

**IN THE CIRCUIT COURT OF LEE COUNTY, MISSISSIPPI**

**FRANKLIN COLLECTION SERVICE, INC.,  
TUPELO BUFFALO PARK, LLC, WADDLE  
TRUCKING OF MISSISSIPPI, INC., MGA INVESTMENTS,  
LLC, CHUCK HERRINGTON, MICHAEL CHIDESTER, ADRIAN  
CALDWELL, SHARON CRESSWELL, LINDA GARNER, CYNDI  
BUTLER, DODLE MCCRORY, KATHY NOWLIN, FRANK ANGER  
DONNIE ELKIN, JONATHAN CONN and LARRY BROWN,**

**Appellants**

v.

**CAUSE NO. 1:22-cv-72(PF)L**

**CITY OF TUPELO, MISSISSIPPI,  
STEWART RUTLEDGE, BRITTON JONES,  
and FLOWERDALE COMMONS 2021, LP,**

**Appellees**

**MOTION FOR LEAVE TO FILE BRIEF AS *AMICI CURIAE***

The Mississippi Center for Justice respectfully moves for leave to file the attached proposed *amicus curiae* brief in support of Appellees.

1. The Mississippi Center for Justice (“MCJ”) is a public interest law firm committed to advancing racial and economic justice in Mississippi. MCJ was established in 2003 to improve opportunities for low-income, rural, and minority communities in Mississippi. MCJ’s Housing Campaign is a dedicated unit within MCJ comprised of full-time lawyers, advocates, and legal staff who work to secure and increase the availability of safe, decent, affordable housing for Mississippians across the state. MCJ’s Housing Campaign promotes housing stability and equality statewide with initiatives in three areas: Fair Housing Act enforcement, eviction prevention, and affordable housing development. The Campaign focuses on addressing the housing needs of low- and moderate-income families in the state.

2. MCJ proposes to file the attached *amicus curiae* brief to acquaint the Court with facts and circumstances regarding the affordable housing crisis in Tupelo, and to provide context for why the City’s decision to approve Appellees’ application to build affordable multifamily housing in Tupelo was not arbitrary and should be affirmed.

3. An amicus brief is appropriate if it calls the court’s attention to “matters of fact or law that may otherwise escape the court's attention.” Miss.R.App.P. 29(a). That is the purpose of this amicus brief.

For the reasons set forth herein and the accompanying Memorandum of Law in Support, the Mississippi Center for Justice respectfully requests leave to file the attached *amicus curiae* brief in support of Appellees.

December 10, 2022

Respectfully submitted,

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DONNIE ELKIN, JONATHAN CONN and LARRY BROWN,**

**Appellants**

**v.**

**CAUSE NO. CV22-072 (PF)L**

**CITY OF TUPELO, MISSISSIPPI,  
STEWART RUTLEDGE, BRITTON JONES,  
and FLOWERDALE COMMONS 2021, LP,**

**Appellees**

**BRIEF FOR *AMICUS CURIAE* THE MISSISSIPPI CENTER FOR JUSTICE  
IN SUPPORT OF APPELLEES**

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**INTERESTS OF *AMICUS CURIAE***

The Mississippi Center for Justice (“MCJ”) is a public interest law firm committed to advancing racial and economic justice in Mississippi. MCJ was established in 2003 to improve opportunities for low-income, rural, and minority communities in Mississippi. MCJ’s Housing Campaign is a dedicated unit within MCJ comprised of full-time lawyers, advocates, and legal staff who work to secure and increase the availability of safe, decent, affordable housing for Mississippians. MCJ’s Housing Campaign promotes housing stability and equality statewide with initiatives in three areas: Fair Housing Act enforcement, eviction prevention, and affordable housing development. The Campaign focuses on addressing the housing needs of low- and moderate-income families.

