

Disaster Housing Recovery Barriers For North Carolina's Low-Income Communities Already Impacted by Environmental Racism and Injustice

Samantha White

I. Overview

Housing deficits across the country demonstrate that low-income communities faced health, education, and employment concerns related to inadequate housing long before hurricanes or pandemics.¹ However, recent hurricanes, along with the Covid-19 disaster, have shown that these low-income communities on the frontlines of the housing shortage are also more vulnerable to disaster impacts due to historical and contemporary housing and disaster policies.² Now, in the face of compounding disasters, inequity in disaster housing recovery and the lack of diversity in both the emergency management and disaster response fields have become central to the national conversation.³

This paper will begin with a discussion of why low-income communities face heightened vulnerability based on existing affordable housing deficits and the consequences of residential segregation and the environmental racism that follows. Afterward, a few of the barriers faced by low-income residents in disaster housing recovery will be enumerated. Next, this paper will detail what these housing deficits and recovery barriers looked like in Robeson County, NC after Hurricanes Matthew and Florence, and will conclude with policy suggestions for improving disaster housing recovery systems in future.

¹ *The Gap: A Shortage of Affordable Homes 2020*, NAT'L LOW INCOME HOUS. COAL. (Mar. 2020), https://reports.nlihc.org/sites/default/files/gap/Gap-Report_2020.pdf.

² See Melba Newsome, *Housing instability exacerbates the pandemic for the most vulnerable*, N.C. HEALTH NEWS (Nov. 12, 2020), <https://www.northcarolinahealthnews.org/2020/11/12/housing-instability-exacerbates-the-pandemic-for-the-most-vulnerable/>.

³ *'Embed equity' in disaster response, experts say*, A.B.A. (Sept. 28, 2020), <https://www.americanbar.org/news/abanews/publications/youraba/2020/0928/embed-equity-in-disaster-response/>.

II. Vulnerability in instability - affordable housing deficits and residential segregation

Almost a million middle-income renters are cost burdened when it comes to housing – meaning they are spending over a third of their monthly income on housing alone – while those below the middle-income threshold number almost twenty million.⁴ These low-income communities face not only a severe lack of affordable, adequate housing⁵, but are also confronted with the reality that paying the monthly rent could mean not paying for necessary food or healthcare.⁶ Accordingly, not a single state “has an adequate supply of affordable and available homes for extremely low-income renters”⁷, and therein lies a central frustration of disaster housing recovery: housing that did not exist pre-disaster, is difficult to recover post-disaster.

In North Carolina, a state following the trend with over twenty-five percent of residents paying more than a third of their income for housing, there is a deficit of almost 200,000 available, affordable homes for extremely low-income renters.⁸ The increasing housing deficit in NC is partly thanks to housing prices driven up by a surge in population, with no thanks to stagnant wages and a dearth of funding sources.⁹ Moreover, local governments in NC are legally unable to compel developers to include affordable housing in development plans¹⁰ thanks to cases like *Lanvale Properties, LLC v. County of Cabarrus*¹¹ and state statutes that limit the

⁴ *The Gap*, *supra* note 1.

⁵ Sarah Saadian Mickelson et al., *Fixing America’s Broken Disaster Housing Recovery System, Part One: Barriers to a Complete and Equitable Recovery*, NAT’L LOW INCOME HOUS. COAL. (2020), https://nlihc.org/sites/default/files/Fixing-Americas-Broken-Disaster-Housing-Recovery-System_P1.pdf

⁶ *The Gap*, *supra* note 1.

⁷ *Id.*

⁸ Clayton Henkel, *Monday numbers: A closer look at North Carolina’s affordable housing crisis*, NC POL’Y WATCH (Aug. 12, 2019), <http://www.ncpolicywatch.com/2019/08/12/monday-numbers-a-closer-look-at-north-carolinas-affordable-housing-crisis/>.

⁹ See Ely Portillo, *Affordable housing seems like an intractable problem. Can these new strategies help?*, CHARLOTTE OBSERVER (Sept. 14, 2017, 07:31 AM), <https://www.charlotteobserver.com/news/business/biz-columns-blogs/development/article173113096.html>.

