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THE ROLE OF TAX INCENTIVES IN AFFORDABLE HOUSING

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BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

SECOND SESSION

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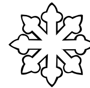

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THE ROLE OF TAX INCENTIVES IN AFFORDABLE HOUSING

WEDNESDAY, JULY 20, 2022

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10 a.m., in Room SD–215, Dirksen Senate Office Building, Hon. Ron Wyden (chairman of the committee) presiding.

Present: Senators Carper, Cardin, Brown, Bennet, Casey, Warner, Hassan, Cortez Masto, Crapo, Thune, Portman, and Young.

Also present: Democratic staff: Adam Carasso, Senior Tax and Economic Advisor; and Joshua Sheinkman, Staff Director. Republican staff: Jamie Cummins, Tax Counsel; Catherine Fuchs, Senior Counsel; Gregg Richard, Staff Director; and Jeffrey Wrase, Deputy Staff Director and Chief Economist.

OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The Finance Committee meets this morning to discuss housing. This hearing comes at a time when Americans are getting clobbered by climbing rents and home prices, key drivers of inflation.

Data released last week showed that rents increased in June at the fastest rate since 1986. Buying a home is getting more expensive. Many young people who have modest incomes or big student loan debt feel like the dream of home ownership has slipped out of their reach.

The root cause is the United States is not building enough housing. It has been that way for decades, and the shortage is affecting citizens and cities all over America. For example, my hometown of Portland has skyrocketing rents and low supply of suitable housing. It is also an issue though in central Oregon, southern Oregon, and eastern Oregon, where they cannot build enough housing fast enough to keep up with demand. I would be willing to bet that every member on this panel is hearing the same story.

Now, we are going to talk about a number of issues this morning, and I would just like to raise a relatively new issue that deserves real scrutiny, and that is: private equity firms and sophisticated companies armed with terabytes of housing data are hoovering up properties nationwide. They are jacking up rents. They are using algorithms to outbid Americans who just want to own a home.

Why do these big guys want to get into our housing market? Because there are upward of 330 million people in the country, and

there are not enough homes for all of them. Huge demand, limited supply—typically, people on a budget are going to come out on the losing end of that sort of thing every time.

The cost of housing is also pushed up by the snarls of State and local red tape. Zoning rules too often ban the kind of construction that is most needed and perpetuate segregation. In some places it can take years of tireless work to get a ruling on permits and approval for new construction, and then you have the big up-front costs.

Fortunately, my home State of Oregon is one of the States that is stepping up on this issue. Others need to do the same. It is also a fact that when housing costs go up, homelessness goes up. You can save a lot of individual suffering and taxpayer dollars tomorrow by building more affordable housing today.

The bottom line when it comes to housing? The U.S. needs to build and then build some more. The Finance Committee plays an important role in helping get shovels in the ground. That's because much of housing policy deals with tax policy.

I have proposed the DASH Act, the Decent, Affordable, and Safe Housing for All bill. It is about getting help to the most vulnerable: children and families experiencing homelessness. It would also create a credit for more affordable rental units; boost LIHTC, the Low-Income Housing Tax Credit; and encourage the construction of more middle-income housing, without taking a single penny away from LIHTC. Local officials in Oregon tell me they badly need more incentives to build housing for middle-class families.

The Finance Committee has had a bipartisan coalition working on important housing issues for a long time. In recent years Senator Cantwell has been the champion of LIHTC, leading big legislative expansions that are creating more than 150,000 new affordable homes. I think she would agree that that is a good down payment for housing—at the same time, recognizing there is lots and lots more to do.

There is another proposal, the Affordable Housing Credit Improvement Act, which I am proud to cosponsor with Senator Young and one of our colleagues who is here, Senator Portman. That bill adds even more punch and even more flexibility to building even more housing—an estimated 2 million new units nationwide.

Senator Cardin and Senator Portman have also proposed an important bill called the Neighborhood Homes Investment Act that would be a big magnet for new affordable housing in struggling communities that very much need it.

And finally, thanks to my seat mate here, Senator Crapo, we continue our bipartisan work with Senator Leahy, Senator Collins, and I, offering the LIFELINE Act. Our bill creates more flexibility for States, local governments, and Tribes to use existing funds to get more affordable housing built. With costs where they are today, the alternative is a whole lot of unfinished construction and plans that stall out before they get out of the gate.

Finally, while there is bipartisan interest in getting this approach done legislatively, the Treasury also has substantial authority to accomplish a lot of what we are seeking to do on their own with rule changes.

So today we are going to make sure that the direction is getting the Congress and the Treasury Department to move more quickly together. And getting it done will provide important progress, again ensuring access to more opportunities for affordable housing. There are lots of ideas to talk about.

Every member of this committee has an interest in this. So, I hope we will not be here eating our cereal tomorrow morning in the Finance room, but I can tell you a lot of our colleagues have lots of interest and look forward to our discussion.

And I want to again thank Senator Crapo for his good work on another important issue.

[The prepared statement of Chairman Wyden appears in the appendix.]

OPENING STATEMENT OF HON. MIKE CRAPO, A U.S. SENATOR FROM IDAHO

Senator CRAPO. Thank you, Senator Wyden. And I appreciate your holding this hearing, as you are highlighting once again another of the bipartisan issue areas we are building a strong record in this committee of working on, and this is important.

Last week we learned that consumer price inflation spiked to 9.1 percent, the highest rate in more than 40 years. The shelter component of the consumer price index was up 5.6 percent in June relative to a year earlier, and rents were up by nearly 6 percent.

To continue battling inflation, which was fueled by last year's partisan American Rescue Plan, the Federal Reserve must aggressively raise interest rates, and may raise rates later this month by as much as a full percent.

Inflation must be contained, or we run the risk of the Fed having to repeat what it did in late 1980 to combat runaway inflation. Painfully then, overnight interest rates were driven to nearly 20 percent, which crushed economic activity, including housing markets, and helped lead to a deep and long recession.

With higher interest rates set by the Fed, higher mortgage rates follow, making it all the more challenging for Americans to buy homes. Housing affordability is a critical issue in Idaho and all across the country.

Nationwide, there is a shortage of about 7 million affordable rental homes available to lower-income Americans, and the gap between demand and supply increases each year. To provide more affordable housing, there are existing tools in the tax toolbox that provide incentives for builders to create more affordable homes.

The Low-Income Housing Tax Credit or LIHTC, for example, is responsible for generating a majority of all affordable rental housing created in the United States today and generally enjoys bipartisan support in Congress.

In Idaho, there are currently 284 LIHTC projects located across the State, providing 12,000-plus units. These projects vary in size and are split roughly between urban and rural, with about 72 percent targeted toward families and 28 percent for seniors and the elderly. One such project is the Valor Pointe Apartments in Boise, which targets chronically homeless veterans.

Several members of this committee have been active in working to improve existing affordable housing credits and to create new in-

centives—and as I indicated, on a bipartisan basis. Senators Young and Cantwell, as well as several other members, introduced the Affordable Housing Credit Improvement Act, which would expand and strengthen LIHTC for developing and preserving affordable housing.

Senators Portman and Cardin introduced the Neighborhood Homes Investment Act, which would create a Federal tax credit that covers the cost difference between building or renovating a home in urban and rural areas. Numerous other Finance Committee members are also interested in finding affordable housing solutions, and I thank all of them for their work.

While LIHTC and other credits are a part of the solution to developing affordable housing, we must address other drivers that are increasing housing costs generally. Foremost in the current economy is the need to reduce inflation. Unfortunately, it has been allowed to run rampant, and necessary Federal Reserve actions will probably raise the cost of housing. Builders are also feeling inflation's effect through more expensive building materials. And, painfully high fuel prices continue to put even more pressure on builders' budgets, making it even more expensive to get materials to the construction sites.

Additionally, several economic factors have led to a shortage of affordable housing. One way to alleviate the shortage would be to look into more manufactured housing. During his time at HUD, former Secretary Carson created the Office of Innovation to evaluate new ways to provide housing, and in doing so highlighted the improved efficiency and suitability of manufactured homes.

Zoning laws and regulatory barriers, which are often uncoordinated, unnecessary, or overly cumbersome, also present challenges to affordable housing by creating excessive costs that restrain development of affordable housing. Many of the markets with the most severe shortages in affordable housing have the most restrictive State and local barriers to development.

We must work to reduce regulatory barriers, which requires outside-the-box approaches, as well as teamwork from local, State, and Federal Governments, and the private sector. This includes initiatives like Opportunity Zones that were part of the Tax Cuts and Jobs Act, an area where Senator Scott has done a great deal of good work.

Data released as recently as March of 2022 by the Opportunity Zone Fund Directory shows that $49.18 billion has been committed to anticipated investments, and 60 percent of those funds target investments in affordable housing and community development.

Homes are more than just physical structures. Homes are a foundation for wealth building, family stability, and community cohesiveness. It is critical that we make the American dream of home ownership as attainable for as many people as possible, which will continue to foster the economic success of the Nation.

I look forward to discussing ways to ensure affordability and accessibility of home ownership with today's witnesses. And I thank you all for being here.

Thank you, Mr. Chairman.

[The prepared statement of Senator Crapo appears in the appendix.]

The CHAIRMAN. Thank you, Senator Crapo, and you are spot-on in saying this is another area where we have an opportunity to lead the committee to some bipartisan solutions.

Let me go to our witnesses. Andrea Bell is here from Oregon. It is so good to have you here. She is the Executive Director of Oregon Housing and Community Services. She has served in differing capacities there since 2019. Previously Ms. Bell was the Housing Administrator for the Medicaid Health Plan. So, we are very glad you are here.

Our second witness—we welcome him; he has worked very closely with us over the years—is Jerry Konter, the chairman of the National Association of Home Builders. He has spent 45 years building homes and commercial buildings in Savannah, GA. We are very pleased that he and the Home Builders are participating.

Our third witness is Lee Ohanian, senior fellow at the Hoover Institution and distinguished professor of economics at the University of California, Los Angeles. I would just say to Dr. Ohanian, my late mother worked at the Hoover Institution for many years and, with the ultimate compliment, some of the executives said, “Mrs. Wyden is so good, but she still is a Democrat.” So, we are very pleased that you are here.

Our fourth witness is Benson (Buzz) Roberts—we welcome you—president and CEO of the National Association of Affordable Housing Lenders. Previously Mr. Roberts was a Treasury official working in this area. He has considerable expertise, and so we appreciate his leadership.

Our fifth witness will be Ms. Dana Wade. She is the chief production officer at Walker and Dunlop. Ms. Wade previously served as the Commissioner of the Federal Housing Administration in 2020. She also has extensive experience in the executive branch at Management and Budget, but she also has Senate roots—the Senate Committee on Banking. So we welcome her.

Because we are going to have so many Senators to participate, we are going to have to stick really closely to the 5-minute rule.

Ms. Bell, you traveled the furthest.

STATEMENT OF ANDREA BELL, DIRECTOR, OREGON HOUSING AND COMMUNITY SERVICES, SALEM, OR

Ms. BELL. Wonderful. Well, thank you, Mr. Chairman and Ranking Member Crapo, and members of the committee. First, I just want to acknowledge and appreciate the opportunity to testify on the vital role that tax incentives play in our Nation’s affordable housing delivery system.

Again, for the record, I am Andrea Bell, Director of Oregon Housing and Community Services. We serve as the State of Oregon’s Housing Finance Agency.

First off, Mr. Chairman, thank you for your steadfast leadership for many years, and continuously elevating the needs of the people of Oregon and their housing needs collectively.

Senator Crapo, I also want to acknowledge and just uplift your support for affordable housing. Your leadership certainly does not go unnoticed.

For years our Nation has not built enough rental housing, but the conditions and circumstances spurred by the pandemic have

made our housing crisis particularly acute, and individuals with low incomes, individuals and families with moderate incomes, are bearing the brunt of that impact.

With rising interest rates, escalating home prices, skyrocketing rents due to the mismatch between supply and demand, many would-be homeowners are often left renting. And more than 70 percent of extremely low-income renters across the United States were spending more than half of their income on housing in 2021—70 percent. That is 70 percent of individuals who have to make tough decisions every single month throughout the year about what bills they will be able to pay, and how they are going to get by.

The Housing Credit and Housing Bonds are by far the most essential production tools that we have at our disposal. Affordable housing simply relies on these programs. The Housing Credit specifically is a highly successful public and private partnership. And what we know is, when we stabilize individuals and we stabilize families, we also stabilize communities, which has an economic benefit.

In the State of Oregon, nearly 70 percent of all rental homes financed in the last 5 years relied on bonds. Costs are increasing due to inflation, supply chain disruptions, many things that I know that members of this committee are fully aware of.

Housing finance agencies and our partners across the Nation are doing everything that we can to prevent deals from falling through. But the unfortunate reality is that sometimes financing gaps are simply too large, and in some cases there are no resources to pull from to help cure the financing gaps.

The most impactful thing that Congress can do is to pass Senator Cantwell's Affordable Housing Credit Improvement Act. It would both expand and strengthen the Housing Credit. It would significantly increase the Housing Credit authority, allowing us to build more properties like River Bend Place in rural Ontario, OR.

The Affordable Housing Credit Improvement Act would also provide States greater flexibility to spread existing bond resources to more developments by reducing the bond financing test from 50 percent to 25 percent.

I also urge Congress to pass the bipartisan LIFELINE Act introduced by Senators Leahy and Collins. This bill would enable States and localities to most effectively use Federal fiscal recovery funds to fill financing gaps in Housing Credit developments.

I also quickly want to mention two pieces of legislation that the Finance Committee should take up on means of home ownership. Senator Cortez Masto's Affordable Housing Bond Enhancement Act would enact simple and impactful improvements to the Mortgage Revenue Bond and Mortgage Credit Certificate programs, which are essential to serving low- and moderate-income first-time home buyers. This is again creating pathways to home ownership, a dream that many of us have.

Senator Cardin's and Portman's Neighborhood Homes Investment Act would establish a new tax credit modeled after the highly successful Housing Credit. Simply put, the housing crisis simply will not get better if Congress does not act.

In my last few seconds, I would just both urge and elevate my appreciation for this committee, and we need Congress to act. The

action is going to come after this hearing and what decisions the committee will be able to make in service to the American people.

I appreciate the time.

[The prepared statement of Ms. Bell appears in the appendix.]

The CHAIRMAN. Well said. Thank you.

Let's go next to Mr. Konter.

STATEMENT OF JERRY KONTER, FOUNDER AND PRESIDENT, KONTER QUALITY HOMES; AND CHAIRMAN OF THE BOARD, NATIONAL ASSOCIATION OF HOME BUILDERS, WASHINGTON, DC

Mr. KONTER. Good morning, and thank you for the opportunity to testify today.

Every American deserves access to safe, decent, and affordable housing. Even after over 40 years in business, I still enjoy nothing more than handing over keys to the first-time buyer.

Delivering an entry-level product is difficult. Sixty-nine percent of American households cannot afford the median price, but a year ago, nearly one quarter of new homes were priced under $300,000. Today, it is 10 percent.

We also face challenges with minority home-ownership opportunities. Of households under the age of 35, which is your typical first-time buyer, 46 percent of White households owned a home, but only 17 percent of African American households did so. And as a multifamily developer, I also understand how affordable rental housing creates stability for tenants.

The housing affordability crisis is a result of failing to produce enough housing to match demand. If we are going to solve our housing affordability crisis, we must drive down the cost to build, as well as the cost to own or rent. Well-structured housing tax incentives can help achieve this.

Many of these incentives that serve the public interest remain effective, including the Low-Income Housing Tax Credit. However, others have failed to keep up with changes to the tax code, such as the mortgage interest deduction.

For over 100 years, the MID made home ownership more accessible. But the MID remains rooted in an increasingly outdated space in the tax code—itemized deductions.

The change brought by the Tax Cuts and Jobs Act—namely, doubling the standard deduction—significantly reduced the number of taxpayers who itemize. Prior to those reforms, typically 70 percent of homeowners with a mortgage claimed MID. Today, that number has dropped below 27 percent.

In 2017, 80 percent of the MID was deducted by taxpayers earning less than $200,000. In 2018, that fell to 58 percent. The MID is simply missing the mark. The most effective way to promote and enable home ownership is to eliminate the mortgage interest deduction and replace it with a tax credit. A 15-percent tax credit claimed against mortgage interest and real estate taxes paid would offer a more effective and progressive tax incentive.

The credit should be phased out for single filers with incomes above $250,000 and joint filers with incomes above $500,000. A credit structured along these lines can be enacted on a revenue-neutral basis starting in the 2026 tax year.

In the next few years, many of the provisions enacted in 2017 will expire. This presents an opportunity to refocus the homeownership tax incentives so that the benefit flows to those who need it: middle-class, lower-income Americans from all backgrounds.

We also recommend enacting the Affordable Housing Credit Improvement Act to boost production of affordable rental housing, and we support Chairman Wyden's proposal for a middle-income housing tax credit which addresses a growing need for affordable workforce rental housing.

Congress should also address the many housing incentives that are not indexed for inflation, such as the capital gains exclusion. And we urge you to reconsider the current limits on the SALT deduction.

NAHB greatly appreciates the bipartisan Senate support to solve our affordable housing crisis. After all, shelter is a basic human need. And the headwinds we are facing are strong. The index of builder sentiment had its second largest drop ever for July, and single-family starts fell to a 2-year low.

We have an opportunity to do something that not only makes good economic sense but will uplift the lives of millions of Americans.

Thank you.

[The prepared statement of Mr. Konter appears in the appendix.]

The CHAIRMAN. Thank you very much for important points, and I note that you are the president of your own homebuilding firm, so we are very glad that you are here.

Our next witness will be Dr. Lee Ohanian.

STATEMENT OF LEE E. OHANIAN, Ph.D., SENIOR FELLOW, HOOVER INSTITUTION, STANFORD UNIVERSITY; AND DISTINGUISHED PROFESSOR OF ECONOMICS, UNIVERSITY OF CALIFORNIA, LOS ANGELES, LOS ANGELES, CA

Dr. OHANIAN. Chair Wyden, Ranking Member Crapo, and members of the Finance Committee, thank you for inviting me to testify today.

Significantly increasing housing affordability requires progress on two fronts. One is expanding housing supply. The other is building new housing at much lower costs than current cost levels. There are policy reforms that may be implemented using government incentives that would advance these goals. Today I will focus on two reform areas.

One is increasing the use of manufactured housing, which is much less expensive to build than traditional housing. The other is in the process of building subsidized housing, which has become very expensive in some States, including my State of California.

Residential construction costs are high in part because the process of homebuilding has not changed all that much over time compared to other sectors in the economy. It has not advanced nearly as much as modern production methods.

Interestingly, this point has been made within the Federal Government for at least the last 85 years. Now, in terms of documenting how construction costs are so high, I note that the Bureau of Labor Statistics reports labor productivity growth in residential

construction grew just 11 percent between 1987 and 2016. This stands in sharp contrast to a 150-percent productivity growth in durable manufacturing over the same period, which reflects substantial and continued technology innovations in our factories that lower costs.

Manufactured homes are much lower-cost alternatives to traditionally built homes. The use of factory-built homes produces modern cost-saving technologies. Census data shows that production costs of manufactured homes are about 60 percent lower than traditionally built homes.

Because of substantially lower costs, manufacturing housing production boomed after World War II, accounting for about 60 percent of construction in 1972. But since then, regulatory burdens have reduced this adoption. Removing these burdens could substantially increase this importance.

One important HUD requirement is that these homes sit on a permanent chassis. This imposes a negative aesthetic on the home, as they are pejoratively labeled as mobile homes or trailers. The undesirable aesthetic of a home placed on a chassis induces cascading negative effects, including local zoning ordinances excluding manufactured housing from many neighborhoods. This means these homes are often placed in mobile home parks, which in turn means they are financed with personal loans or chattel loans, both of which tend to be more expensive than longer-duration traditional mortgages, and neither of which would provide homeowners with mortgage interest tax deductibility.

Recommendations to reduce burdens placed on manufactured housing date back at least to President Reagan's 1982 Housing Commission Report. These recommendations for manufactured housing were also made in a 2011 report commissioned by HUD.

Eliminating the chassis requirement, together with creating specific programs that incentivize State and local agencies to accept manufactured housing outside mobile home parks, could be a game changer, increasing affordability, and would be squarely consistent with President Biden's recently announced proposals to increase affordability.

I will now discuss the importance of reducing the costs of building subsidized housing. Construction costs of subsidized housing have grown enormously, particularly in the western United States. One San Francisco subsidized project is costing nearly $1.1 million per small apartment unit, just for renovation and refurbishment.

The 2018 GAO study of LIHTC projects found extremely large cost disparities in subsidized construction across States, ranging from a minimum of below $100,000 per unit in one Texas allocation location to a maximum of $750,000 per unit in California, based on 2011–2015 data.

The GAO found that only a few allocating agencies have requirements to guard against misrepresentation of costs, which is a fraud risk. The GAO also found weaknesses in data quality, inconsistencies in measuring and reporting cost-related variables, and the practice of not including the full extent of some indirect costs.

The GAO also found financing inefficiencies, particularly the fact that there are typically many lenders. UC Berkeley's Terner Center

for Housing Innovation estimates that each additional lender adds an additional $6,400 in cost per unit.

Lawsuits also delay affordable development and increase costs. In California, lawsuits against affordable housing are often filed under the auspices of the California Environmental Quality Act, which is recognized within my State and is often used to block and delay development, rather than being used for its expressed purpose of protecting the environment.

I recommend Congress revisit the GAO recommendations, including standardization of cost data from agencies that are collected and analyzed by a single Federal entity.

American home affordability can be increased substantially by the adoption of low-cost production techniques, improving efficiency, and helping State and local agencies create acceptable building development opportunities in areas that are in high demand.

Thank you so much.

[The prepared statement of Dr. Ohanian appears in the appendix.]

The CHAIRMAN. Thank you very much, Dr. Ohanian.

Mr. Roberts?

STATEMENT OF BENSON (BUZZ) ROBERTS, PRESIDENT AND CEO, NATIONAL ASSOCIATION OF AFFORDABLE HOUSING LENDERS, WASHINGTON, DC

Mr. ROBERTS. Well, good morning, Chairman Wyden, Ranking Member Crapo, and other members of the committee. And thank you very much for your leadership on affordable housing.

The National Association of Affordable Housing Lenders is an alliance of major banks, nonprofits, and other mission-driven lenders and investors in affordable housing and inclusive neighborhood revitalization. Our member banks in 2020 provided over $180 billion to finance affordable low-income housing and other community development activities, and our members are the primary investors in Low-Income Housing Tax Credits.

So today we have bad news and good news. The bad news of course is the tremendous cost of housing, increasing the affordability problem. According to the National Association of Realtors, prices and rents rose nearly 20 percent last year. But housing is not just a casualty of inflation, it is a cause of inflation. Even in 2020, home prices went up 11 percent when the CPI was rising only 1.4 percent.

So, building housing is really essential if we are going to get our long-term inflation challenges under control. Last October, about half of all Americans said that affordable housing in their communities was a major problem, and that exceeded what they cited for other really important problems, like drugs, crime, and the COVID–19 health and economic consequences.

The good news, though, is we know what to do. The Low-Income Housing Tax Credit is widely considered the most effective and successful United States policy to produce affordable rental housing ever: 3.6 million units so far, and about 130,000 annually. That is virtually all the affordable production over the last 35 years, and it is equivalent to more than one-third of all comparably rent-

priced multifamily housing in the United States. So it has had a major impact, and it could do much more.

It has also performed exceedingly well. The cumulative foreclosure rate on Housing Credit properties is 0.57 percent. That is not an annual foreclosure rate, that is a cumulative foreclosure rate. As far as we know, that is the best-performing asset class in all real estate. Pretty amazing for low-income housing.

The proposed Neighborhood Homes Investment Act would take many of the lessons learned from the Housing Credit and apply them to a different problem, which is to revitalize struggling communities and provide home-ownership opportunities there, by building starter homes and rehabilitating homes.

And so, we urge Congress to pass the bipartisan Senate bill 98, sponsored by Senators Cardin, Portman, and 20 other Senators. That would produce half a million homes for home ownership in struggling communities over the next 10 years.

The broad increases in housing prices really mask tremendous diversity across this country. The median price of a home in San Jose is $1.6 million. In Toledo, OH, it is one-tenth of that, less than $160,000. And every State has communities that are struggling. In those communities, it is not economical to rehab or construct new homes. The numbers just do not pencil out. We need to have Neighborhood Homes to fix that.

The Housing Credit too has been so effective. Our priority for the Housing Credit, of course, would be to pass the Cantwell-Young bill, the Affordable Housing Credit Improvement Act. The key elements to address are to, first, restore the temporary 12.5-percent increase in Housing Credit allocation authority that expired at the end of last year. And so, we are actually losing ground rather than gaining ground today. Second, to increase the State allocation caps by 50 percent over 2 years. That would help every State in the country to produce more. Third, as Ms. Bell suggested, reduce the bond financing requirement to access tax credits from 50 percent to 25 percent. And finally, to reform the Qualified Contract and right-of-first-refusal provisions in order to preserve affordability and expand nonprofit control of properties.

So, we do know what to do. We just need to do more, and we hope you will do it.

Thank you.

[The prepared statement of Mr. Roberts appears in the appendix.]

The CHAIRMAN. Thank you very much, Mr. Roberts.

We will have questions in a moment. But we have Ms. Wade. Welcome.

STATEMENT OF HON. DANA T. WADE, CHIEF PRODUCTION OFFICER, FHA FINANCE, WALKER AND DUNLOP, BETHESDA, MD

Ms. WADE. Thank you. Good morning. And, Chairman Wyden, Ranking Member Crapo, thank you for your bipartisan leadership on this issue.

My name is Dana Wade. I am a chief production officer at Walker and Dunlop. I am a former FHA Commissioner. I am a former Assistant Secretary at the Department of Housing and Urban De-

velopment. And, Mr. Chairman, as you mentioned, I am also a former Senate staffer. So, it is a real honor for me to be on the other side of the dais.

Walker and Dunlop, where I work, is one of the largest providers of capital to the multifamily industry, and the fourth largest lender for all commercial real estate. We employ, at Walker and Dunlop, 1,400 people in 40 offices across the country. As a top affordable housing lender and the sixth largest Low-Income Housing Tax Credit syndicator, we see every day both the need to build more affordable housing and the barriers that stand in the way.

This panel has already talked a lot about the data, which is pretty clear, on the need to build more affordable housing. One recent report showed a shortage of 3.8 million homes in the United States. Ten million low-income households spend more than half of their income on rent. And the list goes on. Add to that the kind of everyday struggles. Millions of Americans spend more time getting to work—transit, in their cars, on buses, on trains—than they do with their family. So there are definite and very real hardships that are presented by the lack of affordable housing.

That is why the conversation on increasing the housing supply that this committee is having today is so important. The Affordable Housing Credit Improvement Act is a very important step forward, and very briefly—I know, Mr. Roberts, you mentioned the benefits of that, but specifically we think it will be very helpful to increase the already over-subscribed 9-percent tax credit, lower the threshold for Private Activity Bonds from 50 percent to 25 percent, as well as making important reforms to allow the 4-percent tax credit to more easily be used for rehab projects.

Increasing the housing supply, using these tax credits, as we have seen, has translated into better economic opportunities, a better quality of life. As one real-world example, if you will allow me, of the differences these tax credits make in people's lives, Walker and Dunlop recently financed an apartment complex in Portland, OR, called Kentonwood. One hundred percent of the units in Kentonwood were income-restricted to those making 60 percent or less of the area's median income, something made possible with LIHTC. All units have access to high-speed Internet and energy-efficient appliances. And Kentonwood is a walkable, transit-oriented project close to a light rail station.

That is just one example. We have many, many examples. From where we sit, there are other benefits of LIHTC, including, as Mr. Roberts mentioned, very low cumulative foreclosure rates, low vacancies, as well as a strong compliance for affordability.

While LIHTC is very important—I think it will be a big topic today—as the ranking member alluded to, it is just one side of the equation. We must cut through regulatory barriers at the Federal, State, and local level that are holding back housing supply. An estimated 40 percent of development costs can be attributed to regulation at all levels. Record-high costs for labor and materials are only adding fuel to the fire.

Federal obstacles include long time frames for environmental and labor decisions, as well as some antiquated rules. One example is HUD's noise restrictions. Local policies like zoning, density limits,

lengthy permitting and approval processes, and other land use restrictions are all examples.

While zoning and other issues are in the hands of local citizens and their governments, as they should be, Federal policymakers can provide a forum for best practices. Congress can and does leverage the supply of Federal resources like LIHTC to increase the housing supply.

Governments can also work together at all levels to standardize policies, practices, and timelines across different programs.

In conclusion, you know I think everyone on this panel will agree that we need a combination of a lot of smaller, local ideas as well as the big ideas to solve the housing crisis.

Thank you again for the opportunity to be here, and I look forward to answering your questions.

[The prepared statement of Ms. Wade appears in the appendix.]

The CHAIRMAN. Thank you very much. You have been an excellent panel.

Mr. Konter, let me start with you. I have town hall meetings in each of my 36 counties, and overwhelmingly what employers tell me their top issue is, is that they cannot find enough workers. And invariably that involves that folks cannot get housing. And my concern is particularly for the missing middle this morning, the middle-class folks—nurses and firefighters would be a pretty good example.

And I want to ask you, and my colleagues—we always try to operate under the theory that you've got to build a bipartisan coalition and focus on what works. We have all been talking about LIHTC, the Low-Income Housing Tax Credit program.

So what I have said is—quaint idea—why don't we build on what works? And that is what my Middle-Income Housing Tax Credit is all about: to try to get shelter for folks like nurses, firefighters, and middle-income people across the country. And when we talk about middle-income people, we are talking about families with incomes between 60 percent and 100 percent of median income. Obviously, it depends on the area in which people live.

But I would like your thoughts on how home builders feel about the Middle-Income Housing Tax Credit. I heard you touch on it a little bit, but I understand that you all support it, and that is some good news.

As you know, in the Pacific Northwest this also relates to the well-being of the wood products industry, because it creates more opportunities in rural communities for timber and forestry.

So, your thoughts?

Mr. KONTER. First, I would start with that we strongly support your bill. We believe that the missing middle is the hardest area to serve, because typically they buy entry-level homes if they are on the home-ownership side. And if they are on the multifamily side, they do not qualify for LIHTC or other subsidies, even direct subsidies such as the section 8 program.

So they have a disproportionate amount of their income spent towards shelter. And they do not have the ability to accumulate down payments for even the lowest-priced housing that is available within the private sector.

So this tax credit would solve part of that problem, and that is why we do strongly support it. But many of the people on the panel have already talked about the regulatory burden in producing housing, and, you know, NIMBYism is a large part of that also. I know that in my community I experience people who want school teachers and police officers and fire people to serve their community, but they put in restrictions that affect housing prices that force them not to live within that community.

And so, I will tell you that my colleagues in the building industry want to build for every sector of America. We do not concentrate on one sector over another.

The CHAIRMAN. We will be working with you, and we very much appreciate your support with respect to the Middle-Income Housing Tax Credit. And obviously we need to have fresh approaches in terms of trying to unsnarl some of that red tape at the local level.

Let me get one more question in. I am going to ask this of you, Mr. Roberts. You heard me say I am very concerned about this trend of some in the private-equity industry. What some are doing in the industry is exploiting loopholes in the tax code to maximize their own returns, while jeopardizing the low-income purpose of affordable housing. And I want to walk you through this, because as far as I can tell, we are losing something like 10,000 affordable housing units per year just with one of these loopholes involving something called the Qualified Contract.

Low-Income Housing Tax Credit properties are supposed to remain affordable for 30 years. However, this loophole allows LIHTC operators to sell their properties after 15 years to private developers who are going to go out and rent the units at higher prices. And as I say, thousands of units apparently are already being lost per year, and projections are that it is going to go up.

I have proposed legislation to close that loophole. I would like your thoughts on why that is important.

Mr. ROBERTS. It is critically important, Chair Wyden, because it is so hard to build and rehabilitate homes. To be losing them through what has really become a loophole, is just taking us back in the wrong direction.

The problem is that that formula under the Qualified Contract provision was written in 1989 when the Low-Income Housing Tax Credit was very young and immature, and the real estate markets were very different. And it no longer serves its purpose and now has become an unintended exit ramp.

This is not something that the original investors have been involved in, but sometimes we see new investors come in, after the close of the 15-year compliance period, for the purpose of making——

The CHAIRMAN. My time is up, but I think what Mr. Roberts is highlighting is that a lot of these programs, and essentially the infrastructure of the rules, were written decades ago. And you heard me mention algorithms being used to outbid Americans who just want to own a home.

When you were talking about 1989, nobody was thinking about algorithms. So, I very much appreciate the input.

Senator Crapo?

Senator CRAPO. Thank you, Mr. Chairman.

Senator Portman, do you want me to——

Senator PORTMAN. Thank you. I appreciate——

Senator CRAPO. I will yield about 30 seconds of my time.

Senator PORTMAN. I will take 30 seconds.

The CHAIRMAN. In the parlance of the Senate, you can yield.

Senator PORTMAN. I apologize. I have to go to this meeting with Mrs. Zelensky. I am just going to say I really appreciate all the comments that were made today about the need for us to rehabilitate existing housing. And single-family homes are left out of the process right now. It is a piece of the puzzle we need to fix. So that is why I think the Neighborhood Homes Investment Act is so important.

Cleveland has 3,000 of these homes that are vacant, not being used. If they could be fixed up, it would really help toward this effort that everybody has acknowledged today, which is that increasingly the dream of owning a home is becoming out of reach for so many Americans. So I just want to acknowledge the work, Mr. Roberts, you have done, and others on the panel. We appreciate your help on this, with Senator Cardin. And I thank my colleague for his willingness to yield.

Senator CRAPO. Thank you, Senator Portman.

Let me go to you first, Mr. Konter. The Net Investment Income Tax serves as a surtax on small businesses and, under recent proposals, would subject active business income to the surtax. And I think you agree, that would result in higher rental housing costs.

Can you explain how expanding the NIIT to include active investment income would result in higher rents?

Mr. KONTER. Sure. The consequences are especially acute for renters because it is just another cost associated with operation of an apartment complex. So previously, that active income was not taxed. Now it will be. And that will be passed along as part of the cost and will put upward pressure on rents to cover it.

There is no magic wand in how much rents are charged. They are absolutely directly related to revenue versus expenses.

Senator CRAPO. Thank you.

And, Ms. Wade, you have alluded to this already, but what do you think the possibility of persistently high inflation means for affordable housing? And how would higher long-term inflation affect housing development and utilizing Federal tax credits?

Ms. WADE. Well, Senator, that is a great question, and thank you. Persistently high inflation will mean persistently high rent increases. It is no surprise that if you think of inflation as a tax on everyone and everything, it impacts rent prices as well. And as Mr. Roberts stated in his testimony, higher rent prices also factor into CPI calculations.

In fact, inflation is also very important in considering the efficacy of Low-Income Housing Tax Credits. Persistently high inflation will mean that these tax credits are less effective, and it will decrease their value as well.

Senator CRAPO. Thank you very much.

And, Dr. Ohanian, you discussed today with us as well the impact of regulatory and zoning policies, however well-intentioned, on the ability for us to deal with the affordable housing needs in the country.

Could you discuss any studies you are aware of that have analyzed the effects of these State and local deregulatory efforts to determine which land use and supply-promoting strategies are the most effective?

Dr. OHANIAN. Yes, Senator; great question. Regulatory burdens are expanding housing costs substantially. When we look at zoning regulations, what we find is the States with the most severe zoning restrictions, such as my State of California, have the highest home prices. They have the highest construction costs. Construction costs rise as development is delayed due to lots of litigations and lawsuits that are often based on "not in my back yard" types of arguments.

We look at States and locations with much laxer zoning regulations—such as Texas, Kansas, States in the Midwest—and they have much lower construction costs, much lower housing costs.

So there have been a number of peer-reviewed studies. They all come to the same conclusion, which is that land use regulations substantially drive up home prices, construction costs, and depress American welfare. And there is a lot of progress that could be made.

Senate bill 1416 is an important step in that direction by requiring agencies to compile data and report on how they are managing their land, and being held somewhat accountable for how they are dealing with the need to build more housing in very high-demand areas.

Senator CRAPO. All right; thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Crapo.

Next is Senator Carper.

Senator CARPER. Thanks, Mr. Chairman.

I want to back up just a little bit. Every now and then in this room we talk about the "least of these" in our society and what we are doing to help the least of these. "When I was hungry, did you feed me? When I was naked, did you clothe me? When I was thirsty, did you give me a drink? When I was sick and in prison, did you visit me? When I was a stranger in your land, did you welcome me?"

Matthew 25 says nothing about, "When I did not have a place to live, when I was living out of my car, when I was living under a bridge, did you do anything about it?"

Well, we have an obligation, I think a moral obligation, to do something about it. It is not all on the Federal Government. It is not all on this committee, as you know. It is a shared responsibility with State and Federal and local governments, nonprofits, and businesses as well. It is a shared responsibility.

We welcome you here today with that spirit in mind. We thank you for joining us to talk about housing affordability. It is on top of mind with my constituents in Delaware, and I am sure it is in the other 49 States too. In recent decades—I have come to this hearing as a recovering Governor of the State of Delaware for 8 years. And when I was Governor, as it was when I stepped down as Governor, Delaware had the highest home-ownership rate of any State in the country, something we are very, very proud of.

But in recent decades, rapid growth in retail prices and the lack of housing supply made it difficult for a lot of people in the State to find affordable housing options, as we all know. And it is a problem as our constituents continue to feel the effects of the COVID–19 pandemic, and as they face price increases in other parts of the economy.

I would note that the price of gasoline, thank God, is beginning to come down. At a lot of convenience stores up and down the East Coast, a bunch of them in Delaware, looking at the price of gas, I saw yesterday $4.36, which is down almost a half-dollar in the last couple of weeks, and hopefully it will go a lot lower.

But I have been working with Senator Chris Coons, my wingman from Delaware, and Congresswoman Lisa Blunt Rochester in securing $78 million from the American Rescue Plan to help to attack the housing crisis in the First State.

We leveraged private dollars to support development and rehabilitation of affordable housing units throughout our State, in coordination with our nonprofits, including Habitat for Humanity, an outfit called Cinnaire, another one called NCALL, and many organizations that are dedicated to addressing this same problem.

One issue that deserves our focus is lack of affordable housing for our senior citizens. As our population ages, we must meet the specific needs of our seniors, and the low-income and fixed incomes who require additional support services.

My question is a good question for Ms. Bell, and a question for Mr. Roberts. The others of you get away scot-free on this question.

How can we ensure that tax incentives and other resources meet the unique and growing housing needs of our seniors? Let me say that again. How can we ensure that tax incentives and other resources meet the unique and growing housing needs of our seniors? Ms. Bell?

Ms. BELL. Well, thank you for that question, Senator. I think you are raising a couple of really important points that really elevate the unique situation that we are in related to supply and demand—and specifically how the issue of supply and demand is causing other issues around lack of access, lack of affordability.

I think the reality right now in this moment—as we think about tax incentives and we think about all of the options for incentives—is there are a couple of things that are worth elevating, which are, one, being able to lower the threshold when we think about Private Activity Bonds, knowing that there is a real restraint that a lot of communities are feeling around that.

When we think about the Low-Income Housing Tax Credit, we know what works. We have seen successes with that. We also know—when we think about the lack of affordable housing issues that so many Americans are facing, particularly our aging population—that we have to build affordable housing of all shapes and sizes that we can, and be able to have transit-oriented housing as we think about the needs of our seniors.

We have some very real policy options in front of us today that we think will reduce red tape, increase access to affordable housing in a really formative way, and be able to build on what has worked and where we have seen the most progress across the country for diverse populations, including our aging population.

Senator CARPER. Mr. Roberts, the same question; thank you.

Mr. ROBERTS. Thank you, Senator. I would just mention also that Cinnaire and NCALL are two of our members. And Habitat, of course, is a big supporter of Neighborhood Homes.

Directly to your question, one of the beauties of the Housing Credit is it gives States the authority to direct those resources to the greatest needs, including elderly housing. We have seen tremendous Low-Income Housing Tax Credit properties that provide a lot of services to the elderly in conjunction with the housing, including assisted living, which is extremely hard for low-income elderly people to find.

Senator CARPER. Thanks.

Mr. Chairman, my time has expired. Can I just take 15 seconds and ask a question for the record? I just want to say to Ms. Bell, which you can submit for the record, so you do not have to answer it now but in writing, yes? Here it is: what resources are most helpful in setting low-income families up for success when buying a home for the first time? And how can we expand access to these tools? I ask you that for the record.

Thank you all for being here.

The CHAIRMAN. Thank you, Senator Carper. And we are very proud of Ms. Bell as well. So I think you are going to get a good answer, and thank you.

Senator Cardin?

Senator CARDIN. Thank you, Mr. Chairman. First, let me answer Senator Carper's question in part by mentioning the Neighborhood Homes Investment Act. You would be disappointed if I didn't.

And, Mr. Chairman, I want to thank you for the kind comments that you made. I was not in the committee room at the time, because the Senate Foreign Relations Committee is holding a hearing on food insecurity. So, we not only have housing insecurity, we have food insecurity around the world, but also here in the United States.

I want to thank you very much for holding this hearing. I want to talk a little bit about the Neighborhood Homes Investment Act. It is bipartisan, and I thank Senator Portman for his comments and for his cosponsorship on this, and certainly Senator Wyden and Senator Crapo for your help, supported by the White House. So we have not only bipartisan support, but we have support from both branches of government.

But I want to acknowledge the work that Mr. Roberts and his organization, the National Association of Affordable Housing Lenders, have done in regards to developing this legislation. We developed it as a need to deal with affordable housing. COVID–19 has underscored this need even more. Inflation has made it even more urgent that we do something in this regard.

We are talking about the appraisal gap for communities that need investments. They need affordable housing, but the cost of building or renovating exceeds the value, and therefore it cannot be done under regular commercial circumstances. This leads to the decline of neighborhoods, as well as to making worse the wealth gap in America.

So, Mr. Roberts, can you just elaborate as to how the current market—which is anything but predictable—and investors' willing-

ness to go into communities, how the Neighborhood Homes Investment Act would help us deal with that challenge?

Mr. ROBERTS. Yes. Thank you so much for your leadership on this, Senator Cardin. Neighborhood Homes would provide States with an allocated amount of tax credits. They would set their own strategies and priorities, and run a competition among applicants to deploy those credits.

Once an applicant wins an award, they would go and raise private capital and build or rehabilitate homes in distressed communities. Once those homes are sold and owner-occupied, the tax credits would flow and the developers, of course, are out of the picture. There is also a provision to enable existing homeowners whose homes need substantial rehabilitation to participate as well on a very simplified basis.

Senator CARDIN. Thank you.

Ms. Bell, if you could, respond on how this particular credit would help as it relates to neighborhoods that have been traditionally neglected, and try to deal with the wealth gap we have in America.

Ms. BELL. Absolutely. Well, I appreciate that question. And as I know this committee is fully aware—and I just appreciate your leadership in this particular area—as we think about pathways to home ownership, as we think about pathways to housing and the impacts of that across the country, we have continued to see the racial wealth gap that has continued to persist in a lot of communities.

And so, as we think about Mortgage Revenue Bonds, as we think about other resources on the tax-credit side that we have to increase the pipeline of affordable housing, this bill helps us reduce administrative red tape that exists.

There is also being able to further leverage the tax incentives that we have to make sure that the spur of affordable housing that is happening is available and accessible to particularly our Black, Indigenous, and People of Color communities. And then also from a policy perspective, Senator, being able to align those policies in a way that is bringing practical alignment in addition to the spurring of resources in this particular area.

Senator CARDIN. Thank you.

Mr. Chairman, I would just conclude by saying that the news today is a decline in the housing markets. We are seeing the concerns because of rising interest rates, because of rising costs, so the urgency of dealing with these issues is even greater today than it was when these bills were first introduced. And thank you very much for holding this hearing.

The CHAIRMAN. Thank you, Senator Cardin. And thank you for your years of good work on these kinds of issues, and I look forward to partnering with you in the days ahead.

Senator Cortez Masto has been a very strong advocate for affordable housing. We welcome her, and I can just tell my colleagues that I have talked with her about these housing issues, and she very much shares the idea that we have to increase supply. We understand if we do not increase supply, what happens in this kind of market is, it is constricted and prices just go up. So a big part of this is increasing supply, and I welcome my colleague.

Senator CORTEZ MASTO. Thank you. Thank you, Mr. Chairman. And thank you for holding this hearing. And to the panelists, every single one of you, thank you, because this is exactly what I have been hearing in Nevada around our challenges when it comes to affordable housing.

And we all know—it runs in my State from homelessness, to low-income, to workforce housing; it is all of the above. And so, I have been working with so many in my State to figure out, what is it that we need to do to address affordable housing?

And so, there is some great legislation that I support here, that I cosponsor, that we need to get done. And I am hopeful that, in this committee, we are able to actually do something.

But one piece of legislation that I introduced—and, Ms. Bell, I am going to start with you because I cannot thank you enough for mentioning it in your opening—is the Affordable Housing Bond Enhancement Act, S. 4445. And what it does is, it improves the Mortgage Revenue Bonds and Mortgage Credit Certificate programs.

You have talked a little bit about that. Can you do me a favor? Can you explain how the Mortgage Revenue Bonds help low- and moderate-income families, help them buy homes and sustain those homes?

Ms. BELL. Absolutely. And thank you for your leadership on this, Senator Cortez Masto. So essentially, the Affordable Housing Bond Enhancement Act would allow State housing finance agencies to better utilize our bond resources to serve more home buyers.

So, in using the Mortgage Revenue Bonds, State housing finance agencies have been able to help over 3 million borrowers. And the Mortgage Credit Certificate programs have been able to help more than 360,000 families become homeowners. That is significant. And also, within this particular bill, it would also be able to help us optimize programs so that they work even better for low- and moderate-income families as well.

At this particular time—and we have talked a little bit about it already at this committee—when we have rising interest rates and a loss of affordable homes, the reality is that the dream of home ownership is still moving further and further away. And even in my own family that has been a reality.

One of the other facets of the bill, Senator, that I think is really important to elevate, that I was happy to see in this, is an increase to the Mortgage Revenue Bond improvement loan limit. So this increases it to $50,000. As it currently stands, it is at $15,000, which I believe has not been updated since the early 1980s. So we are talking about home improvements, necessary improvements.

Particularly—and we talked about it earlier—as we talk about our aging community and think about improvements and modifications they need to make their home not only livable, this is also about quality of life.

Senator CORTEZ MASTO. Thank you. Thank you for the support. And let me just say, I appreciate the support of the National Council of State Housing Agencies, the National Association of Realtors, the Mortgage Bankers Association, the National Association of Home Builders, and other organizations, for their support of this piece of legislation. I do think it is an all-of-the-above approach. How do we make it pencil out for the home builders? How do we

help the home buyers? How do we give them choices? Manufacturing homes—and believe me, this is an area that I have focused on as well, more choices for home owners, as we address all of these issues.

One other area—let me just touch on it very briefly because I know I am going to run out of time, but I do believe that the State and local fiscal relief funds that were provided in the American Rescue Plan really provide the ability to make a historic investment in desperately needed housing in communities across our country.

So let me just say this: I would love to hear, maybe Ms. Wade, your thoughts on the LIFELINE Act, because this is an opportunity to take funds that are already there and leverage them to support low-income housing.

Ms. WADE. Absolutely. And I do think that it would be a very important use of this funding. It would significantly increase the ability of States and local jurisdictions to produce more affordable housing.

I believe Congress has already stated that a lot of these COVID relief funds at the State and local level should be used for affordable housing. So, pairing that better with a program like the Low-Income Housing Tax Credit would certainly be a huge step forward in that direction.

Senator CORTEZ MASTO. Yes. And listen, our Governor and our housing leaders support the legislative fix to use, really, $500 million that we set aside from our Home Means Nevada initiative to do just this.

We could use it to build more of a supply for low-income housing in Nevada. And everybody is ready to do it. So this is an opportunity for us to get it right. This is why I support the LIFELINE Act—and then for the reasons that you have all been talking about, the Low-Income Housing Tax Credit.

This is the number one thing I also hear as a fix, with its potential for increasing our housing supply and addressing our needs in Nevada and across the country.

Thank you all again. Thank you for the good work that you do.