**SUMMARY OF ARGUMENT**

This brief discusses common misperceptions about affordable housing recently raised regarding Flowerdale Commons. It details the economic, health, and education benefits that flow from investing in affordable housing. It explains why the strength of Tupelo’s economy, and the health and wellbeing of its residents, depend on the City having a sufficient supply of housing that is affordable to working families. The brief describes the extent of the current affordable housing crisis in Tupelo and explains how the need for affordable housing is calculated. The brief summarizes academic research supporting that Flowerdale Commons is likely to bolster economic growth and safety in surrounding communities. It describes how access to affordable housing increases the likelihood that families can achieve financial independence and how a lack of it is linked to intergenerational poverty and lower academic achievement for children. To address Tupelo’s housing crisis, the City must build multifamily dwellings, including apartments, that working people can afford. Accordingly, the City’s approval of Appellee’s application to build Flowerdale Commons is not arbitrary and should be affirmed.

## ARGUMENT

### **I. COMMON MISPERCEPTIONS ABOUT AFFORDABLE HOUSING RECENTLY RAISED REGARDING FLOWERDALE COMMONS**

The health, safety, and well-being of Tupelo residents, and the strength of Tupelo’s economy, depend in large part on the City maintaining a sufficient supply of housing that is affordable to working families, elderly residents, and persons with disabilities. Increasing access to affordable housing has been shown to bolster economic growth and safety in surrounding communities. Access to affordable housing is key to reducing intergenerational poverty and increasing economic mobility.

This section discusses those benefits and addresses claims made by Tupelo residents who oppose Flowerdale Commons because they believe that building affordable housing lowers surrounding property values and increases crime. These assumptions are not supported by a substantial body of empirical research that addresses both topics.

#### **A. Concerns About Property Values**

Colonial Estates residents have raised concerns that Flowerdale Commons will have a negative impact on property values in their neighborhood. Colonial Estates resident Lee Waldron told the Tupelo Planning Commission:

My wife and I live there and it's quiet. It's just a really nice place to live. Good neighbors and I think this project is not good for the neighborhood. I think it will decrease, but I don't care what the fella said; I think it will decrease the property values if it's low income.”<sup>1</sup>

Similarly, Colonial Estates resident Linda Collins told the Tupelo Planning Commission that “the problem here with putting an apartment complex. . . for low-income people” is that “there is a reputation that goes along with that,” and the City “need[s] to protect [Colonial Estates

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<sup>1</sup> Comments from Lee Waldron to the Tupelo Planning Commission (May 2, 2022).

residents] from property value going down because of anything that might happen on Colonial Estates Road.”<sup>2</sup>

A robust body of academic research<sup>3</sup> makes clear that well-designed, well-maintained affordable housing does not lower property values.<sup>4</sup> In some areas, property values *increase* with the addition of affordable housing communities.<sup>5</sup> For example, Alexandria, Virginia, is an affluent city with an area median income of over \$140,000 and a typical home value of approximately \$634,200.<sup>6</sup> Some Alexandria residents were concerned that building a proposed affordable housing community would negatively impact their property values. In response, researchers designed a study to determine how prior investment in affordable housing had affected property values in the city. The study, controlling for overall market trends, found that the only significant change was in the positive direction. Homes located within a block of the affordable developments saw property values increase by almost 1%.<sup>7</sup> A 2022 study found that the siting of affordable housing did not negatively affect housing prices in Orange County, California.<sup>8</sup> The researchers determined that the value of homes near affordable housing developments increased by about \$16,000.<sup>9</sup>

Flowerdale Commons will likely have a positive or neutral impact on property values in the Colonial Estates subdivision.

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<sup>2</sup> Comments from Linda Collins to the Tupelo Planning Commission (May 2, 2022).

<sup>3</sup> See, e.g., *Does Affordable Housing Development Lower Nearby Property Values?*, Shelterforce (Jul. 18, 2013), [https://shelterforce.org/2013/07/18/answer\\_172\\_affhsg\\_lower\\_property\\_values/](https://shelterforce.org/2013/07/18/answer_172_affhsg_lower_property_values/).

<sup>4</sup> See, e.g., *id.*

<sup>5</sup> See, e.g., *id.*

<sup>6</sup> Sarah Holder, *What Does Affordable Housing Do to Nearby Property Values?*, Bloomberg (May 2, 2022), <https://www.bloomberg.com/news/articles/2022-05-02/does-affordable-housing-lower-property-values>.