¹⁰ *Id.*

¹¹ *Lanvale Props., LLC v. Cnty. Of Cabarrus*, 366 N.C. 142 (2012).

authority of local governments.¹² This restraint of local authority directly curtails counties' and municipalities' ability to expand affordable housing without state or federal assistance.¹³ With no change in policy or funding yet pending and increased unemployment resulting from Covid-19, it is likely existing housing shortfalls in NC will only expand, combining high demand with increased debts to decrease overall affordability.¹⁴

When these housing accessibility issues are combined with residential segregation and the environmental racism that accompanies it, low-income communities are confronted with substantially elevated vulnerability to disaster impact.¹⁵ Although explicit, state-sponsored residential segregation policies like redlining were outlawed by the Fair Housing Act of 1968, their legacy continues in more than just ongoing discriminatory lending and banking practices.¹⁶

Land use, zoning, and environmental policies at all levels of government continue to allow for the concentration of low-income, minority communities in high-risk, low-value areas that invite a divestment in infrastructure and the introduction of industry.¹⁷ These neighborhoods commonly see lower property values and carry less political power, allowing for zoning ordinances that encourage large-scale projects (e.g., landfills, freeways).¹⁸ Low property values and little political power also likely mean poorer infrastructure, older or lower quality

¹² Frayda S. Bluestein, *Is North Carolina a Dillon's Rule State?*, COATE'S CANONS: NC LOCAL GOVERNMENT LAW (Oct. 24, 2012), <https://canons.sog.unc.edu/is-north-carolina-a-dillons-rule-state/>.

¹³ See Portillo, *supra* note 9.

¹⁴ See Maya Brenan et al., *Housing For North Carolina's Future: Policy Tools That Support Rural, Suburban, and Urban Success*, URBAN INST. (June 2020), https://www.urban.org/sites/default/files/publication/102473/housing-for-north-carolinas-future_0.pdf.

¹⁵ See Casey Berkovitz, *Environmental Racism Has Left Black Communities Especially Vulnerable to Covid-19*, CENTURY FOUNDATION (May 19, 2020), <https://tcf.org/content/commentary/environmental-racism-left-black-communities-especially-vulnerable-covid-19/>.

¹⁶ Meg Anderson, *Racist Housing Practices From The 1930s Linked To Hotter Neighborhoods Today*, NPR (Jan. 14, 2020, 2:38 PM), <https://www.npr.org/2020/01/14/795961381/racist-housing-practices-from-the-1930s-linked-to-hotter-neighborhoods-today>

¹⁷ See *id.*

¹⁸ Berkovitz, *supra* note 15.

construction, and fewer resources to provide flexibility and resiliency.¹⁹ This cycle creates a feedback loop: large-scale, industrial projects keep property values low and low property values ensure low wealth and investment, guaranteeing that these communities maintain a high level of vulnerability to disaster impacts with few resources to recover in the aftermath.²⁰

III. Barriers in housing recovery systems that slow recovery in low-income communities

The vulnerabilities that existing housing practices create mean the residents with the least stable access to housing and resources are those most likely to face significant harm to person, property, and livelihood when disaster strikes.²¹ The cost-benefit and one-size-fits-all methodologies of disaster housing recovery enhance these vulnerabilities by ensuring the same communities are also those least likely to receive adequate, if any, assistance post-disaster.²²

A. The consequences of cost-benefit analysis motivated housing recovery practices

Disaster recovery funding is often dispersed not according to need, but according to a cost-benefit analysis system meant to limit fraudulent claims and ensure the most cost-efficient use of taxpayer money.²³ Often, this leads to affluent, mostly white neighborhoods with higher property values receiving more aid more quickly, while low-income communities struggle to get the same funding because of low property values induced by the residential segregation feedback loop.²⁴

¹⁹ *See id.*

²⁰ *See id.*

²¹ Mickelson, *supra* note 5.