The CHAIRMAN. I thank my colleague. I do not want anyone to think I am going to wage a filibuster as we wait for more colleagues, but I appreciate my colleague from Nevada making the point with respect to the LIFELINE legislation, which I touched on in my opening statement as well.

This is a chance to squeeze more housing value out of existing dollars. And the fact is that Senator Leahy, Senator Collins, myself, my colleague from Nevada, we have got plenty of bipartisan support for it. I am very pleased about it, and just given that U.S. home prices hit a new record of $416,000 in June as sales continued to slide, I do not think we really need much of a wake-up call, but that certainly drives it home.

What I am struck by—and I would like to give other panelists a chance to talk about it—is my question to Mr. Roberts involving some of these examples of loopholes in laws that are particularly hurting our ability to offer affordable housing.

And Mr. Roberts said, “Hey, this stems from a law that was written in 1989.” So we are talking about laws in this area that, if not from the Dark Ages, are certainly pretty ancient.

I would be interested in your thoughts about whether there are other examples of laws where you think that the bureaucratic barnacles are just getting so thick that it also is hampering the ability to offer affordable housing. I think some of this relates to Mr. Konter’s point involving outdated rules at the local level. And I really appreciate Ms. Bell’s leadership working with local communities as well. She has given us almost a little dissertation in the principles of supply and demand, and we thank her for it.

But I also want to make sure that folks understand that, in our part of the country, we have worked very hard to try—as you have suggested and Ms. Wade touched on as well—to figure out how in the future we will not have people working over here, and living over here, and going back and forth in outdated transportation systems.

But are there other laws that we ought to be aware of? And in fact, here is what we are going to do. Since we have had the good fortune of having Senator Young come, I can give him a chance to catch his breath briefly. He has been doing very good work on semiconductor legislation, which we are glad to partner on with him, and he has been part of our little bipartisan coalition here on the Finance Committee for housing.

So, while you contemplate whether there are other outdated laws along the lines of that loophole that I asked Mr. Roberts about, let’s hear from a strong advocate for housing, Senator Young.

Senator YOUNG. Well, thank you, Mr. Chairman, for holding this important hearing on affordable housing. I thank every one of our witnesses, because I have to tell you, as I travel across the State of Indiana, I hear from every community about the importance of affordable housing, and about the challenges they are experiencing right now.

This shortage is of course being exacerbated by the current inflation challenges more broadly impacting the country. And throughout my time in Congress I have done my best to remain focused on efforts to address the housing shortage. I have been proud to work, in particular, with my Finance Committee colleague, Senator Cantwell, on the Affordable Housing Credit Improvement Act. This bill, as I think our witnesses know, will help strengthen the Low-Income Housing Tax Credit program, also known as LIHTC, which remains the most successful affordable housing program in the United States, a public-private partnership supported in a bipartisan fashion over the years.

If we want to address our Nation’s housing affordability crisis, I think it is crucial that we pass the legislation to improve the affordable housing program, the LIHTC program, by passing the Affordable Housing Credit Improvement Act as soon as possible.

So, I ask our witnesses today—this should be an easy one—by a show of hands, who supports this Affordable Housing Credit Improvement Act?

[A show of hands.]

Senator YOUNG. Well, thank you. Let the record show that all five of five witnesses support the Affordable Housing Credit Improvement Act.

The CHAIRMAN. The record will show it. And I am also going to dare anybody to say that they did not, but it is a very important piece of legislation that Senator Young and Senator Cantwell have led, and I appreciate it.

Senator YOUNG. Thank you, Mr. Chairman. Let the record also show, none of the witnesses is under duress or so forth. [Laughter.]

Okay; thank you. So, let us dive into why this bill, just for a moment, and the LIHTC program, has such far-reaching support.

Mr. Roberts, can you kindly explain what it is that makes the Low-Income Housing Tax Credit so effective in addressing the affordable housing crisis?

Mr. ROBERTS. Well, thank you, Senator, and thank you for your leadership on the Low-Income Housing Tax Credit Improvement Act, as well as the Neighborhood Homes Investment Act. They share a common DNA. And what makes these credits work so well is a combination of factors.

First is private-market discipline. The credits only flow after the development is completed and public benefits are flowing. So, without giving money away and hoping for a good result, we are paying only for success.

Senator YOUNG. Paying for success, which is another thing I have been focused on during my time in Congress. My constituents insist upon it.

Mr. ROBERTS. Yes. And by the way, thank you for your leadership on applying this pay-for-success principle throughout the Federal system, which has tremendous promise.

In addition, since it is a very competitive market, credits are limited. The States allocate them only for the highest-priority activities, and then investors have to compete to invest in those properties. And if for any reason compliance is not followed through, those credits are recaptured. So there is tremendous discipline.

Second, State administration. Ms. Bell and her colleagues have done an amazing job in stewarding these resources. We have tremendous confidence in them as stewards, and that is why Neighborhood Homes would rely on them.

And Housing Credits and Neighborhood Homes are both targeted and flexible. They are targeted to the greatest need, and they are flexible in how they are applied, and there are tremendous economic and community benefits spinning off.

Senator YOUNG. Thanks so much for that.

One of the things I find unifying about the housing affordability crisis—and I like to focus on unifying issues. The chairman was kind to mention the innovation or China competition bill that we were able to advance last night on the floor of the U.S. Senate. One reason I was working on that was, during this time of tribalized and parlous politics, we can rally around solving difficult challenges together, across political aisles, across political philosophies. And this housing affordability crisis is striking in how it impacts various demographic groups, geographic areas. It does not really seem to discriminate a lot. The brunt of this crisis falls on a di-

verse population, and it is so important. We support programs and ideas that meet the needs of these varied communities.

So, Ms. Wade, just very briefly can you please talk about how the LIHTC program helps a range of people in need?

Ms. WADE. Senator, thank you for the question. And also thank you for all that you have done to support affordable housing. You are absolutely right that the problem of the lack of supply of affordable housing hits everyone, unfortunately.

And one of the things that we see is that the LIHTC program has been very effective at bringing people directly off the streets into housing. It is one of the only programs that has done so, with the support of the Federal Government. We see a range of types of individuals and families living in LIHTC-supported housing. That includes veterans. So 10 percent of our homeless population is made up of veterans. That includes people recovering from opioid addiction. That includes seniors, people with disabilities. I mean, it really does run the gamut of some of our Nation's most vulnerable.

Senator YOUNG. Thank you so much. I do see I am out of time. I see a couple of other leaders as it relates to these issues have entered the committee room. So I will look forward to continuing discussions about this bill and about other housing legislative priorities in my questions for the record, Mr. Chairman.

The CHAIRMAN. Senator Young, before you take off and go back to prosecute our cause for the semiconductor industry here in the United States, I would like to note that what you and Senator Cantwell have done with respect to the LIHTC model has led people to say this is a solid approach for the housing policy of the future. And the home builders, represented by Mr. Konter, are responding to the legislation that I proposed, the Middle-Income Housing Tax Credit, the LIHTC kind of approach, so that a firefighter and a nurse will have a chance to start climbing the ladder of upward mobility. So, good work to Senator Cantwell and yourself on this, and you will continue to have my support in the days ahead.

Senator Hassan?

Senator HASSAN. Well, thank you, Mr. Chair, for the hearing. And thank you to our witnesses for being here today, and for the work that you do.

In New Hampshire, I hear from families and small businesses alike about the burden of rising housing costs, and what that has done to their ability to live and work in the State; also what it has done to their ability to recruit people to come work in the State, among other things. So, I am developing a package of housing legislation that I plan to introduce soon to help bring down these costs. My bill would incentivize investments in State affordable housing trust funds.

Ms. Bell, can you just please speak about what these trust funds are and why they are so important?

Ms. BELL. Yes. Thank you for that, Senator. And I just want to acknowledge and uplift your leadership in this.

So, Oregon is one of 39 States that has a State housing trust fund. These funds, typically though not always, have a designated revenue source and can be particularly helpful in providing additional housing resources for State needs. In the State of Oregon,

our trust fund is funded by a State general fund and lottery funds. And certainly, as you continue to pursue work on this bill, we are eager to work with you in this area.

Senator HASSAN. Well, I appreciate that very much. My bill would also support the construction of new workforce housing, creating a new competitive grant program at HUD.

Mr. Konter, can you expand about how building more housing will help lower costs for home buyers, and how Federal support can help build more houses?

Mr. KONTER. Absolutely. The crux of the program is very simple. We are just not building enough houses. The more houses we build, the less pressure we have from rising costs, because we are supplying the market.

Senator HASSAN. I appreciate that very much. I would also note that the more housing we have, and the more people who are housed, the more other issues that we all work on together we can address.

Mr. Roberts, I have also previously introduced bipartisan legislation with Senator Blunt, the Middle-Class Mortgage Insurance Premium Act, to provide tax cuts for middle-class home buyers who use mortgage insurance.

How does mortgage insurance make home ownership more accessible? And how can we continue to cut costs for families?

Mr. ROBERTS. Private mortgage insurance is very important so that home buyers who do not have 20-percent down payment funds can get into the market. And we often see them come in at a 5-percent, even 3-percent down payment. That is much more attainable for first-time buyers. And so, cutting the cost of that mortgage insurance is very important to making sure they can afford the monthly payments as well.

Senator HASSAN. Thank you.

Ms. Bell, one more question. In response to the COVID–19 crisis, Congress provided States with financial support to assist with their response to and recovery from the crisis.

While New Hampshire and other States have committed to using a portion of these funds to support housing, it is difficult to pair these funds with another critical Federal housing tool, the Low-Income Housing Tax Credit. That is why I cosponsored the bipartisan LIFELINE Act, to ensure that States have the flexibility to utilize both COVID–19 response funds and the Low-Income Housing Tax Credit.

Ms. Bell, how can increased flexibility for States to use these funds support housing efforts all across the country?

Ms. BELL. Yes, thank you for the question, Senator. So about 31 States are devoting over $9 billion in coronavirus State and local fiscal recovery funds towards affordable housing activities. And of course, this total does not include what local jurisdictions may also invest in affordable housing activities.

And although the State of Oregon is using these funds for other affordable housing activities, about 24 States have indicated that they intend to use at least a portion of these resources as gap fillers, fulfilling financing gaps, which is absolutely the right thing to do. But it does not come without difficulty, certainly. And so, within the American Rescue Plan Act statute, there is—uninten-

tionally, there is language in there that makes it difficult to use these funds for long-term loans, which is exactly what you need for affordable housing.

This is where the LIFELINE Act comes in. It would essentially fix the problem by allowing State and local governments to utilize these resources for long-term loans, which of course supports what we are talking about today: financing more affordable housing.

Senator HASSAN. Well, thank you for that. And I look forward to working with all of you as we continue to try to combat this challenge.

The CHAIRMAN. Thank you, Senator Hassan.

Next is Senator Thune, and then we want to hear from Senator Cantwell, who has been doing extraordinary work on these issues for a long, long time.

Senator Thune?

Senator THUNE. Thank you, Mr. Chairman. And welcome to all of our witnesses this morning.

Mr. Konter, as you know, we are here to talk about the role of tax incentives in affordable housing. I would like to start out by asking you about tax-related disincentives to affordable housing. Specifically, I am talking about tariffs—which are de facto taxes—on softwood lumber imports from Canada. Softwood lumber is a critical input to home construction, and the current 17.9-percent tariff rate on these imports increases U.S. home-building costs, harms affordable housing, and fails to increase supply.

Earlier this week, Senator Menendez and I sent a letter to the Department of Commerce and to USTR urging the Biden administration to prioritize lumber trade to reduce housing costs.

So, Mr. Konter, do you agree that reducing tariffs on softwood lumber would help make home construction and home ownership more affordable?

Mr. KONTER. Thank you for the question, Senator, and thank you and Senator Menendez for your leadership on this issue. Yes, I do believe reducing tariffs on the imports of Canadian softwood lumber would make home construction and home ownership more affordable.

Lumber represents one of the most significant material inputs to the construction of the home. Trade measures that act as a tax on these inputs are necessarily going to increase the cost of the final product. Conversely, anything that you can do to remove these trade barriers is going to reduce the cost of the final product. And, if I could, also Senator Wyden earlier asked, “What kind of regulations are outdated?” Our trade policies go back to the Smoot-Hawley Act.

So, if you think that maybe, if they are not working, if we cannot get agreements, and the structure built into the review process of that trade program does not have the effect of us being able to act quickly on modifications to trade policies, then maybe we need to look at the overall picture of how we create our trade policy.

Senator THUNE. Thank you. And I was going to follow up with a question about what we could do in a more general sense, and how a renewed U.S.-Canada softwood lumber agreement could benefit affordable housing. But I think you kind of addressed that in your last answer.

I would just say, hopefully, that the administration takes timely action on these issues. These are practical, bipartisan ways to help with affordable housing and the U.S. housing community at large.

Let me just speak, if I might, for a minute to South Dakota. Housing availability, affordability are a huge issue for South Dakotans. I hear about these issues all the time from constituents, especially in communities like Rapid City, which is quickly expanding. And with construction costs and supply prices significantly inflated, this is making it more and more difficult to start and complete new housing projects. And according to the National Association of Realtors, the average cost of housing in the western States from 2013 to 2021 increased by more than $80,000.

So, if I might, Ms. Wade, you touched on this in your written testimony, but could you share your insights into the U.S. housing deficits in terms of data, and how it is impacting families and livelihoods across the country?

Ms. WADE. Yes, Senator, that is a great question. By one estimate—and by the way, I have seen this estimate doubled—we have a shortage of 3.8 million homes in the U.S., which is staggering. I think it is almost hard to grasp.

There are a lot of things that have to come together to address this urgent need, both at the Federal level—so the legislation this committee is discussing, things that you have worked on, Senator—and at the State and local level, as well as in the private sector. I think the Low-Income Housing Tax Credit brings together all of those various components, and is one way to effectively increase the supply of affordable housing. It also takes a lot of reform at the local level when it comes to things like zoning, when it comes to things like permitting delays and other policies at the local level, and all of this kind of has to be viewed holistically as part of the housing ecosystem in order to truly solve this problem.

Senator THUNE. Well, and I would, just to follow up—my time is expiring here. But I just want to say with respect to that, one of the things we have heard in the South Dakota housing development authority is just that people who participate in these multiple Federal housing programs simultaneously—like the Low-Income Housing Tax Credit program, the combination of programs at HUD—the rules governing these programs are not uniform. And they can create challenges for State housing authorities, and also disincentivize property managers to participate in some of these programs.

So I hope that that is one of the things, Mr. Chairman, too, that we can contemplate trying to work on with these programs, to ensure that they are functional and workable, and do not impose these heavy burdens, compliance requirements that make it very difficult for those out there who are tasked with trying to create more affordable housing options, so they are not buried in a mountain of Federal paperwork.

So, thank you, Mr. Chairman.

The CHAIRMAN. We are definitely going to be following up with respect to the rules and regulations.

Next is Senator Bennet.

Senator BENNET. Thank you, Mr. Chairman; I appreciate it. And thank you for having this hearing.

In Colorado, 14 years ago I guess, I was the Superintendent of the Denver Public Schools, and it was very uncommon to meet a teacher who did not live in Denver if they worked in the Denver Public Schools. Today, it is impossible for a teacher to afford to live not only in Denver, but in suburban Denver.

I had the Colorado Teacher of the Year come visit me a month or so ago. She is from Glenwood Springs, which is a rural community on the western slope of Colorado. And in passing—she was not complaining, but she just made the observation that 70 to 80 percent of her colleagues in the middle school and the high school where she teaches have to have two or three jobs just to live in Glenwood Springs.

So this is a real failure on the part of our society, I think, to be able to create workforce housing in our State. It is getting to the point where we are losing businesses, losing medical practices, because people simply cannot afford to live in the State of Colorado anymore. Housing costs are far outpacing incomes in every single Colorado community.

In metro Denver, the average rent increased more than 14 percent last year, and the median home price in Denver, CO recently topped $600,000, which is up 20 percent from the previous year. But in Durango—which is on the western slope of Colorado in the southwestern, rural part of our State—the median price for an in-town home hit $650,000 last year, a 30-percent increase from the previous year.

Employers across Colorado, especially in rural areas, tell me they cannot hire because of the shortage of housing. In 2021, last year, I convened a diverse bipartisan group of 30 leaders from across the State to develop solutions to the housing crisis. These are experts in housing who were looking at it from all different vantage points. Their top recommendation will not surprise anybody on this panel. It is to do everything in our power to increase housing supply, including expanding existing programs that work.

We need to do more to modernize our government's response at every level, give communities greater flexibility, and embrace innovation and promote housing stability, as my Eviction Crisis Act with Senator Portman would do.

The Low-Income Housing Tax Credit is our most effective existing program to build new affordable housing. Ms. Bell, I am actually coming to a question for you, but that is why I strongly support Senator Cantwell's and Young's Affordable Housing Credit Improvement Act to expand LIHTC. I am also pushing for swift implementation of one improvement Congress already has passed to expand LIHTC-developed housing to more families.

Back in 2018, Congress created the average income test that enabled LIHTC to serve households earning up to 80 percent of median family income. In May, Senator Young and I led a bipartisan, bicameral group of colleagues calling on IRS and Treasury to expedite release of a final workable rule on the average income test.

Ms. Bell, how would finalizing the average income test rule expand affordable housing to more families in this country?

Ms. BELL. Thank you for the question, Senator. I know that we have a collective solidarity and alignment in the experiences of folks in the State that you serve around affordable housing.

So, the average income test which Congress enacted for the Housing Credit in 2018 was actually an important new tool that would make Housing Credit properties more economically diverse. And this is done by allowing owners to serve households earning up to 80 percent of the area median income, while at the same time still making sure that units are underwritten to be affordable for some of our individuals and families with the lowest incomes.

And so, the average income test does this by using rental income that is charged by the higher-income, but still lower-income households, to essentially offset the lower rents charged to households who may be very low-, or in some cases extremely low-income.

The proposed rule implementing the average income test historically was simply unworkable. And I think some of the interest has chilled on that. But there are some very meaningful, positive steps forward within the average income test, and we are certainly grateful to you and the other Senators who have signed on to urge Treasury and IRS to really focus on this particular area.

Senator BENNET. And I hope this committee will keep pushing.

Mr. Chairman, I had another question, but I am conscious of my colleagues. So, Ms. Wade, I will submit a question on homelessness for the record, and I will yield.

The CHAIRMAN. I thank my colleague. We have been working together on these issues for a long time, we westerners.

Senator Brown is next, and I believe we can get in Senator Warner and Senator Cantwell. Senator Brown is on the Banking Committee, which works very closely with us.

Senator BROWN. Thank you to the witnesses today for joining us. As chair of the committee to which Chair Wyden referred, housing affordability is not only a priority—I think for certainly everybody on this side of the aisle, but perhaps beyond that—but a moral imperative. Too many people are paying too much to keep a roof over their head. A quarter of renters—and I think most of you know these statistics—a quarter of renters pay more than half their income in rent.

Home ownership is increasingly out of reach for far too many families. I am glad for what Senator Wyden and Senator Crapo are doing in scheduling this hearing so that we can work on this.

So I partnered with Senator Wyden to introduce the Renters Tax Credit Act. This bill is intended to complement LIHTC and make sure that extremely low-income renters do not have to pay more than 30 percent of their income towards housing. You know what happens in families like that. Everything is upside down when they are evicted.

So my first question is for Mr. Roberts. In Cleveland, we have a lot of homes that could provide good, affordable home-ownership opportunities. These homes, many of them, need repairs. Some of you have heard me say in this committee, as I say in the other committee, that the ZIP code my wife and I live in had more foreclosures in 2007 than any ZIP code in America—a ZIP code in Cleveland.

So, when homeowners cannot make these repairs themselves, the houses sit empty, or they are snapped up by out-of-State investors exploiting the tax code to turn a profit. And the problems with that are evident.

So, Mr. Roberts, how could the Neighborhood Homes Investment Act—a bill I have worked on with Senator Cardin, and I know he referred to it—help address the shortfall of affordable single-family homes and keep homes in the hands of lower-income and aspiring homeowners?

Mr. ROBERTS. Well, thank you so much, Senator, for your leadership on Neighborhood Homes and the Low-Income Housing Tax Credits, and everything you do in the Banking Committee. It has been really remarkable to see the comprehensiveness of your strategy.

Neighborhood Homes can fill the gap between what it costs to build or rehab a home in a struggling neighborhood and what the local market there can support. And without that help, it is just not feasible for private developers, or even existing homeowners, to improve their homes and, by extension, the neighborhoods. The entire neighborhood suffers when these homes are deteriorated, because most of the land use in most of these neighborhoods is single-family homes. So we cannot really fix up those neighborhoods without addressing this problem. And Neighborhood Homes would allow States to deploy credits in just the right amount to cover that gap.

Senator BROWN. Thank you.

Mr. Konter, I want to talk to you about your industry, about the Home Builders. We hear from people around the country what zoning regulations have done on the ability to build new homes across the county.

Comment on that, and then comment on what—if we were to provide funding to support communities and update zoning regulations, would that help increase the supply of housing?

Mr. KONTER. Thank you, Senator. There is a great deal of NIMBYism. In fact, some of your colleagues have supported the YIMBY Act, which is "Yes In My Back Yard." And because of that, there tend to be zoning regulations that are put in place, whether intentional or disparate, and the result is that they raise the cost of housing, and therefore we cannot build affordable housing through those zoning requirements.

So, it is a great problem. Our members face it constantly—things such as a design standard being added to zoning, which has really nothing to do with zoning but increases the cost of housing. So zoning is a tremendous problem.

Senator BROWN. So my question, though, was—and I understand that, and I agree with you, and I think that is pretty much believed across the board. Would funding to support communities to update their zoning regulations have an impact? Is there a way of doing that? Are you proposing ways of making that happen?

Mr. KONTER. Yes. Funding to the local associations, to local municipalities that reform their zoning regulations so that they will allow more affordable housing to be built, and as long as the property is zoned for single family, or multifamily, restrict any further regulations. That would help add to housing stock.

Senator BROWN. Dr. Ohanian, do you agree with that, sir?

Dr. OHANIAN. Yes, I do, Senator. There is a massive body of peer-reviewed research that studied zoning regulations and how those increased the cost of housing and depressed construction. And yes,

my own research has looked at that as well. And my coauthors and I find that affordability was substantially increased, and inflation-adjusted GDP would rise in the U.S. as a consequence of rolling back zoning regulations and land use regulations back to what they were in the 1990s or the early 2000s.

Senator BROWN. That's recently. Thank you.

And not a question, but, Ms. Bell, your senior Senator has been a really good partner in these housing issues between the committee that I chair and this committee, and I thank him for that.

The CHAIRMAN. What an inflationary comment, and I thank my colleague. We love working together.

Okay, we have a vote on, but we are going to be able to get in both of our Senators with a long interest in housing, Senator Warner, and then it is so appropriate that Senator Cantwell will wrap it up, given her leadership all these years.

Senator Warner?

Senator WARNER. Well, thank you, Mr. Chairman. And I do thank my friend, the chairman of the Banking Committee, which I am on. That was a gratuitous plug for you in terms of the senior Senator from Oregon. And I want to thank both of you, and Senator Cantwell.

This is an area where we all have approaches—and this hearing is so important. I am going to skip the part about the gaps that all of us have indicated. I want to indicate—I know Senator Cantwell has been great on the Low-Income Housing Tax Credit, the home investment tax credit, the New Markets Tax Credit, but I want to very quickly get to two items.

One is something Senator Brown actually worked with me on when we thought more of the President's agenda would get through, something I thought was very creative. We worked closely with the Civil Rights Committee on something called the LIFT Act, which would have created for first-generation, first-time home buyers—which unfortunately in this country are still, by default, 60 percent people of color. If they could qualify for a traditional 30-year mortgage, we would provide literally a 20-year mortgage so that it would be a wealth accumulation at twice the rate, because I think the racial wealth gap in this country is an extraordinarily challenging issue, and unfortunately, home ownership is a huge, huge component part of that. And I do hope that program, the LIFT Act, combined with my support as well for down-payment assistance, is a good one-two combination.

What I am going to take my time on—Mr. Roberts, I want to start with you, and if somebody else wants to weigh in as well. And I am going to get to another area that I have been working on—and the chairman has been very supportive, as well as the ranking member—which is additional support for CDFIs and MDIs: Community Development Financial Institutions and Minority Depository Institutions, MDIs. We do not have nearly enough of them anymore. We were able to get $12 billion in grants, and $9 billion in tier 1 equity into those institutions—really, I think, an interesting initiative.

But it is still not going to be enough. So, in a bipartisan way, we recently put together a CDFI tax credit that would give a tax credit to those private-sector entities—and I think in terms of

many of the companies that said in the aftermath of the murder of George Floyd they wanted to do something on racial equity, and we have done a pretty crummy job of making sure they actually put their money where their promises were.

But what this would say is, you put in long-term, more than 10-year patient money, and we are going to give you a tax credit. We will give you a larger one at 20 years. I think this is, again, no single silver bullet, but a very, very effective tool to take what has historically been a relatively narrow niche of the financial sector, the CDFIs, and try to expand their capacity.

Mr. Roberts, since you were kind enough to work in my office on putting this CDFI tax credit together, I would love to get your comments and suggestions on why you think it is a good idea.

Mr. ROBERTS. We are tremendously excited by this proposal, Senator Warner, and I want to thank you, as well as Senators Wicker and Hyde-Smith, for all of your leadership on this, and Senator Van Hollen, my Senator and neighbor.

This can make a huge difference. The CDFIs do the hardest work in community development finance. They are designed to fill the gaps that other private-sector financial services providers cannot fill on their own. But they are great in partnership together. And what your tax credit proposal would do would be to build those partnerships between capital providers and the CDFIs that are on the ground to do it. The CDFIs need long-term capital, because community development requires it. It is the hardest kind of capital to get, but it has to be available at a cost that make sense.

And your tax credit would lower the cost of that capital to enable CDFIs to really greatly expand their impact.

Senator WARNER. I appreciate the work, and hopefully we can move on this. And I will use my last 55 seconds before I yield to Senator Cantwell to also make a slight pitch to the committee members and others on another small initiative in this space, section 113 reform that would take the Riegle Act of 1994 and basically, with a very small amount of money, literally in the millions, start experimenting on whether we could actually securitize some of the CDFI debt, which again would be another tool to make sure we spread this capacity more.

In the spirit of Senator Bennet, I will yield—actually, he yielded back when he was already in the red. I will yield back while I am still in the yellow. Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague. And I have been supportive of community development efforts, and I am going to continue to be.

How fitting to have Senator Cantwell wrap this up after her years of leading our committee and being out on the floor leading America to make sure that we have semiconductors in the United States.

Senator WARNER. Make sure you give credit for her big win yesterday.

The CHAIRMAN. A huge win.

Senator Cantwell?

Senator CANTWELL. Thank you, Mr. Chairman. And thank you for holding this hearing on incentives for affordable housing. And I thank you for your leadership on the legislation that you intro-

duced on middle-income housing. Clearly the 2009 downturn pushed a whole lot of people into different categories, and the consequences of that are still being felt. And so, I definitely appreciate your past help and support on the Low-Income Housing Tax Credit and your legislation, and I certainly want to remind people that Senator Hatch, when he was with us, was a great leader on this. I always loved that Utah did a Housing First Initiative, probably one of the first Housing First Initiatives, part of the veterans community there, and showed great success in driving down the cost. If you house people first, you are driving down the cost of that population that we would otherwise be seeing impacts from.

I certainly want to thank my colleague, Senator Young, for his leadership with us on trying to increase the Low-Income Housing Tax Credit by 50 percent.

I guess people do not realize we got a little bump a few years ago, and that expired at the end of last year. So we are actually going to go down in the amount of money that we are putting towards the tax credit. Ninety percent of the affordable housing that gets built gets built with the tax credit.

So it really is a governor, if we do not increase it, on solving the problem. I feel like we just—I do not know why we cannot get this out there. I just do not understand why. I feel like painting a big "supply" message across, maybe one of the avenues out here. "It is just supply." Or "it's supply, stupid," or you know—I do not know what you don't get about it. It is really just about supply.

And it is so frustrating, because there are so many people who have written reports. I could probably get a stack this high [indicating] of reports saying it is a supply problem.

So, I would just like to hear from the witnesses why. Why is it that we are not breaking through on the supply message? When you talk about it, it is pretty easy on the demographics. You know, you have elderly people living longer, and that increases the demand. You have returning veterans from the war. That increases demand. You have workplace issues like we do in Seattle. That increases the demand. We had a bunch of people fall out of middle-income into low-income. That increased the demand.

I do not get why we cannot just admit that we have a supply problem, and do something about it. So, anybody have an idea why we cannot—why we are not getting this across the goal line?

Ms. WADE. Well, Senator, I just want to—and I think you bring up some excellent points. I sit on a board at the Bipartisan Policy Center. They recently conducted a poll that had a very specific question: do you support increasing the Housing Tax Credit?

And it was overwhelmingly bipartisan. It was somewhere like 70 percent of all Americans support it who were surveyed; 55 percent of Republicans. So it is a bipartisan issue. I think it is one where, you are right, the data overwhelmingly states that it is a problem with housing supply. It is directly tied to affordability. And you know, there are a variety of challenges.

I think the LIHTC is an important step forward, though, in increasing the supply. Everything that you have done in your leadership will be a huge step forward.

Senator CANTWELL. Anybody else want to talk about this?

Dr. OHANIAN. Senator, as an economist, what strikes me as somewhat tragic is that we have had a housing crisis almost for 100 years. The average price of a Midtown Manhattan home in 1929 at today's dollars was $1.2 million.

Our housing is expensive to build. There are some efficiency-enhancing reforms we can implement. We can also implement zoning reforms that will make it easier and less costly to build in areas of high demand.

And one thing that we have seen evolve over the years is that a growing number of Americans are really focusing on a relatively small number of locations to move to, including Seattle, including the West Coast, including some parts of the Southwest. And sadly, in some of those areas—for example in my home State of California—we make building very, very expensive.

In my testimony I mention that, in one project in San Francisco, it is costing $1.1 million just to renovate an existing small apartment unit—per unit. And when you look at those types of costs, you've got to scratch your head and say, "There's got to be a better way."

And I think as technologies advance and there are opportunities to increase the use of manufactured homes and change some regulatory requirements—the height requirement of a chassis—I think that we have reason to be optimistic that we can make the right choices. And your committee here is very much focused on that, and I am optimistic that you can do that, and the future is very bright from that standpoint.

Senator CANTWELL. Well, I think we have an inflation problem, and part of it is housing. And if you think about, again back to—I like your details, but I think the details are almost irrelevant—they are not totally irrelevant if we do not get across the supply issue, if we do not get people to understand that it is a supply issue. Now yes, can you make it more efficient and affordable? Yes, let's do that. But somehow all that discussion stops people from really understanding that it is a supply crisis.

And again, if 90 percent of the affordable homes are going to be built with the tax credit, then unless we increase the tax credit, we are not going to get out of this. No matter how many people in Seattle pledge to spend millions of dollars on a project, we are not going to get out of this.

And so, I do think it is—I don't know. I have a suspicion that the derivative market crash has more to do with this. I think it had a chilling effect for several years, when we should have realized what the crisis was going to do. My colleagues Senator Bennet and Senator Brown talked about it a little bit. You know, the crisis made everybody freak out about housing in general, because people commoditized, or securitized, I should say, some way to make, they thought, more housing supply. And literally it was a house of cards that collapsed.

And then people were blaming all sorts of people. And then we did nothing. But at that very moment, we also pushed more people into that demand market, because they literally fell out. They fell out of the economy. They literally fell out of the economy. And we did not do anything to meet demand.

So, it used to be in this Nation that in the 1970s, or 1980s, or even 1990s you would hear "housing; let's build housing." Where did that cheer go?

Dr. OHANIAN. Well, it very much is a supply issue. And to get back to the idea of cost, the more we can reduce costs, just economic costs, the more we can expand supply. One study in California showed that if California LIHTC construction costs were not even at the average of other evaluated locations by a GAO study, but were close to that average, California could have built 12,000 more units under LIHTC funding.

So I think, until we recognize that our construction costs are remarkably high, it is going to be hard to expand. It is going to be hard to expand supply unless we are really going to push on the subsidy throttle and really push a lot more dollars into producing what is an expensive commodity, and a commodity that——

Senator CANTWELL. Well, listen, I met with some people in Seattle who were very charged with this mission. I asked them and they said, "I think it is going to cost us $15 billion to get out of this problem."

I said, "$15 billion? Like over 10 years?" And they said, "No, probably over 5."

So, quantifying how problematic this really is, I am all for new ideas on how to drive down costs. But, Mr. Konter, I am going to give you the last word, if there is anything you wanted to add. I saw you had your hand up.

Mr. KONTER. Well, thank you, Senator. I think your instincts are probably correct. After the crash, we under-built by about 400,000 houses a year over a 10-year period. There was delayed entry-level market interest, because millennials had household formations that were much later in life, and they all hit at the same time.

And if you look at the demographics between boomers and millennials, it is significant. So that all hit at the same time when we were building up a deficit just to meet what household formation would be in the future.

So I think you are dead-on with what you said. And there was a change in the public sector's view of housing, and I agree we have not had a true housing policy in this country since the 1980s, but the aspiration for single-family home ownership never went away. And that is where all of those things collided, and that is why we have a problem with one group not understanding exactly the significance of the crisis.

Senator CANTWELL. I know we have to run to vote, Mr. Chairman, but we should not forget how important home ownership is as economic stability for families. And so I hope we can rectify this. I appreciate this hearing, and I appreciate your middle-income tax policy too. And the chairman and I come from a part of the country, the Northwest, that is very plagued, not that some of you—the Texans and the Californians and others—have not been too, but we have got to step up to this and get some solutions.

Thank you.

The CHAIRMAN. Senator Cantwell, just one comment. As usual, you are spot-on with respect to this being all about supply. It is always going to be about supply.

I would also like everybody to note Senator Cantwell's comment with respect to how some of the high-flyers used the derivative market back in 2009, and that contributed to some of the market crash problems.

And, Senator Cantwell, before you came, I talked about private equity and powerful interests now apparently using algorithms to out-bid Americans who just want to own a home.

So we have some equity issues to pursue, and we are going to do that in a way that is consistent, as Mr. Konter and I have been talking about, with strengthening the private-public partnership in order to build more housing supply.

Lots to do. Special thanks to Ms. Bell for coming such a long way for this and giving us your expertise.

And with that, the Finance Committee is adjourned.

[Whereupon, at 12:06 p.m., the hearing was concluded.]

APPENDIX

Additional Material Submitted for the Record

Prepared Statement of Andrea Bell, Director, Oregon Housing and Community Services

Mr. Chairman, Ranking Member Crapo, and members of the committee, thank you for this opportunity to testify on the vital role tax incentives—specifically the Low-Income Housing Tax Credit (Housing Credit) and tax-exempt private activity Housing Bonds—play in our Nation's affordable housing delivery system. These programs are by far the most important tools we have to finance affordable rental housing and help low- and moderate-income families become home buyers.

I am Andrea Bell, Director of Oregon Housing and Community Services (OHCS), which is the State of Oregon's Housing Finance Agency (HFA). HFAs are State-chartered, mission-driven agencies that address the full spectrum of affordable housing need, from homelessness to home ownership. For more than 50 years, HFAs have played a central role in the Nation's affordable housing system, delivering more than $500 billion in financing to make possible the purchase, development, and rehabilitation of more than 7.5 million affordable homes.

OHCS administers the Housing Credit and Housing Bond programs, as well as other Federal housing programs from the Department of Housing and Urban Development and State-level resources for affordable housing. During the COVID–19 pandemic, OHCS and many other HFAs also stood up Federal emergency assistance programs, such as Emergency Rental Assistance and the Homeowner Assistance Fund. HFAs were able to do this because we are nimble and high-capacity organizations that have a strong track record of meeting multifaceted housing challenges.

I want to begin by thanking you, Mr. Chairman, for being a steadfast champion of the Housing Credit and Housing Bonds for many years and for continuously elevating the housing needs of Oregonians. In particular, we appreciate your vision for solving the affordable housing crisis, as outlined in the Decent, Safe, Affordable Housing for All (DASH) Act. I also want to thank you, Senator Crapo, for always being a supporter of State HFAs, and in particular for your support of tax-exempt Housing Bonds. Lastly, I want to acknowledge Senators Maria Cantwell (D–WA) and Todd Young (R–IL) for their leadership as the sponsors of the Affordable Housing Credit Improvement Act, S. 1136, passage of which is the most important thing Congress could do to address the imbalance between supply and demand for affordable rental housing.

THE CENTRAL ROLE OF THE HOUSING CREDIT AND MULTIFAMILY HOUSING BONDS

While HFAs administer various Federal and State affordable housing programs, the Housing Credit and Housing Bonds are by far our most essential production tools. Few people who are not deeply entrenched in affordable housing policy understand that the Federal Government's most important housing supply programs are authorized under the tax code and not part of the annual appropriations process.

The Housing Credit is a highly successful public-private partnership that draws on State HFAs' sophisticated underwriting, asset management, and oversight capacity, as well as private-sector experience and investment. It is the most efficient means of increasing rental housing supply, while transferring risk to private-sector investors rather than taxpayers. Since the Credit's establishment in the Tax Reform

Act of 1986, it has financed more than 3.6 million affordable rental homes for low-income families, seniors, veterans, and those with special needs.[1]

In recent years, more than half of Housing Credit homes have been financed with the help of multifamily Housing Bonds. In Oregon, multifamily Housing Bonds play an even more outsized role, as nearly 70 percent of all units we have financed in the State over the last 5 years are bond-financed. The Housing Credit and multifamily Housing Bonds are inextricably linked because of the role bonds play in triggering the 4-percent Credit.

While the Housing Credit program generally serves low-income working households earning 60 percent of area median income (AMI) or less, with congressional direction to serve the lowest income households possible, in practice the program reaches families with incomes much lower than its top-most statutory limits. In fact, 53 percent of households living in Housing Credit apartments are extremely low-income, meaning they earn 30 percent or less of AMI, and another 31 percent are very low-income, earning between 30 and 50 percent of AMI.[2]

There is a fundamental market failure when it comes to affordable housing supply. It simply costs too much to build housing to rent it at rates low-income people can afford absent a Federal incentive such as the Credit. Developers will tell you that it is economically infeasible for them to build rental housing without the equity derived from the Credit unless they charge rents that are well out of the reach of low-income families.

AFFORDABLE RENTAL HOUSING NEED IN THE POST-PANDEMIC ECONOMY

America has been in the midst of a housing crisis for a long time, but never has the need been more acute than it is today. In particular, and especially since the Great Recession when many developers left the industry, our Nation has drastically underproduced both rental and for-sale housing. We are currently seeing the repercussions of the extreme mismatch between supply and demand.

Meanwhile, in the 2-year period from early 2020 to early 2022, the number of households that rent grew by 1.1 million to 44.2 million.[3] With rising interest rates and escalating home prices, would-be homeowners are stuck renting at the same time millennials, many of whom put off household formation, are now entering the rental market.

The sheer number of new renters, without corresponding housing production, has driven historically low vacancy rates and skyrocketing rents, with rents in most major markets spiking by double digits between 2021 and 2022.[4]

While these market dynamics create hardships for renters across the income spectrum, low-income households are by far the most vulnerable. There is currently a shortage of more than 7 million affordable rental homes for extremely low-income renters, with only 37 affordable and available units for every 100 extremely low-income renter households nationwide. Moreover, more than 70 percent of extremely low-income renters spent more than half their income on housing in 2021.[5] Sadly, Oregon is even less affordable than the national average.

The housing market in Oregon clearly demonstrates the challenges renters face due to basic supply-and-demand economics. Since the Great Recession, Oregon has underproduced at least 140,000 homes. More than 584,000 homes are needed to meet our State's population growth over the next 20 years. Even more telling, nearly half of those homes must be built affordable to low-income Oregonians. The data is staggering: Oregon must increase housing production twofold to address supply shortfalls and threefold to address affordable housing supply needs.[6] Without action to increase or improve affordable housing production resources, Oregon and other States will continue to see rates of homelessness rise.

[1] *State HFA Factbook: 2020 NCSHA Annual Survey Results,* National Council of State Housing Agencies.
[2] *Tenants in LIHTC Units as of December 31, 2019,* U.S. Department of Housing and Urban Development, Office of Policy Development and Research.
[3] *The State of the Nation's Housing 2022,* Joint Center for Housing Studies of Harvard University, June 2022.
[4] *Ibid.*
[5] *The Gap: A Shortage of Affordable Homes,* The National Low Income Housing Coalition, April 2022.
[6] *Building on New Ground: Meeting Oregon's Housing Need,* Oregon Housing and Community Services and ECONorthwest, February 2021.

BARRIERS TO AFFORDABLE HOUSING PRODUCTION

Unfortunately, the economic fallout of the COVID–19 pandemic has made it even harder to produce affordable rental housing. The costs of many commodities necessary for construction have gone up drastically, while supply chain disruptions create development delays that further increase costs, and developers struggle to find skilled workers and subcontractors.

According to the National Association of Home Builders, since Spring 2020, prices have gone up for lumber by 75 percent, steel by 107 percent, gypsum and drywall by 32 percent, ready-mix concrete by 11 percent, interior paint by 33 percent, exterior paint by 48 percent, aluminum by 61 percent, and copper by 57 percent.[7]

Despite the vast and growing need and the escalating costs of production, the Housing Credit has actually suffered a cut to resources. A hard-won increase in Housing Credit resources, which Senator Cantwell was instrumental in achieving in 2018, expired at the end of 2021. That means State HFAs have fewer credits to provide to developers this year, at a time when their costs have gone up so substantially and demand is unprecedented.

Costs are rising so quickly that projects in the pipeline must be re-underwritten, sometime several times, before completion to address financing gaps. This has caused tremendous problems as States and their developer partners try to find creative ways of filling these unexpected, gaping holes in project financing.

In some cases, developers of projects that were initially provided credits in prior years are coming back to the HFA asking for a subsequent allocation of credits from the State's 2022 authority. But by backfilling older deals, it means the State will have far less credit authority with which to fund new proposals.

Unfortunately, sometimes the gaps are too large or additional resources are not available, forcing many quality developments to scale back unit production.

Another reason cost increases are particularly problematic is that bond-financed projects that see significant cost increases risk missing the threshold requirement for maximizing Housing Credit resources. A bond-financed property must have at least 50 percent of its costs financed with tax-exempt multifamily bonds to access a sufficient amount of Housing Credit authority as an equity source. We typically provide some cushion to those deals to account for potential cost increases. However, with prices going up as quickly as they are, some projects risk failing this threshold test, which is devastating, even if the developer is fortunate enough to be able to assemble other financing sources to fill the gap. This is particularly problematic in States like Oregon where bond cap is in very high demand and we often do not have excess bond cap to provide a project if its costs go up too much.

CONGRESSIONAL ACTION TO ADDRESS THE RENTAL HOUSING CRISIS

The Federal Government has delayed far too long in taking the steps our Nation needs to address the housing crisis. We are now seeing the repercussions of that delay in rapidly escalating rents, and it is our most vulnerable residents who pay the price.

Many States, including Oregon, have already stepped in with significant investments in affordable housing. I am proud that our State has nearly tripled affordable housing investments biennium over biennium, investing in proven and promising practices to support the stabilization of families making low wages. But States cannot solve this problem without the help of the Federal Government.

The good news is, we know what works and we have the right tools in hand. By far, the most impactful thing Congress could do to meet the need is to pass Senator Cantwell and Senator Young's Affordable Housing Credit Improvement Act (AHCIA). Half of this committee has already cosponsored the bill, and I urge all who have not yet done so to do it now.

The AHCIA is comprehensive legislation that would expand and strengthen the Housing Credit. While it includes many policy changes—some of which are no-cost, common-sense, good governance improvements based on over 3 decades of program administration—I'd like to focus on how the bill would expand the Housing Credit, as these are the provisions that add supply.

[7] Eye on Housing blog post: "Rapidly Rising Building Materials and Freight Prices Push Construction Costs Higher," National Association of Home Builders, June 2022.

The AHCIA would make a significant increase in Housing Credit allocation authority for what we call the 9-percent Housing Credit. The 9-percent credit is the component of the program that provides the more substantial subsidy to developments. These credits are highly competitive, and States often use them to finance the most challenging and needed properties for the highest-risk populations. For example, last week in Oregon, we celebrated the opening of River Bend Place in rural Ontario, a new development funded with the 9-percent credit. Fifty-six new doors are open, and 16 homes will have wrap-around services to help permanently house Oregonians experiencing chronic homelessness.

The other major provision in this legislation that would substantially increase supply is the reduction of the bond financing threshold, sometimes called the 50-percent test. For Oregon, this is probably the most impactful action Congress could take to increase supply as we continue to leverage historic State resources and locally funded housing bonds approved by Metro voters. As I mentioned previously, developments that are funded with tax-exempt multifamily Housing Bonds can generate what we call 4-percent Housing Credits. The 4-percent credit provides less subsidy than the 9-percent credit, but is an essential tool for financing affordable housing. In fact, in 2020, nearly 60 percent of Housing Credit homes nationwide were financed with 4-percent credits.

To maximize the 4-percent credit equity available to an individual deal, multifamily bonds must be used to cover at least 50 percent of the cost of the development. That means States need to make a significant investment of their finite Private Activity Bond (PAB) resources in individual developments in order to unlock the 4-percent credits. More and more States are like Oregon, which has far more demand for PAB cap than we have available. According to research by Novogradac and Tiber Hudson, 22 States were oversubscribed for PAB cap as of May 2022.

Moreover, covering at least 50 percent of a project's total cost with multifamily bonds makes no sense from a financing perspective. Bonds provide debt, but these projects cannot support that much debt over the long run. What happens in practice is that we provide bonds sufficient to meet the 50 percent test just to trigger the 4-percent credits. Then, the developer must refinance the project, paying off the bond debt, to put in place permanent financing with a much lower debt level that the project can reasonably support. This practice is inefficient, adds cost, and prevents States from spreading bond resources to more quality affordable housing projects.

The AHCIA would lower the bond financing threshold to 25 percent, which is much more in line with the amount of debt these projects could support. According to an estimate by Novogradac that considered the time-limited reduction in the bond financing threshold included in the Finance Committee's initial proposal for the Build Back Better Act, Oregon would be able to finance 11,200 more homes over a 10-year period if Congress made this change. It is this type of common-sense reform to Housing Credits that will allow Oregon and other States to dramatically scale production to address supply challenges.

The AHCIA also includes other provisions that would increase production by providing basis boosts for properties in rural areas, those benefiting Tribal populations, and those housing extremely low-income households, as well as expanding the number of areas where basis boosts are allowed because the area qualifies as a Qualified Census Tract or Difficult Development Area. The AHCIA also gives States discretion to provide a 30-percent boost to 4-percent credit properties as needed for financial feasibility.

Another step Congress should take to address the immediate housing cost challenges we face is passing the bipartisan LIHTC Financing Enabling Long-term Investment in Neighborhood Excellence (LIFELINE) Act, S. 4181, introduced by Senators Patrick Leahy (D–VT) and Susan Collins (R–ME).

Approximately half of States and countless local governments have turned to the Coronavirus State and Local Fiscal Recovery Fund (FRF) as a source of funds that could be used to fill financing gaps in Housing Credit developments, but there are significant challenges to using FRF money effectively for long-term loans to Housing Credit developments due to unintended statutory barriers. The LIFELINE Act would fix the problem by allowing these funds, which Congress has already allocated to States and local governments, to be used for loans with maturities of at least 30 years.

While FRF is not a tax incentive, the Finance Committee has jurisdiction over these funds, and I strongly encourage all committee members to join Chairman Wyden as cosponsors of this bill and to press for its enactment.

THE HOUSING CRISIS IS IMPACTING HOME-OWNERSHIP OPPORTUNITIES TOO

Our Nation's critical affordable housing shortage is not limited to rental housing. According to a recent analysis by Freddie Mac, the United States would need to construct nearly 3.8 million for-ownership homes to meet demand.[8] Insufficient supply has substantially increased sale prices of single-family homes, pricing many working families out of the market. Moreover, recent dramatic increases in mortgage interest rates have exacerbated affordability challenges. It now costs a home buyer 50 percent more to buy a home than it would have to purchase the same home a year ago,[9] putting home ownership out of reach for many households.

