Woodside and Pasadena of violations of Senate Bill 9, which allows homeowners to build up to four residential units on a single-family lot.” Calling out specific municipalities that took policy efforts to avoid the legislation, a *Newsweek* story quotes the attorney general as saying “If they don’t take the opportunity to get back on track and either withdraw their memo or amend it to comply with SB 9 and the laws in the state of California, then we are ready and willing and able to file a lawsuit against them.”

Media stories in California and Texas both highlighted the need for preemption while also expressing caution or skepticism about the impacts the legislation would have on housing in the state. The *Denton Record-Chronicle* reports a local city council member “doubt[ing] a city requirement that prefers brick over Hardie board [would affect] the home price” while the *Galveston County Daily News* reports skepticism from an elected official that removing design standards will make a huge difference on affordability. In California, skepticism about the impact of legislation was supported by analysis produced by the Turner Center, a university-based research center focused on housing, who concluded that while it was possible that the legislation could create more than 700,000 new homes, it was unlikely to occur due to several barriers (Metcalf et al., 2021). In a CalMatters article, an academic researcher likens the effort to “trying to predict the path of a balloon in a tornado.” Discourses also emphasized the incremental nature of changes brought by policy, often citing previous experiences and failures.

In contrast to California, the most common codes in stories about the Texas case, after overriding or maintaining local control, were red tape/regulatory hurdles and statements about a lack of government capacity. Quoting the CEO of a construction firm, a Dallas Community Impact story states “home builders these days already have to deal with a lot of regulations” while a *Dallas Business Journal* interview with a homebuilder cites the counterexample of Houston, which notoriously does not have a zoning code, as “really focused on affordability, and they get there because there is less municipality involvement.” Comments about local government’s capacity to handle evolving regulations from state-led reforms were observed in stories about Texas but did not appear in any California stories. In describing how the city of Austin intends to comply with changes to state law, a story in the *Austin American-Statesman* concludes, “neither the city nor the county have budgeted money in fiscal 2020 for more staff to take on the extra workload.” While a *Galveston County Daily News* article states, “Some planning officials worry the bill’s mandated deadlines might put a crunch on their departments.”

### **Inclusion/exclusion**

In both states, media coverage referenced the land use preemption bills as avenues for fostering—and responding to—inclusion or exclusion across cities. In the California case, there were several distinct narratives around SB 9 and SB 10’s impacts on issues of racial inequity/fair housing, socioeconomic inequity, homelessness, gentrification and displacement, and renter inequity. Across many California articles, there was also a discussion of the context surrounding racist or classist exclusionary zoning that prompted land use preemption in the first place. In that vein, the bills were cast as an effort to address and ameliorate exclusionary histories. For example, in a CalMatters article published prior to

bill passage titled, “What California Lawmakers Could Do to Boost Homeownership for Black Families,” the reporter references the forthcoming bills, directly tying them to past instances of exclusionary land use. He writes, “Many of this session’s big Democratic housing bills target restrictive zoning—a tool experts say has been used to keep Black, brown and low-income people out of mostly white neighborhoods.” Another CalMatters story makes this connection even more explicit, with an editorial about SB 9 titled, “Housing Reform Bill Would Right Some of Redlining’s Wrongs.”

In contrast, other narratives in California stories cast the bills as an effort to do the opposite: promote racial and socioeconomic discrimination and displacement. As a press release from Housing is a Human Right, the advocacy division of the Aids Healthcare Foundation (who in a separate press release referred to SB 10 as a “gentrification bill”) details, “Many housing justice advocates, city governments and homeowners’ associations oppose both pieces of legislation, noting that the bills don’t provide affordable housing and homeless housing requirements, will fuel gentrification, and will take away the ability of communities of color and working-class residents to build wealth through homeownership.” In a blog post summary from legal group Alston and Bird, the author notes how, “the only group of people with the means to undertake the projects promoted by SB 9 and 10, opponents claim, are the wealthy who merely intend to rent out the new units at market rates.”