²² *See id.*

²³ Rebecca Hersher & Robert Benincasa, *How Federal Disaster Money Favors The Rich*, NPR (Mar. 5, 2019, 5:00 AM), <https://www.npr.org/2019/03/05/688786177/how-federal-disaster-money-favors-the-rich>.

²⁴ *Id.*

Research in Louisiana and Mississippi following Hurricane Katrina demonstrates that even funding legally required to go to low-income communities can be redirected post-disaster.²⁵ In that instance, the requirement of providing a certain percentage of Community Development Block Grants (“CDBG”) from the U.S. Department of Housing and Urban Development (“HUD”) was waived to allow more funding to be funneled into rebuilding for homeowners.²⁶ This waiver allowed state and local governments to prioritize “higher value” communities at the expense of low- and middle-income renters because the cost-benefit analysis did not favor the latter.²⁷

It is in part due to this precise system in which federal funding favors homeowners over renters, who are provided fewer resources in the face of scant options and high prices post-disaster.²⁸ Aware of this imbalance, the Federal Emergency Management Agency (“FEMA”) has a disaster housing assistance program specifically crafted for low-income renters, but FEMA did not deploy this program during the Trump administration, and so low-income renters were left with even fewer avenues to adequate assistance.²⁹

Other funding sources available also favor higher income communities: loans require good credit, which low-income communities have little access to; and other programs center on tax refunds, which are based on earnings and realistically only help those with high pre-disaster incomes.³⁰ Additionally, low-income families are constrained by employment, financial, and

²⁵ See Kevin Fox Gotham, *Reinforcing Inequalities: The Impact of the CDBG Program on Post-Katrina Rebuilding*, HOUS. POL’Y DEBATE (Jan. 28, 2014), https://www.researchgate.net/publication/271929615_Reinforcing_Inequalities_The_Impact_of_the_CDBG_ProgrPr_on_Post-Katrina_Rebuilding.

²⁶ *Id.*

²⁷ *Id.*

²⁸ See Mickelson, *supra* note 5.

²⁹ See Zack Colman & Daniel Cusick, *2 towns, 2 storms and America's imperiled poor*, E&E NEWS (Oct. 1, 2018), <https://www.eenews.net/stories/1060100111/print>.

³⁰ See Hersher, *supra* note 23.

transportation factors that provide them less of the flexibility necessary to seek out all possible funding options, frequently leaving them with less wealth post-disaster.³¹

B. Drawbacks of a one-size-fits-all recovery system

The current disaster housing recovery system caters particularly to those with the resource capacity to prepare for and mitigate against potential damage; there is little, if any, accommodation for the lived realities of low-income households within the one-size-fits-all recovery narrative.³² For example, mitigation measures such as FEMA’s National Flood Insurance Program (“NFIP”) are less accessible to low-income renters who are both more likely to live in vulnerable flood zones and less likely to be able to afford high NFIP premiums, creating even more dependence on ineffective, exclusionary government recovery systems.³³

The one-size-fits-all nature of NFIP and other federal recovery resources can also serve as notable barriers when they also conflict with local land use and zoning laws or building codes.³⁴ These ordinances are necessarily unique because they are based on the realities of the local community, economy, and geography rather than a national average, and therefore can conflict with average-based federal requirements³⁵ Additionally, zoning requirements like limiting multi-family housing in more affluent areas – those that are also likely lower risk geographically – explicitly limit housing recovery post-disaster by limiting where affordable housing such as public housing developments can be relocated and rebuilt.³⁶

³¹ *See id.*

³² *See* Hersher, *supra* note 23.

³³ *See* Meredith Doswell, *The Future of Flood Insurance and its Environmental Justice Implications on North Carolina’s Low-Income Communities*, ENV’T LAW SYMP. (2020), <http://studentorgs.law.unc.edu/documents/elp/2020/doswell.pdf>.

³⁴ *See* Donovan Finn & John Travis Marshall, *Local Governments’ Hidden Barriers to Disaster Recovery*, GOVERNING (June 6, 2018), <https://www.governing.com/gov-institute/voices/col-local-governments-hidden-barriers-disaster-recovery-zoning-building-codes.html>.