<sup>7</sup> *Id.*

<sup>8</sup> Mimi Ko Cruz, *Affordable Housing Decreases Crime, Increases Property Values*, UCI School of Social Ecology (June 8, 2022), <https://socialecology.uci.edu/news/affordable-housing-decreases-crime-increases-property-values>.

<sup>9</sup> *Id.*

**B. Concerns About Safety**

Colonial Estates residents have raised concerns that building Flowerdale Commons will increase crime in their neighborhood. Colonial Estates resident Linda Garner wrote an email to Tupelo Mayor Todd Jordan and several members of the Tupelo City Council:

We know the people low income housing attracts....people of ALL races. We are not talking about only one group of people when saying this. We bought in Colonial Estates because #1 we have a HOA that restricts anyone from renting their home, #2 this is a safe area and we all know our neighbors, #3 we have a park and walking track which is right across from our house. Like I said before, our street and home is closest to this project. I/we want to continue to feel safe when we walk after dark and when walking to neighbors homes which we often do. We do not want to look out our front window and see strangers in our park, nor do we want to see drug deals taking place.<sup>10</sup>

Colonial Estates resident Linda Collins shared a similar concern with the Tupelo Planning Commission, explaining that “there are a lot of widows and single women who live [in Colonial Estates],” that Colonial Estates is primarily “made up more of single people who were looking for a safe place to live and security, and that’s basically what has drawn most of us to that area.”<sup>11</sup>

Building affordable housing communities does not make surrounding neighborhoods less safe. A recent study by the Stanford Graduate School of Business demonstrated that (a) building affordable housing communities in low-income neighborhoods *decreased* crime rates; and (b) building affordable housing communities in higher-income neighborhoods had no impact on crime.<sup>12</sup> A similar recent academic study drew the same conclusion, described multiple ways that building affordable housing increases public safety, and noted that the city of Irvine, California—home to the highest number of affordable units in Orange County—is also the safest city in the nation based on FBI Uniform Crime Reporting statistics.<sup>13</sup>

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<sup>10</sup> Email from Linda Garner to Chad Mims, et al. (July 17, 20202) Exh. B-27 at 60.

<sup>11</sup> Comments from Linda Collins to the Tupelo Planning Commission (May 2, 2022).

<sup>12</sup> Shana Lynch, *Is Affordable Housing Good for the Neighborhood?*, Stanford Graduate School of Business (Sept. 15, 2016), <https://www.gsb.stanford.edu/insights/affordable-housing-good-neighborhood>.

<sup>13</sup> Cruz, *supra* note 8.

### C. Economic Benefits

Building affordable housing communities stimulates state and local economies in several ways. Affordable housing benefits local employers. When housing costs near employment centers are too expensive for entry-level and mid-level employees, employers may find it difficult to fill open positions.<sup>14</sup> Flowerdale Commons may benefit employers in Tupelo, such as local law enforcement and construction companies, who are often eager for opportunities to expand hiring pools. Flowerdale Commons may also increase the number of employees of Tupelo-based businesses who can live in Tupelo, which matters because and employee productivity increases, and turnover decreases, the closer employees live to their workplace.<sup>15</sup>

Building affordable housing communities also generates increased revenue from taxes, fees, and other residency-based revenue streams.<sup>16</sup> Building 100 affordable housing rental units has been shown to generate \$11.7 million in local income and \$2.2 million in taxes.<sup>17</sup> Building affordable housing creates both temporary and permanent jobs because constructing, staffing, and maintaining housing “requires a cadre of construction tradespeople, property managers, leasing agents, security staff and others.”<sup>18</sup> An average of 161 local jobs are created in the first year that affordable housing communities are built.<sup>19</sup>

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<sup>14</sup> See, e.g., Michaela Zonta, *Expanding the Supply of Affordable Housing for Low-Wage Workers*, Center for American Progress (Aug. 10, 2020), <https://www.americanprogress.org/article/expanding-supply-affordable-housing-low-wage-workers/>.