In the Texas case, there was far less discussion about inclusion and exclusion in relation to the bills. When it was mentioned, it was homebuilders who promoted a narrative that the bills were a pathway to promoting inclusion through housing affordability. For instance, in a *Dallas Business Journal* interview, a homebuilder alludes to exclusionary impacts that bills like HB 2439 are trying to tackle, describing how, “City councils aren’t elected to lower property values. That’s the reality of it. It’s a way to try to control who lives in their cities.” In an editorial in the *Denton Record-Chronicle* about HB 2439, the executive officer of the Dallas Builders Association ties the regulation as opening access to certain neighborhoods, describing how, “Hundreds of Texas cities never enacted exclusionary restrictions on housing products yet still offer diverse neighborhoods and homes that are desirable and attainable. Starting Sept. 1, these same choices should open similar doors for thousands of families seeking access to great communities and schools.” The builder also implicates advocates in the editorial, claiming that, “Housing advocates noted that these zoning restrictions [prior to HB 2439’s passage] disproportionately impact groups with lower median incomes struggling to afford the wealth-creating opportunities of homeownership.” Ultimately, in Texas, the discussion about inclusion and exclusion is driven by home builders who claim that a bill that will benefit them will also benefit a wider income range. Notably, unlike in the California context, these divides are exclusively cast as a form of socioeconomic and not racial inclusion or exclusion.

### ***Individualism/rights***

Media stories in Texas had a significant number of codes related to individualism and rights, although overall this was the least common code category across the media stories we reviewed. When these themes were mentioned, in both Texas and California, the effects of preemption were at times cast as catering—or disrupting—consumer preferences by allowing for more diverse forms of housing and choice for homeowners. In an op-ed in the *Denton Record-Chronicle* titled “HB 2439 Brings Choice, Diversity in Housing,” the executive officer of the Dallas Builders Association asserts that, “The ultimate form of local control is what you as a consumer get to choose. After all, it’s your home, it should be your decision so long as safety standards remain in line with code requirements.” Alternatively, in the California case, in a *New York Times* article that profiles changes brought about by SB 9, the reporter details the cultural ethos that the bill upended: “By legalizing duplexes statewide and allowing people to subdivide single-family lots, S.B. 9 effectively ended single-family zoning in a state of 40 million whose identity is predicated on the suburban idyll.”

Themes surrounding property rights and freedom were much more common in the Texas case. In a Houston Community Impact article that describes the League City Council’s attempts to find workarounds to HB 2439, “Council Member Hank Dugie opposed the idea, saying while he supports local control, he believes more in property rights.” When the bill was opposed, it was similarly framed

as interfering in not just local power but also individual property rights. As a reporter at the *Denton Record-Chronicle* described, “A new state law has stripped Texas cities of the authority they used to have to protect neighborhoods and, by extension, the investment individual homeowners have in their property.”

In the California case, property rights are much less frequently mentioned. One notable exception is in an op-ed in the *Orange County Register* authored by the resident senior fellow and western region director of state affairs at R Street, a think tank that promotes “free market solutions to policy problems.” As the author describes, referencing SB 9, “the bill is the work of Democrats, but Republicans who take their own rhetoric seriously should also be championing this approach. SB 9 is the most robust pro-property-rights measure the Legislature has passed in ages.” The coalescence between the Democratic state senators promoting preemption in California and discourses promoted from the right in this editorial also speak to how the support or dissent from the legislation and the role of the state is mobilized depending on ideologies.

### *Unintended consequences in state land use bills*

Beyond what was pre-established in the coding framework, one major theme also surfaced in both states through the inductive coding process related to unintended consequences and attempted workarounds resulting from the bills’ passage. The theme of unintended consequences was particularly notable in the Texas case. In an article about HB 3167 in a Clute, Texas, paper called *The Facts*, the City Manager of Lake Jackson, Texas, notes how, “The 30-day period is meant to speed up the process and assist developers in getting timely approval from the planning commission,” Yenne said. “But the unintended consequence of that is a formal process that could produce tension.” In another article about HB 3167’s passage in the *Galveston County Daily News*, the reporter similarly writes how, “A new law meant to speed up development is causing a stir in some Galveston County cities, where planning department officials warn the new rules might cause more plans to be rejected because of deadline pressures.” In a Houston Community Impact article about the impacts of HB 2439 in League City, Texas, “If common areas, such as drainage ditches or parks, are not properly maintained, they can flood or become mosquito breeding grounds or create other problems. The city’s proposal would allow the city to have quality development in the long run, [Councilmember] Long said.”