³⁵ *Id.*

³⁶ *See Democratizing Resilience & Disaster Recovery Initiative: A Roadmap for Community Resilience*, ENTERPRISE (Mar. 2020), <https://www.enterprisecommunity.org/download?fid=13375&nid=10163>.

In a similar one-size-fits-all mindset, low-income homeowners also face inflexible requirements in proving land ownership, something most middle- and high-income homeowners do not have to consider.³⁷ Particularly in southern states, low-income families lack access to legal representation and sometimes pass down land with no legal documentation, leaving them in the grey area of heirs' property – a legal process where those descended from the original owner inherit part ownership of the land.³⁸ Many of these families assume the land is rightfully owned but lack any formal deed or title documentation required by federal and state agencies (like ReBuild NC³⁹) to ensure access to recovery funding.⁴⁰ Even though heir property issues are fairly common throughout the South, these agencies rarely allow low-income households to show ownership through other means.⁴¹

As a result, a slow, complex, and difficult to navigate buyout or elevation process often faces those homeowners whose homes have become unsellable or uninhabitable.⁴² Again, little to no consideration is given to a lack of access to legal counsel and political power, the presence of either of which can often hasten the process of navigating post-disaster relief for higher income communities.⁴³ Likewise, a lack of information and the impossibility of waiting multiple years for necessary improvements or funds generally discourages low-income residents from accessing these processes in the first place.⁴⁴ Furthermore, impacted cities and local

³⁷ Lizzie Presser, *Their Family Bought Land One Generation After Slavery. The Reels Brothers Spent Eight Years in Jail for Refusing to Leave It.*, PROPUBLICA (July 15, 2019), <https://features.propublica.org/black-land-loss/heirs-property-rights-why-black-families-lose-land-south/>.

³⁸ *Id.*

³⁹ *Required Forms and Documentation: Online Application Development*, REBUILD NC (May 13, 2020), https://files.nc.gov/rebuildnc/Images/homeowner-recovery/Required-Forms-and-Documentation-Guide-_5-13-20_508.pdf.

⁴⁰ *See id.*

⁴¹ *See id.*

⁴² *See* Hersher, *supra* note 23.

⁴³ *See id.*

⁴⁴ *See id.*

governments are the ones forced to pay buyout and mitigation costs upfront, and then wait for FEMA’s Hazard Mitigation Grant Program (“HMGP”) to potentially, eventually reimburse them.

⁴⁵ This slows the progress of local projects and creates a circuitous recovery system reliant on federal scheduling rather than local need.⁴⁶

IV. Vulnerability and Structural Barriers in Robeson County, North Carolina

As a community where almost a quarter of the majority minority residents – forty-two percent identifying as Native American, twenty-three percent as African American – are categorized as living in poverty, Robeson County in southeastern NC faces many of these barriers.⁴⁷ Over a quarter of the county’s residents are cost-burdened – spending more than one-third of their income on housing – while almost half of Robeson’s renters struggle to afford their monthly rent.⁴⁸ In reference to communities like Robeson, a Center for American Progress report posits that, “systemic and historic disparities in North Carolina, driven by discriminatory zoning, housing discrimination, the longstanding practice of concentrating sources of pollution in low-income communities and communities of color, among other unjust policies, have exacerbated the risks and impacts of . . . flooding . . . and other climate change impact[s]”⁴⁹

In line with historical and contemporary practices, cities in Robeson County such as Lumberton were built along racial lines.⁵⁰ White, affluent downtown areas were built on higher ground while African American communities were pushed into floodplains near the Lumber

⁴⁵ T.C. Hunter, *Mitigation work plods slowly along*, ROBESONIAN (June 7, 2019), <https://www.robsonian.com/news/124041/mitigation-work-plods-slowly-along>

⁴⁶ *See id.*

⁴⁷ *Quick Facts: Robeson County, North Carolina*, U.S. CENSUS BUREAU (July 1, 2019), <https://www.census.gov/quickfacts/fact/table/robesoncountynorthcarolina#>.