<sup>15</sup> See, e.g., *id.*

<sup>16</sup> See, e.g., *A Place to Call Home*, Campaign for Housing and Community Development Funding (last accessed Dec. 4, 2022), <https://nlihc.org/sites/default/files/A-Place-To-Call-Home.pdf>; *The Problem*, National Low Income Housing Coalition (last accessed Dec. 2, 2022), <https://nlihc.org/explore-issues/why-we-care/problem#:~:text=Research%20shows%20that%20the%20shortage,earnings%2C%20causing%20slower%20GDP%20growth>.

<sup>17</sup> *A Place to Call Home*, *supra* note 16.

<sup>18</sup> Richard Burns, *How Whole Communities Benefit From Affordable Housing*, Forbes (Jan. 6, 2020, 8:00 AM), <https://www.forbes.com/sites/forbesrealestatecouncil/2020/01/06/how-whole-communities-benefit-from-affordable-housing/?sh=238032d524e8>.

<sup>19</sup> *Id.*

When working families move in, pay rent they can afford, they can also afford to spend money on local goods and services; the increased demand can boost the local economy.<sup>20</sup> When working families are forced to pay rent they cannot afford, it slows economic growth.<sup>21</sup> Researchers found that the shortage of affordable housing costs the American economy approximately \$2 trillion per year in lower wages and productivity.<sup>22</sup> Investing in affordable housing generates a significant return on investment for local communities.

#### **D. Intergenerational Benefits**

For families with children who move into affordable housing from lower-income neighborhoods, the opportunity can lead to be life-changing. A Stanford economist found that children who moved to lower-poverty neighborhoods (a) earned more money as adults (by approximately 31%); (b) were more likely to live in a better neighborhood as adults; and (c) were less likely to become single parents.<sup>23</sup> Having access to stable housing improves health and education outcomes in families,<sup>24</sup> and children raised in stable housing are better able to learn, earn, and thrive.<sup>25</sup>

## **II. WHAT AFFORDABLE HOUSING IS AND WHY IT MATTERS IN TUPELO**

Affordable housing is housing that costs 30% or less of a household's income, according to the U.S. Department of Housing and Urban Development (HUD).<sup>26</sup> Households that spend more

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<sup>20</sup> See, e.g., *id.*

<sup>21</sup> *The Gap: Mississippi*, National Low Income Housing Coalition (2022), <https://nlihc.org/gap/state/ms>.

<sup>22</sup> *Id.*

<sup>23</sup> Raj Chetty, Nathaniel Hendren & Lawrence F. Katz, *The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment*, NBER (Aug. 2015), [https://scholar.harvard.edu/files/hendren/files/mto\\_paper.pdf](https://scholar.harvard.edu/files/hendren/files/mto_paper.pdf).

<sup>24</sup> See, e.g., Veronica Gaitán, *How Housing Affects Children's Outcomes*, Housing Matters: An Urban Institute Initiative (Jan. 2, 2019), <https://housingmatters.urban.org/articles/how-housing-affects-childrens-outcomes>.

<sup>25</sup> See, e.g., *id.*

<sup>26</sup> *Defining Housing Affordability*, U.S. Dep't of Housing and Urban Development (Aug. 17, 2017), <https://www.huduser.gov/portal/pdredge/pdr-edge-featd-article-081417.html>.

than 30% of their income on housing are considered “housing cost burdened;” those who spend more than half of their income on housing are “severely cost burdened.”<sup>27</sup>

In Lee County, approximately 87% of renters are cost-burdened (or paying 30% or more of their income on rent).<sup>28</sup> Renters in Lee County are more cost-burdened compared to all renters statewide. In Mississippi, more than 41% of all renters are cost-burdened, and more than 20% are severely cost burdened.<sup>29</sup> Therefore, a greater proportion of Lee County renters struggle to pay for housing *and* afford necessities as compared to all Mississippi renters.