Across both states, there was also discussion of strategies that could circumvent the laws on the grounds of environmental or historical preservation concerns. Both states spoke to a threat to historic aesthetics, like the “small-town charm” being threatened in Texas and the “exemptions for land-marked districts” in California. In Texas, one of the main exemptions was for homeowner’s associations (HOAs), who could impose building standards that were exempted under HB 2439. With an estimated two-thirds of newly constructed single-family homes and 80% of new housing subdivisions being in an HOA (Clarke & Freedman, 2019), this is a wide-ranging exemption, potentially undermining the legislation while asserting the rights of certain private homeowners. In California, localities tried to evoke both historical and environmental exemptions, as described in a Business Insider article descriptively titled, “The Posh California Suburb that Declared Itself a Mountain Lion Habitat to Block Affordable Housing is Backing Down after a Backlash.” In response, there was also a strong discussion of public enforcement or local watchdogs on the state of California’s behalf in the aftermath of the bills’ passage, including mention of the creation of a state Housing Accountability Office, referred to in a CalMatters article as, “the New cops on California’s duplex beat.” These narratives of exemptions met with enforcement speak to not only the actors implicated, but the more dynamic public regulatory mechanisms that exist in the California versus the Texas context, as well as the will to allow leniency to private homeowners in the Texas case.

In conclusion, our discourse analysis of the four bills shows how different actors mobilize conflicting views about land use and housing, the role of government, social inclusion and exclusion, individualism and private property rights, and policy consequences. The divergence and convergence of discourses across the two cases help identify normative claims, and broader ideologies, about the

desired roles of the public versus private sectors that are shaping policies related to land use, housing production and (in)equitable development.

## Discussion and conclusions

In the bills analyzed above, state legislatures in Texas and California both preempt local laws to create new state standards for land use regulation (Manji et al., 2023). Beyond changing the nature of land use implementation in the two states, we found that the media discourses surrounding the legislation focused the public's attention by providing framing for the bills' intentions—or stated intentions—depending on who was promoting the narratives. The findings offer three key takeaways for planning and urban policy. First, preemption is an important yet understudied tool impacting planning across diverse political contexts that deserves more attention from planning scholars. By focusing attention on specific ideological claims, media discourses of preemption shape public understandings and sense-making around planning and policy. This paper therefore offers a methodological contribution in urban planning and policy research on how to evaluate this in the context of land use preemption. Second, despite both cases operating within a broader, hyper-neoliberal context, actors mobilize diverging discourses to substantiate different ideological viewpoints about the role of the public versus private sector in land use preemption and housing affordability. A third insight, derived from the first two, is that in similar cases of preemption, planners and practitioners can situate themselves in public and media discourses strategically, to more effectively and equitably capture public value in land use and affordable housing policy.

While historically used in the context of conservative states preempting liberal cities (Goodman & Hatch, 2022), we highlight the discourses of preemption across the political spectrum—from deep blue California to deep red Texas—to illustrate how they are being used to direct and shape municipal planning functions, including as a tool for purported affordability. More specifically, in California, a professional legislature promoted the bills with a stronger ideological framing around the connections between land use and housing. Engaged publics with a diversity of viewpoints—from NIMBY homeowners to racial justice advocates to private property rights advocates—positioned themselves along a spectrum of support or dissent for the bills depending on their ideological and personal motivations. The complexity of public debate in California, pre and post preemption, illuminates the multitude of actors, claims, and relationships involved with shaping policy narratives around housing in the state. In comparison, policy narratives in Texas related to housing and affordability were influenced primarily by home builders and developers promoting private property rights while the public sector is generally positioned as lacking capacity or hindering more desirable forms of market provision. The important role that discourse plays in planning and policy processes is well highlighted by prior planning literature on communicative action (Healey, 1996). Future research should focus on the diverse ways that states are using preemption to accomplish myriad state and local policy goals, the tensions that result from them, and the normative framings individuals and groups mobilize to promote various policies.