Another significant challenge facing low- and moderate-income households seeking to become homeowners is the lack of starter homes on the market. For some time, builders have reported that building smaller homes is cost-prohibitive, therefore most new construction is of larger luxury homes because that's the only way for developers to make the economy of scale work. The average sale price for a new home in May was $511,400, up 15 percent from just a year ago.[10] Only 9 percent of new homes sold that month were priced under $300,000, compared to around 30 percent in January 2021.[11] Moreover, development costs for single-family homes are also subject to the same market dynamics as multifamily production, including significant inflation of common construction materials, supply chain delays, and workforce disruptions.

These market developments have made it harder to address the longstanding home-ownership gap between White households and households of color. In 2020, 72.1 percent of White households owned their home, compared to 61.7 percent of Asian American households, 51.1 percent of Hispanic American households, and 43.3 percent of African American households.[12]

A recent study found that, in each of the Nation's 50 largest metro areas, African American residents own a disproportionately small share of homes compared with their population.[13] One of the biggest factors historically preventing minority families from purchasing a home is a lack of accumulated wealth compared to White households, a legacy of our Nation's discriminatory redline policies. The current surge in pricing has worsened these disparities by making it even harder for minority households to amass the necessary savings to pay for the upfront costs of purchasing a home. While State HFA down payment assistance programs offer an affordable and sustainable option for such borrowers, we need a more comprehensive solution that helps increase supply and improve other home-ownership tools.

A healthy and affordable home purchase market is crucial for economic growth. Home ownership is many working families' primary means of building generational wealth. Further, an active home purchase market would open up more rental opportunities for those wishing to rent as new home buyers leave their apartments.

CONGRESSIONAL ACTION TO ADDRESS THE NEEDS OF HOMEOWNERS

While addressing these issues will take concerted and multifaceted action, there are two legislative proposals the Finance Committee can take up in this Congress to expand the supply of affordable homes and improve access to home ownership for low- and moderate-income home buyers. These are the Affordable Housing Bond Enhancement Act, S. 4445, and the Neighborhood Homes Investment Act, S. 98.

I want to thank committee member Senator Catherine Cortez Masto (D–NV) for introducing the Affordable Housing Bond Enhancement Act (AHBEA) last month. This important bill would enact simple and impactful improvements to two essential

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[8] *One of the Most Important Challenges Our Industry Will Face: The Significant Shortage of Starter Homes,* Sam Kater, Freddie Mac, April 2021.

[9] *The Cost of Buying a Home Is Up 50% From a Year Ago—But Here's Where You Could Get a Break,* Clare Trapasso, *Realtor.com,* May 16, 2022.

[10] *Monthly New Residential Sales, May 2002,* U.S. Census Bureau, June 24, 2022.

[11] *Ibid.*

[12] *2022 Snapshot of Race and Home Buying in America,* National Association of Realtors®, February 2022.

[13] *Black Americans Own Disproportionately Small Share of Homes in 50 Largest U.S. Metros,* Jacob Channel, Lending Tree, April 5, 2022.

tax incentives that help first-time low- and moderate-income home buyers: the Mortgage Revenue Bond (MRB) and Mortgage Credit Certificate (MCC) programs.

MRBs historically have been HFAs' primary tool for financing low-interest mortgages for low- and moderate-income home buyers. Investors are willing to accept a lower rate of return for Housing Bonds than they would get on other investments because the interest on the bonds is exempt from Federal income tax. The lower rate is then passed on to lower the interest rate paid by lower-income home buyers.

In total, MRBs have helped more than 3.3 million working households become home buyers. The median income of MRB loan borrowers in 2020 was two-thirds of the national median income. OHCS utilized MRBs to help more than 430 Oregon families across 29 counties achieve the dream of home ownership in calendar year 2021, supporting more than $116 million in loans for low- and moderate-income home buyers.

In addition, HFAs can use their MRB authority to issue Mortgage Credit Certificates, which provide a nonrefundable Federal income tax credit for part of the mortgage interest qualified home buyers pay each year. State HFAs have used MCCs to provide critical tax relief to more than 365,000 families.

AHBEA would improve MRBs and MCCs by, among other changes:

- Increasing the MRB home improvement loan limit;
- Allowing MRBs to be used for refinancing loans;
- Providing HFAs additional flexibility in how they utilize housing bond authority;
- Simplifying how a borrower's MCC benefit is calculated;
- Reducing the time period for the MRB and MCC recapture tax from 9 years to 5;
- Extending the amount of time HFAs can use converted MCC authority from 2 years to 4; and
- Allowing HFAs to reconvert MCC authority back into MRBs 2 years after the conversion, rather than 1.

This legislation is a cost-effective way to improve the MRB and MCC programs. I urge all committee members to cosponsor this legislation.

Lastly, I'd like to express our support for the Neighborhood Homes Investment Act (NHIA), introduced by committee members Senators Ben Cardin (D–MD) and Rob Portman (R–OH). In many census tracts and rural areas, developers cannot sell homes for what it costs to construct or substantially rehabilitate them, known as the "value gap." This is a problem for which we currently do not have a solution. We need a new tool in our arsenal.

The NHIA would establish a new tax credit, the Neighborhood Homes Credit, modeled after the highly successful Housing Credit. It would incentivize developers to construct new or substantially rehabilitate housing by closing the value gap, up to 35 percent of eligible development costs. It is estimated that the equity raised by the Neighborhood Homes Credit would finance the building and substantial rehabilitation of 500,000 affordable homes for low- and moderate-income homeowners over the next 10 years.

Thank you, Chairman Wyden, for including the Neighborhood Homes Credit in your DASH Act and working with OHCS to allow the credit to more effectively be used to assist homeowners impacted by natural disasters.

I encourage the committee to take up and advance both of these bills as quickly as possible.

The housing crisis will not get better unless Congress acts. Enactment of the four bills I've addressed in this testimony—The Affordable Housing Credit Improvement Act, the LIFELINE Act, the Affordable Housing Bond Enhancement Act, and the Neighborhood Homes Investment Act—would truly address the affordable housing crisis for both renters and homeowners. OHCS and all HFAs, through our national association, the National Council of State Housing Agencies, urge the committee to act on these bills and Congress as a whole to enact them this year.

Thank you for your commendable efforts to support affordable housing. I am honored to have had this opportunity to testify before the committee.

QUESTIONS SUBMITTED FOR THE RECORD TO ANDREA BELL

QUESTION SUBMITTED BY HON. MICHAEL F. BENNET

Question. The American Rescue Plan Act, passed last year, is providing huge opportunities for States and local communities to address their affordable housing challenges. Colorado is dedicating more than $500 million of its ARPA State and Local Fiscal Recovery Funds to housing. The program provides gap financing for affordable housing developments, and supports an innovative manufactured housing program, to help groups of mobile home owners purchase the communities in which they live.

Unfortunately, States and localities face limitations to using these funds for new development under the Low-Income Housing Tax Credit. When Federal funds are used to fill gaps in LIHTC-funded construction, it is almost always as long-term loans—yet under current law, Fiscal Recovery Funds must be spent on a shorter timeline, by 2026.

The bipartisan LIFELINE Act would solve this problem by allowing States and localities to loan Fiscal Recovery Funds for LIHTC projects.

How would passing the LIFELINE Act affect the development of new affordable units in the coming years?

Answer. State Housing Finance Agencies were thrilled when Treasury recently announced updates to its Coronavirus State and Local Fiscal Recovery Fund (FRF) guidance that would mirror the LIFELINE Act's statutory modifications, allowing State and local governments to finance affordable housing, including Housing Credit developments, with loans made with FRF resources. This change to Treasury guidance would not have happened if not for the support in Congress for the LIFELINE Act; and we are grateful to you and the other Senators who cosponsored this critical legislation.

The change to Treasury's guidance will unlock what is likely to be billions of dollars that States and local governments can use to finance affordable rental housing for low-income families, seniors, people with disabilities, veterans, and more. The National Council of State Housing Agencies expects that thousands of developments in the pipeline that had been stalled because of the financing gap will be able to access FRF, allowing them to close on their financing and begin construction. Moreover, FRF will allow projects that would not have previously been financially feasible to be built, increasing supply in areas that desperately need it.

QUESTIONS SUBMITTED BY HON. ROBERT P. CASEY, JR.

Question. As chairman of the Aging Committee, I champion policies that ensure older adults and people with disabilities are fully integrated into society. People with disabilities are productive members of society and have goals and ambitions like any hardworking American. We know people with disabilities have varying mobility needs. Some can drive or get around by car, but for many others, living in a walkable neighborhood with transit access is crucial for them to participate fully in society.

From your experience on the ground, do you believe it's important to connect our housing stock for people with disabilities with access to transit? How could Federal policy better support and incentivize States and localities that do this?

Answer. Running simple errands such as driving to the grocery store or going to an appointment, and visiting friends is something many of us take for granted. Strengthening critical housing investment is one the primary avenues for strengthening an integrated built environment. for State Housing Credit allocating agencies are often able to impact project siting by providing incentives to developers through the Qualified Allocation Plan (QAP) scoring process for locating properties in areas with access to certain amenities, which may include public transportation. In addition to proximity to transit, QAPs often also incentivize proximity to employment, resident services, or community amenities, such as grocery stores, pharmacies, libraries, health care, and schools.

Oregon's Statewide Housing Plan calls for Oregon Housing and Community Services to take advantage of opportunities to provide affordable housing in transportation-efficient locations to reduce travel time and housing and transportation cost burden for residents of OHCS-funded properties, including transit-oriented develop-

ment and areas near affordable transportation. That policy direction becomes action in Oregon's QAP, which includes scoring criteria that provides a competitive advantage to developments that are near transit stops, or, in more rural communities, have access to other means of transportation beyond their own car. This helps to prioritize developments that ensure access needs for Oregonians with disabilities and encourage a less car-dependent community. The QAP also provides a competitive advantage to organizations that serve residents that are less likely to access publicly funded housing, which includes organizations that serve people with disabilities. Lastly, OHCS maintains development standards that require both Federal accessibility standards and State defined visitability standards.

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

Question. In 2018, the GAO released a report at my prompting. Among its recommendations were to improve data collection for the LIHTC program. Over a series of reports on the issue, they noted the program's complexity and identified the need for more transparency.

The primary recommendation in this 2018 report was for Congress to "consider designating a Federal agency to maintain and analyze LIHTC cost data." To date, this recommendation has not been implemented.

What can State agencies do to collect and make this information public in the absence of congressional action?

Answer. Since the publication of the GAO report series on the Housing Credit, IRS has taken some significant steps to improve its data collection. Specifically, it has implemented a new database that collects all data provided to the Service in the forms submitted by State agencies and taxpayers. This new database allows IRS to better see trends and track the usage of Housing Credits.

Other data about the Housing Credit program is available through HUD's two data collection projects—the Housing Credit "Placed in Service" database, which provides information on Housing Credit developments, and the Housing Credit tenant data collection effort, which provides information on the households who live in Housing Credit properties.

In addition, the National Council of State Housing Agencies each year publishes its Factbook, which provides the results of its annual survey of State HFAs, including an entire chapter about the Housing Credit with data on all aspects of State administration of the program. NCSHA shares copies of the Factbook with IRS and the Joint Committee on Taxation and makes the Factbook available for purchase for the general public. NCSHA would be happy to provide Senator Grassley's office with a copy of the most recent Factbook, should that be useful to you.

Question. Another GAO report on the LIHTC I requested was released on July 15, 2015. While the program is currently administered at the Federal level by the Internal Revenue Service, this report recommended giving the Department of Housing and Urban Development a joint oversight role.

I have been a strong advocate of oversight as long as I have been in Congress. It is impossible to conduct meaningful oversight without consistent and available data on how programs preform, however I also understand the need to limit unnecessary paperwork for those participating in Federal programs.

What impact would giving HUD a partnering oversight role have on the LIHTC program?

Answer. When Congress enacted the Housing Credit program, it turned away from Washington-driven highly bureaucratic housing programs of the past by establishing a State-based structure in which IRS and Treasury partner with State Housing Finance Agencies on oversight and program administration. Nearly 40 years later, it is clear that Congress had great foresight in this program design, which has been integral to the Housing Credit's long track record of success.

As envisioned by Congress, State HFAs play a key role in program oversight. In fact, GAO's 2016 report on State administration of the Housing Credit showed how States not only fulfill congressionally required monitoring requirements of the program, but in many cases go above and beyond those requirements. One example noted in the GAO's report is of States conducting physical inspections and file reviews more frequently than the law requires and implementing policies to encourage

compliance during the extended use period when investors are no longer at risk of credit recapture.

Introducing HUD as a coadministrator of the Housing Credit would unnecessarily create a new level of bureaucratic red tape that could reduce program effectiveness, slow down the production process, and cause uncertainty for private-sector investors and developers who are so integral to the Credit's success. HUD has little expertise in or experience with the Housing Credit, suffers from its own severe resource constraints, and has received negative evaluations from the GAO and others on its own program oversight.

As GAO pointed out in its 2015 report, involving HUD in the oversight of the Credit would require additional resources for HUD—not only to undertake new programmatic responsibilities, but also to simply train staff, who currently have limited knowledge of and experience with the Credit program. GAO also noted in that report that the level of resources that would be needed for HUD to perform adequate oversight is not known. Given that this would be an entirely new program for HUD to administer, those resources would likely be substantial and considerably more than would be necessary to invest further in Treasury and IRS's existing oversight structure.

If Congress determines that additional Federal oversight of the Housing Credit program is needed, I suggest that the best course of action would be to provide additional resources to Treasury and IRS for program oversight.

Question. It is no secret that housing costs have been increasing well before the current wave of inflation. While LIHTC has an impact on bringing more affordable units onto the market, the varied housing prices across the country indicate that local policies, such as zoning, have possibly the greatest role in determining housing costs.

In addition, there are a wide variety of regulations at the Federal level, including HUD regulations, that increase the price of new homes and buildings.

As Professor Ohanian noted in his testimony, there are currently a number of regulations that prevent affordable housing from being constructed. In addition to the LIHTC, what other options would be available to increase housing supply? How would these other options compare to the LIHTC in cost effectiveness? What factors at the State or local level are inhibiting the creation of affordable housing?

Answer. One of the most critical responsibilities of State HFAs is to ensure that the Housing Credit dollar amount each property receives does not exceed the amount the agency deems necessary for financial feasibility and that the property development and operating costs are reasonable. As such, HFAs have adopted numerous cost-containment procedures and limits, which they balance against other policy objectives that might result in higher costs—for example, serving the lowest-income households, using durable materials that reduce long-term upkeep needs, locating projects in higher opportunity areas, and instituting energy efficiency measures.

While HFAs do what they can to contain costs, the primary factors that drive development costs of all apartment projects, including Housing Credit properties—costs of land, labor, and materials—are driven by market forces, that are unfortunately beyond the control of HFAs and affordable housing developers. Local regulations that increase costs, such as zoning fees and lengthy approval periods, are also beyond State agency control.

While local regulations certainly vary across the Nation, and can impact the variation of development costs, they are not the only reason why development costs in certain areas are higher than in others. For example, land costs vary widely. Developers seeking to build in higher opportunity areas will face steeper competition for sites from market-rate developers than those building in other areas.

The most critical question is whether affordable housing is somehow more expensive than comparable market-rate housing in the same area. It is difficult to ascertain the answer to this question because data on market-rate construction is not readily available. In Oregon, Oregon Housing and Community Services (OHCS) report to the State Legislature on construction costs through our annual Key Performance Measures, and usually finds that OHCS funded developments are typically in line with national data that includes market rate costs. OHCS also contracted to have a study conducted on development costs in 2018, and one of the numerous findings was an analysis showing that costs between market rate and affordable developments were negligible.

Regarding your question about alternative strategies for increasing housing supply, it is hard to imagine a program that would be more effective than the Housing Credit. The Federal Government has certainly attempted to build housing in the past through grant programs, such as section 8, and government ownership, such as Public Housing. But the Housing Credit, with its market-based, public-private partnership structure has proven to be a far more effective means of producing affordable rental housing than those earlier programs.

QUESTIONS SUBMITTED BY HON. SHELDON WHITEHOUSE

Question. We have an affordable housing crisis in this country, and Rhode Island hasn't been spared. According to HousingWorksRI, there are currently no communities in Rhode Island where families earning the State's median income of $67,167 or less can afford to buy a home, and there's only one community—Burrillville—where Rhode Islanders can affordably rent.

The root of this problem is a supply shortage that pre-dated the pandemic. Since 2020, COVID significantly increased the cost and difficulty of developing housing by disrupting supply chains and increasing the cost of building materials. As a result, construction costs in Rhode Island are up more than 18 percent over the past 2 years, and many affordable developments are facing financing gaps.

Nationally, 29 States have appropriated nearly $9 billion in State Fiscal Recovery Funds for affordable housing, and Rhode Island is one of them. The State recently dedicated $250 million in Fiscal Recovery Funds to affordable housing and homelessness programs, with $100 million targeted specifically to housing production.

These Fiscal Recovery Fund investments would be able to make an even greater impact in Rhode Island and nationwide if they were able to leverage Low-Income Housing Tax Credit (LIHTC) financing. Unfortunately, it is my understanding that Treasury's rules seriously limit the effectiveness of combining Fiscal Recovery Funds with LIHTC Credits.

That's why I partnered with Senators Leahy and Collins to introduce the bipartisan LIFELINE Act, which would allow State and local governments to use Fiscal Recovery Funds to make long-term loans to LIHTC developments with long-term deed restrictions.

Do Treasury's current rules regarding the American Rescue Plan's Coronavirus State and Local Fiscal Recovery Fund pose a problem to using these resources to help plug funding gaps in LIHTC-financed developments?

Would the bipartisan LIFELINE Act address this problem?

Are there time constraints to acting on the LIFELINE Act that Congress should consider?

Answer. On July 27th, the week after the Senate Finance Committee held its hearing, Treasury released updated guidance allowing State and local governments to finance affordable housing development using loans made with Coronavirus State and Local Fiscal Recovery Fund (FRF) resources, mirroring the LIFELINE Act. Oregon Housing and Community Services and all our State Housing Finance Agency colleagues were thrilled with this change in direction by the Treasury Department, which would not have happened if not for the support in Congress for the LIFELINE Act. We are grateful to you and the other Senators who cosponsored this critical legislation.

The change to Treasury's guidance will unlock what is likely to be billions of dollars that States and local governments can use to finance affordable rental housing for low-income families, seniors, people with disabilities, veterans, and more. The National Council of State Housing Agencies expects that thousands of developments in the pipeline that had been stalled because of the financing gap will be able to access FRF, allowing them to close on their financing and begin construction. Moreover, FRF will allow projects that would not have previously been financially feasible to be built, increasing supply in areas that desperately need it.

Question. The 2018 Consolidated Appropriations Act increased the number of Low-Income Housing Tax Credits (LIHTC) available to States each year by 12.5 percent for Fiscal Years 2018 through 2021. For Rhode Island, that boost enabled the LIHTC program to produce or preserve nearly 2,000 affordable homes in this time period—but it expired at the end of last year.

At a time when we need housing investments more than ever to increase the supply of affordable housing and offset pandemic related cost increases, LIHTC allocations have actually dropped 12.5 percent. This means that Rhode Island lost access to roughly $3.5 million in tax credit equity that could have been put towards the development and preservation of affordable apartments.

What impact is the reduction in LIHTC allocations having on the production and preservation of rental housing?

Answer. The cut to Housing Credit authority in 2022 came at the worst possible time. With development costs increasing at historic levels and demand far exceeding supply, we need more Housing Credit resources, not less. Sadly, because of increased costs, some State Housing Credit agencies are being forced to use 2022 and 2023 credit authority to backfill projects initially provided credits in 2020 and 2021 in order to fill financing gaps. This will leave little credit authority left to finance additional developments in 2022 and 2023.

Oregon Housing and Community Services uses State funds to leverage Housing Credit and other Federal resources. Without this important component of project financing, the agency estimates hundreds less affordable homes will be funded in the next 2 years. OHCS has unlocked the full potential of the 4-percent credit by utilizing State resources as gap filler and continue to maximize the 9-percent credit resulting in historic development over the past 3 years. But it is not enough, and reductions to the 9-percent and hitting PAB caps in the 4-percent combined with inflationary pressures will likely result in fewer development as our housing crisis only intensifies This may have the perverse effect of desensitizing State investment in housing without the needed Federal funds to make a development pencil.

I strongly encourage Congress to not only restore the 12.5-percent cut in credit authority, but to further expand Housing Credit resources, both through a cap increase and by lowering the threshold necessary for bond-financed properties to trigger 4-percent Housing Credits. It is essential that Congress act quickly, given skyrocketing rents resulting from the supply-demand imbalance.

Question. I am also a cosponsor of the bipartisan Affordable Housing Credit Improvement Act (S. 1136), introduced last year by Senators Maria Cantwell (D–WA), Todd Young (R–IN), Ron Wyden (D–OR), and Rob Portman (R–OH). This bipartisan bill expands the Low-Income Housing Tax Credit (LIHTC) program and would finance over 2 million additional affordable homes across the Nation over the next decade—including over 5,000 apartments in Rhode Island.

How would the Affordable Housing Credit Improvement Act make the LIHTC program even more effective at financing housing production and preservation?

Answer. Passing the Affordable Housing Credit Improvement Act (AHCIA) is the most important thing Congress could do to increase the supply of affordable rental housing and make the Housing Credit an even more effective program than it already is.

The AHCIA has universal support within the affordable housing community—including the support of tenant advocates, nonprofits, for-profit developers, State Housing Finance Agencies, and private sector investors. It also has wide bipartisan support in both chambers of Congress. But we need Congress to act to advance the legislation.

The AHCIA would make a substantial investment in affordable housing, both by increasing the Housing Credit cap on 9-percent credit authority and by lowering the so-called 50-percent test, unlocking 4-percent credits for more bond-financed developments. In Oregon, reducing the 50-percent test would immediately address private activity bond constraints on the credit. The AHCIA would also make Housing Credit development more feasible in hard to serve areas of the country, including rural areas and Tribal lands, and allow more units to be produced that would be affordable to extremely low-income households without the need for a housing voucher.

Additionally, the bill includes a host of common sense, no-cost improvements to the program that would simplify administration and improve efficacy based on lessons learned over nearly 4 decades. In particular, many of these modifications would make preservation of affordable housing more feasible.

I and all affordable housing advocates are grateful for your support of this legislation.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. Thank you for the support you expressed during the hearing for Senator Cantwell's and my Affordable Housing Credit Improvement Act (S. 1136). I wanted to take this opportunity to solicit your thoughts in greater detail regarding my bill and the Low-Income Housing Tax Credit (LIHTC) generally.

Why do you support the Affordable Housing Credit Improvement Act and how do you believe it will impact the populations you serve?

Answer. Oregon Housing and Community Services and all State Housing Finance Agencies are so grateful for your leadership in sponsoring the Affordable Housing Credit Improvement Act (AHCIA). Passage of this legislation is the most important thing Congress could do to increase the supply of affordable rental housing, which is so desperately needed.

The AHCIA would make a substantial investment in affordable housing, both by increasing the Housing Credit cap on 9-percent credit authority and by lowering the so-called 50-percent test, unlocking 4-percent credits for more bond-financed developments. In Oregon, lowering the 50-percent test is probably the most impactful action Congress could take to increase supply, as we have far more demand for private activity bond (PAB) resources than we have PAB authority available. According to an estimate by Novogradac of the provision as included in the initial Build Back Better proposal, Oregon alone would be able to finance 11,200 more homes over a 10-year period if Congress made this change.

The AHCIA would also make Housing Credit development more feasible in hard-to-serve areas of the country, including rural areas and Tribal lands, and allow more units to be produced that would be affordable to extremely low-income households without the need for a housing voucher.

Additionally, the bill includes a host of common-sense, no-cost improvements to the program that would simplify administration and improve efficacy based on lessons learned over nearly 4 decades. In particular, many of these modifications would make preservation of affordable housing more feasible.

While Oregon and all State HFAs are eager to see the passage of AHCIA, Oregon and many other States could immediately benefit from the reduction of the 50-percent test on bond-funded developments. This provision of AHCIA should move forward this Congress to immediately unlock development potential across the Nation and allow more Americans to go home to a safe, stable, and affordable home.

Question. Can you please share what it is that makes the Low-Income Housing Tax Credit so effective in addressing the affordable housing crisis?

Answer. The Housing Credit is our Nation's most successful tool for the production and preservation of affordable rental housing, responsible for nearly all of the affordable housing built and preserved since the program was authorized in the Tax Reform Act of 1986. It has financed over 3.6 million affordable homes since then, providing approximately 8 million low-income families, seniors, veterans, and people with disabilities homes that they can afford.

The Housing Credit's success is due to Congress's wise decision to structure the program as a public-private partnership under State-level administration. The program is a pay-for-success model, in which credit against a private investor's tax liability can only be taken after properties are successfully completed and occupied by eligible tenants. Further, should a property become noncompliant, investors risk credit recapture. Under this system, private-sector investors—not taxpayers—bear the financial risk.

Unlike many other tax expenditures, which subsidize activity that would occur at some level without a tax benefit, virtually no affordable rental housing development would occur without the Housing Credit. State affordable housing investments are often best utilized as gap resources to support the 4-percent LIHTC program. This Federal/State partnership is key to affordable housing development, but additional Federal resources are necessary to continue to incentivize State and local investment.

Other programs, including the successful New Markets Tax Credit, have been designed using the Housing Credit structure as a model due to its long track record of success.

The Affordable Housing Credit Improvement Act, which you have sponsored with Senator Cantwell, would make the program even more effective.

Question. What are some of the positive externalities you believe the Affordable Housing Credit Improvement Act would have on communities in Oregon and across the country?

Answer. The Affordable Housing Credit Improvement Act (AHCIA) would undoubtedly have a major positive impact on communities across the Nation. It would provide State agencies more Housing Credit resources so that they could finance projects in all geographies within their States, including rural, suburban, and urban areas.

The Housing Credit has far-reaching economic benefits for local communities. Since its creation, the Housing Credit has generated approximately $643 billion in wages and business income and $233 billion in tax revenues, supporting approximately 5.68 million jobs nationwide.

But by far, the most important impact of the Housing Credit is the impact it has on the people who live in Housing Credit properties. With affordable housing, families can stabilize their finances, people with disabilities or mental health challenges can access services, children can focus on school, and seniors with fixed incomes can feel comfortable knowing that they can afford to stay in their homes.

Question. Why is it important and necessary that we pass the Affordable Housing Credit Improvement Act this year?

Answer. Never has the need for affordable housing been greater than it is now. Our Nation is facing an ever-worsening housing crisis With rents skyrocketing and vacancy rates at historic lows due to an extreme imbalance between supply and demand, low-income households are being forced to choose which bills to pay and many are at risk of homelessness.

Furthermore, these unprecedented rents are a key driver of overall inflation. But unlike other drivers of inflation, which can be addressed through Federal monetary policy, housing costs will not recede unless we are able to increase supply. As Senator Cantwell said during the hearing, "supply, supply, supply." States cannot solve homelessness and create stabile communities without a more robust supply of affordable housing.

In particular, since the Great Recession, when many developers left the industry, our Nation has drastically underproduced both rental and for-sale housing. We are seeing the repercussion of this underproduction now.

Unless Congress acts by passing the AHCIA, the situation will only get worse. We cannot afford to continue to underproduce affordable housing.

PREPARED STATEMENT OF HON. MIKE CRAPO,
A U.S. SENATOR FROM IDAHO

Last week we learned that consumer price inflation spiked to 9.1 percent, the highest in more than 40 years. The shelter component of the consumer price index was up 5.6 percent in June relative to a year earlier, and rents were up by nearly 6 percent. To continue battling inflation, which was fueled by last year's partisan American Rescue Plan, the Federal Reserve must aggressively raise interest rates, and may raise rates later this month by as much as a full percent.

Inflation must be contained, or we run a risk of the Fed having to repeat what it did in late 1980 to combat runaway inflation. Painfully then, overnight interest rates were driven to nearly 20 percent, which crushed economic activity, including housing markets, and helped lead to a deep and long recession. With higher interest rates set by the Fed, higher mortgage rates follow, making it all the more challenging for Americans to buy homes.

Housing affordability is a critical issue in Idaho and all across the country. Nationwide, there is a shortage of about 7 million affordable rental homes available to lower-income Americans, and the gap between demand and supply increases each year. To provide more affordable housing, there are existing tools in the tax toolbox that provide incentives for builders to create more affordable homes.

The Low-Income Housing Tax Credit—or LIHTC—for example, is responsible for generating a majority of all affordable rental housing created in the U.S. today and generally enjoys bipartisan support in Congress.

In Idaho, there are currently 284 LIHTC projects located across the State, providing 12,000-plus units. These projects vary in size and are split roughly between

urban and rural, with about 72 percent targeted toward families and 28 percent for seniors and the elderly. One such project is the Valor Pointe Apartments in Boise, which targets chronically homeless veterans.

Several members of this committee have been active in working to improve existing affordable housing credits and to create new incentives. Senators Young and Cantwell, as well as several other members, introduced the Affordable Housing Credit Improvement Act, which would expand and strengthen LIHTC for developing and preserving affordable housing. Senators Portman and Cardin introduced the Neighborhood Homes Investment Act, which would create a Federal tax credit that covers the cost difference between building or renovating a home in urban and rural areas.

Numerous other Finance Committee members are also interested in finding affordable housing solutions. Thank you all for your hard work. While LIHTC and other credits are part of the solution to developing affordable housing, we must address other drivers that are increasing housing costs generally.

Foremost in the current economy is the need to reduce inflation. Unfortunately, it has been allowed to run rampant, and necessary Federal Reserve actions will raise the cost of housing. Builders are also feeling inflation's effect through more expensive building materials. And, painfully high fuel prices continue to put even more pressure on builders' budgets, making it is even more expensive to get materials to construction sites.

Additionally, several economic factors have led to a shortage of affordable housing.

One way to alleviate the shortage would be to look into more manufactured housing. During his time at HUD, former Secretary Carson created the Office of Innovation to evaluate new ways to provide housing, and in doing so highlighted the improved efficiency and suitability of manufactured homes.

Zoning laws and regulatory barriers, which are often uncoordinated, unnecessary, or overly cumbersome, also present challenges to affordable housing by creating excessive costs that restrain development of affordable housing. Many of the markets with the most severe shortages in affordable housing have the most restrictive State and local barriers to development.

We must work to reduce regulatory barriers, which requires outside-the-box approaches, as well as teamwork from local, State, and Federal Governments, and the private sector. This includes initiatives like Opportunity Zones that were part of the Tax Cuts and Jobs Act, an area where Senator Scott has done a great deal of good work.

Data released as of March 24, 2022, by the Opportunity Zone Fund Directory shows that $49.18 billion has been committed in anticipated investments and 60 percent of those funds target investments in affordable housing and community development.

Homes are more than just physical structures. Homes are a foundation for wealth building, family stability and community cohesiveness. It is critical that we make the American dream of home ownership as attainable for as many people as possible, which will continue to foster the economic success of the Nation.

I look forward to discussing ways to ensure affordability and accessibility of home ownership with today's witnesses.

PREPARED STATEMENT OF JERRY KONTER, FOUNDER AND PRESIDENT, KONTER QUALITY HOMES; AND CHAIRMAN OF THE BOARD, NATIONAL ASSOCIATION OF HOME BUILDERS

On behalf of the more than 140,000 members of the National Association of Home Builders (NAHB), I am Jerry Konter, NAHB's 2022 chairman of the board and founder and president of Konter Quality Homes, based in Savannah, GA. Over my career, my company has built more than 2,200 single-family and 700 multifamily homes.

The Internal Revenue Code currently provides numerous housing-related rules and incentives covering both owner-occupied and rental units. There are key tax provisions geared toward rental housing, which help facilitate the production of new rental housing. These include the Low-Income Housing Tax Credit (LIHTC); accelerated depreciation; section 142 multifamily rental bonds; and carried interest.

There are also several owner-occupied housing tax incentives that help make owning a home affordable and accessible to millions of Americans. These include the mortgage interest deduction (MID); the deduction for local property taxes; the principal residence capital gains exclusion; and mortgage revenue bonds.

NAHB has spent years researching the housing tax incentives to determine how they benefit builders, remodelers, home buyers, home owners, and renters. Many assumptions are made about various housing policies. NAHB has sought to move away from assumptions to a fact-based approach as we evaluate these tax incentives to ensure these long-standing tax incentives are effective. My testimony explores the lessons learned from that research.

Many of these incentives continue to serve the public interest and remain highly effective, including LIHTC, which should be further expanded to reflect the need for more affordable rental housing as well as increases in development costs.

On the other hand, some housing tax incentives have failed to keep up with changes to the tax code. What was once an effective tax incentive may no longer be serving its original purpose—we would put forward the mortgage interest deduction as an example of a housing incentive that should be updated to reflect today's tax code and better serve the segment of prospective home owners that face unprecedented affordability challenges.

The housing affordability crisis is driven by one fact: over the past decade, we have failed to produce enough housing to keep up with demand. If we are going to solve our housing affordability crisis, we must drive down the cost to build as well as the cost to own or rent. Well-structured housing tax incentives can help us achieve this goal. With the specter of a recession looming over the economy, production-focused incentives have the potential to help housing recovery quickly and help reduce inflationary pressures.

Indeed, shelter-based inflation, which makes up 40 percent of the CPI, increased in June at the fastest pace since 1986.[1] While the Federal Reserve is increasing interest rates via tighter monetary policy to fight inflation, its policy tools are poorly situated for addressing the housing element of the inflation challenge. Higher interest rates increase the cost of buying a home (thus increasing demand for rental housing and generating higher rents), while also increasing the cost of financing single-family and multifamily construction, thereby restricting housing supply. Only efficient, timely and targeted finance and tax policy can address the root causes of underbuilding in the U.S., thereby tackling the shelter-based source of inflation.

Given this economic backdrop, NAHB specifically recommends:

- Expanding resources for the Low-Income Housing Tax Credit by enacting the Affordable Housing Credit Improvement Act (S. 1136). LIHTC is the most effective tool to boost production of affordable rental housing. We appreciate the leadership of Senator Cantwell, Chairman Wyden, Senator Young, and Senator Portman, along with the many members of this committee who have cosponsored this legislation.
- Enacting the Middle-Income Housing Tax Credit as proposed by Chairman Wyden as part of the Decent, Affordable, Safe Housing for All (DASH) Act. LIHTC typically helps finance projects serving residents earning up to 60 percent of the Area Median Income. MIHTC would pick up where LIHTC stops by helping to finance the construction of affordable rental projects serving residents earning 60 percent to 100 percent of AMI.
- Revisiting the home-ownership tax incentives. The mortgage interest deduction has been a cornerstone of the tax code since the code's inception, but recent tax data suggests the MID is no longer an effective means to promote home ownership. NAHB supports converting the MID into a targeted and ongoing home-ownership tax credit which could be claimed against mortgage interest and property taxes paid. This testimony includes detailed policy recommendations on how to structure a credit that is targeted, increases progressivity in the tax code, and promotes housing opportunity by providing a tax incentive more accessible to minority and first-generation home buyers.
- Responding to inflation by indexing the home-ownership tax incentives. The existing mortgage interest deduction limit on acquisition debt has never been indexed to inflation. The capital gains exclusion also has not been adjusted for inflation. This is slowly eroding the value of these incentives, and Congress should move to begin indexing these limits to inflation immediately.

[1] *https://eyeonhousing.org/2022/07/june-inflation-reading-the-highest-since-1981/.*

- Reconsidering the current limits on the SALT deduction. For high-cost as well as high-tax States, the $10,000 deduction limit effectively increases the ongoing costs of owning a home by denying homeowners a full deduction of their property and other State and local taxes. Under the principle that taxes paid to State and local governments should not be double-taxed as income by the Federal Government, NAHB supports eliminating the SALT deduction cap.

BALANCE BETWEEN RENTAL POLICIES AND OWNER-OCCUPIED POLICIES

Questions are frequently raised whether there is a balanced policy between rental and owner-occupied housing. There exists justifiable reasons to support both forms of housing with policy—be it to ensure the availability of high quality, affordable rental housing or to support home ownership and unleash the well-documented positive externalities that benefit entire communities. However, there is, in some circles, an assumption that renters are getting the short end of the stick.

NAHB has looked at the tax and spending policies that affect both rental and owner-occupied housing: the mortgage interest deduction; the real estate tax deduction; capital gains exclusion; mortgage revenue bonds; section 108 relief; and HOME, CDGB, USDA, and other appropriations. According to numbers published by the Joint Committee on Taxation (JCT) for 2020 and the Congressional Research Service (CRS) for Fiscal Year 2018, Federal owner-occupied housing support totaled $86.8 billion.

NAHB also looked at policies supporting rental housing: Low-Income Housing Tax Credit; accelerated depreciation on rental housing; bonds; like-kind exchanges; the historic credit; tenant-based and project-based section 8; public housing funding; and other appropriations such as HOME, CDBG, and USDA. According to numbers published by the Joint Committee on Taxation (JCT) and the Congressional Research Service (CRS) for Fiscal Year 2018, rental housing support totaled $84.9 billion.

To determine if the appropriate policy balance has been struck, it is necessary to look at the U.S. population share living in each type of housing. Based on the numbers above, 49.2 percent of the policy support goes towards owner-occupied housing; 64.4 percent of the U.S. population lives in owner-occupied housing, according to the 2020 American Community Survey. In comparison, 50.8 percent of the policy support is targeted to rental housing; 35.6 percent of the U.S. population lives in rental housing.

Based on the population living in each type of housing, the data indicates that policy support between rental and owner-occupied housing is currently tilted toward rental housing. NAHB is forecasting declines for the home-ownership rate in the quarters ahead. As such, this current State of policy balanced needs addressing given the current economic environment.

AFFORDABLE HOUSING DEVELOPMENT REQUIRES POLICY SUPPORT

To understand what is needed to address the affordable housing crisis, policymakers need to understand the challenges facing the development community.

Where there is growing housing demand, the Nation's home builders want to supply inventory to meet that demand. But there is no magic wand to erase basic development costs. Fees, regulatory compliance, modern building and energy codes, building materials, land and labor costs determine whether a project is financially viable. And if we want to provide affordable rental housing for lower-income households, it is financially impossible to do so without a subsidy.

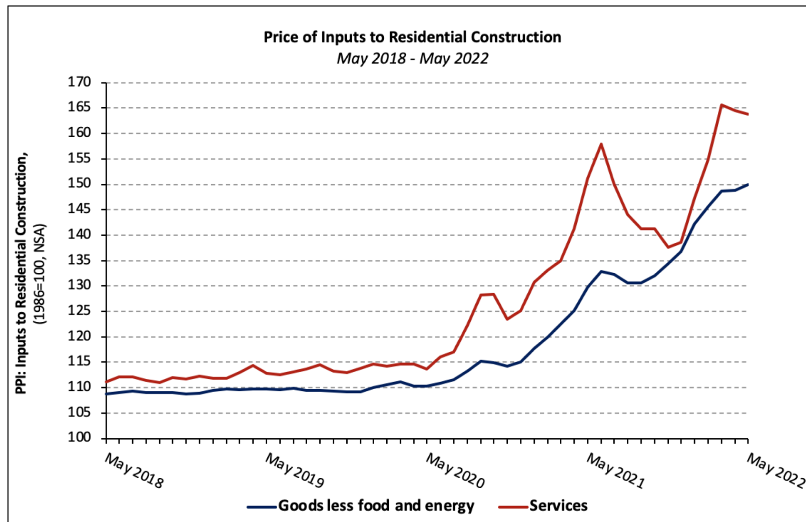
There is a persistent misperception that developers only seek to build higher-end projects. The reality is developers face a pricing floor driven by basic development costs that they cannot control. NAHB estimates that 69 percent of American households cannot afford the median-priced new home.[2] That is alarming.

Home builders are not ignoring 70 percent of the marketplace—development costs simply make it impossible to produce more affordable offerings. Building material prices collectively are up 19.2 percent year-over-year and 35.6 percent since the start of the pandemic.[3] Since the spring of 2020, lumber prices are up 75 percent; steel mill prices are up 107 percent; gypsum/drywall is up 32 percent; ready-mix

[2] *https://www.nahb.org/news-and-economics/housing-economics/housings-economic-impact/households-priced-out-by-higher-house-prices-and-interest-rates.*

[3] *https://www.nahb.org/blog/2022/05/building-materials-up-more-than-19-percent-year-over-year.*

concrete is up 11 percent; interior paint is up 33 percent and exterior paint is up 48 percent; aluminum is up 61 percent; and copper is up 57 percent.



It comes as no surprise that the median price of a newly built, single-family home increased 19.7 percent year over year. This country was already facing a housing affordability crisis, but the inflationary effects of the building material price increases are squeezing home buyers even more. A year ago, 23 percent of new home sales were priced below $300,000. In May, it was only 10 percent.[4] We have now seen housing affordability fall to a decade-plus low.[5]

Solving this challenge will only be possible if Federal, State, and local governments work together to remove barriers to new construction and create effective incentives to promote affordable housing opportunities.

While tax incentives can help create an affordable and accessible housing marketplace, which includes access to both rental housing as well as owner-occupied housing, Congress must consider all the policy decisions that have brought us to where we are today. Within NAHB, we often refer to the “five Ls” as shorthand for the headwinds facing the industry: labor, lending, local regulatory restrictions, lots, and lumber. In the past 18 months, the headwinds have begun to turn into gale force blasts.

We also need to recognize the important role affordable housing plays in our communities. Breaking the cycle of poverty starts with access to stable and affordable housing. There are meaningful social effects. Even after 40 years in this business, I still enjoy nothing more than handing over the keys to a customer buying their first home. As a multifamily developer, I also understand how affordable rental housing creates stability for my tenants and their families.

The housing affordability crisis affects our economy as well. It costs us jobs, productivity, and economic growth. I challenge everyone in this room to ask the owners of the small businesses you frequent about labor shortages. Housing affordability is critical in areas of the country experiencing robust economic growth. As the number of open, unfilled jobs grows, the operation of the housing market plays a key role in allowing individuals to relocate to areas where jobs need to be filled. And if we don’t address this issue, where do our employers find their workers? How do we grow the economy?

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[4] *https://eyeonhousing.org/2022/06/new-home-sales-increase-in-may-before-feds-june-rate-rise/.*

[5] *https://www.nahb.org/news-and-economics/press-releases/2022/05/new-home-sales-down-on-rising-interest-rates-declining-affordability.*

And for our fellow citizens who want to realize the American dream, if they cannot afford to live where the economic opportunities are, we are just creating an economic divide based on housing "haves" and "have nots."

OWNER-OCCUPIED TAX POLICIES

The Benefits of Home Oownership

Home ownership offers a wide range of benefits to individuals and households.[6] These include increased wealth accumulation, improved labor market outcomes, better mental and physical health, increased financial and physical health for seniors, reduced rates of divorce, and improved school performance and development of children. These beneficial financial and social outcomes are due to the stability offered by home ownership, as well as the incentives created by the process and responsibilities of becoming and remaining a homeowner.

An important motivating factor in the pursuit of home ownership is the investment opportunity it offers for many families. Equity in a home constitutes a substantial proportion of a typical American family's wealth. According to the 2019 Federal Reserve Survey of Consumer Finances (SCF), the median family net worth of a homeowner was $255,000; for renters, it was $6,300.

Home ownership also provides advantages for seniors. A significant proportion of a household's wealth is in the form of equity of owner-occupied housing, and this wealth provides significant advantages in retirement. Mayer and Simons (1994) indicate that equity in the home and the use of a reverse mortgage could increase liquidity for senior households by as much as 200 percent.[7]

These data illustrate the importance of housing wealth and suggest caution with respect to policies that would reduce these wealth holdings, based on decisions made over a lifetime, via direct policy changes (such as weakening the section 121 gain exclusion for principal residences) or indirect changes (such as price declines induced by weakening the mortgage interest deduction).

Overall, economists, sociologists, and other social scientists have found significant, positive home ownership-related impacts on a large set of outcomes associated with households and communities.[8] For these and other positive impacts, home ownership has and should continue to have a favorable place in the tax code.

MORTGAGE INTEREST DEDUCTION

Brief History of the Mortgage Interest Deduction

When Congress created the modern income tax code in 1913, Congress recognized the importance of allowing for the deduction of interest paid on debt incurred in the generation of income. In this early code, taxpayers were permitted to deduct a wide array of interest types from business and personal debts, including mortgage interest. The mortgage interest deduction came into its own after World War II, when home ownership became more accessible and a rite of passage for the middle class. Deductions for mortgage interest grew in absolute numbers, home-ownership rates increased during this period, and today two-thirds of American households own a home.[9]

In reforming the tax code in 1986, Congress disallowed the deduction of interest payments for certain types of debt but maintained the popular deduction for mortgage interest. In doing so, ". . . Congress nevertheless determined that encouraging home ownership is an important policy goal, achieved in part by providing a deduction for residential mortgage interest."[10] Aside from some adjustments in 1987, the mortgage interest deduction remained unchanged until 2017.

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[6] R.D. Dietz and D.R. Haurin, "The social and private micro-level consequences of homeownership," *Journal of Urban Economics* 54 (2003) 401–50.

[7] C.J. Mayer, K.V. Simons, "Reverse mortgages and the liquidity of housing wealth," *AREUEA Journal 22* (1994) 235–55.

[8] Two comprehensive literature reviews detailing the impacts of home ownership are: W.M. Rohe, G. McCarthy, S. Van Zandt, "The social benefits and costs of homeownership: A critical assessment of the research," Research Institute for Housing America, Working Paper No. 00–01 (2000). R. Dietz and D. Haurin, "The social and private micro-level consequences of homeownership," *Journal of Urban Economics* 54 (2003) 401–50.

[9] *https://eyeonhousing.org/2022/04/homeownership-rate-stable-at-65-4/*

[10] "General Explanation of the Tax Reform Act of 1986," Joint Committee Print, prepared by the Staff of the Joint Committee on Taxation, May 4, 1987. Pp. 263–264.

The $1 Million Cap and Limits to the Mortgage Interest Deduction

Starting with the first tax code in 1913, there was no limit on the amount of home mortgage interest that could be deducted. However, the Tax Reform Act of 1986 imposed limits on the deduction. This law limited the deduction to interest allocable to debt used to purchase, construct, or improve (acquisition debt) a designated primary residence and one other residence.

The Omnibus Budget Reconciliation Act of 1987 further limited the deduction to interest allocable to up to $1 million in acquisition debt. This limit is *not* adjusted for inflation. Factoring in the effect of inflation, the value of the cap has eroded by more than half since 1987; in 2022 dollars, the original cap would be equal to just over $2.5 million.[11]

The acquisition debt cap was further reduced under the Tax Cuts and Jobs Act (TCJA). TCJA reduced the acquisition cap to $750,000 and eliminated the separate $100,000 deduction for home equity loan debt. Homeowners may continue to deduct home equity debt if it is used to substantially improve an eligible home and the total amount of mortgage and home equity debt does not exceed $750,000.[12]

Under current law, the acquisition debt limit will be restored to $1 million and the separate deduction for home equity loans will return after December 31, 2025.

Absent an inflation adjustment, and with rising home prices, NAHB anticipates a growing number of home owners with a mortgage will begin to bump up against the cap, especially if Congress elects to extend the current $750,000 threshold. The median new home sale price was $449,000 in May, a 15 percent increase since last May. And even prior to the current high pace of price increases, a growing share of housing units were valued between $500,000 and $1 million.

	2015	2020
Total Owner-occupied Units	74,712,091	78,801,376
Less than $300K	63.6%	63.5%
$300K–$500K	15.8%	20.5%
$500K–$1M	8.4%	12.3%
>$1M	2.2%	3.7%
Number of Homes Valued at $500K+	7,919,482	12,608,220
Increase		4,688,739

NAHB strongly believes that the acquisition debt cap must be indexed for inflation to ensure that home buyers in high-cost areas have the same opportunities as those in more affordable areas.

The Tax Code Has Evolved, but the Mortgage Interest Deduction Has Not: Rethinking How Home Ownership Is Incentivized

The mortgage interest deduction proved to be an effective tool to reduce the ongoing costs of home ownership—and make home ownership more accessible and affordable—for over 100 years. But the MID remains firmly rooted in an increasingly outdated section of the tax code: itemized deductions. The changes brought by TCJA, namely doubling the standard deduction, significantly reduced the number of taxpayers who itemize. Perhaps more important to the ongoing policy debate, of the remaining itemizers, today's itemizing taxpayers tend to be more wealthy than non-itemizers.