⁴⁸ Henkel, *supra* note 8.

⁴⁹ Jennifer Allen, *Report Links Racial, Environmental Justice*, COASTAL REV. ONLINE (Sept. 9, 2020), <https://www.coastalreview.org/2020/09/report-links-racial-environmental-justice/>.

⁵⁰ Colman, *supra* note 29.

River – a development pattern that has survived to today.⁵¹ Moreover, low-income communities in Robeson County wrestle with myriad environmental justice issues ranging from large-scale hog farming to industrial groundwater contamination that make residents disproportionately vulnerable to stagnated recovery processes due to the state and local government sanctioned toxicity of the floodwaters inundating their homes.⁵² Absence of local authority over private business compounded these concerns when CSX Transportation was allowed to stonewall attempts to fill in a gap in the levee that existed along their railroad, resulting in the flooding of hundreds of homes after both Hurricanes Matthew and Florence in 2016 and 2018 respectively.⁵³

Devastated communities like Lumberton were then hindered in their recovery efforts by the sluggish state dispersal of CDBG funding to middle- and low-income residents post-disaster.⁵⁴ This “slow spending” was largely due to a bureaucratic failure to prepare: the state struggled to meet preset federal assessment requirements from HUD and the U.S. Environmental Protection Agency, lacked a specific agency responsible for the dissemination of funds, and had a dearth of local experts well-versed in managing CDBG’s.⁵⁵ These factors meant that when funding was provided, it passed through multiple, inexpert agencies, creating an unwieldy, inefficient, and largely ineffective system.⁵⁶ The establishment of the NC Office of Recovery and Resiliency and realization of federal requirements brought spending “on pace” according to

⁵¹ *Id.*

⁵² Lisa Sorg, *Waiting to exhale: Controversial wood pellet plant would burden Lumberton with more pollution*, NC POL’Y WATCH (Apr. 27, 2020), <http://www.ncpolicywatch.com/2020/04/27/waiting-to-exhale-controversial-wood-pellet-plant-would-burden-lumberton-with-more-pollution/>.

⁵³ Natalie Keyssar & Alleen Brown, *Devastated by One Hurricane, and Then Another, a Community Confronts the Company That Refused to Block the Floodwaters*, THE INTERCEPT (June 2, 2019, 9:00 AM), <https://theintercept.com/2019/06/02/lumberton-north-carolina-hurricane-matthew-florence-flooding-csx/>.

⁵⁴ See, Adam Wagner, *HUD says North Carolina’s long-criticized disaster spending is finally ‘on pace’*, NEWS & OBSERVER (Oct. 16, 2019, 06:00 AM), <https://www.newsobserver.com/news/weather-news/article236246148.html>.

⁵⁵ *See id.*

⁵⁶ *See id.*

HUD⁵⁷, but that spending has been insufficient to get low-income families into permanent housing.⁵⁸

The funding federal and state agencies have allocated has struggled to get to those most in need; for instance, funding allocated by HUD was earmarked for a subsidized rental scheme that many low-income households could not afford, rendering the funds virtually useless for their intended purpose.⁵⁹ Additionally, ReBuild NC's strict requirement of a deed or title as proof of ownership⁶⁰ likely limited access to funding by the sizeable amount of affordable housing categorized as 'heir property' that was affected throughout NC, including in Robeson County.⁶¹

Compounding an overall lack of available funds is a significant affordable housing deficit: two entire public housing developments damaged during Hurricane Matthew remain empty after the local housing authority called for their replacement on higher ground, the cost of which is not covered by the housing authority's flood insurance and the movement of which is challenging provided zoning requirements and overall cost of construction.⁶² Furthermore, private businesses have augmented the local shortage by buying up impacted properties and increasing the rent, sometimes by more than three times, with limits on municipal authority leaving local governments powerless to intervene.⁶³

⁵⁷ See *id.*

⁵⁸ See Sayma Khajehei, *Recovery challenges of public housing residents after disasters: Lumberton, North Carolina after Hurricane Matthew*, IOWA STATE UNIV. (2019), <https://lib.dr.iastate.edu/cgi/viewcontent.cgi?article=8490&context=etd>.