While there has been some valuable scholarly work on the broader role of preemption in planning and urban policy (Goodman & Hatch, 2022; Manji et al., 2023; Manville & Monkkonen, 2021), the methodologies of comparative discourse analysis that we employ offer an expansion from traditional quantitative analyses that categorize preemption along a binary of political ideology. In so doing, our analysis highlights how researchers can analyze media discourses to understand their role in focusing public attention to existing power structures. Media coverage reflects the iterative relationship between the knowledge and interests of readers and existing local perspectives. As a result, it serves both as a marker for how local stakeholders understand complex policy issues while also actively shaping the nature of public debates (Bridge, 2009). Moving forward, similar methodologies could be useful not only in examining debates about land use, but across other urban policy areas influenced by intergovernmental action.

Our findings also illuminate how preemption of local land regulation is embedded in different, and often conflicting, ideas about the political pathologies that underlie the relationship between government and private enterprise (Schrager, 2016). While they exist as a subcurrent in media coverage, these discourses are received and interpreted by the public in ways that shape understandings of what the public sector should do and what it is capable of. The limits of these discursive strategies also become clear: despite differences in framings and narratives across the two states, both states adopted standards that are more development-friendly than existing regulations. Rather than emphasizing a proactive role for the public sector, both states adopted legislative solutions that rely on private property owner initiative to adopt standards or take-up their additional development rights to create more housing. Unsurprisingly, legislation in both states received strong support from home builders and members of the development community. In both contexts, the states promoted the bills under market-based assumptions that changing municipal land regulation would ultimately result in increased housing production and affordability, despite none of the bills having explicit affordability requirements.

Within this ubiquitously neoliberal and highly devolved context, the discourses that we see surrounding preemption reflect on larger conversations about the role of private and public actors in society, including how the public sector chooses to frame itself. In California, preemption is framed as liberal state actors addressing a rampant housing affordability crisis. Preemption, in the form of SB 9 and SB 10, occurs within the context of an active state regulatory and planning apparatus that establishes a clear role for the public sector, even when market-based solutions are adopted. For example, the extent of workarounds, like the California town that declared itself a mountain lion habitat or the lawsuit about SB 10 from the AIDS Foundation, show both higher capacity for action among local government actors and a stronger response from civil society than in Texas. Direct state responses to ensure preemption's implementation, such as the state watchdog and enforcement mechanism adopted in the wake of the bills' passage, are indicative of efforts at *re-regulation*, or regulatory reform that continues to value government oversight and action, even as it pursues market-based strategies. When preemption in California was contested by the public, it was largely done so under the notion that the government was not doing enough to promote housing affordability through the bills.

In Texas, the bills are framed as conservative state actors removing barriers to private construction and promoting private property rights, reflecting the broader values embraced by gubernatorial leadership. Preemption that removes regulatory barriers is framed as a "silver bullet" and it is presented as an accepted, uncontested truth that local governments are a hindrance to market functions; when developer gains are called into question, it is not under affordability concerns but under the framework of local governments losing control over development regulations. In Texas, when the bills' potential for inclusion or exclusion is acknowledged in media discourses it is done by developers seeking inclusion (and prioritization) of private property rights, to enhance individual rights, and promote market-based mechanisms of housing provision. Within this framing, preemption (i.e., HB 2439 and 3167) fits into a broader narrative of *deregulation*, with the bills allowing the private sector to solve what are not cast as policy problems, but market-based problems. In addition, media coverage gave the impression that local governments were not prepared for the changes that HB 2439 and 3167 brought about, illustrating a lack of public sector capacity that further supports market provision.