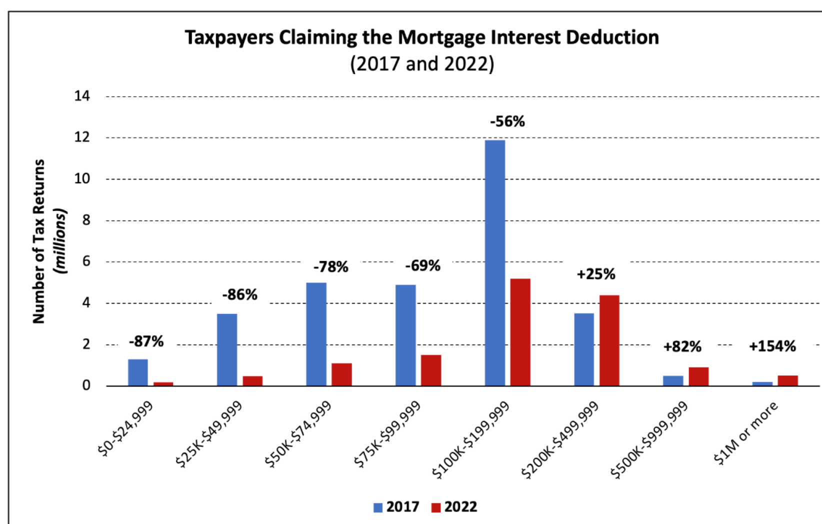
Prior to TCJA, typically 70 percent of homeowners *with a mortgage* claimed the MID. And according to distributional tax expenditure estimates from the Joint Committee on Taxation (JCT), 86 percent of mortgage interest deduction beneficiaries earned less than $200,000 in economic income. The MID was also a progressive element in the tax code. Sixty-five percent of the net tax benefits were collected by homeowners with economic income of less than $200,000, yet these same taxpayers paid only about 40 percent of all income taxes.[13]

[11] Bureau of Labor Statistics CPI Inflation Calculator. $1,000,000 in 1987 equates to $2,528,309 in 2022, *http://www.bls.gov/data/inflation_calculator.htm.*

[12] *https://www.irs.gov/newsroom/interest-on-home-equity-loans-often-still-deductible-under-new-law.*

[13] Estimates of Federal Tax Expenditures for Fiscal Years 2012–2017, *https://www.jct.gov/publications.html?func=startdown&id=4504.*

This is no longer the case today. Recent IRS data indicate that only 26.7 percent of homeowners with a mortgage now claim the MID.[14] This is consistent with the overall decline in itemizing taxpayers. In 2017, 32 percent of taxpayers itemized deductions; according to the Joint Committee on Taxation, approximately 12 percent of taxpayers will itemize in 2022. And that same IRS data suggests that the key target population of the MID—first-time home buyers and younger families looking to move up—have likely shifted away from claiming the MID and instead claim the standard deduction.



The IRS data reveal this shift when comparing taxpayers claiming the MID in 2017 and 2022.[15] The number of taxpayers claiming the MID with income below 200,000 dramatically fell, while those earning more than $200,000 continued to benefit.

And using IRS data to examine the total amount of MID claims in 2017 and 2018, two effects of the increased standard deduction are evident. First, total deductions were reduced by nearly half. This is a sizeable retreat in home-ownership support through the tax code.

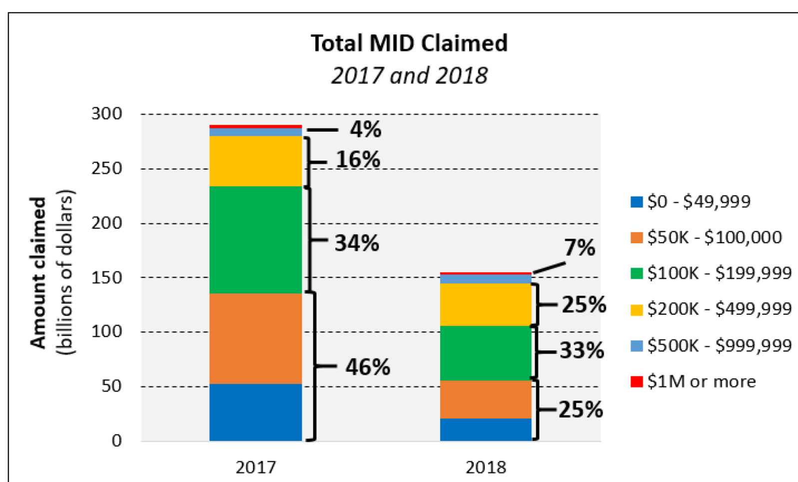
Second, the negative income distribution effects are laid bare. In 2017, 80 percent of the MID amount deducted was deducted by taxpayers earning less than $200k. In 2018, that fell to 58 percent.

This wealth disparity is particularly acute when viewed within the context of minority home-ownership rates. In the first quarter of 2022, the home-ownership rate was 65.2 percent among all U.S. households. But the range is large among races. Among White households, the rate was 73.8 percent while it was 59.4 percent, 49.1 percent, and 43.1 percent for Asian, Hispanic, and African-American households, respectively.[16]

[14] In 2020, there were 48,974,364 owner-occupied units with a mortgage and 13,067,000 MID claimants.

[15] 2022 data is based on the Joint Committee on Taxation's July 11, 2022, report, JCX–15–22.

[16] *https://fredblog.stlouisfed.org/2022/04/the-latest-on-homeownership-race-and-region/?utm_source=series_page&utm_medium=related_content&utm_term=related_resources&utm_campaign=fredblog.*



Although the lifecycle patterns of home ownership by race and ethnicity are similar, with home ownership becoming more likely with age, the share of households owning a home differs significantly based on race and ethnicity. Of White households under the age of 35, 46 percent owned a home; only 17 percent of African American households owned a home.[17]

To some degree, this gap can be linked to generational wealth transfers, with White families more likely to receive financial support from parents. In looking at this effect, a 2020 paper on disparities in wealth and ethnicity observes this dynamic of family wealth:

> The relationship between housing and family wealth is complex. On the one hand, the ability to purchase a home is a reflection of wealth a family already has (or their parents' wealth, as noted earlier), as significant funds are generally required for a down payment and closing costs. On the other hand, home ownership has also been found to yield strong financial returns on average and to be a key channel through which families build wealth.[18]

The financial challenges of accumulating a down payment and adequate savings for closing costs is one reason why minority home-ownership rates lag.

Family Size Matters

The lifecycle aspects of home ownership also produce another interaction with housing tax preferences. It is often claimed that the mortgage interest deduction encourages homeowners to purchase a larger home. This presents a rather narrow view.

Homeowners with a larger family need a larger home and will therefore have a large mortgage interest deduction. The need for a larger home created the larger mortgage interest deduction, not the other way around. And NAHB analysis of SOI data confirms this.[19] Taxpayers with two exemptions—a proxy for size—who claimed the MID had an average tax benefit of $1,500. Taxpayers with four exemptions had an average benefit of approximately $1,950. In fact, the benefit increased correspondingly from one exemption to five-plus exemptions, which is intuitive with the notion that larger families require larger homes.[20]

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[17] *https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm.*

[18] *https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm.*

[19] Who Benefits from the Housing Tax Deductions?, *http://www.nahb.org/generic.aspx?sectionID=734&genericContentID=150471&channelID=311.*

[20] The data also show that income rises with the number exemptions for those claiming the MID. For taxpayers with AGI less than $50,000 who claim the MID, the mean number of ex-

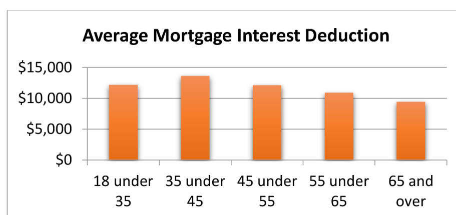
Continued

Moreover, the cost of living, particularly for housing, varies greatly from city to city, so what may appear to be a large deduction for a given home in one area, may in fact reflect a modest home in a high-cost area. Indeed, the MID and the real estate tax deductions reflect one of the few elements in the tax code that account for differences in cost of living.

And Age Matters

Along with the lifecycle associated with family size, we also see a direct correlation between the age of the homeowner and their resulting benefit from the housing tax incentives. Unlike other itemized deductions, the total benefits of housing-related deductions, such as the mortgage interest deduction, generally *decline* with age. After all, it is younger households who typically have new mortgages, less equity, and growing families.

Using IRS data, NAHB has examined the age characteristics of taxpayers claiming the mortgage interest deduction. The chart below plots the average mortgage interest deduction[21] by age cohort.



This is consistent with the deduction for mortgage interest peaking soon after the taxpayer moves from renting to homeowning and then declines as home owners pay down their existing mortgage debt.

NAHB believes that any policy change that makes it harder to buy a home or delays the purchase of the home until an older age, will have significant long-term impacts on household wealth accumulation and the makeup of the middle class. Delayed investment in home ownership may translate into lower assets at retirement or a later retirement.

Traditionally, the MID offered large benefits, as a share of household income, for younger homeowners. With fewer taxpayers itemizing and claiming the MID, the lack of a meaningful home-ownership tax incentive means shutting out younger, aspiring middle-class Americans from home ownership, which could have far-reaching social and economic outcomes.

Creating a More Equitable and Effective Home-Ownership Tax Incentive

Efficacy of home-ownership tax incentives should be measured by whether they benefit lower- and middle-income first-time buyers as well as younger buyers looking to move up the ladder. The home-ownership tax incentives should equally benefit minority households whose home-ownership rates have consistently trailed white households.

As the data above indicates, shifts away from itemization have resulted in fewer itemizing taxpayers, but those taxpayers who continue to itemize tend to have higher incomes. As a consequence, the MID is now missing the mark. NAHB believes that the trend toward less itemization, and a higher standard deduction, which results in a simpler, more progressive tax code, is likely to stay.

Prior to House passage of the Tax Cuts and Jobs Act, NAHB proposed a new approach to incentivizing home ownership. We believe the most effective way to promote and enable home ownership is to eliminate the mortgage interest deduction and replace it with a simplified and targeted tax credit.

Specifically, NAHB supports a 15-percent tax credit claimed against mortgage interest paid on up to $750,000 of acquisition debt plus State and local real estate taxes paid would offer a more effective and progressive tax incentive. To ensure the

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emptions was 2.01 in 2004. It was 2.57 for those with AGI $50,000 to $75,000, 2.89 for those with $75,000 to $100,000 in AGI, and 2.98 for those between AGI $100,000 and $200,000 and 3.03 for those above these AGI levels.

[21] This reflects claims prior to TCJA and includes the deduction for home equity loans.

credit targets those who need financial assistance, but also reflecting the regional variations in home prices throughout the country, we believe the credit should be phased out for single filers with incomes above $250,000 and joint filers with income above $500,000.

Unlike current law, NAHB strongly believes the acquisition debt limit, along with the income phase-outs, must be adjusted for inflation. We also support retaining the present treatment of second homes.

NAHB believes a credit structured along these lines can be enacted on a revenue-neutral basis starting with the 2026 tax year.

A credit designed in this manner brings additional benefits to home buyers: fairness along with predictability via simplicity. With every deduction, the tax benefit varies with the taxpayer's marginal tax rate. As a result, taxpayers with higher income receive a larger tax benefit, which is often raised as a criticism of the existing MID. A credit ensures parity amongst eligible taxpayers.

A credit also has the upside of being easy to calculate, which would allow home buyers to predict their tax benefits. Under the current system, home buyers must first determine that they will itemize and then calculate the additional value of the itemized deductions in excess of the standard deduction they would have otherwise claimed in order to determine the value received from the MID.

For many home buyers, they simply know they will get some tax benefit under the MID, or perhaps have a rough sense of the dollar value. With a credit, this process is greatly simplified, and it will allow prospective home buyers to easily determine what their ongoing ownership costs will be.

A targeted, ongoing, easy-to-claim credit based on mortgage interest and property taxes paid would direct the home-ownership tax incentives to those who most need it: middle-class and lower-income Americans from all backgrounds.

SECOND HOMES AND THE MORTGAGE INTEREST DEDUCTION

Tax Rules for the Second Home

Homeowners may deduct interest payments on up to two homes in a given tax year: a primary residence and one other residence. The amount that may be deducted is limited to the combined cap of $750,000 in acquisition debt. A second home is one that is not rented [22] and is not the homeowner's primary residence. In addition, a second home can also be a home under construction for which the homeowner has an outstanding construction loan.

When Is a Second Home Not a Second Home?

In practice, the second home deduction is important for many households who in fact do not think of themselves as owning two homes. For example, the second home deduction facilitates claiming the mortgage interest deduction during a period of home-ownership transition, such as when a family relocates and will own two separate principal residences in a given tax year—even if both homes are not owned concurrently. Without the second home MID, this family would only be able to claim an interest deduction on a portion of their total mortgage interest payment. This would not only act as a tax on moving, but it could distort consumer behavior by discouraging relocation or leading to home owners moving only at the start or end of a tax year in order to minimize the tax implications.

Further, the second home rules allow up to 24 months of construction loan interest on a newly constructed home to be claimed while the family resides in their existing principal residence.[23] This rule provides parity for custom home building where the eventual homeowner finances the cost of construction. While both of these issues are technical and easily fixed as part of a transition, NAHB raises them for consideration because no reform proposal that eliminates the second home deduction has ever considered the implications on home owners who move or take on a construction loan.

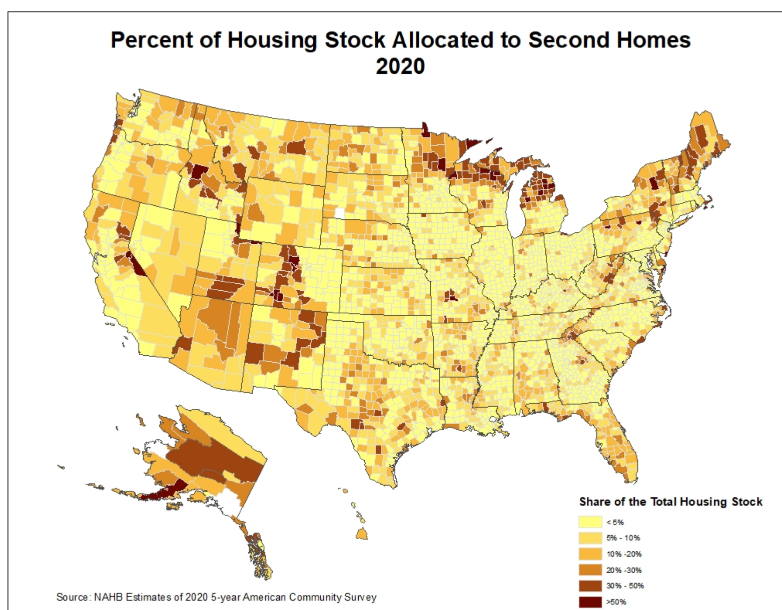
The Geographic Distribution of Second Homes

When most Americans think of second homes, thoughts typically go to expensive beach homes. However, such homes are more likely to be owned by higher-income families who own the home free and clear of a mortgage—or rent out the home, in

[22] Interest on debt used to acquire rental units may also in general be deducted under the tax code, but not under the mortgage interest deduction; it is a general business expense.
[23] Treasury Regulations 1.163.

which case the owner does not claim the mortgage interest deduction. The face of the typical second homeowner is more varied than most realize.

Using Census data, NAHB estimated the stock and share of such tax definition-based second homes and the results contrast with the stereotyped view of the second home mortgage interest deduction favoring beach homes. Nearly every State has areas with significant numbers of second homes; 49 States have a county where at least 10 percent of the housing stock consists of second homes.[24] As the next map shows, second homes are found throughout the country.



An examination of the geographic location of second homes also shows that many second homes are in areas of the country that are generally affordable. Half of the Nation's second homes can be found in eight States: Florida, California, New York, Texas, Michigan, North Carolina, Arizona, and Pennsylvania. An in-depth analysis of the county level data shows that the concentration of second homes expands beyond beachfront locations. Fifteen States have at least one county with at least half their housing stock as second homes. This includes six counties in Michigan; five in Colorado; four in Wisconsin; three in Minnesota; two in Alaska, Utah, California, and Massachusetts; and one county in New York, Idaho, Missouri, Maryland, New Jersey, and Texas.[25]

Clearly, the issue concerning second homes and the mortgage interest deduction is more complicated than many expect. Repeal of the second home mortgage interest deduction rules would impact large sections of the country and nearly every State. There would be negative economic consequences throughout the Nation in terms of lost home sales, home construction, as well as price impacts. And those price declines would of course be more significantly realized in those areas of the country for which second home ownership is more common. As home values directly correlate with property taxes, repealing the second home mortgage interest deduction would not just touch the homeowner, but the broader community, as local governments would face additional revenue shortfalls. This is particularly important as many impacted communities lack a diverse tax base, and second home owners are

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[24] Connecticut is the only State that did not have at least one county where 10 percent of the housing stock was a second home.

[25] *https://eyeonhousing.org/2022/05/the-nations-stock-of-second-homes/.*

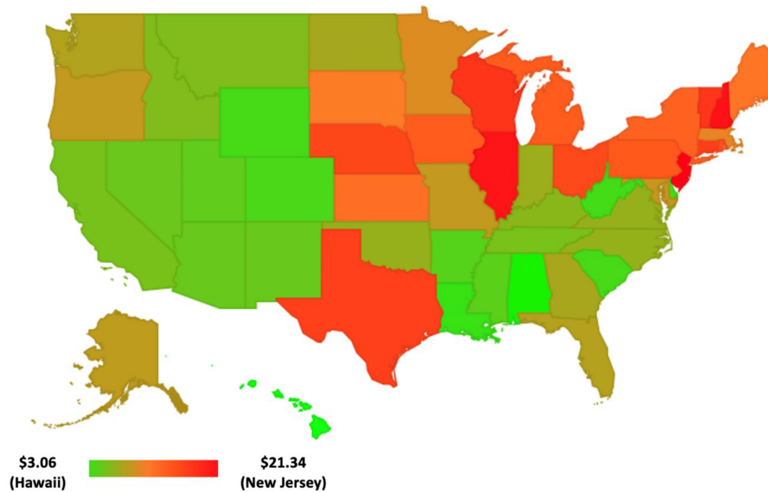
the ideal taxpayers, often paying a higher property tax rate while not placing heavy demands on local government services.

STATE AND LOCAL REAL ESTATE DEDUCTION

Brief History of the State and Local Real Estate Tax Deduction

The deductibility of State and local real estate taxes has been part of the tax code since the U.S. income tax code was enacted in 1913. This deduction aligns with a general principle of fair taxation: taxes paid to a local or State government should not be taxed as income by the Federal Government. If the goal of an income tax regime is to tax changes in wealth, income which is ultimately paid out as a tax does not represent a change in wealth.

Housing is taxed in many ways unlike other investments, particularly via property taxes. While other investments are taxed when sold and the tax is based on their gain in value, housing is the only investment which is taxed annually on the value of that investment, irrespective of any increase in value. This tax burden faced by home owners is often lost in the Federal debate since these revenues are not collected at the Federal level. It is not, however, lost on the homeowner paying property taxes.



For 2021, total property tax collections by State and local governments summed to $1.86 trillion. NAHB estimates that one-third of these collections were due to housing for a total of $672.5 billion.[26] Data from the Census Bureau indicates that the average homeowner pays property tax at an effective tax rate of 1.03 percent of the market value.[27]

Limits on Property Tax Deduction Penalize Families and High-Cost Regions

Prior to 2018, taxpayers not subject to the Alternative Minimum Tax[28] faced no limit on the amount of State and local taxes (SALT), including real estate taxes, that could be deducted from their Federal taxes. Beginning in 2018, itemizing taxpayers are limited to a maximum $10,000 deduction for all State and local tax deductions. The $10,000 cap is set to expire after December 31, 2025.

[26] *https://eyeonhousing.org/2022/07/property-taxes-make-up-more-than-one-third-of-state-and-local-tax-revenue/.*

[27] U.S. Census Bureau's 2019 American Community Survey 2019 and NAHB calculations.

[28] The State and local tax deduction is disallowed when calculating tax liability under the Alternative Minimum Tax.

Unfortunately, this cap has had negative effects on housing affordability in States with high housing costs. Although the cap is often correctly viewed through the lens of high-tax versus low-tax States, an interesting counter-factual is offered by comparing Alabama and Hawaii. Both States have exceptionally low real estate tax rates, with Alabama at 0.37 percent and Hawaii with the lowest rate of any State at 0.31 percent. But due to differences in home values, the average property tax bill in Alabama is $713, compared to $2,295 in Hawaii.[29]

Regional differences in housing costs present a challenge to crafting balanced housing policy. NAHB believes the current SALT limit fails to strike a balance between high-cost and low-cost regions. Worth noting is the $10,000 limit is identical for singles and couples, imposing a sizeable marriage penalty. As demonstrated earlier in this testimony, home size—and value—correlates with family size.

NAHB believes Congress must revisit the current limits on the SALT deduction. For high-cost as well as high-tax States, the $10,000 deduction limit effectively increases the ongoing costs of owning a home by denying homeowners a full deduction of their property and other State and local taxes. Under the principle that taxes paid to State and local governments should not be taxed as income by the Federal Government, NAHB supports the elimination of the SALT deduction cap.

HOME EQUITY DEDUCTION

Prior to 2018, home owners we able to deduct interest allocable to up to $100,000 of home equity loan debt. This deduction was separate from the mortgage interest deduction. Under the Tax Cuts and Jobs Act, this separate deduction was temporarily eliminated. Under current law, the deduction is reinstated after December 31, 2025.

Home equity loans are defined as mortgages that are either used for purchase, construction, or improvement purposes or as a means to access equity. The type of use of the home equity loan is important in the rules for the Alternative Minimum Tax. In general, deductions for mortgage interest may be claimed against AMT taxable income. However, interest on home equity loans **not** used for home improvement purposes may not be claimed against AMT tax liability.

Homeowners may continue to deduct home equity debt if it is used to substantially improve an eligible home and the total amount of mortgage and home equity debt does not exceed $750,000.[30] However, with inflationary pressures—building material prices are up 19 percent year over year—and the lowering of the MID acquisition debt cap, alongside a lack of inflation adjustment, is placing pressure on homeowners seeking to improve their properties. Absent enactment of a credit to replace the MID, NAHB urges Congress to restore the separate $100,000 home equity deduction immediately, or otherwise increase the acquisition debt cap for the MID to better enable home owners to make substantial improvements to their home.

According to the 2009 American Housing Survey, half of all home equity loans are used for remodeling purposes. Remodeling is, of course, another form of housing investment which creates jobs and improves the Nation's housing stock, particularly with respect to energy efficiency. Disallowing a deduction for interest for home remodeling provides a disincentive for home owners to improve the Nation's existing housing stock and hurts job creation in the remodeling industry.

There is no data that indicates what the remaining half of home equity loans are used for, but anecdotal evidence suggests that those purposes include college expenses, health emergencies and some consumption purposes.

Remodeling and home improvement are important economic activities for a Nation with an aging housing stock. A 2019 data analysis of remodeling expenditures by ZIP code aligns in many cases with areas of the country with older housing stock.[31] Remodeling also plays a key role as the home owners age. From survey data NAHB conducted in 2018, interest in remodeling to enable aging-in-place is growing and a growing share of remodelers are focusing on this market.[32] Remodeling also has positive economic effects. Every $100,000 in remodeling expenditures creates

[29] *https://eyeonhousing.org/2021/10/property-taxes-by-state-2019/.*
[30] *https://www.irs.gov/newsroom/interest-on-home-equity-loans-often-still-deductible-under-new-law.*
[31] *https://eyeonhousing.org/2019/05/just-released-nahb-remodeling-by-zip-code-estimates-for-2019/.*
[32] *https://eyeonhousing.org/2019/05/remodeling-to-age-in-place-remains-strong-still-mostly-for-older-homeowners/.*

0.89 full-time equivalent jobs and generates $42,383 in taxes according to NAHB estimates.[33]

CAPITAL GAINS EXCLUSION

Brief History of the Capital Gains Exclusion

Prior to 1997, capital gain due to sale of a principal residence was governed by a complicated set of rollover and exclusion rules.

The Revenue Act of 1951 allowed a taxpayer to "roll over" the capital gains received from the sale of a principal residence if, within 1 year, the taxpayer used the gain to acquire a new residence of equal or greater value. The rollover period was later extended to 18 months under the Tax Reduction Act of 1975 and to 24 months in the Economic Recovery Tax Act of 1981. Thus, no capital gains taxes were generated until a homeowner purchased a principal residence of smaller value than their previously owned residence or ceased to be an owner of a principal residence.

The Revenue Act of 1964 introduced the first exclusion of capital gains arising from the sale of a principal residence. Under this law, taxpayers 65 years or older could exclude up to $20,000 in capital gains if they owned the house for at least 8 years and lived in the home for at least 5. The Tax Reform Act of 1976 later increased this exclusion to $35,000.

The Revenue Act of 1978 made a series of additional changes to the tax treatment of capital gains on the sale of principal residence. It lowered the minimum eligible age for the gains exclusion from 65 to 55 and increased the exclusion amount to $100,000. It also allowed a taxpayer to elect a one-time capital gains exclusion on the sale of a principal residence as long as the taxpayer lived in the home for 3 of the last 5 years. The Economic Recovery Tax Act of 1981 increased the $100,000 exclusion to $125,000.

Simplification Arrives: The Changes of 1997

The Taxpayer Relief Act of 1997 vastly simplified the complicated rollover and gains exclusion rules by repealing them and starting over. In their place, Congress allowed a taxpayer to exclude up to $250,000 ($500,000 if married filing a joint return) of gain realized on the sale or exchange of a principal residence. The exclusion could be claimed no more than once every 2 years. To be eligible for the exclusion, a taxpayer must have owned the residence and occupied it as a principal residence for at least 2 of the 5 years prior to the sale or exchange.

These changes represented a significant improvement over what was, according to the Joint Committee on Taxation, "among the most complex tasks faced by a typical taxpayer."[34] As Joint Tax noted, despite the fact that most homeowners never paid tax on the sale of their principal residence due to the previous rollover and exclusion roll rule, it was necessary to keep detailed records of both purchase and sales transactions, but also remodeling expenditures in order to accurately calculate the tax basis of their home. Adding complexity to this recordkeeping requirement was separating expenditures for repair and improvement that added basis to the home and those that did not. Finally, the deferral of gain based on purchasing a more expensive home as a homeowner moved through their lifecycle was also inefficient in that it may have deterred some home owners from moving from high-cost to low-cost areas.

Congress has adopted one subsequent change that was included in the Housing and Economic Recovery Act of 2008 (HERA) to prevent speculators from abusing the capital gains exclusion. The 1997 reforms established the "two-of-five" test that defined a principal residence as one where a homeowner had used the home as a primary residence for 2 years of the 5-year window prior to sale. This created a scenario whereby an owner of a residence could hold the property for a long period of time, reside in it for 2 years, and then claim the gain exclusion.

While this taxpayer may have owned the residence, they were most likely using it as a rental property for the majority of the years of ownership. This "gaming" of the system was inconsistent with the spirit of the law, which had a focus on principal residence ownership.

[33] *https://www.nahb.org/news-and-economics/housing-economics/housings-economic-impact/impact-of-home-building-and-remodeling-on-the-us-economy.*

[34] "General Explanation of Tax Legislation Enacted in 1997," Joint Committee on Taxation, December 17, 1997, JCS–23–97).

NAHB supported the fix Congress passed to prevent a taxpayer from excluding the gain earned during periods of nonqualified use. The HERA change effectively shut down the ability of speculators to use the gain exclusion while protecting the 1997 enacted reduced recordkeeping and calculation requirements.

Impacts From Eliminating the Gains Exclusion

Removing or otherwise weakening the gain exclusion for the sale of a principal residence would have two strongly negative effects for existing homeowners. First, it would lay a direct and unexpected tax bill on homeowners who expected to use housing equity as a source of retirement wealth. Second, weakening the gain exclusion would reduce demand for housing by increasing the lifetime tax burden on principal residences. A reduction in demand would push housing prices down, thereby inflicting a windfall loss on existing homeowners. Of course, since a significant share of homeowner wealth is due to housing equity, eliminating the gains exclusion would have far-reaching consequences.

It is also worthwhile to note the limitations on claiming a tax loss from the sale of a principal residence. In general, a loss incurred on the sale of a personal residence is a nondeductible personal loss for income tax purposes. This rule is different than losses for the sale or exchange of a financial investment for which the loss can be deducted against capital gains income.

Overall, it is also important to remember that there are various—and sometimes differing—tax benefits and burdens that are levied on investments, both housing and financial. Analysts debating Federal tax policy often ignore the State and local government tax burden placed on housing via property tax. Such tax on property value differs from income tax in that the tax is levied on the value of the asset rather than a flow of net income. While housing receives some unique benefits in the tax code, like the capital gains exclusion, housing also faces a tax burden unlike other investments.

With a minimum 2-year ownership period, the requirement that the home be used as a principal residence, and the closing of the second home loophole in 2008, the gains exclusion is targeted in a manner where real estate speculators or investors seeking a tax shelter will find no benefit. This is a tax benefit aimed exclusively at long-term owners of a principal residence. As a home is typically the largest source of household wealth, the home has become a retirement vehicle for many Americans. In some ways, the capital gains exclusion functions much like a Roth IRA, where the retirement gains are also completely excluded from the taxpayer's income.

While NAHB strongly supports retaining the gains exclusion, we also note this is another tax provision that is not indexed for inflation. Since the simplified gains exclusion was enacted in 1997, the lack of an inflation adjustment has eroded the value of this tax benefit significantly. In 2022 dollars, the original $250,000 limit would be equal to approximately $435,000.[35] Recent gains for home prices mean that a growing number of homeowners may lose the tax simplification that this provision is intended to provide. Indeed, over the last decade, Case-Shiller home price data indicates a gain of 117 percent for home values. Accordingly, NAHB encourages Congress to index the gains exclusion to inflation moving forward.

COMPLETED CONTRACT RULES

Brief History of the Rules

Under current law, a long-term contract is defined as a building, installation, construction, or manufacturing contract that is not completed by the end of the taxable year in which it is entered.

Prior to the changes made in the Tax Reform Act of 1986, taxpayers could generally elect to account for income and expenses attributable to long-term contracts under the percentage of completion method or the completed contract method. Under the completed contract method, the gross contract price is included in income in the taxable year in which the contract is completed. Under the percentage of completion method, income is taxed according to the percentage of the contract completed during each taxable year.

Certain other limitations and rules applied, and there were additional rules for "extended period" long-term contracts—contracts not expected to be completed with-

[35] Bureau of Labor Statistics CPI Inflation Calculator. $250,000 in January 1998 equates to $434,944 in January 2022, *http://www.bls.gov/data/inflation_calculator.htm.*

in 24 months. An exception to these "extended period" rules was provided for contracts for the construction of real property if the contract was expected to be completed within 3 years, or if the contractor's average gross receipts for the previous 3 years did not exceed $25 million.[36]

Changes in the Tax Reform Act of 1986

Congress believed that the completed contract method permitted an "unwarranted deferral of the income from those contracts."[37] Specifically, the Joint Committee on Taxation reported to Congress that certain large defense contractors had negative tax rates due to net operating loss carry forwards generated through use of the completed contract method. In response, the Tax Reform Act of 1986 adopted a modified percentage of completion method that would apply to all long-term contracts.

The Act did include a modest exception for small construction contracts. Contracts for the construction or improvement of real property, if the contract is expected to be completed within 2 years, could be accounted for under the previous completed contract rules. However, the exemption was limited to taxpayers whose average gross receipts in the previous 3 tax years fell below $10 million.

Unintended Impacts on New Home Construction and the Home Construction Contract Exemption

Congress' intent in changing the completed contract rules was aimed largely at defense contractors who were deferring income taxes on projects that had a multiyear contract, such as during the lengthy construction period for an aircraft carrier. Defense contractors generally received substantial progress payments from the government and taxing these types of contracts under the percentage of completion method is appropriate. In enacting the Tax Reform Act of 1986, Congress also attempted to ensure that residential construction was largely unaffected by these changes, as seen by the inclusion of the exception for small construction contracts. At the time, home builders largely believed these changes did not impact them because their agreements with their customers were viewed as sales contracts, not construction contracts.

However, in 1988, the IRS released Advance Notice 88–66, which would have adversely affected the operations of home builders. NAHB realized at this time that the protections Congress included through the exemption for small construction contracts fell short. Prior to this notice, residential real estate developers took the position that the typical agreements of sale entered for the sale of a new home were not "construction contracts" subject to the accounting rules under section 460.

Home sales agreements differed considerably from a typical construction contract, particularly when compared to the contracts of a defense contractor. A home sales agreement involves a developer agreeing to sell the home to the buyer in the future, with the developer retaining title to the property and bearing all economic risks until closing, with no progress payments, and typically only backed by a small deposit. Builders normally do not realize any profit until closing, which occurs after the home is constructed.

The IRS was proposing to tax home builders on income they had not yet received. Due to the length of home construction, it is common for a new home to straddle 2 tax years. Although home builders viewed these agreements as contracts of sale rather than as construction contracts as defined by section 460, the IRS Advance Notice revealed that the government viewed these sales contracts as long-term construction contracts subject to the new accounting rules. This change would mean that home builders would need to significantly alter their business model.

Although buyers put down a deposit, the deposit is generally kept in an escrow account and cannot be used to cover construction costs or tax payments. Moreover, unlike with defense contracts, progress payments are not typical because most homes are financed by a mortgage at closing. If these homes were subjected to the new accounting rules, most builders are very small businesses, so they would be forced to finance the tax payments through a construction loan, which would increase the cost of home construction for the buyer.

The proposed changes would have caused significant cash-flow problems for home builders and imposed a larger barrier for smaller homebuilders who lack the financial means to cover the tax payments. In response, Congress included relief in the

[36] "General Explanation of the Tax Reform Act of 1986," published by the Joint Committee on Taxation (JCS–10–87), pp. 524–526.

[37] *Ibid,* pg. 527.

conference report for the Technical and Miscellaneous Revenue Act of 1988 by clarifying in section 460(e) that “home construction contracts” were not subject to the percentage of completion accounting methods. The conference report describes a home construction contract as one where “80 percent or more of the estimated total costs to be incurred under the contract are reasonably expected to be attributable to the building, construction, reconstruction, or rehabilitation of, or improvements to real property directly related to and located on the site of, dwelling units in a building with four or fewer dwelling units.”[38]

NAHB believes that section 460(e) is consistent with both Congress’s intent in 1986 to shield the residential construction industry but also with the unique contractual agreements used for home construction. This is a case where a broad definition of “construction” resulted in unintended consequences that were potentially harmful to home builders and buyers alike. NAHB believes that it did not make sense to apply an accounting method to home builders that was really targeted to address other tax problems, and that same rationale continues to support maintaining section 460(e).

MULTIFAMILY RENTAL TAX POLICIES

The LIHTC Is a Success Story, but Need Exceeds Resources

The Low-Income Housing Tax Credit (LIHTC) was created during the Reagan administration as part of the Tax Reform Act of 1986 as a more effective mechanism to produce affordable rental housing. It is the most successful affordable rental housing production program in U.S. history. Since its inception, the LIHTC has produced and financed more than 3.5 million affordable apartments. As LIHTC properties must generally remain affordable for 30 years or longer, they provide long-term rent stability for low-income households around the country. But the demand for affordable housing is acute and exceeds the availability of financing through the LIHTC program.

The LIHTC is a unique private-public partnership. The benefits of this structure are evident in the quality of the projects. Its public-private partnership model is one that frankly should be replicated in other government programs. When a builder starts a LIHTC project, the investors and builder assume all the risk. If the project fails, the taxpayer is protected, as the IRS can and will reclaim the tax credits. Since the investors cannot claim the credits until after the project is placed in service, it is the rare public program where the taxpayer gets what they are paying for, or the taxpayer does not pay.

A key component to the LIHTC’s success is the flexibility the State agencies have to target specific types of affordable housing developments. For example, a State with a large population of seniors may offer a developer bonus points on an application for focusing on senior housing. Other targeted projects include assisted living; family housing; homeless; and housing for the disabled. This flexibility allows each State to determine what types of affordable housing are best suited to the demographics of their State, rather than applying a single, national standard. Ultimately, however, a lot of needs are not being met as demand simply outstrips the availability of credits.

According to the National Council of State Housing Agencies (NCSHA), State housing finance agencies generally receive more than $2.5 in requests for every $1 in LIHTCs available. In 2020, State agencies received applications for $2,782,533,692 in credits. Total allocations were $1,120,921,542.

But this does not tell the whole story. The application process is expensive, and experienced developers will not submit applications for viable projects when there are inadequate resources to support it. So there is a shadow demand for credits not reflected in the above data.

Nationally, demand varies somewhat from year to year but generally remains high. It is useful to compare the 2020 national numbers against 2008. 2008 was the height of the financial crisis, and multifamily development was at a low point. Many traditional LIHTC project investors were not investing, which made putting together deals much more challenging. Nationally, there were applications for $1,873,311,018 in credits. Credits allocated were $939,924,853.[39] Even in one of the most challenging times for real estate development, demand was still double the amount of available credits. We can see over several years and in different economic

[38] H.R. Conf. Rep. No. 100–1104, pg. 118.
[39] State HFA Factbook: 2008 NCSHA Annual Survey Results, pg. 92.

environments, demand for tax credits remained steady at double or more of the available credits.

LIHTC development remains stable because the need for affordable housing is significant. Consistent demand for credits also reflects the advantage of creating this credit in the tax code. Investors have confidence in the predictability of the tax code, which allows LIHTC developments to continue even during economic downturns. The LIHTC enables a fairly constant supply of affordable housing, as well as a financing mechanism that ensures long-term operation of affordable housing. In fact, LIHTC tax credit projects outperform the rest of the multifamily housing sector in one key measure: the annualized foreclosure rate. This rate is less than one-tenth of a percent[40] and a third of the rate for other multifamily properties. The success of these projects partially reflects the ever-present threat that the government can recapture tax credits if the project fails.

To start meeting the growing and significant demand for affordable rental housing, we must increase resources supporting production, which is why we support the Affordable Housing Credit Improvement Act (H.R. 2573). Among other key provisions, H.R. 2573 takes a significant and needed step to boost supply by increasing LIHTC allocations by 50 percent. Estimates suggest enacting H.R. 2573 would result in up to 2,015,000 additional LIHTC units.[41]

Failure to take action now will only deepen the crisis. Rental housing demand remains solid, and more housing is needed to help address growing affordability challenges. Absent new supply, this demand will increase rents and worsen existing affordability issues.

NET INVESTMENT INCOME TAX—ADDING TAXES TO RISING RENTS

The Net Investment Income Tax (NIIT) is a 3.8-percent surtax on income such as capital gains, interest, rental and royalty income, and dividends. When the NIIT was enacted as part of the Affordable Care Act, Congress explicitly limited its applicability to passive investment income.

Proposals in Build Back Better, and recently reported to be under consideration in the Senate, would expand the NIIT to include active investment income. This would have negative consequences, particularly for renters.

Multifamily property owners are facing the same financial stresses as any homeowner. Operating costs are rising. Higher interest rates increase development and rehabilitation costs. Rising real estate values often translate into higher tax appraisals resulting in higher property tax bills. Some multifamily property owners are reporting significant increases in insurance rates as insurers adjust to reflect the increased cost of construction, should there be a major event requiring reconstruction. Along with ongoing demand for rental housing, these inflationary pressures are translating into higher rents.

Expanding the NIIT to include active investments has the same financial effect on property owners as increasing operating costs. If Congress moves forward with this proposal, property owners will have no choice by to pass on some, if not all, of the additional tax burden to their tenants.

With home prices and rents rising even faster than inflation, rising interest rates, and a growing scarcity of both entry-level owner-occupied housing as well as affordable rental units, Americans are being squeezed hard. Rent inflation increased in June at the fastest pace since 1986.

To solve our housing affordability crisis, Congress should be removing barriers, not enacting new ones. NAHB strongly recommends against expanding the NIIT to include active investment income.

Carried Interest

The taxation of a capital gain due to a carried interest is an important issue for the real estate industry and particularly for the multifamily housing sector, both market-rate rental and Low-Income Housing Tax Credit. Under present law, a capital gain classified as a carried interest is taxed like any other capital gain. Carried

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[40] "The Low-Income Housing Tax Credit: Assessment of Program Performance and Comparison to Other Federal Affordable Rental Housing Subsidies," by Novogradac and Company, LLP, 2011, pg. 4, *http://www.novoco.com/products/special_reports/Novogradac_HAG_study_2011.pdf.*

[41] *https://static1.squarespace.com/static/566ee654bfe8736211c559eb/t/607763314b628a205aa010a4/1618436913622/ACTION-NATIONAL-2021.pdf.*

interest has come under attack for how it is used by the hedge fund industry, but broad attacks on carried interest ignore the key role it plays in real estate development.

The use of partnerships and other pass-through entities is common in the home building industry and the construction sector generally. In a common arrangement, a builder/developer performs the role of the general partner and outside investors act as limited partners, who provide much of the initial equity financing. Typically, the general partner receives a developer's fee (and possibly subsequent fees for owning and operating the property) and the limited partners receive a specified rate of return on their investment. Any residual profits are split between the multifamily builder/developer/property owner and the investors as defined by the partnership agreement. Of course, the particulars differ depending on the nature of the project, the types of developers, and the role of outside investors.

In many cases, the developer's share of the residual profit, if it is realized (uncertain at the time of the deal), is classified as a "carried interest," which is an allocation of profit that as a share of total profit exceeds the share of the developer's initial equity investment in the project.[42] The carry can be ordinary income or capital gain, but the current policy debate is limited to a carried interest that is due to a capital gain at the partnership level. Carried interest that is paid as ordinary income is unaffected by the proposals being debated in Congress. Capital gain typically arises in such arrangements through the sale of a tangible, depreciable asset that is held for more than 1 year. For example, this situation would include a building that was constructed, owned and operated for a period of time and then sold to other investors.

Table 1 illustrates this in more detail for a hypothetical partnership with $100 million in initial equity financing ($95 million from outside interests, and $5 million from the home builder), a 10-percent preferred return for the limited partners, and a 50-percent–50-percent division of residual profit. Under this example, the multifamily developer's capital gain income is a carried interest (portion in excess of 5 percent—the initial equity stake) and would be subject to additional tax under existing proposals.

Table 1: Illustration of Partnership Income Distributions and Tax Consequences

	Partnership Level	Home Builder: General Partner	Share	Outside Finance: Limited Partners	Share
Equity Invested	$100.00	$5.00	5.00%	$96.00	95.00%
Capital Gains Income First Distribution	$9.50	$0.00	0.00%	$9.50	100.00%
Residual Capital Gains	$10.50	$5.25	50.00%	$5.25	50.00%
Total Return	$20.00	$5.25	26.25%	$14.75	73.75%
Carried Interest Test under H.R. 4213		26.25% > 5%		73.75% > 95%	
Carried Interest		Yes		No	
Tax Rate under Present Law		15%		15%	
Taxes Paid under Present Law		$0.7875		$2.2125	
Tax Rate under Proposal		35%		15%	
Taxes Paid under Proposal		$1.6375		$2.2125	
Difference in Taxes Paid		$0.8500		$0.0000	

Assumptions:
Dollar amounts in millions.
Project yields 20 percent return over time period.
All income is capital gains at partnership level.
LPs receive first 10 percent return.
Residual gains beyond first 10 percent are split 50 percent each to GP and LPs.
Partners face ordinary income tax rate of 35 percent.

[42] Note that technically this definition describes both promoted and carried interests. A "promote" is often used to refer to any share of profit allocation greater than the initial equity stake, and a "carry" is a type of promote for which there is little or no equity stake. However, in the current debate, the term "carried interest" now captures all of these scenarios.

Putting aside the tax issues, the carried interest in the above multifamily development example serves two important economic purposes. First, it provides an incentive for the multifamily developer and property owner to control costs and operate the property efficiently in order to generate a profit for the outside investors. This incentive makes the investment more attractive for investors, helping to attract investment for multifamily projects, particularly those in higher risk environments, such as economically distressed areas.

Second, the carried interest transfers business risks associated with the development project to the multifamily builder and owner, who may be more familiar with market conditions and in better position to manage the risks. These risks include changes in administrative expenses, local regulations, and of course local market conditions. Further, a multifamily developer may assume additional risk by making additional guarantees to the outside investors. For example, the developer can guarantee the completion of the project, or the servicing of debt used to finance the project. Carried interest allows multifamily builders to be compensated for making these guarantees and assuming the risks. Hence, partnerships with carried interest mechanisms are excellent financial arrangements for allowing multifamily developers and outside investors to share business risks efficiently.

Increasing the tax on carried interest for the real estate sector also results in a transfer of tax revenue from State and local governments to the Federal Government by reducing the value of multifamily investments, thereby lowering property tax collections at the local level.[43] Based on proposals considered by Congress in 2010 which would tax carried interest as ordinary income, NAHB estimated that the total amount of property taxes lost to State and local governments for the real estate sector would be approximately $1.2 billion per year.[44] Given that the Federal revenue estimate for the carried interest proposal, at that time, was $24.6 billion, this $12 billion 10-year estimate demonstrates that the proposal generates a significant transfer of tax revenues from State and local governments to the Federal Government.

NAHB supports the current carried interest tax rules as they apply to commercial and residential real estate. Should Congress decide to make changes to current law, it is absolutely essential that the transitional rules include a grandfathering provision for current contracts. As many multifamily projects are held for years before a gain is realized, a sudden shift in tax policy will have a significant and negative impact on real estate.

Depreciation

Rental property can be depreciated on an accelerated timeframe over a period of 27.5 years, versus a 39-year depreciation schedule for commercial real estate. In addition, individual components can be depreciated under various, shorter time frames through the use of cost segregation rules.

Maintaining a reasonable depreciation period for rental housing is critical. If the period is too long, it will increase costs and make it harder to develop rental housing. Changes to the depreciation schedule will impact the financial viability of existing multifamily buildings, which could result in foreclosures and price declines. Depreciation is also a key to attracting outside investors.

For these reasons, NAHB opposes changes to the depreciation rules that would extend the depreciation period of property associated with residential rental property. It is also worth noting that while Congress has enacted and continues to debate the value of various expensing proposals (*e.g.,* bonus depreciation), such rules typically exclude structures such as apartment buildings (property with more than 20 years of economic life).

CONCLUSION

NAHB is an organization that represents all facets of the residential construction industry, including for-sale builders of housing, multifamily developers, remodelers, manufacturers, and other associate members. As such, NAHB defends housing choice. While home ownership offers communities and households numerous benefits, it is important to recognize that for every family there is a time to rent and a time to own a home.

[43] For more detail on how NAHB calculated the impacts, *see: http://www.nahb.org/generic.aspx?sectionID=1081&genericContentID=131457#top2.*

[44] NAHB's analysis was based on H.R. 4213 in the 111th Congress.

For these reasons, NAHB also supports policies that promote a healthy rental housing sector, including support for the Low-Income Housing Tax Credit, which was created as part of the Tax Reform Act of 1986 and has become a successful public-private partnership that assists in the development of affordable housing.

NAHB also recognizes there are policies that need to be modernized to reflect changes in the tax code, including the mortgage interest deduction. In the next few years, many of the provisions enacted in the Tax Cuts and Jobs Act will expire. This presents an opportunity to refocus the home-ownership tax incentives so that the benefit flows to lower and middle-class families, making home ownership more accessible.

And as owning a home is a significant means for savings for most homeowners, the capital gains exclusion protects that investment, but the value of this provisions is eroding due to inflation. We encourage Congress to remedy this.

Without meaningful home-ownership tax incentives, NAHB believes that disparity in economic income will increase, and the middle class would continue to shrink. Home ownership is the major path to wealth for the middle class. We believe that any policy change that makes it harder to buy a home—or delays the purchase of the home until an older age—will have significant long-term impacts on household wealth accumulation and the makeup of the middle class as a whole.

With home prices and rents rising even faster than inflation, and a growing scarcity of entry-level owner-occupied housing along with affordable rental units, and rising interest rates, Americans are being squeezed hard. National home prices are growing at an unsustainable pace, reaching an all-time high seasonally adjusted annual growth rate of 28.2 percent.[45] Forty percent of core inflation is driven by shelter costs.[46] More cost increases are coming for this category, which will add to inflationary forces in the months ahead. And prospective home buyers are not only facing higher home prices, but also higher carrying costs due to increases in interest rates.