High housing cost burdens are strongly and positively associated with multiple domains of material hardship. Researchers have found that “[d]eprivation because of housing cost burden can be especially harmful to children by reducing spending on books and other educational materials, childcare, and enrichment activities that are crucial to development.”<sup>30</sup> Housing cost burdened households with low incomes spend less money on food, transportation, and health care than similar unburdened households do.<sup>31</sup> As a result, these households are more likely to be food insecure, have poorer health outcomes, and have trouble paying for essential expenses.<sup>32</sup> Having insufficient affordable housing is linked to increased homelessness, greater burdens on public services, decreased workforce diversity, increased healthcare costs, and lost tax revenue.<sup>33</sup>

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<sup>27</sup> *The Gap: Mississippi*, *supra* note 21.

<sup>28</sup> *Low Income Housing Data for Lee County*, Affordable Housing Online, <https://affordablehousingonline.com/advocacy/Mississippi/Lee-County> (last visited Nov. 16, 2022).

<sup>29</sup> *Id.*

<sup>30</sup> Shomon Shamsudden & Colin Campbell, *Housing Cost Burden, Material Hardship, and Well-Being*, Housing Policy Debate, 3 (Mar. 29, 2021), <https://nlihc.org/sites/default/files/Housing-Cost-Burden-Material-Hardship-and-Well-Being.pdf>.

<sup>31</sup> *See, e.g., id.*

<sup>32</sup> *See, e.g., id.* at 3; Gaitán, *supra* note 24; *Housing Needs By State: Mississippi*, National Low Income Housing Coalition (2022), <https://nlihc.org/housing-needs-by-state/mississippi>.

<sup>33</sup> *See, e.g., What’s the Community Impact When There’s A Lack of Affordable Housing?*, CommonBond Communities (Sept. 8, 2022), <https://commonbond.org/whats-the-community-impact-when-theres-a-lack-of-affordable-housing/#:~:text=If%20you're%20wondering%20how,like%20libraries%20and%20mass%20transit.>

### III. MEASURING AFFORDABLE HOUSING NEEDS AND THE NEED IN TUPELO

Rising housing costs and low wages have contributed to the affordable housing crisis in Tupelo. Because Mississippi has not adopted a state minimum wage, workers in Mississippi employed at minimum-wage jobs receive the federal minimum wage of \$7.25 per hour.<sup>34</sup> The state's one-bedroom *housing wage*<sup>35</sup> is \$13.05,<sup>36</sup> meaning that to afford a one-bedroom rental home at Fair Market Rent ("FMR"), a Mississippian must work 1.8 full-time jobs at minimum wage.<sup>37</sup> In Lee County,<sup>38</sup> the FMR for a two-bedroom rental is \$809.<sup>39</sup> At this FMR price, a renter in Lee County would need to earn at least \$15.56 per hour, or \$32,360 annually, to afford a two-bedroom rental (*i.e.*, not pay more than 30% of their income on housing).<sup>40</sup>

Many of Lee County's most common occupations, including middle-class manufacturing and public service jobs, pay wages that fall short of the housing wage, making even modest rental housing in the county unaffordable. Entry-level police officers<sup>41</sup> and first-year schoolteachers with a bachelor's degree<sup>42</sup> barely earn enough to afford a modest two-bedroom apartment in Lee County.

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<sup>34</sup> *State Minimum Wages*, NCSL (Aug. 30, 2022), <https://www.ncsl.org/research/labor-and-employment/state-minimum-wage-chart.aspx#:~:text=Five%20states%20have%20not%20adopted,of%20%247.25%20per%20hour%20applies> (explaining that five states have not adopted a state minimum wage, and Mississippi is one of them, so workers in Mississippi employed at minimum-wage jobs receive the federal minimum wage).

<sup>35</sup> The "housing wage" is the minimum hourly wage needed to afford housing at Fair Market Rent. A region's Fair Market Rent ("FMR"), calculated annually by HUD, is usually equal to the 40<sup>th</sup> percentile of combined rent and utility costs for all units with a given number of bedrooms—somewhat less expensive than a median-priced unit.

<sup>36</sup> *Out of Reach 2022: Mississippi State Report*, National Low Income Housing Coalition (2022), [https://nlihc.org/sites/default/files/or/mississippi\\_2022\\_OOR.pdf](https://nlihc.org/sites/default/files/or/mississippi_2022_OOR.pdf).