The California legislature's promotion of a re-regulatory environment, where a powerful state actor tries to enforce policy goals across state and local levels of government, speaks to the state's primary goal of advancing affordability, and by proxy, what Democratic officials see as more equitable development across the state. In contrast, the state of Texas promotes deregulation as a marker of freedom in private property ownership; private developers and homebuilders are the primary actors shaping housing outcomes and are expected to pass cost savings gained from deregulation onto consumers. The re-regulation approach evident in California allows for an ongoing public debate about the appropriate role of state and market in addressing the housing crisis. For example, we



observe some housing advocacy groups calling for more government intervention, while others supported the preemption legislation as an important step toward incentivizing private landowners to achieve development patterns and policy goals. By focusing on *how* to regulate for specific ends, the media record in California allows for more nuanced debate and conversation, as evident in the discourses analyzed in this paper. In contrast, Texas's focus on deregulation allows little room for nuanced conversations about the role of the public sector and private market in shaping housing outcomes, precluding broader conversations about equity beyond enhancing market principles.

To more effectively promote equitable outcomes, planners and policymakers need to be both incremental and transformational in their approach to wicked urban policy problems like the housing crisis. As our analysis shows, the preemption context in which planners aim to pursue equity will shape the specific policy solutions at their disposal and influence the quality of public debate about the broader roles of public and private sectors for promoting affordability. As such, the two cases illustrate different challenges for planners, based on context. Prior to the legislation, planners and advocates in California grappled with the complexity of proposed policy solutions; this conversation was lacking in Texas. Similarly, after the adoption of preemption, actors in California continued to debate the merits of the law while promising to closely monitor the relationship between preemption and housing. For example, the Turner Center is actively tracking legislative pathways to increase housing production (The Turner Center, 2022), while there appears to be no concurrent effort to track the impacts of preemption in Texas. Differences in the activities of state chapters of the American Planning Association are also illustrative of the capacity or desire of professional organizations to engage with housing preemption. Prior to the passage of SB 9, the California chapter of the APA prepared several posts and commentaries in support while the Texas APA remained silent. Following the passage of preemption, Texas APA increased its involvement in state legislation, forming a legislative committee at the state level in 2020 and hosting their first planners' day at the state house in 2021. Importantly, Texas APA and other local advocates came later to the legislative lobbying game than profit-oriented interests, such as the Texas Association of Builders.

Ultimately, planners and policymakers in an intergovernmental landscape should be working to capture the most public value possible through legislation. In California, we see this play out in the evolving legislative record. For example, in 2023, California passed Senate Bill 4, which streamlined approval processes and provided development standards specifically for affordable housing constructed on land owned by faith-based or higher education institutions (2023). This suggests that the dynamic policy and advocacy landscape enhances planners and policymakers' ability to learn in practice, becoming more responsive to advocacy groups demanding change, with the goals of promoting publicly minded solutions and affordability for a wide range of residents. Meanwhile, the bills in Texas prompted state-level actions by the APA, an ultimate step in the direction of Texas planners contributing to and shaping narratives around land use and municipal planning themselves. Legislative actions in subsequent years, however, have continued to reduce the policy toolkits available to local governments. In 2025, HB 2127: Texas Regulatory Consistency Act banned municipalities from adopting or enforcing ordinances that are more stringent than what is allowed by state law and allows residents to sue local governments that they feel are in violation of the new law (2023), potentially nullifying local policy on issues ranging from agriculture to urban development.

The increasing use of preemption indicates an unsettled debate about the nature of the political pathologies inherent in the relationship between city and capital, government and private enterprise, and state and local governments. Compared to California, the media discourses in Texas indicate a more nascent public debate about the ideas underlying land use and may also demonstrate a political landscape that is less open to debating these pathologies through the legislative and policymaking process. Our analysis suggests that discourses—and how they diverge across and within cases—are important markers of public debates around preemption and land use that deserve attention from researchers and practitioners. By analyzing and engaging with these discourses, we can identify and



better engage with the larger normative ideals behind policy goals that contribute to—or detract from—more equitable cities.

## Note

1. We included 11 news roundups or blog posts that mentioned or summarized the bills with a distinct voice or interpretation in the count of editorials. We also included a Q&A with a real estate professional as an editorial.

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