Building material prices collectively are up 19.2 percent year-over-year and 35.6 percent since the start of the pandemic.[47] It comes as no surprise that the median price of a newly built, single-family home increased 19.7 percent year over year. This country was already facing a housing affordability crisis, but the inflationary effects of the building material price increases are squeezing home buyers even more. A year ago, 23 percent of new home sales were priced below $300,000. In May, it was only 10 percent.[48]

Rising home prices and interest rates are taking a terrible toll on housing affordability, with 87.5 million households—or roughly 69 percent of all U.S. households—unable to afford a new median-priced home.[49] In other words, seven out of 10 households lack the income to qualify for a mortgage under standard underwriting criteria. We have now seen housing affordability fall to a decade low.[50]

While the Federal Reserve is attempting to quell inflation and achieve a soft landing, history suggests that based on current rates of inflation and labor market tightness, the probability of avoiding a recession is small. NAHB is now forecasting a mild recession for the coming quarters given current macro conditions. An argument can be made that a recession took hold during the first half of 2020 (due to two consecutive quarters of GDP decline), led by significant weakening including 7 straight months of decline for home builder sentiment, as measured by the NAHB/Wells Fargo Housing Market Index (HMI). In July, the HMI fell 12 points to 55, which marks the lowest HMI reading since June 2020 and the largest single-month drop in the history of the HMI, except for the 42-point drop in April 2020.[51]

NAHB greatly appreciates the overwhelming bipartisan Senate support to solve our affordable housing crisis. In this era of increasingly partisan political discord, I hope we can all unite around this issue and take action. Shelter is a basic human

[45] *https://eyeonhousing.org/2022/05/home-prices-surged-in-march/.*

[46] *https://eyeonhousing.org/2022/06/inflation-hits-a-fresh-40-year-high-in-may/.*

[47] *https://www.nahb.org/blog/2022/05/building-materials-up-more-than-19-percent-year-over-year.*

[48] *https://eyeonhousing.org/2022/06/new-home-sales-increase-in-may-before-feds-june-rate-rise/.*

[49] *https://www.nahb.org/News-and-Economics/Housing-Economics/Housings-Economic-Impact/Households-Priced-Out-by-Higher-House-Prices-and-Interest-Rates.*

[50] *https://www.nahb.org/news-and-economics/press-releases/2022/05/new-home-sales-down-on-rising-interest-rates-declining-affordability.*

[51] *https://eyeonhousing.org/2022/07/builder-confidence-plunges-as-affordability-woes-mount/.*

need and a leading source of inflation. Through smart, effective policy, we have an opportunity to do something that not only makes good economic sense but will also uplift the lives of millions of Americans.

QUESTIONS SUBMITTED FOR THE RECORD TO JERRY KONTER

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

Question. I called for a GAO report on the LIHTC that was released on July 15, 2015. While the program is currently administered at the Federal level by the Internal Revenue Service, this report recommended giving the Department of Housing and Urban Development a joint oversight role.

I have been a strong advocate of oversight as long as I have been in Congress. It is impossible to conduct meaningful oversight without consistent and available data on how programs preform, however I also understand the need to limit unnecessary paperwork for those participating in Federal programs.

What impact would giving HUD a partnering oversight role have on the LIHTC program?

Answer. Administration of the Low-Income Housing Tax Credit is overseen by two governmental agencies: federally by the Department of Treasury, including the Internal Revenue Service, and at the State level by the housing finance agencies (HFAs). Alongside the private sector oversight that is a key pillar to the public-private partnership driving the success of this program, LIHTC projects face intense scrutiny and oversight. The success of these projects partially reflects the ever-present threat that the government can recapture tax credits if the project fails.

The July 15, 2015, GAO report included several recommendations that are not supported by the evidence included in the report. For example, the GAO report suggests that IRS oversight is lax because only seven HFAs had been audited. But the GAO provided no evidence of widespread noncompliance by HFAs. In fact, GAO's May 11, 2016, report on HFA practices was largely positive. The IRS also stays in close contact with HFAs on program administration, which may minimize the need for formal audits.

Overall, the GAO views the HFAs as entities the IRS should regulate rather than correctly viewing the relationship as a partnership, as Congress has tasked both with oversight responsibilities. While the GAO is overly focused on IRS audits of the HFAs, the IRS has properly focused its LIHTC audit resources on individual taxpayers.

I do agree, however, with the need for improved data collection so Congress can evaluate the effectiveness of the housing credit. Partly in response to the GAO report, the IRS created a new database to better collect information from Forms 8610, 8609, 8609–A, and 8823. HUD also maintains the placed-in-service database and collects tenant data. To the extent additional data collection is needed, NAHB supports doing so, but not in a manner that is duplicative to the existing efforts, which would likely be the outcome of giving HUD a larger oversight role.

Treasury, IRS, and the HFAs have overseen LIHTC for over 25 years. In our opinion, the GAO failed to make a convincing case of why the existing oversight structure should be expanded to include HUD. As is often the case with expanding the Federal Government, such a move will likely increase administrative costs, slow down production, and provide no meaningful benefit to the housing credit program.

Question. It is no secret that housing costs have been increasing well before the current wave of inflation. While LIHTC has an impact on bringing more affordable units onto the market, the varied housing prices across the country indicate that local policies, such as zoning, have possibly the greatest role in determining housing costs.

In addition, there are a wide variety of regulations at the Federal level, including HUD regulations, that increase the price of new homes and buildings.

As Professor Ohanian noted in his testimony, there are currently a number of regulations that prevent affordable housing from being constructed. In addition to the LIHTC, what other options would be available to increase housing supply? How would these other options compare to the LIHTC in cost effectiveness? What factors at the State or local level are inhibiting the creation of affordable housing?

Answer. Regulatory burdens drive up the cost of housing. In June, NAHB along with the National Multifamily Housing Council, released an updated study on how much government regulation adds to the cost of building new multifamily housing. The survey results found an average of 40.6 percent of total development costs were attributed to complying with regulations imposed by all levels of government.[1] On the single-family side, NAHB's research showed that regulation adds nearly $94,000 to the cost of a typical new home.[2]

Easing government regulation, particularly at the local level, would bring some relief to the housing affordability crisis, especially for middle-income households. It is not, however, the silver bullet solution for our all our housing challenges.

Developers face a pricing floor driven by basic development costs that they cannot control. Even with a significant reduction of the regulatory burden, building new housing targeted to lower-income Americans requires a subsidy. The 2011 study from the Harvard University Joint Center on Housing Studies reiterates this point: "[t]he rising costs of construction make it difficult to build new housing for lower-income households without a subsidy."[3]

Although this study is more than a decade old, it continues to offer a valuable data point. In 2009, the median asking rent for new unfurnished apartments was $1,067; for minimum-wage workers, an affordable monthly rent using the 30-percent-of-income standard is just $377.[4] The study calculated that to develop new apartments with rents affordable to households with incomes equivalent to the full-time minimum wage, the construction costs would have to be 28 percent of the current average.[5]

Even with meaningful regulatory changes, development costs will not be reduced by 72 percent. In fact, development costs have substantially increased since 2009. Building material prices collectively are up 19.2 percent year over year and 35.6 percent since the start of the pandemic.[6] To solve our housing affordability crisis, unnecessary regulatory barriers to housing production must be reduced. But reducing regulation is not an alternative to LIHTC, and demand for credits and for affordable rental housing will still far exceed supply, even with a substantial increase in credits. Without LIHTC, it will remain financially infeasible to construct new affordable rental units targeted to households earning no more than 60 percent of the area median income.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. Thank you for the support you expressed during the hearing for Senator Cantwell's and my Affordable Housing Credit Improvement Act (S. 1136). I wanted to take this opportunity to solicit your thoughts in greater detail regarding my bill and the Low-Income Housing Tax Credit (LIHTC) generally.

Why do you support the Affordable Housing Credit Improvement Act and how do you believe it will impact communities across the country?

Can you please share what it is that makes the Low-Income Housing Tax Credit so effective in addressing the affordable housing crisis?

From a builder's perspective, can you please share how the increase in building material prices affects LIHTC projects and why this makes passing the Affordable Housing Credit Improvement Act so important?

Why do you support the Affordable Housing Credit Improvement Act and how do you believe it will impact communities across the country?

Answer. To start meeting the growing and significant demand for affordable rental housing, we must increase resources supporting production, which is why we support the Affordable Housing Credit Improvement Act (S. 1136).

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[1] *https://eyeonhousing.org/2022/06/regulation-40-6-percent-of-the-cost-of-multifamily-development/.*

[2] *https://eyeonhousing.org/2021/05/regulation-now-accounts-for-93870-of-the-average-new-home-price/.*

[3] "America's Rental Housing: Meeting Challenges, Building on Opportunities," Joint Center for Housing Studies of Harvard University, 2011, pg. 23.

[4] Pages 23 and 21.

[5] Page 24.

[6] *https://www.nahb.org/blog/2022/05/building-materials-up-more-than-19-percent-year-over-year.*

The root of the problem is simple: we lack enough affordable housing. The only effective, long-term solution is to increase supply. Among other key provisions, S. 1136 takes a significant and needed step to boost supply by increasing LIHTC allocations by 50 percent. Estimates suggest enacting S. 1136 would result in up to 2,015,000 additional LIHTC units.[7]

S. 1136 would also enhance rural development opportunities. This includes standardizing rural income limits as well as a basis boost for projects serving extremely low-income tenants. The basis boost is an important provision considering that rural residents' income tends to be lower than in urban areas. The bill would also encourage development in Native American communities, which are home to some of our most vulnerable rural residents.

We also need to recognize the important role affordable housing plays in our communities. There are meaningful social effects. Affordable housing creates stability for tenants and their families. LIHTC properties help to revitalize neighborhoods. Breaking the cycle of poverty starts with access to stable and affordable housing.

The housing affordability crisis affects our economy as well. It costs us jobs, productivity, and economic growth. Housing affordability is critical in areas of the country experiencing robust economic growth. As the number of open, unfilled jobs grows, the operation of the housing market plays a key role in allowing individuals to relocate to areas where jobs need to be filled. And if we don't address this issue, where do our employers find their workers? How do we grow the economy?

And for our fellow citizens who want to realize the American dream, if they cannot afford to live where the economic opportunities are, we are just creating an economic divide based on housing "haves" and "have nots."

Rental housing demand remains solid, and more housing is needed to help address growing affordability challenges. Absent new supply, this demand will increase rents and worsen existing affordability issues. The Affordable Housing Credit Improvement Act would greatly enhance our ability to increase the supply of affordable rental units, and I urge the committee to mark up and favorably report out the bill.

Question. Can you please share what it is that makes the Low-Income Housing Tax Credit so effective in addressing the affordable housing crisis?

Answer. LIHTC is the most successful affordable rental housing production program in U.S. history. Its public-private partnership model is one that frankly should be replicated in other government programs. When a developer starts a LIHTC project, the investors and the developer assume all the risk. If the project fails, the taxpayer is protected, as the IRS can and will reclaim the tax credits. Since the investors cannot claim the credits until after the project is placed in service, it is the rare public program where the taxpayer gets what they are paying for, or the taxpayer does not pay.

And this is reflected in the data. The 2021 Affordable Housing Credit Study released by CohnReznick reported a 0.57 percent cumulative foreclosure rate, with only one new foreclosure reported in 2020.[8] This is a significantly lower rate than market-rate projects and is a testament to the scrutiny each LIHTC project undergoes.

A key component to the LIHTC's success is the flexibility the State agencies have to target specific types of affordable housing developments. For example, a State with a large population of seniors may offer a developer bonus points on an application for focusing on senior housing. Other targeted projects include assisted living; family housing; homeless; and housing for the disabled. This flexibility allows each State to determine what types of affordable housing are best suited to the demographics of their State, rather than applying a single, national standard. Ultimately, however, a lot of needs are not being met as demand simply outstrips the availability of credits.

LIHTC development remains stable because the need for affordable housing is significant. Consistent demand for credits also reflects the advantage of creating this credit in the tax code. Investors have confidence in the predictability of the tax code, which allows LIHTC developments to continue even during economic downturns.

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[7] *https://static1.squarespace.com/static/566ee654bfe8736211c559eb/t/607763314b628a205aa010a4/1618436913622/ACTION-NATIONAL-2021.pdf.*

[8] *https://www.cohnreznick.com/insights/cohnreznick-publishes-major-study-housing-tax-credit-property-performance.*

The LIHTC enables a fairly constant supply of affordable housing, as well as a financing mechanism that facilitates long-term operation.

Question. From a builder's perspective, can you please share how the increase in building material prices affects LIHTC projects and why this makes passing the Affordable Housing Credit Improvement Act so important?

Answer. If we are going to solve our housing affordability crisis, we must drive down the cost to build as well as the cost to own or rent. Shelter-based inflation, which makes up 40 percent of the CPI, increased in June at the fastest pace since 1986.[9] While the Federal Reserve is increasing interest rates via tighter monetary policy to fight inflation, its policy tools are poorly situated for addressing the housing element of the inflation challenge. Higher interest rates increase the cost of buying a home (thus increasing demand for rental housing and generating higher rents), while also increasing the cost of financing single-family and multifamily construction, thereby restricting housing supply. Rent inflation increased in June at the fastest pace since 1986.

Building material prices collectively are up 19.2 percent year over year and 35.6 percent since the start of the pandemic.[10] Updated with the latest data since I presented my testimony, since the spring of 2020, lumber prices are up 75 percent; steel mill prices are up 120 percent; gypsum/drywall is up 40 percent; ready-mix concrete is up 12 percent; interior paint is up 33 percent and exterior paint is up 49 percent; aluminum is up 61 percent; and copper is up 57 percent.

This financial pressure is not only driving up development costs, but it also further strains the limited resources of the LIHTC program. LIHTC is a fixed resource. To maintain production with rising costs, we need to increase resources. The program already took a 12.5 percent cut at the end of last year. We need to restore that and increase funding, which is what the Affordable Housing Improvement Act does and why we support it.

Question. In May 2021, I reintroduced my Yes In My Back Yard (YIMBY) Act with Senator Schatz to shine a light on discriminatory land use policies, encourage localities to cut burdensome regulations, and bring a new level of transparency to the community development process. This bill would require Community Development Block Grant (CDBG) recipients to go on the record with why they are not adopting specific pro-affordability and anti-discriminatory housing policies.

Does the National Association of Home Builders support my Yes In My Back Yard Act? Why or why not?

How would this bill increase housing stock across the country?

Answer. The housing affordability crisis is driven by lack of supply. We need local governments to allow us to build the housing this country needs. The YIMBY Act will encourage local governments to examine their land development policies and eliminate barriers to building affordable housing. NAHB strongly supports this bill.

In June, NAHB along with the National Multifamily Housing Council released an updated study on how much government regulation adds to the cost of building new multifamily housing. The survey results found an average of 40.6 percent of total development costs were attributed to complying with regulations imposed by all levels of government.[11] On the single-family side, NAHB's research showed that regulation adds nearly $94,000 to the cost of a typical new home.[12]

Rising home prices and interest rates are taking a terrible toll on housing affordability, with 87.5 million households—or roughly 69 percent of all U.S. households—unable to afford a new median-priced home.[13] In other words, seven out of 10 households lack the income to qualify for a mortgage under standard underwriting criteria. We have now seen housing affordability fall to a decade low.[14]

[9] *https://eyeonhousing.org/2022/07/june-inflation-reading-the-highest-since-1981/.*

[10] *https://www.nahb.org/blog/2022/05/building-materials-up-more-than-19-percent-year-over-year.*

[11] *https://eyeonhousing.org/2022/06/regulation-40-6-percent-of-the-cost-of-multifamily-development/.*

[12] *https://eyeonhousing.org/2021/05/regulation-now-accounts-for-93870-of-the-average-new-home-price/.*

[13] *https://www.nahb.org/News-and-Economics/Housing-Economics/Housings-Economic-Impact/Households-Priced-Out-by-Higher-House-Prices-and-Interest-Rates.*

[14] *https://www.nahb.org/news-and-economics/press-releases/2022/05/new-home-sales-down-on-rising-interest-rates-declining-affordability.*

Home builders are not ignoring 70 percent of the marketplace—development costs simply make it impossible to produce more affordable offerings. The YIMBY Act will help us lower development costs, which will enable home builders to produce more affordable housing. A year ago, 23 percent of new home sales were priced below $300,000. In May, it was only 10 percent.[15] We have now seen housing affordability fall to a decade-plus low.[16] If we are going to solve our housing affordability crisis, we must drive down the cost to build as well as the cost to own or rent.

Within NAHB, we often refer to the "five Ls" as shorthand for the headwinds facing the industry: labor, lending, local regulatory restrictions, lots, and lumber. Eliminating unnecessary regulations alone will not solve the housing affordability crisis, but it is one the key policy solutions, which is why we support the YIMBY Act.

PREPARED STATEMENT OF LEE E. OHANIAN, PH.D., SENIOR FELLOW, HOOVER INSTITUTION, STANFORD UNIVERSITY; AND DISTINGUISHED PROFESSOR OF ECONOMICS, UNIVERSITY OF CALIFORNIA, LOS ANGELES

Chair Wyden, Ranking Member Crapo, and members of the Senate Finance Committee, thank you for inviting me to testify at this hearing on "The Role of Tax Incentives in Affordable Housing."

America's housing crisis is nearly 100 years old, dating back to the 1920s when the average home price in Manhattan was over $1.2 million in inflation-adjusted dollars.[1] In the last century, dozens, and perhaps hundreds of Federal, State, and local agencies have been created to deliver affordable housing, but affordability remains elusive, particularly for low- and middle-income households. National Association of Realtors data show that affordability has plummeted in the last year, particularly in the western United States where the median-priced home now requires over $100,000 of liquid assets for a down payment and closing costs, and a household income exceeding $100,000 annually to qualify for a conventional mortgage.[2]

Increasing housing affordability requires addressing two related issues. We must expand housing supply and we must build new housing at a much lower cost. There are key policy reforms that would make considerable progress in advancing these goals. I focus on two areas for policy responses: (1) increasing the use of manufactured housing, which is much more cost efficient than traditionally built housing; and (2) reforming the process of building affordable housing, as this has become inordinately expensive in some States.

INCREASE ADOPTION OF MANUFACTURED HOUSING TO LOWER BUILDING COSTS

Summary: Manufactured housing is 60 percent less expensive to build per square than traditionally built housing, but regulations and financing difficulties have significantly hampered adoption of these homes. Tax incentives and regulatory reforms can significantly increase affordability by expanding the use of manufactured housing to increase U.S. housing supply.

The development of modern factory production made it possible for virtually all Americans, not just those with high incomes, to buy automobiles and other mass-produced durable goods. But modern production methods are notably absent from our residential construction industry, which builds homes in much the same way as they have always been built, as described in an important recent study of manufactured housing by James A. Schmitz, an economist at the Federal Reserve Bank of Minneapolis.[3] This means that residential construction costs are much higher than they could be.

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[15] *https://eyeonhousing.org/2022/06/new-home-sales-increase-in-may-before-feds-june-rate-rise/.*

[16] *https://www.nahb.org/news-and-economics/press-releases/2022/05/new-home-sales-down-on-rising-interest-rates-declining-affordability.*

[1] Nicholas, Tom and Anna Scherbina, 2013, "Real Estate Prices During the Roaring Twenties and the Great Depression," *Real Estate Economics,* 41, no. 2, pp 278–309.

[2] National Association of Realtors, "Housing Affordability Index," *https://www.nar.realtor/research-and-statistics/housing-statistics/housing-affordability-index.*

[3] Schmitz, James A. Jr., 2020, "Solving the Housing Crisis Will Require Fighting Monopolies in Construction," Federal Reserve Bank of Minneapolis Working Paper No. 773.

The Bureau of Labor Statistics[4] reports that worker productivity (inflation-adjusted output per worker) rose by only 11 percent between 1987 and 2016 in single-family home construction. By comparison, BLS data show that worker productivity in durable goods manufacturing industries rose by about 150 percent over the same period. The cost savings enjoyed by consumers of manufactured durable goods have evaded residential home building because building practices have not adopted cost-saving technological advances prevalent in manufacturing.

The high cost of traditional home building has been documented since at least 1937. A.C. Shire, the chief engineer of the Federal Housing Administration, wrote at that time that "In an age of large-scale financing, power, and mass production, we have the anachronism that the oldest and one of the largest of our industries . . . follows practices developed in the early days of handiwork . . . is bogged down by waste and inefficiency, [and] is unable to benefit by advancing productive techniques in other fields."[5]

Manufactured homes are a much lower cost alternative to traditionally built homes. Census data show that production costs are about 60 percent lower than traditionally built homes.[6] Because of substantially lower costs, manufactured housing production grew significantly, rising from 103,700 units built in 1960 (10 percent of total single-family units) to 575,900 units in 1972 (60 percent of total single-family units).[7] This growth led the Commerce Department to predict about 800,000 manufactured units by 1980, but only about 220,000 units were built that year.

One factor depressing manufactured housing since that time of rapid growth is a HUD requirement that manufactured homes be placed permanently on a chassis.[8] This requirement imposes a negative aesthetic on the home, leading them to be known as "mobile homes" or "trailers." The negative aesthetic of a home placed on a chassis has often led local zoning ordinances to exclude manufacturing housing from many neighborhoods. Manufactured homes typically are placed in "mobile home parks" that are locally zoned for that purpose. This in turn limits financing options, since the homes on chassis are considered "mobile," which means they are financed by personal loans or chattel loans which do not provide the homeowner with interest tax deductibility.[9]

Increasing manufactured housing would substantially improve affordability, given their construction costs are 60 percent less per square foot. Removing the HUD requirement that manufactured homes be placed on a permanent chassis would considerably change the landscape for these homes by making them aesthetically acceptable and broadening the options available to finance these homes, including mortgage financing with interest deductibility.

A 2011 report by economists at the Center for Housing Research at Virginia Polytechnic University, which was commissioned by HUD, provides considerable detail on understanding the regulatory hurdles facing this low-cost alternative to traditional housing, including the permanent chassis requirement.[10] This report's recommendations are also very similar to those from President Reagan's Commission on Housing, which produced a 1982 report documenting the cost advantages of manufactured housing and the importance of removing regulatory impediments so that manufactured homes were accessible in more neighborhoods and could be eligible for traditional mortgage financing.[11]

The substantial cost advantages of leveraging modern production techniques to produce housing are well known and have been discussed within the Federal Government for at least 85 years. Expanding the use of modern technologies to build housing is also consistent with President Biden's recent housing proposals, which

[4] Bureau of Labor Statistics, "Measuring Productivity Growth in Construction," *Monthly Labor Review*, January 2018, pp. 1–15, *https://www.bls.gov/opub/mlr/2018/article/measuring-productivity-growth-in-construction.htm.*

[5] Schmitz, 2020, *op. cit.*

[6] Bureau of the Census, "Cost Comparisons: New Manufactured Homes and New Single Family Site-Built Homes," *https://www2.census.gov/programs-surveys/mhs/tables/2017/sitebuiltvsmh.xls.*

[7] Schmitz, 2020, *op. cit.*

[8] U.S. Department of Housing and Urban Development, "Frequently Asked Questions About Manufactured Housing," *https://www.hud.gov/program_offices/housing/rmra/mhs/faqs.*

[9] Schmitz, 2020, *op. cit.*

[10] Koebel, Theodore C. et al., 2011, "Regulatory Barriers to Manufactured Housing Placement in Urban Communities," *https://www.huduser.gov/portal/publications/affhsg/rb_mhpuc.html.*

[11] McKenna, William, 1982, "The Report of the President's Commission on Housing," Washington, DC, USGPO, *https://www.huduser.gov/Publications/pdf/HUD-2460.pdf.*

focus on rewarding jurisdictions that reform land-use policies, deploying new financing mechanisms, and working with the private sector to improve building techniques and build more efficiently. Modifying local zoning rules will be needed but reducing the chassis requirement should make a significant difference in the acceptability of these homes.[12] Creating specific programs that incentivize State and local agencies to implement manufactured housing in the production of affordable housing developments could significantly reduce costs and improve affordability.

REDUCING THE COST OF BUILDING AFFORDABLE (SUBSIDIZED) HOUSING

Summary: Affordable housing, which usually involves the use of the Low-Income Housing Tax Credit (LIHTC), and sometimes other subsidies, has become more expensive to build than market-rate housing in at least some States. Studies show that high costs reflect both above market-rate construction costs, and high indirect (soft) costs that are related to regulatory and other requirements involved with subsidies. Expanded collection of cost data, identifying best practices that can be levered by all allocation agencies, and incentivizing jurisdictions to become more efficient can make better use of taxpayer subsidies and expand affordable housing supply.

Construction costs of affordable (subsidized) housing have increased considerably, particularly in the western United States.[13] In San Francisco, one affordable housing project is being renovated at a cost of $1.226 million per unit. There are a total of 608 units across seven projects in northern California identified in a recent *Los Angeles Times* article costing over $1 million per unit.[14] These cost statistics are challenging to reconcile with the fact that the median single-family California home, which includes a parcel of land and more finished living space, can be purchased for about $325,000 less.[15] While these statistics are from California, similar issues may be impacting affordable housing construction in other States, and thus California's experience of escalating costs may be more broadly informative.

A 2018 GAO study found extremely large cost disparities in affordable housing construction across States, ranging from a minimum of below $100,000 per unit in Texas to a maximum of $750,000 per unit in California evaluating data from 2011–2015. They concluded that better data collection to understand these cost differences is needed, and that improved oversight of the use of subsidy funds should be implemented.[16]

The study found that only a few allocating agencies have requirements to guard against misrepresentation of contractor costs, which is a fraud risk. Although high-level cost certifications are required from developers for LIHTC policies, the cost of multiple contractors are combined in the certifications, but the IRS does not require detailed certifications. Weaknesses in data quality were also found by the GAO and some included inconsistencies in cost-related variables and not including the full extent of indirect costs associated with fees paid to syndicators acting as intermediaries between project developers and investors that IRS requires be collected.

The GAO made some recommendations for the issues described above, including designating a Federal agency to analyze LIHTC cost data, having the IRS require contractor cost certificates, having the IRS and other allocating agencies create more standardized cost data, and having the IRS communicate to credit allocating agencies on how to collect certain information.

The GAO also noted that "Even without a designated Federal entity, opportunities exist to advance oversight of development costs. In particular, greater standardization of cost data would lay a foundation for allocating agencies to enhance evaluation of cost drivers and cost-management practices."

[12] The White House, May 16, 2022, Statements and Releases, "President Biden Announces New Actions to Ease the Burden of Housing Costs," *https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/16/president-biden-announces-new-actions-to-ease-the-burden-of-housing-costs.*

[13] California Tax Credit Allocation Committee et al., "Construction Costs of Affordable Housing," *https://www.treasurer.ca.gov/ctcac/multistate-housing-costs.pdf.*

[14] *Los Angeles Times,* 2022, "Affordable Housing in California Now Routinely Tops $1 Million per Apartment," *https://www.latimes.com/homeless-housing/story/2022-06-20/california-affordable-housing-cost-1-million-apartment.*

[15] California Association of Realtors, 2022, "May Home Sales and Price Report," *https://www.car.org/en/aboutus/mediacenter/newsreleases/2022releases/may2022sales.*

[16] Government Accountability Office, 2018, "Low-Income Housing Tax Credit: Improved Data and Oversight Would Strengthen Cost Assessment and Fraud Risk Management," *https://www.gao.gov/products/gao-18-637.*

The GAO also found financing inefficiencies, particularly related to the fact that there are typically many lenders involved in these projects, an average of six per project. UC Berkeley's Terner Center for Housing Innovation estimates that each additional lender adds an additional $6,400 in cost per unit.[17] The Terner Center found other cost drivers, including paying prevailing wage requirements, which they found increased costs above market labor rates by $53,000 per unit, a lack of government staff which delays approval, more stringent environmental requirements and sustainability regulations that add $17,000 per unit. They also found delays in approvals that increase costs.

Reducing reliance on prevailing wage requirements would not only reduce costs, but one study found that such requirements limit employment opportunities for minority workers.[18]

Lawsuits also delay affordable developments in California, particularly lawsuits filed under the California Environmental Quality Act.[19] States should study the incidence of litigation against development to identify any reforms that may be enacted to reduce such lawsuits and/or speed up their resolutions. My previous research identifies a large development in California in which plans were submitted for approval in 1994, and lawsuits were not resolved until around 2017, including lawsuits that were filed after the project had been approved in 2012. Most of these lawsuits were filed under the California Environmental Quality Act. To date, no homes have been completed in this project, making it 28 years since the proposal was first received by local government agencies.

I recommend that Congress revisit the GAO recommendations, including standardization of cost data from agencies that are collected and analyzed by a single Federal entity. Creating funding opportunities that do not require so many funders can reduce costs and speed the development and approval timeline. Best practices regarding approval and funding sources should be identified and provided to all allocating agencies. Providing incentives to do this would be consistent with President Biden's recent guidelines to make housing more affordable. Senate Bill 1136 and House Resolution 2573 is an important expansion of the LHITC. Coupling S. 1136/ H.R. 2573 with collecting and analyzing cost data and incentivizing allocating agencies to improve efficiency could have a significant impact on increasing affordability.

Restrictive zoning rules and other land-use regulations also impede the development of new housing. Incentivizing State and local agencies to expand the use of higher-density housing would reduce building costs and place housing where it is most demanded. Reforming regulations that limit urban boundaries, which are present in California, would also expand housing where it is in most demand. My research identifies one example in which it took about 40 years for a California city to purchase undeveloped county land to expand its urban footprint. Homes remain to be built.[20]

From this perspective, Senate Bill 1416, would be an important step in collecting and analyzing data on how State and local agencies manage their land use. S. 1416 would help these agencies identify and adopt best practices that can increase housing supply where it is most demanded, while at the same time maintain neighborhood qualities so that agencies can address the concerns of those who oppose development.

Thank you for this opportunity to testify to the committee on such an important issue. American home affordability can be increased substantially by incentivizing the adoption of low-cost production techniques, improving efficiency in the building of subsidized housing, and helping State and local agencies create building development opportunities in areas that are in high demand. I welcome questions and comments.

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[17] Reid, Carolina, 2020, "The Costs of Affordable Housing Production: Insights from California's 9-Percent Low-Income Housing Tax Credit Program," *https://ternercenter.berkeley.edu/research-and-policy/development-costs-lihtc-9-percent-california/.*

[18] Yurlov, Vlad, 2021, "Why Is Affordable Housing So Expensive?", Cascade Policy Organization, *https://cascadepolicy.org/land-use/why-is-affordable-housing-so-expensive.*

[19] Ohanian *op. cit.*

[20] Ohanian *op. cit.*

QUESTIONS SUBMITTED FOR THE RECORD TO LEE E. OHANIAN, PH.D.

QUESTIONS SUBMITTED BY HON. ROBERT P. CASEY, JR.

Question. Nonprofit housing developers fill valuable roles in producing housing. However, you testified that in some places, units cost up to a million dollars to develop and I have heard from some of the non-profit developers in Pennsylvania that the LIHTC process takes up to 2 years of pre-development work. Most developers do not get an award their first year, meaning the whole process can take 3–4 years and often involves hiring consultants to guide them. The process is daunting and overwhelming and turns away even experienced developers with expertise in managing accessible housing.

How can we streamline the LIHTC process to lower costs, shorten delays, and better incentivize participation by small not-for-profit developers?

Answer. I agree that it has indeed become challenging for non-profit and small developers to compete within the LIHTC sphere, particularly in recent years. HUD reports that the average scale of a LIHTC project was about 34 units between 1987 and 1994, whereas the average scale rose to 80.3 units between 2000 and 2019.

As project scale has increased, so has the complexity of the planning, permitting, financing, and environmental approval processes within LIHTC. As these soft costs have increased, this further incentivizes even larger scale projects, so that developers can spread the fixed component of these soft costs over a larger scale to help keep the project economically feasible. This is becoming a vicious circle that needs to be broken.

Participating in a LIHTC project is complex as well as complicated. Novogradac, an accounting firm, produces an annual LIHTC guide that is over 1,400 pages in length. The use of multiple financing agencies, which is growing in frequency and scope as projects have become larger, is viewed by many as increasing costs and delaying projects. LIHTC complexity is further increased by the fact that some States have their own LIHTC programs, and there are other housing subsidy programs at the Federal, State, and local levels that become part of the overall increasingly complex LIHTC equation.

We should make LIHTC less complex and less complicated so that we reduce costs and make LIHTC more accessible to a broader set of developers. An important first step is obtaining more data from LIHTC projects so we can identify the priority areas that are creating drawn-out and expensive projects, and that is increasing the complexity of participating in the process.

Currently, we don't have the data needed to provide detailed and specific reforms on how to do this. I recommend adopting the GAO recommendations presented in their September 2018 report. The GAO report expressed strong concerns about the cost of LIHTC projects and how much these costs varied across LIHTC projects, sometimes across projects in the same State. The GAO makes several common-sense recommendations to create LIHTC cost databases. If the GAO recommendations were adopted, I believe we could make considerable progress in creating a simpler and more level LIHTC playing field that would not be so cumbersome and difficult for non-profit developers to navigate.

The GAO recommendations are a terrific place to start with the process of developing a cost database that can help inform us as to how to modify the LIHTC processes. We also should gather data on the length of time it takes for different phases within LIHTC. Finally, we should review the LIHTC application process to understand where we can make it simpler.

With these data in place, we will be able to make well-informed decisions on how to make LIHTC work better and more efficiently and make it more accessible to a broader set of developers.

QUESTION SUBMITTED BY HON. MIKE CRAPO

Question. The issue of affordable housing supply was raised in the hearing, with observations that, generally, low supply tends to coincide with high prices for a given demand. Questions were raised about how to generate increased affordable housing supply, and you made observations about cost. Your observations suggested that the path to higher supply is through lower costs, and one surefire way to lower costs through gains in productivity in the production of housing.

Do you agree that in order to have increased supply of affordable housing, ways must be found to lower production costs, including through lowering costs associated with permitting, zoning requirements, and the like?

Answer. I agree wholeheartedly that local land-use regulations, including costly and time-consuming permitting processes and restrictive zoning rules, substantially drive up the cost of housing and create enormous inefficiencies in housing markets that in turn burden millions of U.S. families.

My research shows that if local zoning regulations across the United States were rolled back to the levels that prevailed in the 1990s, then U.S. real GDP would rise by $1 trillion due to lower housing costs, which in turn would lead to higher productivity and a more efficient allocation of workers in the most productive locations, which presently are unaffordable for many. This includes highly productive areas such as Silicon Valley in California, where the median home price is currently around $1.8 million. Other studies of reforming land use regulations reach similar conclusions.

The permitting process also drives up costs significantly. In California, one planned development (Tejon Ranch proposed development) that would ultimately be home to about 60,000 people had permit applications filed in 1994. The development still has not seen one home built due to chronic permitting delays and lawsuits. Lawsuit after lawsuit, and hearing after hearing, have delayed this project for nearly 30 years. While the Tejon Ranch project is not an LIHTC project, this example highlights that States need to be held broadly more accountable for building new housing and ensuring that the regulatory process is sensible.

Policy reforms that streamline the permit approval process and liberalize zoning rules are central for improving U.S. housing affordability.

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

Question. In 2018, the GAO released a report at my prompting. Among its recommendations were to improve data collection for the LIHTC program. Over a series of reports on the issue, they noted the program's complexity and identified the need for more transparency.

The primary recommendation in this 2018 report was for Congress to "consider designating a Federal agency to maintain and analyze LIHTC cost data." To date, this recommendation has not been implemented.

As you noted in your testimony, better data collection and dissemination would improve our understanding of cost differences between states. What other analyses could be done if the recommendations on data collection were implemented?

Answer. I agree strongly with your recommendations for improved transparency in the LIHTC. My testimony concurs that the GAO recommendations be adopted, as this information would provide much-needed data that would in turn lead to the adoption of best practices in implementing the LIHTC,

In addition to the important recommendations made by the GAO, there are several other valuable analytics that could be produced that would be natural extensions of the GAO recommendations. This includes providing cost accounting for how much the many different steps and procedure involved in LIHTC are increasing development and building costs, including how the timeline of development and construction is affected by LIHTC. I believe this could be done without overly burdensome compliance reporting.

There is a general presumption that the large number of lenders often involved in financing LIHTC projects adds considerably to project cost, but data limitations make it difficult to quantify the higher costs arising from having so many financing agencies involved. There is also a presumption that requiring prevailing wages on LIHTC projects drives up costs, but there is a lack of data on construction costs that makes it difficult to quantify this factor.

I believe that reasonable and cost-effective reporting requirements could be implemented without overly burdening reporting entities. Part of this accounting should include that all LIHTC projects adopt standardized accounting definitions and language so that direct comparisons can be made across projects. Presently, it is very difficult, and perhaps impossible, to make cost comparisons across different locales. Having accurate and comparable information on key cost items can help the LIHTC become an even more effective tool for creating affordable housing.

Adopting the GAO recommendations is an excellent starting point for improving the efficiency of the LIHTC. We all want LIHTC to help as many people as possible, but we cannot achieve that goal without much more information about costs, delays, and best practices.

Question. Another GAO report on the LIHTC I requested was released on July 15, 2015. While the program is currently administered at the Federal level by the Internal Revenue Service, this report recommended giving the Department of Housing and Urban Development a joint oversight role.

I have been a strong advocate of oversight as long as I have been in Congress. It is impossible to conduct meaningful oversight without consistent and available data on how programs perform, however I also understand the need to limit unnecessary paperwork for those participating in Federal programs.

What impact would giving HUD a partnering oversight role have on the LIHTC program?

Answer. Implementing HUD oversight could be very effective in improving the efficiency of the LIHTC. HUD is a natural agency to conduct this oversight since one important component of HUD's mission is to facilitate the creation of quality affordable housing for all.

Creating a highly focused oversight capacity within HUD to assess LIHTC projects, particularly with an emphasis on cost, delays, fraud, and abuse, is in my opinion a reasonable expansion of HUD's responsibilities. Such a department within HUD would be staffed with different specialists, including specialists in cost accounting, auditing, and forensic accounting, and legal specialists. It would have the potential to significantly improve the efficiency and effectiveness of the LIHTC by increasing accountability, expanding data collection, and improving the identification of problem areas within the LIHTC program. The existence of such an agency would also incentivize stakeholders within the LIHTC sphere, including developers, local approval agencies, funding agencies, and others to improve their relative performances.

Question. It is no secret that housing costs have been increasing well before the current wave of inflation. While LIHTC has an impact on bringing more affordable units onto the market, the varied housing prices across the country indicate that local policies, such as zoning, have possibly the greatest role in determining housing costs.

In addition, there are a wide variety of regulations at the Federal level, including HUD regulations, that increase the price of new homes and buildings.

As you noted in your testimony, there are currently a number of regulations that prevent affordable housing from being constructed. In addition to the LIHTC, what other options would be available to increase housing supply? How would these other options compare to the LIHTC in cost effectiveness? What factors at the State or local level are inhibiting the creation of affordable housing?

Answer. There are indeed other policy changes at the Federal, State, and local level that could significantly expand housing affordability, and on a much wider scale than can be done with the LIHTC. This includes liberalizing zoning regulations and reforming the permitting process, both of which operate primarily at the local level, and eliminating a HUD requirement that prevents the adoption of manufactured housing in a much broader set of neighborhoods than is currently available.

Local zoning rules and time-consuming and costly permitting processes are driving up housing costs by raising building and developer costs which in turn reduces housing supply. These cost and supply issues are particularly acute in many of the most vibrant economic locations in the country, including Southern California, San Francisco, Silicon Valley, New York, and other metropolitan areas with highly productive businesses that feature high-paying jobs. There is a strong demand for workers in these locations, but extremely expensive housing is driving a wedge between the businesses that wish to hire, and the individuals who are seeking jobs.

My research finds that rolling back local zoning requirements back to levels that prevailed in the 1990s would increase housing affordability substantially and would raise U.S. GDP by over $1 trillion per year, with that amount growing each year at the overall rate of economic growth. Other studies also conclude that zoning substantially drives up housing costs and reduces economic growth.

Permitting delays are increasing costs considerably. This problem is most endemic in high-income, metro areas such as New York, Los Angeles, and San Francisco. To

provide you with one example that shows just how problematic this issue can, and has become, there is one planned development about 40 miles outside of Los Angeles that would create a new community of about 60,000 people. Permit applications were filed in 1994. The Tejon Ranch development still has not seen one home built due to chronic permitting delays and lawsuits. Lawsuit after lawsuit, and hearing after hearing, have delayed this project for nearly 30 years. While the project, named "Tejon Ranch," is not a LIHTC project, this extreme example of delays and chronic litigation suggests that states need to be held broadly more accountable for building new housing if they wish to compete for Federal tax subsidies.

An important reason why we don't build more affordable housing is because the construction process has become so expensive. Much of the way that we build homes today has changed little over time. Eliminating the regulation that manufactured homes must be placed on a chassis, a regulation that goes back to the 1960s, would make manufactured homes much more widely available to consumers, and at a cost savings of 60 percent to traditionally built home.

Today's factory production methods provide a much more efficient process for building housing than traditional home building methods, as traditional methods cannot make use of the scale economies of mass production nor the remarkable technological advances that have taken place in manufacturing. The HUD requirement that these homes be placed on a chassis relegates these homes to mobile home parks, as the chassis requirement creates zoning rules that prevent these homes from being placed in other neighborhoods. Prior to the chassis regulation, manufactured homes were placed on conventional foundations and thus were accepted in single family home neighborhoods. They looked just like traditionally built homes but were much less expensive because they were built with modern production technologies.

A 2011 special report commissioned by HUD, "Regulatory Barriers to Manufactured Housing Placement in Urban Communities," also recommended the elimination of the chassis regulation. Eliminating the chassis regulation, which appears to have no beneficial purpose for consumers, would be a game-changer for millions of families who are now being squeezed out of the housing market. With the median U.S. home now costing nearly $400,000, eliminating this regulation would be expected to reduce housing costs by over $100,000.

Implementing zoning, permitting, and chassis regulation reforms would all substantially improve housing affordability by leveraging the remarkable efficiencies now in place within the market process.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. In May 2021, I reintroduced my Yes In My Back Yard (YIMBY) Act with Senator Schatz to shine a light on discriminatory land use policies, encourage localities to cut burdensome regulations, and bring a new level of transparency to the community development process. This bill would require Community Development Block Grant (CDBG) recipients to go on the record with why they are not adopting specific pro-affordability and anti-discriminatory housing policies.

Do you support my Yes In My Back Yard Act? Why or why not?

Answer. I strongly concur with your assessment, and I strongly support the Yes In My Back Yard Act. Land use regulations and zoning regulations are driving up costs and restricting housing supply. Often, these impediments to building housing are strongest in areas where the demand for more housing is the highest, locations such as New York, Los Angeles, San Francisco, and the Silicon Valley area. I support using the lever of requiring CDBG recipients be held much more accountable for their housing policy decisions. Leaving the current status quo in housing policies in place will only mean that the forces that are driving up home prices will remain in place, creating enormous burdens on millions of families, particularly those with moderate to low incomes. The NIMBY Act could make a significant difference by helping change local regulatory policies to increase housing supply and reduce costs.

Question. How would this bill increase housing stock across the country?

Answer. An important reason why housing costs are so high is because zoning requirement and the permitting process restrict housing supply by delaying projects, denying projects, and by raising costs to the point where a developer finds that the project would be unprofitable to build. The NIMBY Act would incentivize local regulatory agencies to reform these burdensome rules by requiring those that receive

CDBG funding to explain why the are not adopting pro-affordability and anti-discriminatory policies. By using the lever of CDBG funding, we can help local communities move in a direction that increases housing supply by changing their regulatory rules that currently prevents some housing from being ever being built. The NIMBY Act has the potential to be a game changer regarding increasing housing construction and improving housing affordability.

Question. I appreciated your testimony about manufactured housing and the need for deregulation to empower Americans through increased housing options.

Can you please discuss how manufactured housing can help address the affordable housing crisis?

Answer. Manufactured housing costs 60 percent less to build than traditionally built homes. This is because manufactured housing is built within factories using modern production methods and modern technologies that are much less costly than traditional home building methods. The homes can be built to virtually any quality standard, and in many cases to tighter tolerances than in the case of traditionally built homes. Moreover, many developers shun building small homes because they tend to be less profitable than larger homes. Manufactured housing can fill this important shortcoming in our home-building process as the manufacturing home process can build smaller homes very efficiently.

Question. What opportunities do we have at the Federal level to expand utilization of manufactured housing?

Answer. Presently, manufactured homes are often not compliant with local zoning requirements because they sit on a chassis. The chassis requirement was adopted in the 1960s by HUD. Before that, manufactured homes would be placed on a traditional foundation and would exist side-by-side with traditionally built homes in single-family neighborhoods. You would not be able to tell the manufactured homes apart from the traditionally built homes.

The chassis requirement has led to most manufactured homes being placed within mobile home communities. This means that the cost savings afforded by modern manufacturing processes aren't available to consumers unless they are willing to live in a mobile home community.

Eliminating the chassis requirement means that manufactured homes could be placed on a traditional foundation and exist within many more neighborhoods than are currently permitted by local zoning rules. In 2011, HUD commissioned a special study from housing specialists at Virginal Tech University, who also concluded that the chassis requirement should be eliminated.

The benefits of eliminating this one regulation could be enormous by sharply reducing the cost of new housing and making home-buying much more affordable than it currently is. I suspect that eliminating the chassis requirement could reduce the cost of building new housing substantially given the 60 percent cost savings of manufactured housing relative to traditionally built housing. This would be a true game-changer for millions of low- and moderate-income families.

PREPARED STATEMENT OF BENSON (BUZZ) ROBERTS, PRESIDENT AND CEO, NATIONAL ASSOCIATION OF AFFORDABLE HOUSING LENDERS

Thank you, Chair Wyden, Ranking Member Crapo, and members of the committee.

The National Association of Affordable Housing Lenders is the alliance of major banks and mission-driven lenders and investors in affordable housing and inclusive community revitalization. NAAHL member banks provided more than $180 billion in financing for low- and moderate-income people and communities in 2020. NAAHL member banks make most Low-Income Housing Tax Credit investments.

I have good news and bad news.

THE BAD NEWS

First the bad news. Housing is less affordable now than it has been in 15 years.[1] Home prices rose 18.8 percent and rent climbed 17.6 percent in 2021.[2] Last October, about half of Americans (49 percent) called the availability of affordable housing in their local community a major problem. That is more than cited drug addiction (35 percent), COVID–19 economic and health impacts (34 percent and 26 percent), and crime (22 percent), according to Pew Research.[3] Housing is the single largest cost the average household faces.

Housing costs are not just a casualty of inflation, but also a driver of inflation. Home prices rose 11 percent in 2020,[4] when overall inflation was 1.4 percent.[5] Housing represents more than 30 percent of the CPI. As economists Mark Zandi and Jim Parrot recently wrote: "If policymakers are serious about reining in inflation, then they have little choice but to take on the shortfall in housing supply. . . . While the other drivers of inflation are set to ease in the coming months, the shortfall in housing isn't going anywhere unless policymakers do something."[6]

The affordability problem started in high-growth coastal markets but is now nationwide. From 2012 to 2019, supply worsened in 47 States and the District of Columbia. Among 310 metropolitan areas nationwide, supply was shrinking or shortages were growing worse in three-quarters of them heading into the pandemic. Boise, for example, was short 13,000 housing units in 2019, equivalent to about 5 percent of the region's housing stock.[7]

This problem has been building for years because we have not been building enough housing for years, especially lower cost homes and apartments. "Total housing stock grew at an average annual rate of 1.7 percent from 1968 through 2000," but only 0.7 percent over the last decade. The shortfall over the past 20 years is as much as 6.8 million units.[8] And, although multifamily construction is now rising, it is mostly aimed at the luxury market, while the worst supply shortages are for lower cost housing.[9]

Moreover, in the past, supply increases at the top end of the market would "filter down" to ease affordability at all price points, but now we are seeing some markets where supply shortages are so great that prices for older properties are "filtering up."[10]

In other words, we are literally paying the price for failing to produce and preserve enough housing, especially for low- and moderate-income people and communities, where the needs are greatest. Because the obstacles to housing production will take years to address, we must get started right away.