<sup>37</sup> *Id.*

<sup>38</sup> The estimated Fair Market Rent ("FMR") for a two-bedroom rental is \$815 in Mississippi. For a renter to afford this rent (without spending more than 30% of their income on housing), they would need to earn \$15.67 per hour working 40 hours per week. If a worker in Mississippi earns minimum wage, they would have to work 86 hours per week, or work 2.2 full-time jobs, in order to afford a FMR two-bedroom rental. *Id.* at MS-1.

<sup>39</sup> *Id.* at MS-4.

<sup>40</sup> *Id.*

<sup>41</sup> *Patrol Deputy*, Lee Cnty. Sheriff's Dep't, <https://leecosherriff.com/job-detail.php?ID=1> (last visited Nov. 15, 2022).

<sup>42</sup> *FY 2022-2023 MAEP Salary Schedule*, Miss. Dep't. of Educ., [https://www.mdek12.org/sites/default/files/salary\\_schedule\\_for\\_fy23\\_house\\_bill\\_530.pdf](https://www.mdek12.org/sites/default/files/salary_schedule_for_fy23_house_bill_530.pdf) (last visited Nov. 18, 2022).

Table 1 shows ten common low-wage occupations in Mississippi that have a median hourly wage below the one-bedroom housing wage.

**Table 1. Mississippi's Most Common Occupations  
With a Median Wage Under \$13.04**

<b>Occupation</b>	<b>Total Employment</b>	<b>Median Hourly Wage</b>
Waiters and Waitresses	17,100	\$9.01
Fast Food and Counter Workers	26,220	\$9.10
Teaching Assistants*	9,460	\$9.42
Cashiers	33,680	\$9.46
Home Health and Personal Care Aides	20,590	\$11.55
Janitors and Cleaners**	15,990	\$11.59
Retail Salespersons	35,100	\$11.75
Cooks, Restaurant	10,450	\$11.97
Nursing Assistants	11,200	\$12.09
Security Guards	8,930	\$12.69
<b>One-Bedroom Housing Wage</b>	-	<b>\$13.04</b>

\*Except postsecondary. \*\*Except maids and housekeeping cleaners. Source: *Out of Reach: Mississippi*, National Low Income Housing Coalition (2022), <https://nlihc.org/oor/state/ms>.

In Mississippi, there are fewer than 67,450 affordable rental homes for the state's more than 115,453 extremely low-income renter households.<sup>43</sup> Nearly 40% of Mississippi's extremely low-income renter households are in the labor force.<sup>44</sup> The federal minimum wage has not changed since 2009.<sup>45</sup>

#### **IV. CURRENT AFFORDABLE HOUSING CRISIS IN TUPELO**

The Daily Journal has reported on Tupelo's housing crisis and about families forced out of the City following years of searching for housing in Tupelo that they could afford.<sup>46</sup> Local officials,

<sup>43</sup> *The Gap: Mississippi*, *supra* note 21.

<sup>44</sup> *Housing Needs By State: Mississippi*, *supra* note 32.

<sup>45</sup> Hallet DeMouy, Becky Marchiel & James M. Thomas, *In Mississippi, Research Shows Economic and Racial Justice Begins With Affordable Housing* (Apr. 20, 2021), <https://www.mississippifreepress.org/11460/in-mississippi-economic-and-racial-justice-begins-with-affordable-housing>.

<sup>46</sup> See, e.g., Caleb McCluskey, *Through the Roof: Tupelo Officials, Residents Tackle Citywide Lack of Affordable Housing*, Daily Journal (Sept. 10, 2022), [https://www.djournal.com/news/local/through-the-roof-tupelo-officials-residents-tackle-citywide-lack-of-affordable-housing/article\\_bc917004-aca2-5a2e-aef3-12106b1af887.html](https://www.djournal.com/news/local/through-the-roof-tupelo-officials-residents-tackle-citywide-lack-of-affordable-housing/article_bc917004-aca2-5a2e-aef3-12106b1af887.html).