⁵⁹ *Id.*

⁶⁰ *Required Forms*, *supra* note 39.

⁶¹ See Mai Thi Nguyen et al., *Recovering Affordable Housing in Eastern North Carolina Post-Hurricane Matthew: A Strategy Forward*, UNC CHAPEL HILL (Aug. 31, 2017), <https://coastalresiliencecenter.unc.edu/files/2018/09/Affordable-Housing-Strategy-for-Eastern-NC.pdf>.

⁶² Khajehei, *supra* note 58.

⁶³ See Amanda Morris, *Mobile Home Residents Hit With Soaring Rent After Hurricanes*, CLAIMS J. (July 11, 2019), <https://www.claimsjournal.com/news/southeast/2019/07/11/291901.htm>.

Even Robeson County residents who own their homes and qualify for assistance struggle to access funding.⁶⁴ Only about a quarter of the 400 Lumberton residents who applied for a buyout or elevation through FEMA’s HMGP were approved; those who were not were forced to refocus their efforts on CDBG’s and other funding sources while their homes remained uninhabitable and unsellable.⁶⁵ Even residents who were approved face uncertain wait times and remain dependent on appraisals, further approvals, in addition to the city’s struggles to find funding piecemeal based on FEMA’s reimbursement schedule.⁶⁶

The convoluted recovery mechanisms, lack of authority of local government, and diminished value placed on low-income communities have led to a lower prioritization of funding for public and affordable housing recovery.⁶⁷ Many homeowners and renters alike remain without permanent housing even now, with some communities displaced entirely⁶⁸ as federal, state, and local governments continue to rebuild within the cost-benefit model that made these communities so vulnerable in the first place.⁶⁹

V. Policy suggestions for equitable housing recovery

The current disaster housing recovery system is broken; it cannot provide the assistance, resources, or even information needed by low-income communities to secure permanent, affordable, adequate post-disaster housing.⁷⁰ Policy suggestions to address these inadequacies, protect low-income communities, and advance an equitable disaster housing recovery model have been proposed by organizations like NLIHC and include:

⁶⁴ See Hunter, *supra* note 45.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Khajehei, *supra* note 58.

⁶⁸ Morris, *supra* note 63.

⁶⁹ See Khajehei, *supra* note 58.

⁷⁰ Mickelson, *supra* note 5.

- involving affordable and public housing advocates, alongside low-income community members, in the disaster preparedness, response, and recovery planning processes⁷¹;
- using risk-mitigation in lieu of market- and cost-based analysis to promote more equitable distribution of funds and recovery assistance⁷²;
- simplifying and demystifying FEMA’s disaster recovery funding requirements⁷³;
- increasing state and local capacity to oversee recovery and rebuilding processes⁷⁴;
- recognizing the continuance of entrenched residential segregation as contrary to the legal fair housing requirements of the CDBG’s⁷⁵;
- prioritizing the repair of inadequate infrastructure in low-income communities⁷⁶; and
- using mapping and social vulnerability tools to ensure zoning practices and development are not concentrating low-income communities in high-risk areas.⁷⁷

The above recommendations, along with increasing diversity within the housing and emergency management fields, are essential to addressing this broken system, but the need for solutions goes much deeper.⁷⁸ Emergency management professionals, planners, housing officials, and others involved in the process have to be educated on what creates increased vulnerability and the impacts of America’s history of racist planning and response policies if the disaster housing recovery system is truly to function equitably for all involved, especially low-income communities impacted by environmental racism and injustice.⁷⁹

⁷¹ Khajehei, *supra* note 58.

⁷² *See id.*

⁷³ *See* Mickelson, *supra* note 5.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ Khajehei, *supra* note 58.

⁷⁸ *See* ‘Embed equity’, *supra* note 3.

⁷⁹ *See id.*