THE GOOD NEWS

The good news is that we do know how to expand housing supply for the people and communities that need it most. The Low-Income Housing Tax Credit (Housing Credit) has produced more than 3.6 million affordable rental apartments,[11] virtually all the *affordable* production over the past 35 years. This total is equivalent to more than one-third of the entire multifamily stock with similar rents. The Housing Credit is widely considered the U.S. Government's best affordable housing production program ever. The proposed Neighborhood Homes Investment Act would apply the Housing Credit's successful approach to a different challenge: to revitalize struggling communities and expand home-ownership opportunities by building and rehabilitating starter homes.

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[1] *https://www.nar.realtor/blogs/economists-outlook/housingaffordabilitydrops-as-mortgage-payments-spike-51-from-may-2021.*

[2] *https://www.politico.com/news/2022/03/18/housing-costs-inflation-00015808.*

[3] *https://www.pewresearch.org/fact-tank/2022/01/18/a-growing-share-of-americans-say-affordable-housing-is-a-major-problem-where-they-live/.*

[4] *https://www.mba.org/docs/default-source/research-and-forecasts/forecasts/forecast-commentary-april-2022.pdf?sfvrsn=a5365ab7_2.*

[5] *https://www.bls.gov/news.release/archives/cpi_01132021.htm.*

[6] *https://www.washingtonpost.com/business/2022/01/31/if-policymakers-are-serious-about-tackling-inflation-they-need-address-soaring-housing-costs/.*

[7] *https://www.nytimes.com/2022/07/14/upshot/housing-shortage-us.html.*

[8] *https://www.politico.com/news/2022/03/18/housing-costs-inflation-00015808.*

[9] *https://www.bloomberg.com/news/articles/2022-07-13/rents-in-us-rise-at-fastest-pace-since-1986-buoying-inflation?srnd=premium.*

[10] *https://www.huduser.gov/portal/pdredge/pdr-edge-featd-article-061520.html.*

[11] *https://rentalhousingaction.org/.*

NAAHL urges Congress to pass the bipartisan Neighborhood Homes Investment Act (S. 98) and the Affordable Housing Credit Improvement Act of 2021 (S. 1136). Together, these bills would produce up to 2.5 million additional affordable homes.[12]

The Housing Credit and Neighborhood Homes have earned bipartisan support because they are based on the same broadly embraced principles:

Private Market Discipline

- Project sponsors use tax credits to raise capital from investors to finance home building and rehabilitation.
- Private investors—not the Federal Government—bear construction and marketing risks. Investors claim the tax credits only after development is successfully completed.
- Tax credits are limited to the minimum amounts required for financial feasibility.
- A competitive and efficient investment market minimizes investor returns and maximizes public impact.
- Investments leverage other project funds, further improving cost-effectiveness.

State Administration

- States have proven to be excellent stewards of the Housing Credit and other affordable housing programs. They define their specific needs and priorities; allocate tax credit authority on a competitive basis; and monitor compliance.
- The Federal Government's role is limited. The IRS develops regulations and monitors State and investor compliance.

Targeting and Flexibility

- The Housing Credit and Neighborhood Homes are targeted to ensure that rigorous policy goals are met while providing flexibility so States, communities, and the private market can address local needs, maximize efficient execution, and adapt to changing conditions.
- Metropolitan and rural communities are equitably served.

Positive Economic and Community Impact

- The Housing Credit's 3.6 million apartments have generated 5.7 million jobs, $643 billion in wages and business income, and $223 billion in tax revenue.
- Neighborhood Homes is projected to produce 500,000 homes over 10 years, generating $100 billion in development activity, nearly 800,000 jobs, $43 billion in wages and business income, and $29 billion in tax revenue.
- Other benefits include crime reduction, more income diversity in low-income neighborhoods,[13] and the physical and economic stabilization of neighborhoods.

NEIGHBORHOOD HOMES INVESTMENT ACT

National home price data mask an incredible diversity among and within regional housing markets. In 2021, the median home value was more than $1.6 million in San Jose but less than $160,000 in Toledo.[14] Moreover, every State has struggling urban and rural communities where homes are in poor condition and the cost of rehabilitating them or building new homes exceeds their market value. Development is not financially feasible in these circumstances without governmental support.

The absence of quality housing for home ownership has been driving economic distress in these communities. Single-family homes are the predominant land use in most of these communities, so it is hard to revitalize them without attractive, affordable homes. We hear from rural communities that they cannot retain or attract growing businesses without quality affordable housing for workers. We hear from urban neighborhoods that the absence of good housing drives out middle-income families, while concentrating poverty and limiting the disposable income required to support shopping, services, economic development, and a sustainable local tax base. Conversely, we also hear from urban and rural communities alike that new or improved housing can replace decline with revitalization.

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[12] *https://rentalhousingaction.org/wp-content/uploads/2021/10/AHCIA-One-Page-Summary-September-2021.pdf* and *https://static1.squarespace.com/static/589b48fbe3df28f7ed63b31b/t/622909ff205750275598eb8d/1646856704390/NHIA%2BSummary%2BMarch%2B2022.pdf.*

[13] *https://web.stanford.edu/*~diamondr/LIHTC_*spillovers.pdf.*

[14] *https://cdn.nar.realtor/sites/default/files/documents/metro-home-prices-q1-2022-ranked-median-single-family-2022-05-03.pdf.*

As Christopher Herbert, Managing Director at the Harvard Joint Center for Housing Studies, told the House Ways and Means Committee last week:

> Expanded public subsidies are needed to increase the supply of deeply affordable housing available both for rent and to own. Particular attention should be given to efforts that expand the supply of affordable housing in lower-income communities where the depressed value of homes impedes both new construction and substantial rehabilitation of existing homes as the costs of these investments exceed current market values. Not only would these communities benefit from such investments, it would also provide residents of these areas with opportunities to own or rent good quality homes in their own neighborhoods. For this reason, the Neighborhood Homes Investment Act deserves serious consideration as a tool for expanding the supply of good quality homes and home-ownership opportunities in these communities.[15]

The bipartisan Neighborhood Homes Investment Act is carefully targeted to these struggling communities, based on their lower incomes, elevated poverty, and low home values. About 22 percent of metro census tracts nationwide, and 27 percent of non-metro census tracts would qualify, with additional flexibility for certain other non-metro census tracts. Maps of eligible communities in each State are available at *https://neighborhoodhomesinvestmentact.org/*.

Neighborhood Homes meets these communities where they are by offering tax credits sized to cover the gap between the cost of developing homes and the price at which they can be sold. The credits would be capped at 35 percent of development costs for starter homes; prices would be limited so they are broadly affordable; and high-income buyers would be excluded. These guardrails promote revitalization without gentrification.

Neighborhood Homes is limited to home ownership, but it is otherwise very flexible. It can build new homes or acquire and rehabilitate homes for sale, and special provisions would also allow using credits to rehabilitate homes for current homeowners. It can be used for detached homes, townhomes, two- to four-unit homes, condominiums, and cooperatives. Manufactured homes are eligible, provided they are permanently attached to a foundation and are titled as real property. A minimum level of rehabilitation prevents merely superficial improvements.

The credit is also simple enough to accommodate even small-scale developments. Homes must only be in eligible communities, meet cost and sales price standards, and be occupied by eligible home buyers (or existing owners). The tax credits are claimed when the homes are completed and owner-occupied. No further compliance is required of investors. If a homeowner resells their home within 5 years, they would pay a declining portion of their profit to the State for use on future homes.

State housing agencies will administer the credits, by setting their own priorities and standards for costs and profits, running a competitive process for allocating the credits, and ensuring compliance. The States' experience and excellent record of administering Low-Income Housing Tax Credits qualifies them well to take on these responsibilities.

No current tax incentive is designed to fill this gap. Tax-exempt bonds and the mortgage interest deduction can lower effective mortgage payments, but they do not close development cost/sales price gaps. Opportunity Zones incentives require long-term investments, not the development and immediate sale of properties.

Neighborhood Homes has support from a wide range of national associations representing the housing industry, financial services, affordable housing and community development, civil rights, and State agencies.[16]

LOW-INCOME HOUSING TAX CREDITS

The Housing Credit is America's primary tool to create and preserve affordable rental housing.

There is a vast and growing demand for affordable housing. More than 10 million low-income households spend more than half of their monthly income on rent, cutting into other essential expenses like childcare, medicine, groceries, and transpor-

[15] *https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/Testimony%20-%20Dr.%20Chris%20Herbert.pdf.*

[16] *https://neighborhoodhomesinvestmentact.org/coalition.*

tation.[17] Meanwhile, there is a growing shortage of affordable housing. For every 100 extremely low-income households, there are only 37 affordable homes available. In total, there is a shortage of 7.1 million rental homes affordable and available for households making 50 percent of area median income and below, according to the National Low Income Housing Coalition.[18]

However, the need for affordable housing has skyrocketed. According to the Harvard Joint Center for Housing Studies' just-released "State of the Nation's Housing" report, last year brought the largest year-over-year increase in the cost of rental housing in over 20 years, with rent increases in some metro areas over 20 percent.

As already noted, the Housing Credit has financed the development of 3.6 million affordable rental homes in urban, suburban, and rural areas since its inception in 1986. In 2019 and 2020, the Housing Credit produced or preserved roughly 130,000 apartments annually.[19]

In total, the Housing Credit has housed over 8 million low-income households,[20] including low-wage workers, veterans of the armed forces, senior citizens, formerly homeless families and individuals, people recovering from opioid addiction, and people with disabilities.[21] The median income for households living in Housing Credit properties is less than $18,200, and approximately 52 percent of households are extremely low-income, making 30 percent or less of the area's median income, according to the Department of Housing and Urban Development.[22] If forced to pay market-rate rent, many of these households would be just one unforeseen event away from losing their housing.

The Housing Credit works in all types of communities, including large and small urban areas, suburban communities, rural towns, and on Tribal land. Roughly 22 percent of properties are in non-metropolitan counties, where it has historically been challenging to develop affordable housing. The Housing Credit has also been important for communities recovering from natural disasters—from California wildfires to Hurricane Katrina to the floods in Iowa.

"Housing Credit properties are financially sound and stable for the long term," according to the accounting firm CohnReznick. "Our survey showed only a 0.57-percent cumulative foreclosure rate, which to the best of our knowledge is lower than any real estate asset class. This included only one new reported foreclosure in 2020, despite the challenges of COVID–19. The industry's remarkably low foreclosure rate is attributable primarily to the effective public-private partnership and oversight, the pent-up demand for affordable housing, and the industry's collaborative efforts to enhance underwriting and asset management quality."[23]

The Housing Credit remains vastly oversubscribed. In 2020, Housing Credit developers requested nearly 2.5 times as many Housing Credits as there was available allocation. Further, a growing number of States, including California, New York, Massachusetts, Washington, Georgia, Tennessee, and close to 20 others, are already using or close to using all of their bond volume cap, which limits their ability to finance 4-percent Housing Credit developments.

Here are the most important steps Congress should take to support Housing Credits:

- Restore the temporary 12.5-percent increase in Housing Credit allocation authority enacted in 2018, which expired at the end of 2021. We are losing production now because of this expiration.
- Increase State allocation authority by 50 percent over 2 years. This expansion would boost production and preservation nationwide.
- Allow Housing Credits in conjunction with tax-exempt multifamily bonds if bond proceeds exceed 25 percent of expected project costs, a reduction from 50 percent under current law. This change would allow private activity bonds to support more affordable housing.

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[17] *https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_State_Nations_Housing_2021.pdf.*
[18] *https://reports.nlihc.org/sites/default/files/gap/Gap-Report_2021.pdf.*
[19] *https://drive.google.com/file/d/1HC75l9CQ4WpvAbs5tcZKNeyiKSIPs9tJ/view.*
[20] *https://rentalhousingaction.org/wp-content/uploads/2021/10/ACTION-NATIONAL-2021-NEW-LOGO-01-2.pdf.*
[21] *https://www.taxcreditcoalition.org/the-housing-credit/.*
[22] *https://www.huduser.gov/portal/Datasets/lihtc/2019-LIHTC-Tenant-Tables.pdf.*
[23] *https://drive.google.com/file/d/1HC75l9CQ4WpvAbs5tcZKNeyiKSIPs9tJ/view.*

- Reform the Qualified Contract rules to prevent the premature loss of affordability and nonprofit Right-of-First-Refusal rules to extend public-mission control of Housing Credit properties. These provisions would actually raise Federal revenues by $1 billion, according to the Joint Committee on Taxation.[24] I am appending a more detailed explanation of why these changes are urgently needed.

This concludes my testimony. I would be happy to answer your questions.

APPENDIX: REFORMING LOW-INCOME HOUSING TAX CREDIT PROVISIONS FOR QUALIFIED CONTRACTS AND THE NONPROFIT RIGHT OF FIRST REFUSAL

As policymakers deal with the extreme challenges posed by a shortage of affordable housing, the most efficient, cost-effective means of addressing this crisis is to adopt policies that prevent the loss of existing affordable housing.

There are two issues with the Low-Income Housing Tax Credit program that require the attention of Congress. These issues have been before Congress for several years, but enactment has been elusive despite the support of Chairman Wyden and Chairman Neal. These are the Qualified Contract provision in section 42(h)(6)(E)(i)(II) and the nonprofit Right of First Refusal in section 42(i)(7). According to the National Council of State Housing Finance Agencies, we have lost more than 100,000 affordable housing units because of the Qualified Contract provision. Meanwhile, outside investors have come into the Housing Credit program, obtained control of limited partnership interests, and have used ambiguities in the Right-of-First-Refusal law—and the lack of IRS guidance—to make demands on nonprofit housing providers which have taken hundreds of millions of dollars from nonprofit controlled properties. It is well past time for Congress to act to amend section 42 to eliminate these abuses.

QUALIFIED CONTRACTS

A fundamental feature of the Housing Credit program is that Federal tax subsidies are provided to enable the development of properties that are rented to qualifying low-income residents at reduced rents for a period of 30 years, including a 15-year tax compliance period and another 15 years of extended use subject to deed restriction. This is the essential structure of the program and it is commonly understood. However, there are two little-known exceptions to the requirement that Housing Credit properties remain affordable for 30 years: (1) in the case of foreclosure; and (2) where a Qualified Contract is presented to the State Housing Credit agency. Under the qualified contract provision, an owner of a Housing Credit property may, after year 14, approach the Housing Credit allocating agency to request a qualified contract. This request begins a 1-year period during which the allocating agency seeks a qualified buyer to purchase the property and maintain it as affordable for the duration of the extended use period. The required purchase price for a Qualified Contract is stipulated by section 42 and was designed to prevent back-end windfalls to owners and investors by limiting them to an inflation-adjusted return on the original equity contribution.

While the original intent of this provision was to create a limited return and some liquidity for investors at a time when the Housing Credit was an unproven program, for some properties it has come to function as a nearly automatic affordability opt-out after just 15 years of affordability. This is because the qualified contract formula price in nearly all cases significantly exceeds the market value of the property as affordable housing. As a result, it is rare for the allocating agency to find a buyer willing to pay the qualified contract price. If the allocating agency fails to identify a qualified buyer within 1 year, the property is released from the affordability requirements of the Housing Credit program. At that point, *the owner is free to either sell the property at market value without any deed restriction or continue to own and manage the property charging market rents after a 3-year rent protection period for existing tenants.*

In recent years, rental markets across the country have heated up considerably, resulting in sharply higher market rents. This means that in many markets, Housing Credit properties could demand far higher rents if they did not have the affordability restrictions required by the program. Some owners are now seeking a way to lift the affordability restrictions on their properties even though such action was not expected when the property was originally financed with Housing Credit subsidies. These owners did not build Housing Credit properties on the basis that they

[24] *https://www.jct.gov/publications/2021/jcx-46-21/*.

would be able to get out of the affordability restrictions after 15 years because there was no expectation at the time of construction that the statutory formula would result in an above-market price, and thus function as an "opt-out." This was an after-the-fact realization.

Many States have changed their policies to require a waiver of Qualified Contract rights for new developments but in other States developers have resisted attempts to close this loophole, particularly with the 4-percent credit used in the bond program. In these States, a Federal subsidy designed to ensure a minimum of 30 years of rent affordability is instead a 15-year rent affordability program.

Housing Credit properties located in high opportunity areas or areas that have gentrified since the property was placed in service are most at risk. These neighborhoods are often the most difficult to develop new affordable housing in and/or are experiencing high rates of displacement of low-income households, so preserving existing affordable housing is extremely important.

Recent analyses indicate that the Qualified Contract process is resulting in the premature loss of more than 10,000 low-income homes annually, and often more. As of 2021, over 100,000 apartments nationwide have already been lost, and the losses continue each year.

Affordable housing and tenant advocates are deeply concerned that unless the qualified contract process is corrected, the number of Housing Credit properties lost before fulfilling their intended 30-year affordability period will continue to grow at an accelerating rate.

The House-passed Build Back Better legislation includes language closing this loophole identical to bipartisan legislation introduced in the last Congress by Chairman Wyden and Senator Young, S. 1956, along with other Senators. This legislation would repeal the Qualified Contract loophole for future developments while correcting the statutory price for the purchase of existing properties so that it is based on the fair market value of the property as affordable housing.

Closing the qualified contract loophole would not only protect lower-income residents, but it would also save the Federal Government money. According to the Joint Committee on Taxation, the provision in the BBB bill would raise $457 million over 10 years.

NONPROFIT RIGHT OF FIRST REFUSAL

As nonprofit sponsored Housing Credit properties reach the end of their initial 15-year compliance period, investors (the limited partners) in the property's original partnership generally want to sell their interests, and the nonprofit sponsors (the general partners) want to gain full control of the property in order to maintain the affordable housing use restrictions indefinitely. However, in some cases the transfer of properties to nonprofits is causing conflicts between investors and nonprofit sponsors as a result of a difference in how the parties interpret provisions in section 42 which have not been clarified by the IRS. These disputes would be minimized, and the original intent of the law carried out, through legislation clarifying section 42(i)(7).

Section 42(i)(7) was designed to permit nonprofit sponsors (as well as government agencies and tenant organizations) to obtain full ownership of Housing Credit properties at the end of the tax compliance period through a Right of First Refusal (ROFR). Under the statute, a safe harbor is created that permits the general partner and limited partner to negotiate a partnership agreement that permits a nonprofit to purchase the Housing Credit property at the end of the compliance period for a "minimum purchase price" calculated by adding the outstanding debt on the property and any taxes attributable to that sale.

Housing Credit limited partnership agreements where a nonprofit serves as the general partner almost always include the ROFR language as permitted under the safe harbor in section 42(i)(7). In fact, in a 2007 memorandum for exempt organization determinations, the IRS takes the position that nonprofit general partners must have a ROFR in Housing Credit deals in which they serve as the general partner. Since the ROFR provision was enacted more than 30 years ago, the operating assumption of all parties to a Housing Credit deal is that after 15 years the investor will exit the property as the nonprofit general exercises its ROFR rights and take full ownership of the property.

In most cases, the ROFR has worked as intended to transfer ownership to the nonprofit in whose name the ROFR is granted, typically an affiliate of the general

partner. However, in recent years, outside entities without any connection to the Housing Credit program have been acquiring control of investor interests, after all credits have been claimed, with the purpose of resisting the expected investor exit in order to leverage cash payments not contemplated in the partnership agreement or payments that would be superseded by the exercise of the ROFR. In such disputes, these outside investors—often backed by private equity interests—have typically taken the position that the section 42(i)(7) ROFR is simply a common law right of first refusal and they do not have to recognize the rights established in the partnership agreement without a bona fide offer from an unrelated third party that the investor has singular authority to accept. In essence, they have rejected a bargained-for right in the partnership agreement held by the nonprofit. Most nonprofits do not have the resources to litigate these issues in court, so a stalemate ensues that the investors use to leverage a cash payment or a sale of the property in return for the investor leaving the partnership. The payment of such scarce funds undermines the continued viability of the property as affordable housing in contravention of public policy.

This situation arises because of ambiguities in Federal law that are reflected in unclear partnership agreement language with respect to the requirements and scope of the execution of the ROFR. This had led to scores of legal disputes, and, in many cases, costly litigation which has produced conflicting opinions by State and Federal court judges ill-suited to sort through these types of tax issues. There is no consistent court interpretation of what is required by section 42(i)(7) which serves to only accentuate the current legal ambiguities.

This problem becomes of greater concern as more properties reach year 15. Regardless of the contractual issues that arise in these disputes, the efforts by these outside interests to take advantage of the Housing Credit program to demand a residual return in excess of the agreed upon return is contrary to the intent of the program and at odds with the understanding of the original parties to the partnership when the property was first financed.

Legislation supported by Chairman Wyden, but not yet passed by the Senate, would address this issue. First, by changing the safe harbor to permit the partnership agreement to include an option in the name of a nonprofit for deals entered into after date of enactment, and second by clarifying existing law with respect to existing agreements. These clarifications would not change the terms of any existing agreements but would clarify ambiguous language that the courts have struggled to interpret. Specifically, the law would be clarified that: (a) a ROFR may be exercised without the approval of the limited partner and in response to any offer to purchase the property, including an offer by a related party; (b) that the reference to the property that is purchased includes all assets of the partnership; and (c) that the purchase can be of the partnership interest as well as of the property.

These legislative clarifications reflect the work of The Tax Credit Equity and Financing Committee of the American Bar Association on Affordable Housing and Community Development Law which going back several years has requested, to no avail, that the IRS clarify the law. This issue was placed on the 2017 Priority Guidance Plan, but no action has been taken.

It is long past time for Congress to act to stop the exploitation of the Housing Credit program by outside investors who are taking advantage of an unclear law to generate windfall returns at the expense of nonprofit affordable housing. This provision, like the Qualified Contract provision, would save the Federal Government significant money, $553 million over 10 years according to the Joint Committee on Taxation.

QUESTIONS SUBMITTED FOR THE RECORD TO BENSON (BUZZ) ROBERTS

QUESTION SUBMITTED BY HON. ROBERT P. CASEY, JR.

Question. The pandemic taught us that congregate care settings are not always safe or the choice that many would make for their home. In fact, AARP reports that 90 percent of older adults and people with disabilities would choose to remain at home as they age.

However, only about 10 percent of all homes are accessible for people with disabilities. That's a poor fit when our population is aging and 2 out of 5 older adults have a disability.

The Federal Government currently spends over $50 billion every year on housing tax subsidies. From your perspective, does this spending do enough to incentivize the construction of housing that is accessible to the elderly and to people with disabilities?

Answer. Of the estimated $82.7 billion in housing tax expenditures in 2022, only about $11.9 billion is directly associated with construction and rehabilitation ($10.9 billion for Low-Income Housing Tax Credits plus $1.0 billion for exclusion of interest on State and local government qualified private activity bonds for rental housing), per the Joint Committee on Taxation (JCX–23–20). State housing agencies have broad discretion in allocating these volume-limited development incentives, but they must address a wide range of needs. According to the National Council of State Housing Agencies, about 25 percent and 6 percent of Housing Credit units receiving allocations in 2020 are targeted to serve elderly and disabled residents, respectively. In addition, elderly and disabled people also occupy other properties that are not specifically targeted to serve them. Expanding the volume of Housing Credits and private activity bonds would enable States to serve more low-income elderly and disabled renters. The most helpful changes would be to: (1) expand the Housing Credit allocation caps—which dropped in 2022 after a temporary 12.5-percent increase in allocated Housing Credit authority expired—by making the temporary 12.5-percent increase permanent and adding a further 50-percent increase; and (2) reduce from 50 percent to 25 percent the percent of project costs required to be financed from private activity bond proceeds in order to activate the full amount of 4-percent Housing Credits.

QUESTION SUBMITTED BY HON. BILL CASSIDY

Question. Many federally supported affordable housing projects around the country also pair with other incentives, like the Historic Tax Credit. In the case of historic buildings, I have long been a supporter of the Historic Tax Credit and have a bill—the Historic Tax Credit Growth and Opportunity Act—that would make the first meaningful improvements to the Credit since it was made permanent in 1986. One of those changes, eliminating the basis adjustment, would make it easier to use the Affordable Housing Tax Credit and the Historic Tax Credit to ensure the most difficult buildings are rehabilitated and used for workforce and other housing. I look forward to working with Senator Cardin, Chairman Wyden, Ranking Member Crapo, and the rest of the committee to move this bill forward. It is my understanding that when a project uses both the Affordable Housing Tax Credit and the Historic Tax Credit, the tax rules operate to decrease the value of both credits because of the Historic Tax Credit's basis adjustment provision.

Do you think more historic buildings would be made into affordable housing if the Historic Tax Credit's basis adjustment were eliminated, as it is in my bill?

Answer. Yes. It would be entirely appropriate to eliminate the basis adjustment. The Historic Tax Credit is intended to offset the additional cost of rehabilitating historic structures to meet strict historic standards, not to make the properties affordable to low-income renters. Conversely, the Low-Income Housing Tax Credit is designed to enable the substantial rehabilitation (and new construction) of housing that is affordable, not to cover the incremental cost of meeting historic rehabilitation standards. The basis reduction under current law impedes historic rehabilitation of affordable rental housing.

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

Question. I called for a GAO report on the LIHTC that was released on July 15, 2015. While the program is currently administered at the Federal level by the Internal Revenue Service, this report recommended giving the Department of Housing and Urban Development a joint oversight role.

I have been a strong advocate of oversight as long as I have been in Congress. It is impossible to conduct meaningful oversight without consistent and available data on how programs perform, however I also understand the need to limit unnecessary paperwork for those participating in Federal programs.

What impact would giving HUD a partnering oversight role have on the LIHTC program?

Answer. We strongly support the reporting of consistent data on Federal program performance, including the Low-Income Housing Tax Credit. Indeed, HUD already

publishes data on LIHTC tenants. To this end, we would support more data reporting at the property level, as well as specific authority for the Internal Revenue Service to share property-level data with HUD to facilitate data reporting and analysis without adding substantial new administrative burdens.

However, we would not support joint administration of LIHTC between Treasury/IRS and HUD. In our experience, Treasury and the IRS have done a good job in carrying out their responsibilities. Moreover, Congress successfully designed LIHTC to limit unnecessary Federal involvement and ensure compliance. Instead of HUD selecting, underwriting, and monitoring properties—as was the case for previous affordable housing programs such as public housing—the States add their own priorities and policies to the limited number of Federal requirements and monitor and inspect properties. In addition, private investors, usually large corporations and their agents, carefully oversee project plans, development, and properties to ensure compliance with Federal and State rules with maximum efficiency. This approach has been highly successful, making LIHTC the Nation's most effective affordable housing production program ever. Adding another layer of administrative burden is unnecessary and would reduce LIHTC's efficacy.

Question. It is no secret that housing costs have been increasing well before the current wave of inflation. While LIHTC has an impact on bringing more affordable units onto the market, the varied housing prices across the country indicate that local policies, such as zoning, have possibly the greatest role in determining housing costs.

In addition, there are a wide variety of regulations at the Federal level, including HUD regulations, that increase the price of new homes and buildings.

As Professor Ohanian noted in his testimony, there are currently a number of regulations that prevent affordable housing from being constructed. In addition to the LIHTC, what other options would be available to increase housing supply? How would these other options compare to the LIHTC in cost effectiveness? What factors at the State or local level are inhibiting the creation of affordable housing?

Answer. We agree that States and localities should do more to encourage the production and preservation of affordable housing, including by reducing unnecessary regulations, exclusionary zoning, and excessively long and uncertain project approval processes. That said, building decent, affordable rental housing has not been financially feasible without significant public support for a century or longer, even in jurisdictions with relatively light regulatory regimes. The first Federal interventions, in the Great Depression of the 1930s, supported public housing for moderate-income families. Building affordable rental housing was not financially possible without subsidies then, in 1986 when LIHTC was enacted, or now. According to the Harvard Joint Center for Housing Studies, "to develop new apartments affordable to renter households with incomes equivalent to the full-time minimum wage, the construction costs would have to be 28 percent of the current average"—essentially making the financing impossible. *https://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/ahr2011-4-stock.pdf.*

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. Thank you for the support you expressed during the hearing for Senator Cantwell's and my Affordable Housing Credit Improvement Act (S. 1136). I wanted to follow up on our conversation with a couple additional questions.

What are some of the positive externalities you believe the Affordable Housing Credit Improvement Act would have on communities across the country?

Answer. We would expect the Affordable Housing Credit Improvement Act to amplify the same positive externalities that Housing Credit properties have generated for the past 35 years.

- First and foremost, the Act would produce more high quality affordable rental apartments—more than 2 million more than would otherwise be produced, according to the Novogradac accounting and consultancy firm.
- Economic benefits would be substantial. For every 100 new Housing Credit units, an estimated 186 jobs are supported and an estimated $7.4 million in tax revenue and $21.2 million in wages and business income are generated. For every 100 rehabilitated Housing Credit units, an estimated 128 jobs are supported and an estimated $4.9 million in tax revenue and $14.3 million in wages and business income are generated.

- Affordable housing also saves Federal, State, and local governments' valuable dollars through reductions in Medicare, Medicaid, police services, and other spending.
- Stanford University researchers have found that Housing Credit properties help to revitalize distressed low-income neighborhoods, lifting the value of nearby properties and reducing crime and economic and racial isolation.
- Research by staff of the Joint Committee on Taxation shows that children residing in Housing Credit properties are more likely to increase their educational attainment and these gains increase for each year of residency.

The Housing Credit is a Federal housing policy that delivers much more than good housing.

Question. Why is it important and necessary that we pass the Affordable Housing Credit Improvement Act this year?

Answer. The need for affordable housing is urgent. Housing is less affordable now than it has been in 15 years.[1] Home prices rose 18.8 percent and rent climbed 17.6 percent in 2021.[2] Last October, about half of Americans (49 percent) called the availability of affordable housing in their local community a major problem. That is more than cited drug addiction (35 percent), COVID–19 economic and health impacts (34 percent and 26 percent), and crime (22 percent), according to Pew Research.[3] Housing is the single largest cost the average household faces.

Housing costs are not just a casualty of inflation, but also a driver of inflation. Home prices rose 11 percent in 2020,[4] when overall inflation was 1.4 percent.[5] Housing represents more than 30 percent of the CPI. As economists Mark Zandi and Jim Parrot recently wrote: "If policymakers are serious about reining in inflation, then they have little choice but to take on the shortfall in housing supply. . . . While the other drivers of inflation are set to ease in the coming months, the shortfall in housing isn't going anywhere unless policymakers do something."[6]

The affordability problem started in high-growth coastal markets but is now nationwide. From 2012 to 2019, supply worsened in 47 States and the District of Columbia. Among 310 metropolitan areas nationwide, supply was shrinking or shortages were growing worse in three-quarters of them heading into the pandemic. Boise, for example, was short 13,000 housing units in 2019, equivalent to about 5 percent of the region's housing stock.[7]

This problem has been building for years because we have not been building enough housing for years, especially lower cost homes and apartments. "Total housing stock grew at an average annual rate of 1.7 percent from 1968 through 2000," but only 0.7 percent over the last decade. The shortfall over the past 20 years is as much as 6.8 million units.[8] And, although multifamily construction is now rising, it is mostly aimed at the luxury market, while the worst supply shortages are for lower cost housing.[9]

Moreover, in the past, supply increases at the top end of the market would "filter down" to ease affordability at all price points, but now we are seeing some markets where supply shortages are so great that prices for older properties are "filtering up."[10]

In other words, we are literally paying the price for failing to produce and preserve enough housing, especially for low- and moderate-income people and communities, where the needs are greatest. Because the obstacles to housing production will take years to address, we must get started right away.

[1] *https://www.nar.realtor/blogs/economists-outlook/housingaffordabilitydrops-as-mortgage-payments-spike-51-from-may-2021.*
[2] *https://www.politico.com/news/2022/03/18/housing-costs-inflation-00015808.*
[3] *https://www.pewresearch.org/fact-tank/2022/01/18/a-growing-share-of-americans-say-affordable-housing-is-a-major-problem-where-they-live/.*
[4] *https://www.mba.org/docs/default-source/research-and-forecasts/forecasts/forecast-commentary-april-2022.pdf?sfvrsn=a5365ab7_2.*
[5] *https://www.bls.gov/news.release/archives/cpi_01132021.htm.*
[6] *https://www.washingtonpost.com/business/2022/01/31/if-policymakers-are-serious-about-tackling-inflation-they-need-address-soaring-housing-costs/.*
[7] *https://www.nytimes.com/2022/07/14/upshot/housing-shortage-us.html.*
[8] *https://www.politico.com/news/2022/03/18/housing-costs-inflation-00015808.*
[9] *https://www.bloomberg.com/news/articles/2022-07-13/rents-in-us-rise-at-fastest-pace-since-1986-buoying-inflation?srnd=premium.*
[10] *https://www.huduser.gov/portal/pdredge/pdr-edge-featd-article-061520.html.*

PREPARED STATEMENT OF HON. DANA T. WADE, CHIEF PRODUCTION OFFICER, FHA FINANCE, WALKER AND DUNLOP

Chairman Wyden, Ranking Member Crapo, and other members of this committee, thank you for the opportunity to testify today. My name is Dana Wade, and I am a chief production officer at Walker and Dunlop (NYSE: WD), and former Commissioner of the Federal Housing Administration and Assistant Secretary at the Department of Housing and Urban Development. I was also a former staffer for both the Senate Banking and Appropriations Committees, so it is a special honor for me to be on the other side of the dais.

Walker and Dunlop, where I work, is one of the largest providers of capital to the multifamily industry in the United States, and the fourth-largest lender for all commercial real estate. We are based in Bethesda, MD and employ over 1,400 people across the country. As a top affordable housing lender and the sixth largest Low-Income Housing Tax Credit syndicator, we see every day both the need to produce more affordable housing and the barriers that stand in the way.

This committee's hearing on the topic comes at a time when the need for decent, safe, and affordable housing has never been more critical. Make no mistake about it, our Nation has faced an affordable housing crisis for years, which has only been exacerbated by the COVID–19 pandemic as well as inflationary pressures that have driven up costs for food, gas, and other essentials.

According to nonprofit Up for Growth's report, "Housing Underproduction in the U.S.," the housing deficit has more than doubled in recent years, resulting in a current shortage of 3.8 million homes.[1] While that number is almost hard to grasp—and some estimates even double it—it does paint a very real picture of what Americans face in their day-to-day lives. People simply do not have adequate access to good, quality housing near their places of work or their children's schools.

Further, Up for Growth reported, "In October, 2021, nearly half of all Americans said that the availability of affordable housing was a significant issue in their local community, up 10 percentage points from 2018. In a ranking of community concerns, housing affordability outpolled drug addiction, the economic and health effects of COVID–19, and crime."[2]

Millions of Americans spend hours and hours in cars, and on trains, buses and other means of transit going back-and-forth between work and home, because they cannot afford to live closer to work. And most of them do not have the option to work virtually. Many spend more time in transit than they do with their families, which robs them of the ability to do things like have family dinners, help their children with homework, and attend school sports games, just to name a few. And the alternative is often making the choice to live in less desirable, and more distressed neighborhoods, which brings with it a range of problems including crime, subpar education, lack of health care, and an aging housing stock.

The bottom line is that millions of Americans are just tapped out: over 10 million low-income households spend more than half of their monthly income on rent.[3] That's 25 percent of all renters. And this is not a problem limited to certain urban areas or high-cost cities like New York, San Francisco, and Washington, DC. Lack of affordable housing supply is a challenge across the country in urban, suburban, and rural areas where a plethora of constraints such as labor shortages, land restrictions, and building cost increases have limited the creation of new housing units.

Given the widespread and acute need for more affordable housing, this committee's consideration of legislation, The Affordable Housing Credit Improvement Act, which would both expand and improve the Low-Income Housing Tax Credit (LIHTC), is an important step forward.

Since its enactment by President Ronald Reagan in 1986, LIHTC has financed the development of nearly 3.5 million affordable rental homes across the country.[4] The

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[1] Up for Growth, "Housing Underproduction in the U.S. 2022," July 18, 2022, *https://upforgrowth.org/apply-the-vision/housing-underproduction/*.

[2] Up for Growth, "Housing Underproduction in the U.S. 2022," July 18, 2022, *https://upforgrowth.org/apply-the-vision/housing-underproduction/*.

[3] Joint Center for Housing Studies of Harvard University, "America's Rental Housing 2022," *https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2022.pdf*.

[4] Novogradac, "DASH Act's Middle-Income Housing Tax Credit Would Finance 344,000 Affordable Rental Homes for Households Just Above LIHTC Income Limits," Dirk Wallace and Peter

Housing Credit has supported over 8 million low-income households.[5] These include veterans of the armed forces, senior citizens, formerly homeless families and individuals, people recovering from opioid addiction, people with disabilities, and low-wage workers.

Virtually no new affordable housing is built today without the Housing Credit, period.

I'd like to provide a real-world example of LIHTC's impact in communities. We recently financed and provided LIHTC equity for a 100-unit affordable townhouse development in Cayce, SC called Abbott Arms. Ninety-seven percent of Abbott Arms residents use Housing Choice Vouchers, and the property will restrict rents on 100 percent of the units to 60 percent of area median income (AMI). In addition, the owners have partnered with a local non-profit to hire a full-time Community Life Director who will focus on creating community partnerships and coordinating services and activities for the residents. These include monthly community gatherings, holiday events, partnerships with local food pantries, children's programs, adult education programs, and elderly care. In addition, a full-time on-site learning coach will help provide tutoring services for school-age children at no cost to residents.

Having a secure and stable place to live will increase the quality of life for these residents and allow them to have a better economic future. We have many other examples across-the-board of LIHTC properties housing formerly homeless populations, seniors, military veterans, as well as working families.

In addition, there are added benefits of the LIHTC program, including lower vacancies in LIHTC properties, very strong protections for affordability like a 15-year compliance period and the ability to claw back credits, and a low cumulative foreclosure rate of about 0.57 percent.

LIHTC, while a cornerstone for affordable housing, is one part of the housing ecosystem. The efficacy of LIHTC and other housing programs that can bridge the affordability gap and increase the housing stock is at risk without serious and meaningful reforms that reduce regulatory barriers at the Federal, State, and local levels.

When you pass an apartment building on a busy street housing hundreds of families, it is the outcome of a long, complex, and sometimes arduous, process. It involves extensive underwriting and diligence to adhere to governmental standards by companies like Walker and Dunlop as the tax-credit syndicator, lender, and risk manager. It involves layers of planning, reviews, government approvals, and the hard work and financial investment of the development partners. It involves hundreds of American jobs throughout planning, design, and construction, and requires dozens of materials transported and made by Americans.

A lot has to go right to produce multifamily housing, and a lot can go wrong.

Quite literally, unnecessary bureaucratic hurdles can make or break a project. An estimated 40 percent of development costs can be attributed to regulation at the Federal, State, and local levels.[6]

As one example at the Federal level, HUD's current 75-decibel limit on noise at the potential development site is outdated and prevents many transit-oriented projects from being built. In addition, the unpredictability and lack of clarity when it comes to environmental and labor requirements compound timing issues for construction projects. All the while, labor and material costs are at record highs, and securing contractors and storing building products are especially time-sensitive tasks. Waiting for governmental reviews and decisions involving Federal statutes such as the National Environmental Policy Act (NEPA) can take months and jeopardize the project. And that is just at the Federal level. The fate of affordable multifamily housing really rests in the hands of local jurisdictions.

A recent article in *The New York Times,* which focuses on the surge of homelessness, discusses issues impeding housing at the State and local levels. It cites the example of zoning policies across the State of California, where laws in both Los

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Lawrence, September 2, 2021, *https://www.novoco.com/notes-from-novogradac/dash-acts-middle-income-housing-tax-credit-would-finance-344000-affordable-rental-homes-households.*

[5] Affordable Housing Finance, *Factsheet,* August 13, 2020, *https://www.housingfinance.com/news/updated-fact-sheets-show-lihtcs-impact_o.*

[6] National Multifamily Housing Council and National Association of Home Builders, *Regulation,* Paul Emrath and Caitlin Sugrue Walter, 2022, *https://www.nmhc.org/globalassets/research--insight/research-reports/cost-of-regulations/2022-nahb-nmhc-cost-of-regulations-report.pdf.*

Angeles and San Francisco restrict 76 and 85 percent of land for single-family housing, respectively. The article states that "California has 23 available affordable homes for every 100 extremely low-income renters—among the worst rates of any State."[7]

Zoning policies like density limits, requirements for parking, height restrictions, lengthy permitting and approval processes, and other land-use restrictions create a perfect storm that can often stymie new development.

That said, some local jurisdictions have reached their breaking point and are making positive reforms. States including California, Oregon, and Maine have all recently passed some form of legislation to end single-family zoning and allow the construction of more than one home per parcel of land.[8]

Similarly, experts at the Urban Land Institute (ULI) recently worked with the city of Boise, ID to tackle the growing affordability issues in the area, which accelerated as a result of migration to southwest Idaho during the COVID–19 pandemic. In fact, Zillow reported a 59-percent increase in housing prices during the first quarter of 2022 alone.[9] ULI's recommendations include changing land-use policies to allow density in an expanded city core and other commercial centers, as well as creating incentives for development and lower-cost units like fee and permit waivers, fast-track permitting, and streamlining of local reviews for affordable units.[10]

While zoning and other issues are the purview of local citizens and their governments—as they should be—policymakers at the Federal level can provide a forum for best practices and use other Federal resources such as LIHTC to encourage the development of housing. In addition, given the many pieces that must work together to make housing more affordable, it is essential that the private sector as well as government at all levels standardize policies, practices, and timelines.

For instance, during my tenure as FHA Commissioner, HUD announced a pilot program that would better integrate FHA financing with Federal Housing Credits. It has largely been a success, providing thousands of affordable units, but it is just one smaller solution to a bigger problem.

We need both the combination of a lot of smaller solutions as well as the big ideas to solve the housing crisis. I appreciate the work of this committee in considering policies to make housing more accessible, secure, and affordable, and am happy to answer any questions you have.

Appendix—LIHTC Case Studies

Kentonwood Apartments (Portland, OR):

Walker and Dunlop financed Kentonwood Apartments, a 44-unit, 100-percent income-restricted development in Portland, OR's Kenton neighborhood.

- To finance the development, our team secured a combination of financing sources, including a $3,030,000 Federal Low Income Housing Tax Credit ("LIHTC").
- Kentonwood Apartments will address the needs for affordable housing in an expensive market, offering rental housing for low- and moderate-income households. The development will offer 44 apartment units, comprised of a mix of studio and three-bedroom unit types within one, 5-story walk-up apartment building on a 0.13± acre site in the Kenton neighborhood of North Portland. The property is also located in the Interstate Corridor Urban Renewal Area (ICURA). All of the units will be targeted to households meeting 60 percent or less of the Area Median Income (AFI) restrictions for the market area.
- Amenities will include a community amenity room, courtyard, bike room, and high-speed Internet, all with Energy Star appliances and other resource-efficient measures for sustainable energy use. The subject is located very near

[7] *The New York Times,* "Homeless in America," German Lopez, July 15, 2022, *https://www.nytimes.com/2022/07/15/briefing/homelessness-america-housing-crisis.html.*

[8] NPR, "There's a massive housing shortage across the U.S.," Arnold, Benincasa, Ganun, and Chu, July 14, 2022, *https://www.npr.org/2022/07/14/1109345201/theres-a-massive-housing-shortage-across-the-u-s-heres-how-bad-it-is-where-you-l.*

[9] Up for Growth, "Housing Underproduction in the U.S. 2022," July 18, 2022, *https://upforgrowth.org/apply-the-vision/housing-underproduction/.*

[10] Up for Growth, "Housing Underproduction in the U.S. 2022," July 18, 2022, *https://upforgrowth.org/apply-the-vision/housing-underproduction/.*

the Max Light Rail Kenton Station and offers easy bus access—this will be a walkable, transit-oriented, and diverse community.

Amber Woods (Indianapolis, IN):

Amber Woods, financed by Alliant Capital (now part of Walker and Dunlop), involved the acquisition and rehabilitation of 200 LIHTC units for families earning less than 60 percent of the area median income in Indianapolis, IN.

- Amber Woods is a two-phase development with one-, two-, and three-bedroom apartments. Twenty units are set aside for families with disabilities and the units are fully accessible.
- Social services will be provided by Pathway, Community Alliance of the Far Eastside, and United Way, along with tenant services provided through the management company, which will include: quarterly resident meetings, holiday events, a monthly development newsletter, and a social service coordinator.
- Community Alliance of the Far Eastside will provide residents with a food pantry and clothing pantry as referred by the management company and summer youth activity referrals. Pathway will provide residents with classes in resume building, computer training, and after-school activities. The Property Manager will provide residents with referrals to agencies providing counseling services.
- All social services are being provided at no cost to the residents.

Abbott Arms (Cayce, SC):

Walker and Dunlop recently financed and provided LIHTC equity for a 100-unit affordable townhouse development in Cayce, SC called Abbott Arms.

- 97 percent of Abbott Arms residents use Housing Choice Vouchers, and the property will restrict rents on 100 percent of the units to 60 percent of area median income (AMI).
- The owners have partnered with a local non-profit to hire a full-time Community Life Director who will focus on creating community partnerships and coordinating services and activities for the residents. These include monthly community gatherings, holiday events, partnerships with local food pantries, children's programs, adult education programs, and elderly care.
- In addition, a full-time, on-site learning coach will help provide tutoring services for school-age children at no cost to residents.

QUESTIONS SUBMITTED FOR THE RECORD TO HON. DANA T. WADE

QUESTIONS SUBMITTED BY HON. MICHAEL F. BENNET

Question. In Colorado, homelessness increased 2.4 percent in 2020, and now affects nearly 10,000 people. The rise in homelessness is directly linked to our severe lack of affordable housing. Rents are rising faster than incomes in virtually every part of the State, and today more than a quarter of Coloradans are "cost-burdened," meaning they spend more than 30 percent of their income on housing.

How would expanding LIHTC and other effective Federal programs reduce the number of people experiencing homelessness? What can and should the private sector do to be part of the solution to this crisis?

Answer. As described by the National Alliance to End Homelessness, "The solution to homelessness is straightforward: housing."[1] I agree that the lack of affordable housing and homelessness are inextricably linked. Expanding the supply of affordable housing in the areas hardest hit by rent and other cost increases is a necessary step towards eradicating homelessness.

Working families who are priced out of neighborhoods and at risk for dislocation can be given access to decent, safe, and affordable housing through programs like the LIHTC in conjunction with private-sector development, a concerted effort to reduce regulatory barriers to housing, and other assistance at the Federal, State, and local levels.

[1] The National Alliance to End Homelessness, "Housing," updated January 2020: Housing—National Alliance to End Homelessness, *https://endhomelessness.org/homelessness-in-america/what-causes-homelessness/housing/*.

Solving chronic homelessness in cities like Denver, CO requires rapid re-housing to immediately get people off the streets as well as more permanent, supportive housing once they are back on their feet. Every individual has unique challenges which must be addressed not only through shelter, but also through supportive services that provide health care, substance abuse counseling, job training, and other necessary functions. The private sector can and should work with nonprofits and governmental entities to combine affordable housing development with these supportive services.

We at Walker and Dunlop and Alliant Capital have financed multiple LIHTC properties designed to house formerly homeless populations in partnership with local nonprofits and other governmental programs. One example is the Olin Hotel, a historic building in downtown Denver, CO. We helped to finance the substantial rehabilitation and construction of 112 units using both LIHTC equity and HUD's section 8 program, as well as support from both the city of Denver and the State of Colorado. The project produced rental units for formerly homeless and low-income seniors and was sponsored by Senior Housing Options, a Colorado nonprofit corporation that provides both housing and supportive services for at-risk populations.

The LIHTC is a program targeted towards the Nation's most vulnerable populations, including the homeless, many of whom are our Nation's veterans, seniors, persons with disabilities, people recovering from opioid addictions, and low-income families. Increasing the supply of the LIHTC will allow for more of these projects to be built and paired with the essential services to keep individuals off the streets.

In addition, we would be happy to meet with you and your staff any time in the future to discuss additional ways that Walker and Dunlop can help to address the challenging issues of homelessness and the lack of affordable housing.

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

Question. I called for a GAO report on the LIHTC that was released on July 15, 2015. While the program is currently administered at the Federal level by the Internal Revenue Service, this report recommended giving the Department of Housing and Urban Development a joint oversight role.