real estate agents, and prospective buyers reportedly agreed that Tupelo's current inventory of rental properties and starter homes cannot satisfy the demands of the city's growing population.<sup>47</sup> Many Tupelo residents must move out of the City or live in housing that is "beyond their means," spending 45% to 50% of their income on housing alone.<sup>48</sup> According to the Daily Journal, Tupelo Housing Authority Director Tabitha Smith supports the City creating more housing opportunities to combat rising housing costs.<sup>49</sup> The construction of Flowerdale Commons would create stable housing in Tupelo for 46 working families.<sup>50</sup>

## **V. RESIDENTS MOST IMPACTED BY THE AFFORDABLE HOUSING CRISIS IN TUPELO**

### **A. Tupelo's Working Residents**

The construction of affordable housing communities, like Flowerdale Commons, will benefit working families in Tupelo. Working families often fill jobs that are considered essential to a community's survival, as highlighted by the COVID-19 pandemic.<sup>51</sup> In Tupelo, being extremely low-income means that a four-person household earns less than \$26,000 per year.<sup>52</sup> Nearly 40% of Mississippi's extremely low-income renter households are in the labor force.<sup>53</sup> For these working families, accessing affordable rental housing like Flowerdale Commons, which is priced below fair market value, may be the only way they can live without day-to-day financial hardship.

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<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> Caleb McCluskey, *Residents Share Concerns Over Proposed Apartment Complex In Tupelo*, Daily Journal (May 5, 2022), [https://www.djournal.com/news/local/residents-share-concerns-over-proposed-apartment-complex-in-tupelo/article\\_1eb89f13-2683-5d2d-aefb-9fcfa3abc9f6.html](https://www.djournal.com/news/local/residents-share-concerns-over-proposed-apartment-complex-in-tupelo/article_1eb89f13-2683-5d2d-aefb-9fcfa3abc9f6.html).

<sup>51</sup> See, e.g., Mary Salmonsens, *Essential Workers Face a Shortage of Attainable Homes*, Builder (Mar. 15, 2021), [https://www.builderonline.com/money/affordability/essential-workers-face-a-shortage-of-attainable-homes\\_o](https://www.builderonline.com/money/affordability/essential-workers-face-a-shortage-of-attainable-homes_o).

<sup>52</sup> *Housing Needs By State: Mississippi*, *supra* note 32.

<sup>53</sup> *Housing Needs By State: Mississippi*, *supra* note 32.

## **B. Employees of Tupelo Businesses Priced Out of Residency**

Employee productivity increases, and turnover decreases, the closer employees live to their workplace.<sup>54</sup> However, because Tupelo’s inventory of rental properties and starter homes cannot satisfy the demand, many employees of Tupelo-based businesses cannot afford to live near where they work.<sup>55</sup> Commuting is expensive and disproportionately impacts vulnerable community members. Cheaper housing in outlying areas may not be affordable when transportation costs are factored in.

In October 2022, the Center for Neighborhood Technology (“CNT”) released a Housing and Transportation (“H+T”) Affordability Index that “combines housing and transportation costs . . . to offer an expanded view of affordability.”<sup>56</sup> The H+T Index for Tupelo provides that workers in the City do not utilize public transit and must bear the cost of commuting in a private vehicle.<sup>57</sup> According to CNT, 45% is the maximum share of household income that can be affordably spent on combined housing and transportation costs.<sup>58</sup> However, in Tupelo, housing and transportation costs accounts for 55% of the “Regional Typical Household” income of \$46,258 per year.<sup>59</sup> For extremely low-income households in Tupelo—four-person households with incomes of \$26,000 or less<sup>60</sup>—transportation costs can be much higher: Lower income households generally spend a

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<sup>54</sup> See, e.g., *id.*

<sup>55</sup> See, e.g., McCluskey, *supra* note 46.

<sup>56</sup> Peter Haas, Emily Laflamme, Paul Esling & Preeti Shankar, *H+T Affordability Index October 2022 Update*, CNT (Oct. 24, 2022), <https://cnt.org/blog/handt-affordability-index-october-2022-update>.

<sup>57</sup> *Municipality: Tupelo, MS*, H+T Fact Sheet (2022), <https://htaindex.cnt.org/fact-sheets/?lat=34.257607&lng=-88.703386&focus=place&gid=13357#fs>.