I have been a strong advocate of oversight as long as I have been in Congress. It is impossible to conduct meaningful oversight without consistent and available data on how programs perform, however I also understand the need to limit unnecessary paperwork for those participating in Federal programs.

What impact would giving HUD a partnering oversight role have on the LIHTC program?

Answer. I agree that strong oversight of the LIHTC program is essential to protect taxpayers as well as to ensure that the tax credits are delivering on the mission to produce much-needed affordable housing. Thank you for your leadership in ensuring that Federal dollars are used efficiently and effectively.

As I mentioned in my testimony, since its enactment by President Ronald Reagan in 1986, LIHTC has financed the development of about 3.5 million affordable rental homes across the country and supported over 8 million low-income households.[2] It is virtually the only source of Federal support for the new construction of affordable housing. In addition, by certain measures, the LIHTC has historically performed well: LIHTC properties have lower vacancies and a low cumulative foreclosure rate of about 0.57 percent.

Strong private-sector oversight of the LIHTC is one important component of the program. For example, the program allows for a recapture of credits in the event of noncompliance during the 15-year affordability period. Specifically, if a property ceases to provide the required affordability levels, a portion of the tax credits are recaptured, and program participants can be blocked from future credit allocations.

[2] Novogradac, "DASH Act's Middle-Income Housing Tax Credit Would Finance 344,000 Affordable Rental Homes for Households Just Above LIHTC Income Limits," Dirk Wallace and Peter Lawrence, September 2, 2021, *https://www.novoco.com/notes-from-novogradac/dash-acts-middle-income-housing-tax-credit-would-finance-344000-affordable-rental-homes-households;* Affordable Housing Finance, *Factsheet,* August 13, 2020, *https://www.housingfinance.com/news/updated-fact-sheets-show-lihtcs-impact_o.*

In addition to private-sector compliance standards and the oversight of the Department of the Treasury, the Government Accountability Office (GAO) has recommended that the Department of Housing and Urban Development (HUD) provide another layer of supervision for the LIHTC. HUD is the primary agency for enforcing Federal housing laws and administering Federal housing programs. Should HUD receive the authority to oversee the LIHTC program, it has several existing enforcement mechanisms in place, including the Real Estate Assessment Center (REAC) and the Departmental Enforcement Center (DEC). HUD also has several offices with strong program knowledge in affordable housing and development, such as the Federal Housing Administration (FHA) and the Office of Community Planning and Development (CPD).

While HUD does have strong expertise in these areas, any additional oversight of the LIHTC program should complement protections already in place, have clearly defined roles and responsibilities, and mitigate regulatory and compliance burdens for the private sector.

Question. It is no secret that housing costs have been increasing well before the current wave of inflation. While LIHTC has an impact on bringing more affordable units onto the market, the varied housing prices across the country indicate that local policies, such as zoning, have possibly the greatest role in determining housing costs.

In addition, there are a wide variety of regulations at the Federal level, including HUD regulations, that increase the price of new homes and buildings.

As Professor Ohanian noted in his testimony, there are currently a number of regulations that prevent affordable housing from being constructed. In addition to the LIHTC, what other options would be available to increase housing supply? How would these other options compare to the LIHTC in cost effectiveness? What factors at the State or local level are inhibiting the creation of affordable housing?

Answer. Yes, regulatory barriers at both the local and Federal level are big determinants of how much housing supply can be brought to market. As I mentioned in my testimony, unnecessary bureaucratic hurdles can make or break a project. The National Multifamily Housing Counsel and the National Association of Homebuilders estimate that 40 percent of development costs can be attributed to regulation at all levels.[3]

At the Federal level, HUD policies such as outdated noise requirements as well as the unpredictability and lack of clarity around certain environmental and labor rules only compound cost increases caused by the current unavailability of labor and materials.

I agree, however, that the fate of affordable multifamily housing rests in the hands of local jurisdictions. Zoning policies such as density limits, parking requirements, height restrictions, and lengthy permitting processes have all had a dramatic impact on the ability to build new, affordable housing. Shortages of affordable housing exacerbate other problems such as homelessness and also add hours to the commuting times of millions of working Americans.

Federal programs, including LIHTC, will not live up to their potential and will end up costing taxpayers more money unless communities work to eradicate these barriers to affordable housing.

I believe that the Federal Government can provide a forum for the best practices of local governments, which include policies such as fast-track permitting, pilot programs for increased density, and "countdown clocks" for local reviews. No local jurisdiction is alike and every community should determine its own zoning rules, but there are many examples of commonsense policies that eliminate waste and red tape, and can have a meaningful difference in how people live and work.

Currently, LIHTC is virtually the only Federal program that produces new affordable housing. Many other capital sources come together in order to increase the overall housing supply, however. The multifamily housing market is diverse and has multiple players; including developers, HUD, Fannie Mae and Freddie Mac, banks, insurance companies, nonprofits, and other financial services entities. LIHTC must work with other debt and equity sources that provide the financing and capital

[3] National Multifamily Housing Council and National Association of Home Builders, *Regulation,* Paul Emrath and Caitlin Sugrue Walter, 2022, *https://www.nmhc.org/globalassets/research--insight/research-reports/cost-of-regulations/2022-nahb-nmhc-cost-of-regulations-report.pdf.*

needed to execute a new construction project. It serves as an offset to the cost of providing lower rents; without LIHTC or similar programs, such as FHA financing or Federal, State and local grants, many properties would lose the ability to offer lower rents as doing so would not be financially feasible.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. Thank you for the support you expressed during the hearing for Senator Cantwell's and my Affordable Housing Credit Improvement Act (S. 1136). I wanted to follow up on our conversation with a few additional questions.

Why do you support the Affordable Housing Credit Improvement Act, and how do you believe it will impact the populations Walker and Dunlop serves?

Can you please share what it is that makes the Low-Income Housing Tax Credit so effective in addressing the affordable housing crisis?

What are some of the positive externalities you believe the Affordable Housing Credit Improvement Act would have on communities across the country?

Why is it important and necessary that we pass the Affordable Housing Credit Improvement Act this year?

Answer. Thank you for leading on the important issue of bringing more affordable housing units to market.

Walker and Dunlop sees every day the urgent need to increase the housing supply and make more available decent, safe, and affordable rental units for millions of Americans. The bipartisan Affordable Housing Credit Improvement Act (AHCIA) would strengthen and increase the LIHTC, which is the most effective Federal program for the development of new, affordable housing.

Given the acute need for lower-cost housing, the LIHTC is oversubscribed in many states across the country for both 9-percent and 4-percent credits. As a result, developers are facing costly delays that can jeopardize the success of affordable projects.

AHCIA would relieve the burden on states and help create millions of additional rental units by legislating the following: an increase in the supply of the 9-percent credit by 25 percent; a decrease in the private activity bond (PAB) threshold to improve the feasibility of LIHTC projects; and an increase in the basis for 4-percent credits to generate more equity.

As I mentioned in my testimony, the LIHTC is virtually the only Federal program that allows for the new construction of affordable properties. Since its inception, LIHTC has helped create over 3.5 million affordable rental homes.[4] Its success has been possible because it is an incentive-based program that allows the private sector to take a leading role in financing, development, and risk-taking. Multiple entities involved in the deal—from developers, to lenders, to nonprofits and community organizations, to Federal and local governments—all have a stake in ensuring the project is built and affordability targets are met for residents.

In addition, there are many positive benefits of increasing the supply of affordable housing. First of all, stable and secure housing leads to positive outcomes such as reduced commuting times, better health outcomes, access to better education for children, increased labor availability for community-based jobs, and the list continues. I give one example in my testimony of the hours and hours many Americans spend commuting to and from work, which reduces the amount of time they spend with their families and significantly decreases their quality of life. Further, families forced to lived in distressed neighborhoods to secure housing that they can afford are faced with other problems like crime, lack of health care, and a shortage of good schools.

LIHTC is one crucial tool to incentivize the creation of affordable housing, which has led to an improved standard of living and the ability to climb the economic ladder for millions of American families.

Question. In May 2021, I reintroduced my Yes In My Back Yard (YIMBY) Act with Senator Schatz to shine a light on discriminatory land use policies, encourage

[4] Novogradac, "DASH Act's Middle-Income Housing Tax Credit Would Finance 344,000 Affordable Rental Homes for Households Just Above LIHTC Income Limits," Dirk Wallace and Peter Lawrence, September 2, 2021, *https://www.novoco.com/notes-from-novogradac/dash-acts-middle-income-housing-tax-credit-would-finance-344000-affordable-rental-homes-households.*

localities to cut burdensome regulations, and bring a new level of transparency to the community development process. This bill would require Community Development Block Grant (CDBG) recipients to go on the record with why they are not adopting specific pro-affordability and anti-discriminatory housing policies.

Do you support my Yes In My Back Yard Act? Why or why not?

Answer. I do support increased transparency to the American public and Congress for the Community Development Block Grant (CDBG), which will lead to better accountability of recipients and the ability to track and measure the outcomes of funding allocated.

The YIMBY Act sheds light on many of the harmful regulatory barriers that prevent affordable housing development, such as high-density zoning, other limited zoning practices, disincentives for innovation, minimum lot sizes, height restrictions, certain preservation requirements, lengthy permitting processes, noise thresholds for transit-oriented communities, and other policies.

Incentives that break down these barriers to affordable housing would improve the ability of communities to increase the housing stock. While zoning and other land-use decisions are and should be in the hands of local jurisdictions, the Federal Government can encourage best practices in order to make housing affordability a "race to the top" across the country.

Question. How would this bill increase housing stock across the country?

Answer. My written testimony mentions that the efficacy of LIHTC and other housing programs designed to bridge the affordability gap and increase the housing stock is at risk without serious and meaningful reforms that reduce regulatory barriers at the Federal, State, and local levels. Unless action is taken to eradicate these obstacles, the housing supply will continue to be insufficient to meet the demands for rental units across the country, causing acute shortages and exacerbating the affordability crisis in high-cost areas.

PREPARED STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON

The Finance Committee meets this morning to discuss housing. This hearing comes at a time when Americans' are getting clobbered by climbing rents and home prices—key drivers of inflation.

Data released last week showed that rents increased in June at the fastest rate since 1986. Buying a home is also getting more expensive. Many young people who have modest incomes or big student loan debts feel like the dream of owning their own home is unattainable.

The root cause is, the U.S. simply isn't building enough housing. It's been that way for decades, and the shortage is affecting cities of all kinds. For example, my hometown of Portland has skyrocketing rents and a low supply of suitable housing. It's also an issue in central Oregon, southern Oregon, and eastern Oregon, where they can't build housing fast enough to keep up with demand. I'd wager that every member of the committee could tell a similar story about their home States.

I'd like to raise a relatively new issue that deserves real scrutiny: private equity firms and sophisticated companies armed with terabytes of housing data are hoovering up properties nationwide. They're jacking up rents. They're using algorithms to outbid aspiring American homeowners. Why do these big guys want to get into the American housing market? Because there are upward of 330 million people in this country, and there aren't nearly enough homes for all of them. Huge demand, limited supply—typical people on a budget are going to come out on the losing end of that deal every time.

The cost of housing is also getting pushed up by the snarls of State and local red tape. Zoning rules too often ban the kind of construction that's badly needed and perpetuate segregation. In some places it can take years of tireless work to get a ruling on permits and approval for new construction, and then come the big up-front costs. Fortunately, my home State of Oregon is one of the States that's stepping up on this issue, and others need to do the same.

It's also a fact that when housing costs go up, homelessness goes up. You can save a lot of individual suffering and taxpayer dollars tomorrow by building more housing today.

The bottom line is, when it comes to housing, the U.S. needs to build and build some more. The Finance Committee plays an important role in helping get shovels in the ground. That's because much of housing policy deals with tax policy, and there are a lot of ideas in this room.

I've proposed the DASH Act. It stands for Decent, Affordable, and Safe Housing for All. It's all about getting help to the most vulnerable: children and families experiencing homelessness. It would also create a credit for more affordable rental units, boost the Low-Income Housing Tax Credit, and encourage the construction of more middle-income housing without taking one single penny away from LIHTC. Local officials in Oregon tell me they badly need more incentives to build housing for middle-class families.

The Finance Committee has had a bipartisan coalition working on important housing issues for a long time. In recent years Senator Cantwell has been the champion of LIHTC, leading big legislative expansions that are creating more than 150,000 new affordable homes. I think she'd agree that's a good down payment for housing, and looking ahead, there's so much more to do.

Her next proposal is the Affordable Housing Credit Improvement Act, which I cosponsored with Senator Young and Senator Portman. That bill would add even more punch and even more flexibility to build even more affordable housing—an estimated 2 million new units nationwide.

Senator Cardin and Senator Portman have proposed a bill called the Neighborhood Homes Investment Act that would be a big magnet for new affordable housing in struggling communities that need it most.

And finally, continuing our bipartisan focus with Senator Crapo's help, Senators Leahy, Collins, and I wrote the LIFELINE Act. Our bill would create more flexibility for States, local governments, and Tribes to use existing funds to get more affordable housing built. With costs where they are today, the alternative is a whole lot of unfinished construction and plans that stall out before they ever get going.

While there's bipartisan interest in getting this done legislatively, the Treasury also has the authority to accomplish a lot of this on its own with rule changes. So, if the Congress and the Treasury move forward together, this can get done a lot quicker than it would if Congress moves alone, and I'll be discussing this with the administration directly.

Clearly there are a lot of big ideas out there for housing. Every member of this committee has an interest in getting more affordable housing built back home. So I look forward to our discussion today, and I thank our witnesses for joining us.

COMMUNICATIONS

AHEPA AFFORDABLE HOUSING MANAGEMENT COMPANY
10706 Sky Prairie St.
Fishers, IN 46038
317–845–3410
www.ahepamgmt.com

Statement of Steve Beck, President and CEO

Chairman Wyden, Ranking Member Crapo, and Members of the Committee, the AHEPA Affordable Housing Management Company (AMC), a mission-driven nationwide provider of affordable senior living communities, commends the Committee for holding a hearing to examine the role of tax incentives in affordable housing and appreciates the opportunity to provide our perspective on this very important and timely topic.

We simply want to echo the resounding support by senators on both sides of the aisle and from the hearing's witnesses for the Low-Income Housing Tax Credit program (LIHTC), and the legislation aimed to strengthen it, the Affordable Housing Credit Improvement Act (AHCIA). We sincerely thank Chairman Wyden, Ranking Member Crapo, and several Senate Finance Committee members, for their demonstrated support of AHCIA as sponsors and co-sponsors of the bill. We also want to convey the important role LIHTC, or Housing Credit, plays in the production and preservation of affordable housing for older adults.

A model public-private partnership, LIHTC is our nation's primary tool for incentivizing and encouraging private investment in the production and preservation of affordable housing and vital to job creation. Since 1986, the affordable housing credit has leveraged billions in private dollars to build and preserve affordable housing in every single state. Furthermore, it represents a significant and cost-effective investment in affordable housing for older adults. Of the Housing Credit's 3.5 million homes built and preserved since the program's inception, about 1.1 million Housing Credit homes are headed by older adults. Finally, if enacted, AHCIA could also support nearly three million jobs, and generate $346 billion in wages and business income and nearly $120 billion in tax revenue, leading to the production an estimated two million more affordable homes.

Why the Housing Credit Is Important to Our Mission

Almost our entire affordable housing portfolio is comprised of affordable independent senior living communities administered by the U.S. Department of Housing and Urban Development's Section 202 Supportive Housing for the Elderly program. We manage 87 HUD Section 202 properties in 19 states, totaling 4,467 units. We own 6 of the 87 properties.

As HUD Section 202 communities have aged, the ability to finance major renovations to preserve affordable housing for older adults, used to be a challenge. However, in the FY2018 Omnibus appropriations bill, Congress provided authority for Section 202 communities with Project Rental Assistance Contracts ("202/PRACs") to participate in HUD's Rental Assistance Demonstration (RAD) to facilitate the preservation of these homes. This policy change provided HUD 202 PRACs with the ability to utilize RAD to access private capital for the rehab and preservation of our properties. One key financing mechanism utilized in this process is the Housing Credit. Thus, will rely upon a strong Housing Credit to help us address our preservation needs. In fact, we have "RAD for PRAC" deals in the works for three properties in Montgomery, Alabama, three properties in Mobile, Alabama; and four properties in Columbia, South Carolina—and they all involve the 4% Housing Credit.

Furthermore, in recent years, HUD has resumed issuing Notices of Funding Opportunity (NOFOs) that provide capital advances to nonprofits for the construction of new Section 202 units. These capital advance funds often must be augmented, or supplemented, with gap financing, such as the Housing Credit, to help complete the capital stack.

How the Affordable Housing Tax Credit Has Helped AMC

We are pleased to share a few examples of how the Housing Credit has help us meet our mission.

The Housing Credit helped us to complete development of a HUD Section 202 property in Ohio. By the time of the project's initial closing, it was advisable to utilize the 4% housing tax credit bonds to augment the original grant provided in the HUD award to provide the upgrade needed for construction materials and to meet Greening Guidelines.

In 2014, we utilized 4% housing tax credits and revenue bonds to rehab and add much needed common area space to two of our Mobile HUD 202 properties in 2014.

In Michigan, the 4% housing tax credit helped us to renovate a HUD Section 202 property when it was blended with funding from the Michigan State Housing Development Authority.

Moreover, as witness Benson Roberts hinted, assisted living also is a beneficiary of the Housing Credit. We proudly have utilized LIHTC to bring affordable assisted living services to very low-income older adults and people with disabilities in Indiana. There, the Housing Credit played an important role with our efforts to expand our mission to include the development of four affordable assisted living communities, totaling 532 units. Here, the Housing Credit was blended with multifamily housing revenue bonds to provide financing. Today, we own and manage all four properties, and we aim to grow the affordable assisted living model with the help of a strong Housing Credit.

The Need and Demand

We would be remiss if we did not share our experiences with the clear need and demand for affordable senior housing with the Committee, which is why strong tax incentives, such as LIHTC, are vital. When older adults do learn about our HUD Section 202 communities, they are oftentimes confronted with the harsh realities of lengthy wait lists and wait times, unfortunately.

To demonstrate, our nationwide wait list at our HUD Section 202 communities is *4,575* submissions, an *increase of 339* submissions since January 1, 2022. Nationwide, we have 4,467 units. The wait time for our applicants range from 6 months to 3 years.

In addition to our alarming nationwide wait list and wait times, here is what we are hearing from our professionals out in the field:

> Some inquiring people don't even request an application because our waiting lists are too long. They want and need immediate housing.
>
> The number of seniors unable to afford a safe place to live in many areas will continue to rise. They are most often faced with choosing between healthcare and paying rent.

Unfortunately, these sentiments expressed by seniors that amplify our wait list and wait time statistics will continue as an increased demand in HUD-assisted housing, especially for the 202 program, is expected. A May 2020 Government Accountability Report (GAO) report on Rental Housing found, "The late middle-aged group (50–64 years) experienced the largest estimated increase in the number of renter households—an increase of 4 million households—and accounted for more than half of the total increase in renter households from 2001 through 2017."[1] The GAO noted many of these households have not recovered from the financial crisis, and the GAO cited a Harvard Joint Center for Housing Studies report that this group has lower incomes and higher rentership rates than previous generations. Moreover, HUD's *Worst Case Housing Needs 2021 Report to Congress* found that 2.24 million very low-income elderly households have worst-case housing needs, paying more than 50% of their income in rent.[2] Finally, a 2021 Urban Institute report predicts there

[1] *https://www.gao.gov/products/gao-20-427.*

[2] *https://www.huduser.gov/portal/sites/default/files/pdf/Worst-Case-Housing-Needs-2021.pdf.*

will be 13.8 million new older adult households between 2020 and 2040; 40% of which (5.5 million) will be renter households.[3]

AMC thanks the Committee for the opportunity to share our views on how and why tax incentives are important to affordable housing, specifically for our nation's older adults. We welcome the opportunity to work with the Committee to ensure older adults have access to the safe and dignified housing they need to age in place, live independently, and thrive; and the role tax incentives play in providing it. Thus, it is imperative that Congress pass bipartisan-backed legislation such as the AHCIA that strengthens programs such as the Low-Income Housing Tax Credit to help providers like us to meet the need and demand. Thank you.

About AMC

AHEPA Affordable Housing Management Company (AMC) is a mission-driven, nationwide provider of affordable independent senior living and affordable assisted living communities. It has developed and manages 87 affordable independent senior living communities in 19 states, totaling 4,467 units, that are administered by the U.S. Department of Housing and Urban Development's Section 202 Supportive Housing for the Elderly program.

AMC, through its subsidiaries, Hellenic Senior Living, Inc., and Hellenic Management, Inc., owns and manages four affordable assisted living communities with 532 units located in Indiana.

AMC is a subsidiary of AHEPA National Housing Corporation (ANHC) and is based in Fishers, Indiana.

CAPITAL ONE
1600 Capital One Drive
McLean, Virginia 22102

Statement of Andy Navarrete, Executive Vice President, External Affairs

Thank you for the opportunity to submit testimony for the record for the Senate Committee on Finance's hearing entitled, "The Role of Tax Incentives in Affordable Housing."

I am Andy Navarrete, Executive Vice President of External Affairs at Capital One. Capital One was founded in 1988 by our current Chairman and CEO, Rich Fairbank, and went public in 1994. From the beginning, we've challenged the status quo. Through a commitment to great products, great talent and great technology, Capital One was able to revolutionize banking and democratize credit, bringing innovative products to consumers across the credit spectrum. Since our founding, we have diversified our business, enhanced our technology and analytics capabilities, and delivered breakthrough products for customers and clients in the U.S., United Kingdom and Canada. More than 50,000 associates serve millions of customers every day. We are a Fortune 100 leader, a nationally-recognized brand and a digital innovator on a journey to become a leading information-based technology company.

In addition to serving our associates and customers, we believe it is equally important to support financial inclusion and well-being throughout the communities we serve. To embody this commitment, we support community investments, partnerships and grants designed to benefit affordable housing developments and their residents. In our testimony below, we outline the following recommendations:

- Increase the effectiveness of tax programs through the removal or reduction of the 75 percent limit on general business credits, permanently extending the carryback period, and allowing general business credits to be creditable against any minimum tax.
- Maximize Low-Income Housing Tax Credit (LIHTC) funding opportunities by reducing the 50 percent Private Activity Bonds financing requirement and prioritizing finalization of treasury regulations around the average income test for LIHTCs.

Beyond our ability to provide capital to finance affordable rental housing developments, we also invest in enhanced resident services, including programs that deliver digital access, health services, financial literacy and coaching and entrepreneurial support. Notably, Capital One has a robust history as a tax credit investor through:

[3] *https://www.urban.org/research/publication/future-headship-and-homeownership.*

- **Financing LIHTC Developments:** One of the most significant ways Capital One supports the development of affordable housing is by financing new construction and renovation of LIHTC developments. Since 2007, Capital One's Community Finance team, which specializes in affordable housing and LIHTC transactions, has originated more than $16 billion in debt and equity investments. Through these investments, the team has benefited over 154,000 households. In 2021 alone, Capital One's Community Finance team lent and invested $1.84 billion in affordable housing, financed over 11,000 affordable housing units and created an estimated 14,000 jobs.[1] Since 2007, this team has lent and invested $16.8 billion in affordable housing, financed over 154,000 affordable housing units and created an estimated 177,000 jobs.
- **Serving Low-Income Communities Through NMTC:** New Markets Tax Credit (NMTC) developments can support solutions to some of the toughest challenges low-income communities[2] face, such as employment, food accessibility, education and equity. Working with a wide range of businesses, Capital One has funded projects that help provide greater access to housing, community facilities, and commercial goods and services, in addition to creating jobs. Since 2005, Capital One has invested more than $3.2 billion into over 250 NMTC developments. These projects, designed to serve or employ low-income persons,[3] are located in 39 U.S. states and territories. In 2021, Capital One financed 17 NMTC projects and injected nearly $221 million of capital in projects that serve low-income persons in the low-income communities in which the projects are located.
- **Financing Municipalities:** Capital One is a national direct municipal lender to U.S. state and local governments. Capital One's municipal loan portfolio primarily consists of low-cost tax-exempt debt financing products. The tax-exempt nature of the loans reduces interest costs to the borrowers. Capital One's more than $7 billion tax-exempt municipal loan portfolio includes $2.7 billion to K–12 public school districts, $2.5 billion to local governments, $579 million to public higher education and $463 million to states. The remaining amount is distributed among public housing, special purpose districts, public utilities, municipal health care entities and transit authorities.
- **Investing in Renewable Energy Projects:** Financing alternative energy efforts helps advance Capital One's sustainable energy initiatives. Since 2014, Capital One has invested nearly $900 million into 12 renewable energy projects comprising utility scale wind and solar as well as portfolios of residential solar installations. In 2021, these projects generated more than 6.2 million MWh, enough to power nearly 600,000 homes with renewable power for one year.

As the Committee explores ways to help address the housing affordability crisis, Capital One is grateful for the opportunity to share our program experiences, recommendations and support for improving tax incentives that drive positive affordable housing outcomes.

In Action: Recognizing NMTC Resilience Amid Disruption

In 2019, Mosaic Development Partners and Shift Capital, alongside the Philadelphia Housing Authority, embarked on a revitalization plan for an affordable housing development and shopping center to support Sharswood, one of the poorest and most neglected communities in Philadelphia, PA. The North Philadelphia neighborhood had an unemployment rate of 16 percent—nearly two times the national rate—and a 23.26 percent area median gross income (AMI).

After decades of experiencing severe distress and access to limited resources, the Sharswood redevelopment will provide quality residential units and access to healthy food, retail, healthcare and financial services through the commercial space. Additionally, it will bring an estimated 200 construction jobs and 300 permanent

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[1] Capital One uses *www.nahb.org* for job creation estimates per 1,000 rental units. For job creation estimates before 2019, we used the ratio of 1.13, and for 2020 and after, we used the updated ratio of 1.25.

[2] For NMTC purposes, a low-income community is a geographic area where either the (1) poverty rate is in excess of 20 percent or (2) median family income for the tract does not exceed 80 percent of the greater of statewide median family income of metropolitan area median family income.

[3] For NMTC purposes, a low-income person is any individual having an income, adjusted for family size, of not more than: (1) for metropolitan areas, 80 percent of the area median family income; and (2) for non-metropolitan areas, the greater of (a) 80 percent of area median family income or (b) 80 percent of the statewide non-metropolitan area median family income.

jobs to the neighborhood, with an estimated 70 percent of jobs accessible to local community members and residents. The grocery store and other commercial tenants plan to hire primarily low-skilled workers from the community, which will help drive positive outcomes both for individuals and the neighborhood.

Capital One invested in a $25 million NMTC transaction for construction of the 45,000 square-foot shopping center, which includes 98 residential units, of which 30 percent are affordable. NMTCs were a crucial part of the funding efforts for this development. Because the developer and housing authority tailored the shopping center to the needs of the neighborhood, the costs were projected to be higher and rents projected to be lower than in a traditional development. Without NMTCs, the project would not be able to service the debt necessary to move forward.

COVID caused tremendous disruption to the development's progress and completion, but the developer and project stakeholders have demonstrated their commitment to seeing the project to fruition. Though the project incurred increased costs and suffered from supply chain delays, stakeholders refused to turn their backs on the project because of the community's dire need for housing and goods and services. To help support the development during a volatile period, government officials and the Philadelphia Housing Authority secured additional grant funding. The developer pledged a significant amount of its developer fee to the project to ensure a successful construction completion. And lead investors agreed to accept a lower return on their investment to help absorb the increased costs.

Because of stakeholders' creativity and sheer commitment to bringing critical housing and services to the neighborhood, the Sharswood redevelopment is now on track to open its grocery outlet, bank and residential units throughout the rest of this year with a targeted completion in December 2022.

Increasing the Effectiveness of Tax Credit Programs

There is an evergreen need across the U.S. for affordable housing. Nationwide home prices have increased nearly 19 percent year-over-year,[4] and rents have increased year-over-year in all large metro markets, "growing by double digits in 116 out of 150 metro markets and by more than 20 percent in 25 markets."[5] Given Capital One's history as a tax credit investor and our ample experience working alongside organizations that leverage the LIHTC and NMTC programs, we have seen firsthand the effectiveness of these programs. In fact, these programs exemplify the success that comes when the government and the private sector partner to reach a common goal.

Further, Capital One has witnessed the resiliency of these tax credit programs, first through the Great Recession, and now through the pandemic. These disruptive moments have shaken—but not broken—the investor community's interest in these programs. As the country continues to struggle with the economic consequences of COVID, investors like Capital One are renewing their focus on LIHTC and NMTC investments with the expectation that these programs will continue to buttress corporate imperatives for social and community engagement.

Still, recent history has shown that investor demand for LIHTC and NMTC can be volatile under current law during times of economic duress. Predictions related to taxable income—and taxable income itself—can quickly and dramatically change during times of economic uncertainty. This volatility makes it difficult for investors to commit to future tax credit investment activity. For example, during the 2007–2009 Great Recession, the demand for LIHTCs plummeted[6] when most LIHTC investors—primarily large, national banks, and Fannie Mae and Freddie Mac—swung from profitability to loss and could no longer use tax credits. There was an estimated 40 percent decrease in investment in tax credits nationally, and investment fell by much more in small metropolitan and rural areas.[7]

[4] *The State of the Nation's Housing 2022,* Joint Center for Housing Studies of Harvard University, 2022 available at: *https://www.jchs.harvard.edu/son-2022-home-price-growth.*

[5] *The State of the Nation's Housing 2022,* Joint Center for Housing Studies of Harvard University, 2022 available at: *https://www.jchs.harvard.edu/sites/default/files/interactive-item/files/Harvard_JCHS_State_Nations_Housing_2022_Key_Facts.pdf.*

[6] Capital One has remained an active market participant in LIHTC and NMTC investments since prior to the Great Recession.

[7] *The Disruption of the Low-Income Housing Tax Credit Program: Causes, Consequences, Responses, and Proposed Correctives,* Joint Center for Housing Studies of Harvard University, 2009 available at *https://www.jchs.harvard.edu/sites/default/files/disruption_of_the_lihtc_program_2009_0.pdf.*

Now, the pandemic has also impacted investor appetite, especially with respect to NMTC investments. Historically, the NMTC investor space has been dominated by a small number of large financial institutions that invest in NMTC transactions for philanthropic purposes as well as for the Community Reinvestment Act (CRA), tax planning and financial return reasons. As a result, their sensitivity to economic volatility is much greater, especially over the short term. When one or two banks "pause" their investments, it has a very material impact on the industry.

While one large NMTC investor is pursuing a syndication program within the space, there is not a widely functioning syndication market that could broaden the investor base similar to what's available in the LIHTC market. The complexity of the NMTC structure also impacts the development of a true "yield" investor marketplace. As such, broadening the demand of the existing market is critical to the industry's stability.

The volatility that impacts LIHTC and NMTC investment is directly influenced by the federal income tax code. The general business credits authorized by the Internal Revenue Code of 1986, as amended (the Code) typically only offset up to 75 percent of an investor's annual tax liability, which shrinks taxpayer tax credit investing capacity so much that investors with declining revenues and unclear prospects for future profitability may choose to pause their investment activity.

Further, while the Code allows investors to apply unused tax credits to the immediately preceding taxable year or the following 20 future taxable years, this carryback/carry forward framework has negative consequences for bank regulatory capital calculations and does little to bolster investor confidence or facilitate investment return computations. Generally, tax credit investors commit to individual transactions and allocate their total pipeline in a way that will best utilize a company's expected tax capacity for any given year without exceeding that capacity. As a result, when an economic disruption occurs, investors must battle the economic impacts of the disruption while armed with only the excess tax capacity that was generated—and actively minimized—in the immediately preceding year. This is especially challenging considering future taxable income levels are either unknowable in the near-term or likely to be depressed.

Because of these Code provisions, tax credit investor appetite is constrained by the volatility that accompanies times of economic stress. Therefore, it may not rise to the level of investment needed to ensure a steady supply of affordable housing units that benefit households with low to moderate incomes and support living wage or low-income community jobs, goods and services.

With these considerations in mind, Capital One recommends the following actions:

- **Remove or Reduce the 75 Percent Limit on General Business Credits:** Capital One recommends removing or reducing the 75 percent limit on general business credits, which would increase the amount of LIHTCs and other general business credits each investor could claim. Easing this limit would be impactful during years when macroeconomic conditions cause corporate profits to decline, yet safe affordable housing is still needed—especially for households with low to moderate income.
- **Permanently Extend the Carryback Period:** Capital One recommends permanently extending the carryback period for LIHTCs and NMTCs from one to five years to reduce volatility in investor demand. This carryback extension would allow investors that experience—or expect to experience—losses (or drastically lower profits) to continue to utilize credits. It would also shorten the time span over which future tax liabilities would need to be predicted, making these tax credit investments more attractive and reliable. When surveyed in 2009, several of the largest banks with the worst losses at that time calculated that a five-year carryback would double their demand for tax credits in the near term.[8] Notably, because LIHTC and NMTC investments are already subject to allocation caps versus unlimited volumes, the fiscal cost of this change should be limited to the cost associated with having few unused or expired credits, which would be a minor expense.
- **Allow General Business Credits to be Creditable Against Any Minimum Tax:** Capital One supports having general business credits be creditable against

[8] *The Disruption of the Low-Income Housing Tax Credit Program: Causes, Consequences, Responses, and Proposed Correctives,* Joint Center for Housing Studies of Harvard University, 2009 available at *https://www.jchs.harvard.edu/sites/default/files/disruption_of_the_lihtc_program_2009_0.pdf.*

any minimum tax based on book and/or worldwide income. For example, as outlined in the Biden Administration's proposed budget for fiscal year 2023,[9] the base erosion anti-avoidance tax imposed when certain U.S. taxpayers make deductible payments to foreign-related parties would be replaced with an under taxed profit rule. This change is intended to ensure income earned by a multinational company, whether based in the U.S. or elsewhere, is subject to a minimum rate of taxation regardless of where the income is earned. As proposed, general business credits would be creditable against this minimum tax. Capital One commends Congress and the Biden Administration for their continued support of the public policy considerations that led to the initial creation of these tax incentives.

In Action: LIHTC Provides Veterans and Grandfamilies with Quality, Safe Housing

When American Legion Post 139 began working with the Arlington (VA) Partnership for Affordable Housing (APAH) to redevelop its Virginia Square site, it stayed true to its mission to serve and prioritize veterans' needs. The new facility, Terwilliger Place, will add 160 affordable housing units to the community—half of which will be set aside for veterans. According to the APAH, this community is "Virginia's largest affordable housing project for veterans and the first Housing Credit project in Virginia with a leasing preference for veterans."[10] The property elected the average income test (AIT) set aside to serve households earning between 30 and 80 percent of AMI.

The $80 million development includes $25 million in construction debt and $37 million LIHTC equity investment originated by Capital One. Capital One also provided $70,000 in pre-development grants. Beyond creating much needed affordable housing, the community will also offer veteran-focused resident services and programming in its community spaces. Terwilliger Place will celebrate its grand opening with a ribbon-cutting ceremony in September 2022.

Less than 10 miles from Terwilliger Place, a second LIHTC development is helping support another population. Grandfamilies, or families in which grandparents are the primary caregivers for their grandchildren, can be impacted by circumstances such as parents' addiction or incarceration. At the same time, these households can typically struggle to access housing resources and subsidies that are available to parents. That's the challenge that Plaza West in Washington, DC, aimed to solve when it reserved 50 of its 223 units for grand families earning 30 percent, 40 percent and 50 percent of AMI.

According to grandmother and Plaza West resident, Vera Long, the community has provided her with support. "What I can say about Plaza West is that it's been a relief to have somewhere to live, to raise my grandchildren. It's a joy being here. It's home."[11]

The development of the property benefitted from a $34 million LIHTC equity investment from Capital One in 2016, inclusive of a $200,000 social purpose investment to help fund support services for residents. Beyond supporting grandfamilies, the development includes 173 additional affordable apartments for individuals and families earning less than 60 percent of AMI.

Maximizing LIHTC Funding Opportunities

The LIHTC program is the most important source of funding for building affordable housing in the U.S. Leveraging tax credits provides a much-needed source of capital for developers. Capital One is committed to working with industry and policy stakeholders to identify and design solutions that create more affordable housing and ultimately strengthen communities and advance socioeconomic mobility across the country.

We propose the following recommendations to maximize LIHTC funding opportunities:

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[9] *General Explanations of the Administration's Fiscal Year 2023 Revenue Proposals,* U.S. Treasury Department, 2022 available at *https://home.treasury.gov/system/files/131/General-Explanations-FY2023.pdf.*

[10] *APAH and American Legion Post 139 Celebrate the Terwilliger Place Construction Start,* Arlington Partnership for Affordable Housing, 2020 available at *https://apah.org/apah-and-american-legion-post-139-celebrate-the-terwilliger-place-construction-start/.*

[11] *Grandfamilies Find Support in DC Development,* Affordable Housing Finance, 2020 available at *https://www.housingfinance.com/developments/grandfamilies-find-support-in-d-c-development_o.*

- **Reduce the 50 Percent Private Activity Bonds (PAB) Financing Requirement:** Under current law, a multifamily property qualifies for 4 percent LIHTCs only when at least 50 percent of the total development cost—including land—is financed with tax-exempt multifamily obligations/bonds called Private Activity Bonds (PAB). Capital One recommends reducing the 50 percent PAB financing requirement.

  Reducing the 50 percent PAB financing requirement to 25 percent would create additional PAB availability, which in turn could be allocated to finance more affordable rental properties. In 2021, an accounting firm specializing in tax credits estimated that lowering the threshold for tax-exempt PABs from 50 to 25 percent for buildings financed by obligations in 2022–2026—as was included in the House-passed version of the Build Back BetterAct—could generate an additional 735,500 affordable rental homes according to some estimates. Support for reducing the 50 percent PAB financing requirement was also proposed in 2021 through The Decent, Affordable, Safe Housing For All (DASH) Act and The Affordable Housing Credit Improvement Act of 2021.

- **Prioritize Treasury Regulations Around the Average Income Test (AIT) for LIHTCs:** Capital One recommends prioritizing swift finalization of the Treasury guidance needed to fully operationalize the AIT for LIHTC qualification.

  For properties to qualify for LIHTCs, a minimum number of units must be set aside for households with low incomes. In 2018, Congress created a new set aside, the AIT, to increase the supply of affordable units.[12] The AIT allows a property to qualify for LIHTC if the unit income designations for the property averages at or below 60 percent of AMI, provided that individual units are designated no lower than 20 percent and no higher than 80 percent of AMI. This allows LIHTC properties to serve a wider band of households, including households with extremely low income. It is also inclusive of households between 61 and 80 percent of AMI that have traditionally been excluded from LIHTC properties but are cost-burdened for market rate housing, especially in high-cost metro areas.

  President Biden's Housing Supply Action Plan notes, "this 'average income test' for LIHTC qualification will enable the creation of more financially stable, mixed-income developments and make LIHTC-supported housing more feasible in sparsely populated rural areas. It will also facilitate the production of additional affordable and available units for extremely low-income households."[13] However, guidance released by the Internal Revenue Service in 2020 in the form of proposed Treasury Regulations[14] had a chilling effect on the application of this qualification test, in part by prescribing a more punitive result for noncompliance with the AIT minimum set aside test than the two historic minimum set aside tests.

  As it was intended, the AIT benefits residents and helps avoid displacement. In its 2021 tax credit application submitted to the California Tax Credit Allocation Committee, MidPen Housing Corporation elected to the AIT set aside to avoid permanently displacing existing residents at Willow Garden Apartments and Greenridge Apartments—now known as Willow Greenridge—whose income exceeded 60 percent of the area median income. Capital One financed the acquisition and rehabilitation of the 70-unit family development in South San Francisco in which eight units were set aside at 80 percent AMI, thus permitting those residents to stay in their homes. An additional 10 units were set aside for households at 30 percent AMI, with another 18 units set aside for households at 40 percent AMI.

  It's critical to finalize Treasury Regulations that incorporate stakeholder feedback and restore widespread use of the AIT minimum set aside, as intended by Congress. These regulations are key to expanding the housing supply and affordability for households with the lowest incomes as well as households with moderate and middle income households.

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[12] Code Section 42(g)(1)(C) requires designations at 20, 30, 40, 50, 60, 70, or 80 percent of AMI.

[13] *President Biden Announces Actions to Ease the Burden of Housing Costs,* White House, 2022 available at *https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/16/president-biden-announces-new-actions-to-ease-the-burden-of-housing-costs/*.

[14] Proposed Treas. Reg. § 1.42–15 and § 1.42–19; REG–119890–18 (10/30/2020).

Conclusion

Without tax incentive programs, communities like Sharswood, Terwilliger Place, Plaza West and Willow Greenridge Apartments would not be accessible to the hundreds of households and residents they serve. And these communities are representative of the countless properties that tax incentive programs support. Government programs like NMTC and LIHTC are critical enablers of investment, and they are driving solutions to some of the toughest challenges the U.S. faces today, from affordable housing to financial well-being and inclusion.

Capital One appreciates the Committee's continued focus on improving affordable housing outcomes through tax incentives and this opportunity to share our thoughts. We look forward to working with the Committee in the future as we pursue our common goal of building thriving communities.

CENTER FOR FISCAL EQUITY
14448 Parkvale Road, Suite 6
Rockville, MD 20853
fiscalequitycenter@yahoo.com

Statement of Michael G. Bindner

Chairman Wyden and Ranking Member Crapo, thank you for the opportunity to submit these comments for the record to the Committee on this topic. They are "counter-programming" in an effort to raise issues that are mostly ignored by the invited witnesses. We will address two sets of issues: Housing and Income.

HOUSING ISSUES

The Housing Market

Building scientist Belinda Carr highlights why the current economy is similar to 2005 in a recent YouTube video at *https://www.youtube.com/watch?v=77g6jRBG1cI&list=WL&index=4&t=570s.* Her five main points against an actual housing shortage are:

1. Declining population growth: Low birth rate, higher death rates. Permits are meeting population growth rates.
2. People per unit has declined.
3. Number of rental units—large number of investor units, especially in minority neighborhoods. Investors driving out individual buyers.
4. Low interest rates have driven up prices, driving up investor incentives.
5. Mismatch of housing types and locations. The rise of remote work and possibility of large firms linking wages to housing prices if a recession occurs (because, as monopsonies, they can).

I recommend asking her for comments or testimony. At least circulate the YouTube link.

Her research is in keeping with other analyses, including my own, on the prospect of a housing recession.

Starting in 2009, properties that have been seized in foreclosure have been purchased with private equity and are so heavily leveraged that they cannot be sold until the holding company files for bankruptcy in the next Great Recession. See *Homewreckers: How a Gang of Wall Street Kingpins, Hedge Fund Magnates, Crooked Banks, and Vulture Capitalists Suckered Millions Out of Their Homes and Demolished the American Dream,* by Aaron Glantz. The C–SPAN Book TV discussion with Mr. Glantz will give the committee a heads-up on what such testimony would include. See *https://www.c-span.org/video/?465567-1/homewreckers.*

The long and short of it is that many now have to rent or own leveraged properties. Our absentee landlords have cashed out and left servicing companies to bleed us dry. They essentially own us because we have to work harder and longer to have a place to live while those who have cashed out live in gated and high-end assisted living communities. In the last year, Exchange Traded Funds have been all the rage. Who wants to bet on where the latest pool of junk is hiding?

In 2008, the Troubled Asset Recovery Program was enacted, promising aid to homeowners. The next year, CNBC Rick Santelli had his "rant of the year" which put the kibosh on any aid to homeowners, although there was little appetite to provide it from the Larry Summers wing of Obama economic team anyway. They did, however, stay behind bailing out the holders of the bad paper.

Let us not repeat (or rather continue to repeat) the bad practices that left the economy in the doldrums. During the pandemic, the Federal Reserve has purchased bad paper, but without benefit to those whose debts are held in those bonds.

This time around, credit card balances and back rent should be forgiven when the Federal Reserve buys the bonds that hold the debt. Loans could also be written down, which would stop bondholders from benefiting from issuing bonds that should never have been issued in the first place. Renters of both commercial and residential property should be offered the chance to purchase their locations and homes, with assistance from Government Sponsored Enterprises, with their paper replacing the debt paper that has been securitized in Exchange Traded Funds.

ETFs may take a hit, but what was falsely sold as AAA paper would actually become what was sold. Bad landlords, and Glantz demonstrates that Mr. Mnuchin and Mr. Ross truly are bad landlords, degrade properties so that the bonds that were issued for them to cash out are nowhere near the value at issue.

In 2009, the United States aided and abetted those who created the crisis. We are currently repeating the mistake. When the inevitable crisis occurs again, doing the right thing will also be the right medicine for the economy.

The Opportunity Zone Program and Who It Left Behind (November 16, 2021)

Opportunity zones are the flavor of the decade, proceeding from enterprise, urban renewal and the destruction of neighborhoods in order to bring Interstate Highways to cities.

Worse than redlining and segregation, urban renewal, which the civil rights community calls Negro Relocation. Hispanic neighborhoods are also suffering the same fate. Time and again, poorer residents are moved to the suburbs so that coffee shops, high end grocery stores and luxury apartments can be built for professionals, also known as the creative class. In short, young and middle aged white people with high incomes.

Developers bridge the gap between property acquisition and sale so that those who are displaced leave with lower payments while the developers benefit from any increase in property values. Such actions are why Henry George proposed pergovian land value tax, collecting 100% of land value each year and then distributing a citizens dividend to everyone (so that poorer people benefit from the price loss experienced by high end developers.

I usually do not endorse Georgism as the sole solution to inequality. Creating cooperatives that democratically give members control of the means of production, consumption, human services and finance is more my speed; but even I would have the cooperative pay a land value tax to fund services for those who continue to live in a Smart Growth area dominated by such a cooperative. It would continue to fund services after any relocation (unless families wish to join the cooperative.

In the interim, Opportunity Zone provision should be repealed. We need no more displacement from here on in. **This type of tax incentive is counter-productive.**

Fair Housing Enforcement

There is a similar matter that needs mention—Fair Housing (especially considering recent campaign bloviating). In light of recent Supreme Court rulings including sexual orientation in sex for employment law—there is no reason to believe that this revised definition does not apply to every part of the Civil Rights Act—as well as the Fair Housing Act.

Are civil penalties enough to force compliance? Experience shows that they do not. A former roommate, who got his Section 8 before I did, was exposed to possible discrimination couched in the language of credit. He complained to the Housing Office and the landlord caved in. This was 2018 in liberal Montgomery County. The continued need for training by the Patricia Roberts Harris National Fair Housing Training Academy (where I also worked) is less anecdotal.

When I was the Ward 3 Community Relations Representative in the D.C. Office of the Ombudsman, we were given a talk by the Solid Waste Management office. Their motto was that there is no better education than a ticket. This would be equally true in fair housing, as well as all other civil rights enforcement. It is time to quit talking about reform and to actually start doing it.

Bias in Housing Policy

When dealing with federal housing, and income support in general, the desire for economic justice and environmentalism sometimes conflict. Anti-poverty programs are notorious for not funding those with the father in the home. This is the result of both racism and the desire to limit the number of clients. In short, the Zero Population Growth mentality has made it into housing and income support policy.

There should be no conflict here. The ZPG/racist and cost control arguments are simply unworthy of American Society, while being endemic within them. All people of good conscience should resist such nonsense and I will do so with my last dying breath.

Prior to the Wars on Drugs and on Poverty (the Poor?), the model for housing in modern America was the three bedroom house. This included a bedroom for parents, one for the boys and one for the girls. An oldest child may eventually get his or her own room at some point if there were a four bedroom or basement/attic space that could be used as a bedroom.

Aside from the war on the poor, there is no reason that publicly funded housing should have departed from this norm. This includes Section 8 assistance. If public housing included three bedroom units, there would not be a drive toward driving families toward ownership that they cannot afford over the long term.

Federal low- and moderate-income housing, including the low-income housing my family participated in during the 2000s, gave generous assistance to get us in, but was not adequate to keep us there. We mistakenly borrowed using a step-up mortgage. This would have been fine if the payment itself, rather than the mortgage rate, had “stepped up” by inflation each year. What we received was unsustainable, which ended in foreclosure, bankruptcy and divorce. I doubt we were the only ones. See the above discussion on the 2008 bailout for other difficulties which could have been dealt with via public policy.