<sup>58</sup> *About the Index*, CNT (Oct. 2022), <https://htaindex.cnt.org/about/>.

<sup>59</sup> *Municipality: Tupelo, MS*, *supra* note 57.

<sup>60</sup> *Housing Needs By State: Mississippi*, *supra* note 32.

larger proportion of household expenditures on transportation as compared to higher income households.<sup>61</sup>

### C. Tupelo Residents in Need of Support

Tupelo's affordable housing crisis disproportionately impacts its most vulnerable residents. More than 23%<sup>62</sup> of Lee County households earn less than 50% of the area median income, a condition known as "relative poverty." Significant proportions of Lee County households are elderly (15.4%)<sup>63</sup> or disabled (10.5%).<sup>64</sup> Nearly 40% of extremely low-income households in Mississippi are headed by a senior citizen or person with disability.<sup>65</sup> Black and Hispanic households are almost twice as likely as White households to face housing cost burdens.<sup>66</sup>

The percentage of cost-burdened households increases as income decreases. More than 80% of extremely low-income households in Mississippi are cost burdened, and 64% of those households are severely cost burdened.<sup>67</sup> For very low-income and low-income households, the share decreases to 70% and 46% respectively.<sup>68</sup>

The gap between the housing wage and the cost of rental housing in Lee County has been exacerbated by inflation and recent layoffs. In the American South, the consumer price index increased 8% between October 2021 and October 2022; gas prices spiked 9%; and electricity costs

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<sup>61</sup> *The High Cost of Transportation in the United States*, Institute for Transportation & Development Policy (May 23, 2019), <https://www.itdp.org/2019/05/23/high-cost-transportation-united-states/>.

<sup>62</sup> *Lee County*, Niche, <https://www.niche.com/places-to-live/c/lee-county-ms/residents/> (last visited Dec. 12, 2022).

<sup>63</sup> QuickFacts Lee County Mississippi, United States Census Bureau, <https://www.census.gov/quickfacts/fact/table/leecountymississippi,MS,US/PST045221> (last visited Dec. 1, 2022).

<sup>64</sup> *Id.*

<sup>65</sup> *Housing Needs By State: Mississippi*, *supra* note 32.

<sup>66</sup> *Housing Instability*, OASH (last accessed Dec. 4, 2022), <https://health.gov/healthypeople/priority-areas/social-determinants-health/literature-summaries/housing-instability#top>.

<sup>67</sup> *The Gap: Mississippi*, *supra* note 21.

<sup>68</sup> *Id.* (noting that 29% of very low-income households and 6% of low-income households are severely cost burdened).

increased 17%.<sup>69</sup> Wage increases across the country have not kept pace with increased prices for household staples and rental housing, and layoffs are undermining the ability of working Mississippians to afford safe and decent rental housing. United Furniture Industries, based in Lee County, announced the termination of nearly all of its workforce, including 2,700 furniture workers, two days before Thanksgiving of 2022.<sup>70</sup>

### **CONCLUSION**

For the forgoing reasons, the City's decision to approve Appellees' application to build Flowerdale Commons—an affordable multifamily housing community in Tupelo—was not arbitrary and should be affirmed.

December 10, 2022

Respectfully submitted,

s/ Paloma Wu

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<sup>69</sup> *Consumer Price Index, South Region – October 2022*, U.S. Bureau of Lab. Statistics [https://www.bls.gov/regions/southeast/news-release/consumerpriceindex\\_south.htm](https://www.bls.gov/regions/southeast/news-release/consumerpriceindex_south.htm) (last modified Nov. 10, 2022).

<sup>70</sup> *Mississippi Based Furniture Company Lays Off 2,700 Workers*, AP News (Nov. 23, 2022), <https://apnews.com/article/business-mississippi-layoffs-tupelo-18c019238fa5e763460da71f1222fd96>.

**CERTIFICATE OF SERVICE**

I hereby certify that on this day, I electronically filed the foregoing pleading or other papers with the clerk of the court using the MEC system which sent notification of such filing to all counsel of record.

Submitted this the 10th day of December, 2022.

s/ Paloma Wu

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Paloma Wu