Federal rental and purchase support should be two sides of the same program. As with Medicare, some participants should be dual eligible for both down payment assistance and rental assistance. Indeed, everyone approved for one must be declared eligible for the other. If this were the case, my family may have stayed in more affordable housing.

The surest way to help federal housing beneficiaries escape the need for rental assistance, indeed any assistance—including bankruptcy protection—is to make sure that families have adequate incomes. The entire low-income housing program—from mortgage subsidies to Section 8, as well as most other statutory low-income support benefits—could be decreased or curtailed with adequate support for families through adequate wages, training programs, child tax credits, and the other elements of the Build Back Better proposals.

Fix income inequality with higher minimum wages and child tax credits and the free market will respond to the real needs of families. Two parent families with more than two kids should be able to demand three bedroom apartments, all things being equal. End the bias against two-parent families in current programming and creativity will take care of the rest.

INCOME SECURITY

It is time to end the two-tier economy. No one should have to work in what Michael Harrington called The Other America. With the end of welfare as we knew it, circumstances have actually gotten worse since Harrington’s seminal work. The rise of delivery services, which require drivers to earn tips, and the gig economy, which prevents easy tipping, has made things even worse in the name of progress. We are working harder for less. This Committee can start the ball rolling to fix this.

Minimum Wage

The best option for food security and low income housing is to increase incomes by increasing the minimum wage and the child tax credit and indexing them to inflation.

Increasing the minimum wage to $10 should take effect immediately, phasing to $12. You can argue about a $15 or $18 minimum after the midterm elections. Higher minimum wages increase job growth, as lower wage employees spend every dime of the increase, as do higher wage workers below the middle-management level whose wages will also rise.

Provisions should also be included in law to hold franchisees harmless if minimum wage increases impact their own livelihoods. The conditions of franchise employ-

ment and agreement deserve attention as well in terms of agreed to standards, payment of franchise owners in low wage industries and the ability of workers to organize. If some firms decide to turn franchise employment into full-time employment, so much the better.

It is indeed a poor job where the physical productivity of workers in comparison with other factors is under this level, especially when child tax credits are excluded from the equation. The intermediate goal should be either a $12 minimum wage (so that it is comparable to the buying power experienced in 1965) or an $11 wage with a 32-hour work week.

The perception that doing the right thing makes a business non-competitive is the reason we enact minimum wage laws and should require mandatory leave. Because the labor product is almost always well above wages paid, few jobs are lost when this occurs. Higher wages simply reduce what is called the labor surplus, and not only by Marx. Any CFO who cannot calculate the current productive surplus will soon be seeking a job with adequate wages and sick leave.

The requirement that this be provided ends the calculation of whether doing so makes a firm non-competitive because all competitors must provide the same benefit. This applies to businesses of all sizes. If a firm is so precarious that it cannot survive this change, it is probably not viable without it.

Childcare and Paid Leave

Childcare is best provided by the employer or the employee-owned or cooperative firm. On-site care, with separate spaces for well and sick children, as well as an on-site medical suite to treat sick employees, will uncomplicate the morning and evening routines. Making yet another stop in an already busy schedule adds to the stress of the day. Knowing that, if problems arise at a work-based daycare, they can be right there, will help parents focus on work.

Larger firms and government agencies can more easily provide such facilities. Indeed, in the Reeves Center of the District Government, such a site already exists. Smaller firms could make arrangements with the landlord of the building where offices or stores are located, including retail districts and shopping malls. For security reasons, these would only serve local workers, but not retail customers.

A tax on employers would help society share the pain for requiring paid leave. Firms that offer leave would receive a credit on their taxes (especially low wage firms). Tax rates should be set high enough so that.

Child Tax Credits

The Child Tax Credit should support the income of each dependent child at median wage levels and be fully refundable. If a parent participates in education and training, their child tax credit should be paid with a training stipend set to the minimum wage. Including these benefits with pay reduces the need for a $15 minimum wage. $12, which is in line with historical averages prior to 1965, should be adequate.

There are two avenues to distribute money to families. The first is to add CTC benefits to unemployment, retirement, educational (TANF and college) and disability benefits. The CTC should be high enough to replace survivor's benefits for children.

The second is to distribute them with pay through employers. This can be done with long term tax reform, but in the interim can be accomplished by having employers start increasing wages immediately to distribute the credit to workers and their families, allowing them to subtract these payments from their quarterly corporate or income tax bills.

Tax Reform

Tax reform will help both low wage and gig/1099/staffing services workers who are essentially full-time but are not treated as such. Because these "vendors" would have to pay the tax and receive the breaks, client firms would have the incentive to hire them instead

Our tax reform plan, which was last adjusted on June 10th of this year, features a Subtraction Value-Added Tax. This tax can serve as an employer-based vehicle for distributing child tax credit, healthcare and childcare benefits.

The S–VAT could be levied at both the state and federal levels with a common base and tax benefits differing between the states based on their cost of living (which would be paid with the state levy). The federal tax would be the floor of support so that no state could keep any part of its population poor, including migrants. It is time to end the race to the bottom and its associated war on the poor.

Between the CTC and the Earned Income Tax Credit, the CTC is to be preferred. Applying for an EITC is part of why it is expensive to be poor. For most, outside help is needed to calculate it. Having to get such help is a "poor tax." Our proposed changes to individual payroll taxes propose a way to end this credit while assuring adequate retirement savings and family income. The following paragraphs are an excerpt from our current tax reform plan.

Subtraction Value-Added Tax (S–VAT). These are employer paid Net Business Receipts Taxes. S–VAT is a vehicle for tax benefits, including

- Health insurance or direct care, including veterans' health care for non-battlefield injuries and long-term care.
- Employer paid educational costs in lieu of taxes are provided as either employee-directed contributions to the public or private unionized school of their choice or direct tuition payments for employee children or for workers (including ESL and remedial skills). Wages will be paid to students to meet opportunity costs.
- Most importantly, a refundable child tax credit at median income levels (with inflation adjustments) distributed with pay.

Subsistence level benefits force the poor into servile labor. Wages and benefits must be high enough to provide justice and human dignity. This allows the ending of state administered subsidy programs and discourages abortions, and as such enactment must be scored as a must pass in voting rankings by pro-life organizations (and feminist organizations as well). To assure child subsidies are distributed, S–VAT will not be border adjustable.

The S–VAT is also used for personal accounts in Social Security, provided that these accounts are insured through an insurance fund for all such accounts, that accounts go toward employee ownership rather than for a subsidy for the investment industry. Both employers and employees must consent to a shift to these accounts, which will occur if corporate democracy in existing ESOPs is given a thorough test. So far it has not. S–VAT funded retirement accounts will be equal-dollar credited for every worker. They also have the advantage of drawing on both payroll and profit, making it less regressive.

A multi-tier S–VAT could replace income surtaxes in the same range. Some will use corporations to avoid these taxes, but that corporation would then pay all invoice and subtraction VAT payments (which would distribute tax benefits). Distributions from such corporations will be considered salary, not dividends.

Individual payroll taxes. Employee payroll tax of 7.2% for Old-Age and Survivors Insurance. Funds now collected as a matching premium to a consumption tax based contribution credited at an equal dollar rate for all workers qualified within a quarter. An employer-paid subtraction value-added tax would be used if offsets to private accounts are included. Without such accounts, the invoice value-added tax would collect these funds. No payroll tax would be collected from employees if all contributions are credited on an equal dollar basis. If employee taxes are retained, the ceiling would be lowered to $85,000 to reduce benefits paid to wealthier individuals and a $16,000 floor should be established so that Earned Income Tax Credits are no longer needed. Subsidies for single workers should be abandoned in favor of radically higher minimum wages. If a $10 minimum wage is passed, the employee contribution floor would increase to $20,000.

Pro-Life Scoring

The following paragraphs should be familiar to members and staff. Now that *Roe v. Wade* has been overturned, they should be made available to everyone.

These reforms MUST be scored as pro-life legislation and be funded more broadly than the President has promised. Having served on the staff of a major abortion rights organization in the past, I can assure you that no such organization **would ever oppose higher living standards for women and their families!**

The chief obstacle for funding families is not the feminist movement. It is the so-called right to life movement who would rather women be penalized for having abortions than subsidized so that they are not necessary. Over the course of many decades, I have had conversations with conservative members of the pro-life community. When push comes to shove, they oppose the measures above because their objections to abortion are more about sexuality than the welfare of children.

In the pro-choice movement, many jump to the defend women's bodies argument before first addressing the need for adequate family income. Doing so now will shame

the leadership of the pro-life movement into supporting these provisions to Build Back Better.

Many in the pro-life movement already do. Catholic Charities USA, NETWORK and the Catholic Health Association all stand with working and poor women. They must be very publicly leveraged to get the U.S. Conference of Catholic Bishops behind them as well—and to have the bishops insist that these measures be considered must-pass legislation for the computation of pro-life voting records.

Catholic members of Congress and the President should also lead on this effort. It is time to stop grandstanding on this issue. These measures must pass—and on a larger scale than provided for in Build Back Better.

Thank you for the opportunity to address the committee. We are, of course, available for direct testimony or to answer questions by members and staff.

HOUSING DEVELOPMENT CENTER
524 E Burnside Street, Suite 210
Portland, OR 97214
503–335–3668
https://www.hdc-nw.org/

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U.S. Senate
Committee on Finance
Dirksen Senate Office Bldg.
Washington, DC 20510–6200

Re: The Role of Tax Incentives in Affordable Housing—Hearing Date: July 20, 2022

Dear Members of the Committee:

I am writing to urge you to continue building on your past work to use tax incentives to address our nation's vast unmet need for affordable housing. Specifically, I encourage the committee to pass four pieces of currently proposed legislation:

- The Affordable Housing Credit Improvement Act (AHCIA),
- The LIFELINE Act,
- The Neighborhood Homes Investment Act, and
- The Affordable Housing Bond Enhancement Act.

AHCIA is bipartisan legislation. It contains critical provisions to improve the effectiveness of the two most important production tools available to finance affordable rental housing: low-income housing tax credits (LIHTCs) and tax-exempt private activity housing bonds. LIHTCs have financed more than 3.6 million affordable rental homes for low-income families, seniors, veterans, and those with special needs since its creation in 1986. In recent years, more than half of LIHTC-financed homes have been financed with the help of multifamily housing bonds.

I am offering my perspective as the executive director of Housing Development Center (HDC), a mission-driven nonprofit that has managed the financing of hundreds of rent-restricted affordable housing developments in Oregon and southwest Washington. HDC provides development services to community-based nonprofits and housing authorities operating across our region—organizations that provide affordable homes to populations ranging from single adults transitioning from homelessness in Portland to farm workers and their families in rural southern Oregon.

Nearly all these homes (HDC has helped to develop 7,000+ since 1993) are financed in part with equity from the sale of LIHTCs, often in addition to tax-exempt private activity housing bonds. Without these sources, it would be economically infeasible to create them. Community-based housing providers would not be able to pay the costs of developing and operating the housing without charging rents out of reach of their low-income residents.

I encourage the Senate Finance Committee to pass the AHCIA to strengthen the impact of low-income housing tax credits and housing bonds. Additionally, I encourage the committee to pass the LIFELINE Act, which would create more flexibility for states, local governments, and tribes to use existing funds to get more affordable housing built. Finally, I support Senator Wyden's and Oregon Housing and Community Services Director Andrea Bell's calls to pass the Neighborhood Homes Investment Act and the Affordable Housing Bond Enhancement Act. These bills will further enhance our community's tool kits for creating affordable housing for families and individuals who are priced out of the market.

Lack of access to affordable housing creates devastating impacts on low-income families, seniors, people with disabilities, and others who are struggling to meet their basic needs in Oregon, Washington, and communities across the country. Thank you for prioritizing these and other policies to address our nation's ongoing housing affordability crisis.

Sincerely,

Traci Manning
Executive Director

NATIONAL COMMUNITY RENAISSANCE
9421 Haven Avenue
Rancho Cucamonga, CA 91730

Statement of Steve PonTell, President and CEO

I am pleased to submit this statement for the record for the July 20, 2022 Senate Finance Committee Hearing on "The Role of Tax Incentives in Affordable Housing."

The purpose of this statement is to ask the Committee to consider legislation to create a supportive services tax credit, to complement the low income housing tax credit. The purpose of such legislation is to fund critically needed supportive services for residents living in federally assisted low income housing.

I am submitting this statement on behalf of National Community Renaissance (also known as National CORE). National Core is one of the nation's largest nonprofit affordable housing developers. We provide affordable housing to 25,000 residents in over 8,500 affordable rental units. We are proud of the fact that National CORE recently become only the second nonprofit affordable housing developer in the country to receive an A+ bond rating from Standard and Poors (S&P). We then used that rating to issue $100 million in bonds to expand our ability to build more affordable housing units.

The construction of affordable rental housing should be one of our nation's highest priorities, at a time of skyrocketing rents and historic challenges with housing affordability. For that reason, National CORE continues to be a strong supporter of a significant boost in the volume of low income housing tax credits, the principal funding mechanism for new construction of affordable housing units.

It is disappointing that the Senate has not acted on the House's original Build Back Better provision, which would have created $30 billion in additional funds, resulting in an estimated 1.4 million affordable rental units, serving over 3.5 million Americans.

However, we note that there is widespread support for this provision, so I will focus my statement today on a critical component that should go along with the construction of new affordable housing—which is enriched resident services to serve the families living in federally assisted affordable housing.

Our federal housing policies cannot just be about building more affordable housing units. It must also be about improving the lives of the families, seniors, and disabled persons living in that housing. To that end, a top priority of National CORE is providing enriched supportive services to our residents, through our subsidiary Hope Through Housing.

Hope Through Housing is at the forefront in providing family self-sufficiency and financial literacy services, so families can pull themselves out of poverty. Our afterschool programs give youth a sense of belonging and a constructive way to spend their time. We help seniors and persons with disabilities access health care, through partnerships with major health care providers like Common Spirt and Inland Empire Health Plan ("IEHP").

Unfortunately, there is no reliable federal funding source for such resident services. In fact, while HUD has programs for service coordinators to help access already existing services in the community, there is no HUD program that directly funds resident services in low income housing. Moreover, the service coordinator programs that HUD does have exclude low income tax credit programs from eligibility, with most dollars going to public housing agencies.

That is why National CORE was pleased to support House bill H.R. 6602, the "Affordable Housing Resident Services Act of 2022,"[1] which would authorize $300 million for each of the next five years for supportive services for residents living in federally assisted low income housing. H.R. 6602 is supported by numerous national advocacy groups like the Corporation for Supportive Housing, the Housing Partnership Network, the Affordable Housing Tax Credit Coalition, and the National Leased Housing Association.

National CORE is also pleased that the recent House FY 2023 Labor HHS Appropriations bill included a $3 million in funding for demonstration program to provide resident services in federally assisted housing. Additionally, the House FY 2023 THUD Appropriations bill included Report Language that "recognizes the importance of supportive services in affordable housing properties as a proven solution to improving housing stability, employment, mental and physical health, and other benefits for low-income families" and asked for a GAO report on the subject.

We encourage the Senate to boost the funding level above the $3 million in demonstration funding in the House bill.

We also encourage Congress to take authorizing action on H.R. 6602.

At the same time, a strong case can be made that the simplest and most efficient way to provide federal resources for resident services in federally assisted housing is to create a supportive services tax credit, that complements the low income housing tax credits being used for housing construction.

The Affordable Housing Tax Credit Coalition (AHTCC), a trade organization of for profit and non-profit organizations involved in developing and financing affordable rental housing using low income housing tax credits, is the acknowledged leader in working to continuously improve the impact and effectiveness of the housing tax credit program. AHTCC would be an ideal organization to ask for guidance on how to structure a resident services tax credit.

From our perspective, an effective supportive services tax credit would allocate such tax credits to the states, which could then use their housing tax credit allocation process to additionally allocate these new tax credits for this purpose.

Basic components of such legislation could include:

(1) Eligible resident services—which should include economic self-sufficiency activities (including job training, financial literacy, financial counseling), after school programs, youth services, health services, assistance with mental health, alcohol and addiction problems, childcare and eldercare, and access to services in the local community.

(2) A specified amount of credit increase for providing the supportive services.

(3) Existence of an extended supportive services commitment for the project—identifying amounts to be spent on different services, certification (including re-certification every five years), and annual reporting to the housing credit agency on expenditures and outcomes.

(4) Responsibilities of the housing credit agency to establish criteria to determinate appropriate evidence based supportive services and a process for monitoring rule compliance.

(5) Provision for credit recapture in the case of non-compliance.

In closing, I thank the Committee for the opportunity to present this proposal, and would be happy to discuss it in more detail.

NATIONAL MULTIFAMILY HOUSING COUNCIL AND NATIONAL APARTMENT ASSOCIATION

The National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA) respectfully submit this statement for the record for the Senate Finance Committee's July 20, 2022, hearing titled "The Role of Tax Incentives in Affordable Housing."[1]

[1] *https://www.congress.gov/bill/117th-congress/house-bill/6602/text.*

[1] For more than 20 years, the National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA) have partnered in a joint legislative program to provide a single voice for America's apartment industry. Our combined memberships are engaged in all

ADDRESSING THE HOUSING AFFORDABILITY CHALLENGE

The apartment industry today plays a critical role in housing this nation's households by providing apartment homes to 36.8 million residents, contributing $3.4 trillion annually to the economy while supporting 17.5 million jobs.[2,3] At the same time, it is apparent that the nation is experiencing a significant challenge surrounding housing affordability that is exacerbated by an insufficient supply of multifamily housing.

Affordability has been a longstanding problem in housing. In 1985, 28.0 percent of all households were cost-burdened (paying over 30 percent of their income on housing), while 12.1 percent had severe cost-burdens (paying over half of their income on housing). Over 30 years later, these shares of cost-burdened and severely cost-burdened households increased to 35.8 percent and 18.0 percent, respectively.[4] The multifamily industry has faced even greater challenges: The total share of cost-burdened apartment households increased steadily from 42.4 percent in 1985 to 54.6 percent in 2019. During this period, the total share of severely cost-burdened apartment households increased from 20.9 percent to 29.9 percent.[5]

A historic unmet demand for multifamily housing reflects the nation's overall housing affordability challenges. The United States needs to build 4.3 million new apartments by 2035 to meet both future demand and the existing shortage of apartments.[6] Yet, rising costs, construction delays and labor shortages are making it increasingly difficult to build housing that is affordable to a wide range of income levels. Fully 97 percent of apartment developers reported experiencing construction delays in NMHC's most recent Quarterly Survey of Apartment Construction and Development Activity. A majority of respondents (83 percent) reported that deals have been repriced up over the past three months while 40 percent said labor costs increased more than expected. According to the Harvard Joint Center for Housing Studies, between 2012 and 2019, the price of vacant commercial land doubled, while the combined costs of construction labor, materials and contractor fees increased by 39 percent.[7] For comparison, the overall price level rose 11 percent.[8]

High regulatory costs are further constraining supply. Recent research published by NMHC and the National Association of Home Builders found that regulation imposed by all levels of government accounts for an average of 40.6 percent of multifamily development costs.[9] The research, which was based on a survey of 49 developers, finds that three quarters (74.5 percent) of respondents said they encountered "Not In My Back Yard" (NIMBY) opposition to a proposed development. Confronting that opposition adds an average of 5.6 percent to total development costs and delays the completion of those new properties by an average of 7.4 months.[10] Identifying duplicative and unnecessary regulatory costs is a critical factor as we work to address the critical shortage of affordable housing facing this nation.

While housing affordability is a significant challenge, the multifamily industry has long been at the forefront of addressing this issue. NMHC published its Housing Affordability Toolkit with HR&A Advisors in 2018 with the goals of both providing background on the underlying causes of the apartment industry's affordability crisis

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aspects of the apartment industry, including ownership, development, management and finance. NMHC represents the principal officers of the apartment industry's largest and most prominent firms. As a federation of 141 state, local, and global affiliates, NAA encompasses over 92,000 members representing more than 11 million apartment homes globally. One-third of all Americans rent their housing, and 36.8 million of them live in an apartment home.

[2] NMHC tabulations of 2020 American Community Survey microdata.

[3] Hoyt Advisory Services, National Apartment Association and National Multifamily Housing Council, "The Contribution of Multifamily Housing to the U.S. Economy," *https://www.weareapartments.org/*.

[4] NMHC tabulations of American Housing Survey microdata (1985–2019).

[5] *Ibid.*

[6] Hoyt Advisory Services, "Estimating the Total U.S. Demand for Rental Housing by 2035" (2022), *https://www.weareapartments.org/*.

[7] Harvard Joint Center for Housing Studies, "America's Rental Housing" (2020), available at *https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2020.pdf.*

[8] U.S. Bureau of Labor Statistics, CPI for All Urban Consumers (CPI–U), seasonally adjusted.

[9] National Association of Home Builders and National Multifamily Housing Council, *Regulation: 40.6 Percent of the Cost of Multifamily Development, https://www.nmhc.org/globalassets/research--insight/research-reports/cost-of-regulations/2022-nahb-nmhc-cost-of-regulations-report.pdf.*

[10] *Ibid.*

and providing specific tools that could be used to help defray the cost of building new apartments, allowing more units to be built at a variety of price points.[11]

We cited three main reasons for the worsening affordability conditions: (1) a chronic demand/supply imbalance; (2) a rise in the "lifestyle" renter (or renter by choice); and (3) an increase in overall development costs including materials and regulatory compliance. Together, these factors created a scenario that put the brakes on affordable housing production. It became increasingly challenging to buy land and build a property at rates that were broadly affordable. Furthermore, it was exceedingly difficult for lower-income renter households to find an apartment without becoming cost-burdened. In the time since the publication of the Affordability Toolkit, there has been a pandemic-induced economic downturn, one that put lower-income apartment residents particularly at risk financially.[12]

TAX POLICY CAN PLAY A KEY ROLE IN PROMOTING HOUSING SUPPLY

The multifamily industry wishes to work with Congress and the Biden Administration, which in May released a thoughtful Housing Supply Action Plan, to address these challenges.[13] While it will take a variety of tax and non-tax approaches to increase supply, we believe tax policy can play a critical role in this regard. To this end, we strongly urge Congress to:

- Expand and enhance the Low-Income Housing Tax Credit;
- Enact the Middle-Income Housing Tax Credit to support workforce housing;
- Enhance Opportunity Zones to incentivize the rehabilitation and preservation of multifamily buildings;
- Encourage the adaptive reuse of underutilized commercial properties into multifamily housing;
- Promote the rehabilitation of multifamily housing located near transit; and
- Support measures to help property owners retrofit properties to meet building performance goals in line with our national climate policy.

Each of these proposals is briefly described in the pages that follow, and we note that many have bipartisan support.

OVERVIEW OF PROPOSALS TO SUPPORT THE DEVELOPMENT AND PRESERVATION OF MULTIFAMILY HOUSING

Housing production is not a zero-sum game; we need to produce housing at prices that are broadly affordable across the income spectrum. Our nation's supply of multifamily properties is aging. In fact, 46 percent of apartment units were built prior to 1980, and 76 percent were built prior to 2000.[14] The country must build 4.3 million new apartment homes by 2035 to meet both projected demand and the existing shortage of apartments.[15] To address housing production and preservation, we recommend Congress enact the following policies:

Expand and Enhance the Low-Income Housing Tax Credit

The Low-Income Housing Tax Credit (LIHTC) is a public/private partnership that leverages federal dollars with private investment to produce affordable rental housing and stimulate new economic development in many communities. Since its inception in 1986, the LIHTC program has according to the A Call To Invest in Our Neighborhoods (ACTION) Campaign financed 3.6 million apartments and served 8 million households. The LIHTC program provides critical support to the nation's affordable housing production but could be made even more impactful.

NMHC and NAA strongly support the Affordable Housing Credit Improvement Act of 2021 (S. 1136/H.R. 2573). Introduced by Senate Finance Committee Members Maria Cantwell, Todd Young, Ron Wyden, and Rob Portman (and cosponsored by other committee members), this bipartisan bill would, among other provisions, make permanent the increased LIHTC credit authority enacted in March 2018 to enable the production of new units and further augment credit authority by 50 percent. The ACTION Campaign estimates this legislation would "result in the production of over 2 million additional affordable homes over the next decade, support the cre-

[11] *https://housingtoolkit.nmhc.org/.*

[12] *https://www.nmhc.org/research-insight/research-notes/2020/which-apartment-residents-are-most-affected-by-job-losses.*

[13] *https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/16/president-biden-announces-new-actions-to-ease-the-burden-of-housing-costs/.*

[14] NMHC tabulations of 2020 American Community Survey microdata.

[15] Hoyt Advisory Services, "Estimating the Total U.S. Demand for Rental Housing by 2035" (2022), *https://www.weareapartments.org/.*

ation of nearly 3 million jobs, and generate more than $346 billion in wages and business income and nearly $120 billion in additional tax revenue."[16]

Additionally, it should be noted that Congress enacted a 12.5 percent increase in credit authority for years 2018–2021. Given that this increase has now expired, the nation is experiencing a decrease in LIHTC resources. If Congress cannot agree to a substantial increase in credit authority over 2021 levels, it should at a minimum restore the reduction in credit authority.

Finally, the multifamily industry encourages Congress to enact the LIHTC Financing Enabling Long-term Investment in Neighborhood Excellence Act (LIFELINE Act) (S. 4181/H.R. 7078). Introduced by Senators Patrick Leahy and Susan Collins and cosponsored by Senate Finance Committee members Michael Bennet, Catherine Cortez Masto, Margaret Hassan, Sheldon Whitehouse, and Ron Wyden, this legislation would facilitate the use of the Coronavirus State and Local Fiscal Recovery Fund (SLRF) with the LIHTC program. Although the Treasury Department's final rule governing the SLRF technically enables funds to be used for affordable housing, it is either extremely challenging or impossible to do so in the context of a LIHTC development. The LIFELINE Act would address this issue by permitting states and localities to use SLRF to make long-term loans to LIHTC developments. Given the shortage of affordable housing and rising construction costs confronting the nation, it only makes sense to allow SLRF to be used to help make LIHTC projects financially feasible.

Enact the Middle-Income Housing Tax Credit (MIHTC) to Support Workforce Housing

Housing affordability is an issue threatening the financial well-being of solidly middle-income households in addition to low-income families. According to the Joint Center for Housing Studies of Harvard University, "the median asking rent for an apartment completed in the second quarter of 2021 was $1,669, a 17 percent increase from the same period in 2016."[17] For a renter to afford one of those units at the 30 percent of income standard, they would need to earn at least $66,760 annually. Moreover, the Joint Center reports that "Although much lower, the cost-burdened share of middle-income households increased the most in 2014–2019. The share of renters making between $30,000 and $74,999 with at least moderate housing cost burdens rose 4 percentage points to 41 percent, while the share with severe burdens rose from 7 percent to 8 percent."[18, 19] Accordingly, this is an issue impacting those workers who comprise the very fabric of strong communities nationwide, including teachers, firefighters, nurses and police officers.

Tax policies to spur the production of multifamily housing targeted to middle-income Americans should be a part of any legislation that seeks to address housing affordability on a comprehensive basis. We urge Congress to strongly consider the Middle-Income Housing Tax Credit that Senate Finance Committee Chair Ron Wyden introduced as part of the Decent, Affordable, Safe Housing for All Act (DASH Act) (S. 2820) to address the shortage of workforce housing available to American households. A worthy complement of measures to expand and improve LIHTC, the Middle-Income Housing Tax Credit (MIHTC) takes over where LIHTC leaves off. LIHTC is currently designed to serve populations of up to 60 percent of area median income. MIHTC is designed to benefit populations earning below 100 percent of area median income.

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[16] *https://rentalhousingaction.org/wp-content/uploads/2021/10/AHCIA-One-Page-Summary-September-2021.pdf.*

[17] Joint Center for Housing Studies of Harvard University, *America's Rental Housing 2022,* pg. 28, *https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2022.pdf.*

[18] Joint Center for Housing Studies of Harvard University, *America's Rental Housing 2022,* pg. 32, *https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2022.pdf.*

[19] NMHC has also done some additional tabulations of 2020 American Community Survey microdata. Looking at the 50 most populous metro areas in the 2020 American Community Survey microdata, just 4.4 percent of apartment units built in 2019 or 2020 were affordable (30 percent of monthly income or less) to apartment households making 60 percent of their metro's median apartment household income; 7.8 percent of apartment units built in 2019 or 2020 were affordable to apartment households making 80 percent of their metro's median apartment household income; and 16.8 percent of apartment units built in 2019 or 2020 were affordable to apartment households making 100 percent of their metro's median apartment household income. For this calculation, NMHC calculated the median apartment household income separately by unit type (*e.g.,* studio, one-bedroom, or two-bedroom) and assumed that households would only consider living in an apartment of a similar unit type.

Enhance Opportunity Zones to Incentivize Rehabilitation of Housing Units

Enacted as part of tax reform legislation in 2017, Opportunity Zones are designed to provide tax incentives for investments in distressed communities. Opportunity Zones hold great promise for the development of multifamily housing. Under the new program, Governors have designated over 8,700 qualified low-income census tracts nationwide as Opportunity Zones. Up to 25 percent of a state's qualified census tracts may qualify as Opportunity Zones, with each state having to designate a minimum of 25 Zones.

While we expect the Opportunity Zones program to be beneficial in spurring the production of new multifamily housing, the program could be improved with respect to incentives for the rehabilitation and preservation of existing multifamily units. Current regulations work against using this program to rehabilitate properties for affordable housing since the developer must double her basis in the property without consideration of the cost of land. In many cases, such significant renovation is unnecessary to preserve buildings and units that might otherwise be lost to obsolescence. Congress could leverage the Opportunity Zones program to promote the rehabilitation and preservation of multifamily units and, thereby, positively address the shortage of apartment units.

NMHC and NAA recommend that Congress consider statutory modifications to reduce the basis increase necessary to qualify a multifamily rehabilitation project for Opportunity Zone purposes. It is noteworthy that to qualify for an allocation under the LIHTC, owners must commit to rehabilitations valued at the greater of: (1) 20 percent of adjusted basis of a building; or (2) $6,000 ($7,400 in 2022 as adjusted for inflation) per low-income unit.

Encourage the Adaptive Reuse of Underutilized Commercial Properties into Multifamily Housing

With the COVID–19 pandemic modifying where Americans work and shop, the multifamily industry believes there is great promise in proposals to convert underutilized properties into multifamily housing. Office buildings, shopping centers, and hotels, for example, can be transformed into new units in places Americans want to live.

Notably, Senate Finance Committee member Debbie Stabenow, joined by Senate Finance Committee member Sherrod Brown as a cosponsor, has introduced the Revitalizing Downtowns Act (S. 2511) that would provide a 20 percent tax credit to convert office buildings into other uses, including residential use. Rep. Jimmy Gomez has introduced companion legislation (H.R. 4759) in the House of Representatives. The multifamily industry is interested in working with Congress on this type of proposal but would like to see it modified to enable other types of commercial properties (*e.g.,* shopping centers and hotels) to qualify for the tax incentive, as well as to ensure REITs could utilize the benefit.

Alternatively, the multifamily industry would encourage Congress to explore whether tax-exempt private activity bonds could be used as a means of promoting adaptive reuse. Housing finance agencies could issue such bonds to help facilitate adaptive reuse of underutilized properties, particularly in areas that have a plan to track discriminatory land-use policies as envisioned by the Yes In My Back Yard Act (YIMBY Act) (S. 1614/H.R. 3198).

Promote the Rehabilitation of Multifamily Housing Located Near Transit

NMHC and NAA strongly support bipartisan legislation that would provide a new tool aimed at encouraging greater community development and inclusive neighborhood revitalization. Introduced by House Ways and Means Committee member Earl Blumenauer and cosponsored by committee members Mike Kelly, Dan Kildee, and Darin LaHood, the Revitalizing Economies, Housing and Business Act (REHAB Act) (H.R. 1483) provides:

- A 15 percent tax rehabilitation credit for buildings that are more than 50 years old, not certified historic structures, and are within one-half of a mile of a public transportation station;
- Expanded credit eligibility to include building expansion on the same block; and
- A bonus credit of 25 percent for expenses related to public infrastructure upgrades and rent-restricted housing.

Strengthen Communities through Policies that Support Resiliency

Building utility costs are second only to debt service in terms of property expenses. Efficient use of resources, including updating building systems and appliances, is key to ensuring that housing remains affordable for residents. The multifamily in-

dustry has a long history of support for building-performance benchmarking and water and energy conservation and favors incentive-based strategies that improve building energy performance and community-wide resiliency efforts.

Building performance standards that overlook the age of the existing apartment stock and fail to consider the inherent efficiencies of compact development that is the hallmark of multifamily design buildings will exacerbate the shortage of affordable apartment units. Policies that provide financial assistance for owners to reinvest in higher-performing building systems and components outside of replacement pro formas will be critical to advancing building performance goals. Layering additional conditions on these investments, including requirements about the workforce that must be employed to make these renovations, will eliminate the utility of the efficiency incentives that have been available under Sec. 45L or Sec. 179D.

As Congress considers legislation to promote resilience and reduce greenhouse gas emissions across the economy, programs that address building energy performance are an essential element. Policymakers should resist applying one-size-fits-all efficiency mandates that will exacerbate the shortage of affordable housing in the near term. Incentives that enable developers to invest in engineering, construction and development costs that are required to build/rehab multifamily apartment homes will speed the development of higher-performing, more resilient housing that is affordable for renter households.

Make Permanent the New Energy Efficient Homes Credit (Sec. 45L): This tax credit has provided a necessary incentive for builders of apartment buildings (3 stories or fewer) to install higher performance building systems and upgraded appliances than they otherwise could justify within the pro forma for developing the property. While this credit was extended through 2021, it has subsequently expired and should be made permanent as an essential part of a national plan to boost production of high-performance buildings and reduce greenhouse gas emissions.

Improve the Energy Efficient Commercial Buildings Deduction (Sec. 179): This tax deduction has primarily been used to encourage energy-efficient new construction. However, since 179D's initial enactment in 2005, the intent has also been to encourage private-sector and non-profit owners to retrofit existing buildings. In this regard, Sec. 179D can be improved. Considering the age of current high-rise apartment building stock, Sec. 179D should be strengthened to encourage retrofits and, thereby, maximize the incentive's potential as an engine for sound tax, jobs, energy and environmental policy. Title I of the Energy Efficiency Tax Incentives Act (S. 2189), introduced by Senators Ben Cardin, Dianne Feinstein, and Brian Schatz in the 113th Congress, preserves the deduction's application for new construction and public buildings, while also meaningfully incentivizing private-sector and nonprofit retrofits.

NEW YORK STATE HOMES AND COMMUNITY RENEWAL
641 Lexington Avenue, 5th Floor
New York, NY 10022
www.hcr.ny.gov

KATHY HOCHUL
Governor

August 3, 2022

The Honorable Ron Wyden
Chairman
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Re: Senate Finance Committee Hearing of "The Role of Tax Incentives in Affordable Housing"

Dear Chairman Wyden and Ranking Member Crapo:

Thank you for conducting the July 20th hearing on "The Role of Tax Incentives in Affordable Housing." I write to you as the Commissioner and CEO of New York State Homes and Community Renewal inclusive of the NYS Housing Finance Agency and the State of New York Mortgage Agency which administer the State's housing credit and bond programs and the other federal and state affordable housing resources.

New York State, along with New York City, have long been the top two issuers of municipal housing bonds in the nation. With this valuable resource, the State has been able to finance the creation of much-needed affordable and supportive housing to low- and moderate-income individuals and families, as well as vulnerable populations such as those experiencing homelessness, seniors, veterans, and many others across the state in need of on-site supportive services in order to live independently.

Since 2011, our 4% Low Income Housing Tax Credit (LIHTC) and Private Activity Bond program has financed over 66,000 units of affordable housing to assist 150,000 New Yorkers. During the same period, our 9% Low Income Housing Tax Credit Program has provided $368 million in tax credit equity to create nearly 20,000 units.

The Federal Low-Income Housing Tax Credits are the most powerful and impactful financing tool in the development of affordable and supportive housing. By leveraging significant private investment together with tax incentives, these projects have had multiple positive impacts and helped address various complimentary policy goals beyond the expansion of affordable housing. These range from:

- Boosting community revitalization and countering disinvestment;
- Addressing environmental justice goals through restoration and reuse of brownfields;
- Preserving and repurposing historic structures;
- Lowering dependence on fossil fuels through highly energy-efficient and all-electric housing design;
- Reducing the concentration of poverty through mixed-income projects and creating affordable housing opportunities in well-resourced areas; and
- Creating jobs in stable, well-paying fields such as construction, finance, personal services and property management.

Despite New York's success in utilizing these programs, more needs to be done. The economic fallout from the COVID–19 pandemic and increasing inflation has resulted in skyrocketing rental costs that put the dream of homeownership out of reach for too many families. The affordable housing crisis demands more action by all levels of government.

To this end, New York State has taken significant steps on its own to tackle this crisis. In the 2022–23 State Budget, Governor Kathy Hochul introduced and successfully secured a new $25 billion, five-year, comprehensive housing plan that will increase housing supply by creating or preserving 100,000 affordable homes across New York including 10,000 with supportive services for vulnerable populations, plus the electrification of an additional 50,000 homes.

The State recently enacted legislation that will allow the New York City Housing Authority ("NYCHA"), the nation's largest public housing authority, to create a Public Preservation Trust that will unlock additional federal funding through tenant protection vouchers and lead to billions of dollars in critical repairs and improvements to more than 25,000 apartments in NYCHA developments across the City.

Additionally, the State of New York Mortgage Agency recently agreed to provide insurance coverage for a mortgage loan to Co-op City in the Bronx, the nation's largest middle-income building cooperative, so it could refinance debt to fund major rehabilitations and preventative maintenance.

But we must ask that our partners in the federal government provide more resources to aid in these efforts. Two immediate actions that can be taken are the passage of the Affordable Housing Credit Improvement Act (AHCIA) and the Neighborhood Homes Investment Act (NHIA).

The AHCIA, sponsored by Senators Maria Cantwell (D–WA) and Todd Young (R–IN), has garnered bipartisan support and, as you know, many members of the Committee on Finance have already agreed to co-sponsor it. Put simply, the AHCIA would expand and strengthen the federal Housing Credit and give a significant increase in credit allocation authority in the LIHTC 9% Program. Additionally, this legislation would lower the threshold of Private Activity Bond financing—from 50 to 25 percent—that is required to trigger the maximum amount of 4 percent Low Income Housing Tax Credits.

It is estimated that passage of this legislation would result in 2 million additional affordable homes over the next decade across the country. In New York, the State and City would be able to finance approximately 100,000 more homes over the next ten years, which would go a long way in addressing the State's housing crisis.

On the single-family side, the NHIA, introduced by Committee members Senators Ben Cardin (D–MD) and Rob Portman (R–OH), would establish a new tax credit, the Neighborhood Homes Credit, modeled after the Housing Credit. The NHIA would help incentivize developers to construct or substantially rehabilitate 500,000 affordable owner-occupied homes over the next 10 years.

The new credit would help close the "value gap" in distressed urban, suburban, and rural neighborhoods—where the cost of building or renovating a home is greater than the post-construction value of the property by offsetting up to 35 percent of eligible development costs. These credits provide a significant incentive for the private sector to invest in struggling neighborhoods across the nation and, moreover, help address the financial inequities caused by the racial disparity in homeownership rates among minority communities.

New York joins the chorus of state and local governments, housing advocates, and private business leaders that believe in strengthening and protecting the LIHTC. Incentivizing the creation of affordable housing can help reduce the nation's severe shortage of affordable rental housing, improve property values, decrease blight in communities across the country, and increase family wealth.

We thank you for your work in support of the creation of affordable housing and look forward to our continued partnership.

Very truly yours,

RuthAnne Visnauskas
Commissioner/CEO

UMH PROPERTIES
3499 Route 9, Suite 3C
Freehold, NJ 07728

Statement of Sam Landy, President and CEO

I am pleased to submit this statement for the record for the July 20, 2022 Senate Finance Committee Hearing on "The Role of Tax Incentives in Affordable Housing."

I am submitting this statement in order to request that the Committee consider adoption of legislation to amend the existing Opportunity Zone statute to allow the 10 year step-up basis treatment that currently exists for investments in Opportunity Zones to apply to targeted investments in manufactured home communities—without the requirement to link such treatment to a capital gain in the prior 180 months.

I am the President and CEO of UMH Properties, one of the premier owners and operators of manufactured home communities in the Nation. UMH Properties is publicly traded on the New York Stock Exchange. We currently own 131 manufactured home communities in 10 states with approximately 24,800 developed home sites. Seven of our communities are currently located in Opportunity Zones.

UMH Properties has a 53 year history of providing quality affordable housing in manufactured home communities. Videos of our communities are available on our website and showcase the high-quality affordable housing that can be delivered through the investment in manufactured home communities.

Manufactured housing is the most affordable homeownership option available for low and moderate income families in America. The average income of a manufactured home buyer is around $35,000—while the average income of a home buyer buying a site-built home is over $100,000. Commonly manufactured homes are less expensive to own than renting. Moroever, ownership of a manufactured home, with a fixed rate mortgage, provides protections against the main alternative option of renting for such families, where apartment rent increases have averaged almost 20% over the last year.

Manufactured home communities—also known as land-lease communities—are a critical model for the delivery of affordable manufactured homes. Thirty-one percent of new manufactured homes are currently being placed in manufactured home com-

munities. There are more than 43,000 land-lease communities in the U.S., representing almost 4.3 million home sites. These communities offer sites for families to place their manufactured homes, with professional management of the community and amenities that go with it.

One of the greatest challenges facing older manufactured home communities is the need for an infusion of funds to address neglected capital improvements like roads, sewer, and water. UMH Properties has been highly successful in purchasing aging manufactured home communities in need of significant capital repairs—in order to modernize them and thereby protect the value of the investments of the manufactured homeowners living in those communities at affordable land lease rental rates.

These purchases and improvements of aging communities require significant investments. UMH Properties has a total market capitalization of approximately $2 billion, with gross revenue of over $190 million per year. UMH invests over $70 million a year in new rental homes and capital improvements to improve our manufactured home communities. These investments allow us to provide our residents with the highest quality affordable housing at the most reasonable rates.

However, we could do so much more with enhanced access to investors that would result from a modest, targeted tweak to the Opportunity Zone program.

UMH is a strong supporter of Opportunity Zones, and we are pleased to report that we have secured some investments in Opportunity Zones, because of the financial investment incentives they offer.

However, the investors we do business with indicate that the Opportunity Zone requirement that investments be a reinvestment of funds from a capital gain in the preceding 180 days is a significant impediment, that narrows access to investments.

Because of the strong economic and social policy benefits of manufactured home homeownership, we would like to suggest a narrow targeted exemption from that requirement for investments in manufactured home communities.

Our suggestion is to allow investments in manufactured housing communities to have the 10-year step-up basis authorized in the Opportunity Zone statute—but without the requirement that funds be a reinvestment of a capital gain in the prior 180 days. Legislatively, this could be achieved in a simple manner, by creating a short new subsection in the statute that would grant authority for this.

With this change, we are confident that UMH Properties and other manufactured home communities nationwide could access significant new investment funds to help build and modernize communities nationwide that facilitate the most affordable homeownership option available—manufactured homes.

This approach is narrow and targeted. It would not facilitate investments that could be criticized as deviating from the objectives and intent of the Opportunity Zone program. It is limited to investments that facilitate affordable manufactured housing homeownership—a high priority for Congress and the Administration and an important public policy objective.

Finally, it would not allow investors to access the deferment and potential permanent elimination for capital gains that have already taken place. Since the latter is the most costly component of Opportunity Zone tax treatment and since the proposed flexibility is narrowly targeted to a specific limited activity, we believe the tax scoring cost of this provision would be very, very small, while the societal and economic benefits would be substantial.

In closing, I thank the Committee for the opportunity to submit this statement and I would be happy to make myself available to Committee staff to discuss this initiative in more detail.

U.S. MORTGAGE INSURERS
1101 17th Street, NW, Suite 700
Washington, DC 20036
https://www.usmi.org/

July 20, 2022

The Honorable Ron Wyden
Chairman
U.S. Senate
Committee on Finance
221 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
U.S. Senate
Committee on Finance
239 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Wyden and Ranking Member Crapo:

U.S. Mortgage Insurers (USMI) appreciates the opportunity to submit this letter for the record for the Committee on Finance's hearing titled "The Role of Tax Incentives in Affordable Housing." We are very pleased that the committee held a hearing on this important topic and USMI believes that there are tax policies that can be improved in order to help American family achieve the American Dream of homeownership. More specifically, we strongly support S. 3590, the Middle Class Mortgage Insurance Premium Act of 2022, a bipartisan bill introduced by Senators Maggie Hassan and Roy Blunt.

By way of brief background, USMI is a trade association comprised of the leading private mortgage insurance (MI) companies in the U.S. and represents an industry dedicated to a housing finance system backed by private capital that enables access to prudent and affordable mortgage finance for borrowers while protecting taxpayers.[1] The private MI industry is focused on ensuring that homeready borrowers continue to have access to affordable and sustainable mortgages within a well-functioning U.S. housing finance system. The private MI industry has a 65-year track record of underwriting and actively managing single family mortgage credit risk in order to facilitate access to low down payment conventional mortgages. Since 1957, private MI has helped more than 37 million families purchase a home or refinance an existing mortgage, including nearly 2 million families in 2021 alone.

Low down payment mortgages are critical for many families, most notably first-time, lower wealth, and minority homebuyers, to secure mortgage financing. Affordability remains a persistent barrier to homeownership across the country and MI helps bridge the down payment gap for borrowers who lack the resources for large down payments. In 2021 alone, approximately 4.6 million families obtained mortgages with some form of MI, including nearly 2 million conventional mortgages with private MI, nearly 1.4 million mortgages insured by the Federal Housing Administration (FHA), and nearly 1.3 million mortgages guaranteed by the U.S. Department of Veterans Affairs (VA). Further, the vast majority of borrowers with MI are first-time homebuyers, traditionally the driving force of the housing market. For purchase mortgages originated in 2021, nearly 60% of mortgages with private MI, 85% of FHA-insured mortgages, and 50% of VA-guaranteed loans went to first-time homebuyers.[2]

In order to make homeownership more affordable, USMI has long supported the tax provision allowing a deduction for MI premiums paid in connection with a mortgage on a qualified residence (MI Deduction). Since 2007, the MI Deduction has been a powerful tool in prudently promoting homeownership for low- and moderate-income (LMI) families. The provision has been extended several times with broad bipartisan support, including most recently in the Further Consolidated Appropriations Act of 2020. The MI Deduction expired on December 31, 2021 and, absent congressional action, 2022 will be the first time in more than 15 years that qualifying taxpayers cannot claim a deduction that has promoted access and affordability in the housing

[1] USMI membership comprises: Enact Mortgage Insurance; Essent Guaranty, Inc.; Mortgage Guaranty Insurance Corporation; National Mortgage Insurance Corporation; and Radian Guaranty, Inc.

[2] GSE aggregate data, VA Lender Loan Volume Reports, and HUD quarterly reports to Congress on "Financial Status of the Mutual Mortgage Insurance Fund."

finance system. During the time period when MI premiums have been deductible, millions of hardworking LMI households have benefited from the MI Deduction. For 2019, the most recent tax year for which detailed Internal Revenue Service (IRS) data is available, approximately 1.4 million households claimed the MI Deduction, for an average tax deduction of nearly $2,100.[3] Prior to the doubling of the standard deduction as part of the Tax Cuts and Jobs Act of 2017, more than 4 million households annually benefitted from the MI Deduction and utilization will likely return to those levels when the doubling of the standard deduction expires at the end of 2025.

However, two key aspects of the current MI Deduction diminish its effectiveness: (1) its temporary nature; and (2) its relatively low Adjusted Gross Income (AGI) phaseout. H.R. 6109 would modify current law to make the deduction permanent and expand taxpayer eligibility by raising the income level at which the phaseout begins, specifically increasing the income phaseout trigger to $200,000 for joint filers and $100,000 for single filers. This would be the first AGI adjustment for the MI Deduction since it took effect in 2007 and be a welcome statutory change to take into account the natural erosion of the value of the dollar with the passage of time. The MI Deduction is a sound and targeted tax policy that provides meaningful benefits to hardworking families across the country and should be a permanent part of the U.S. tax code. Home ownership remains the primary vehicle for families to enter the middle class and build long-term generational wealth, and the MI Deduction is an important tool for policymakers to support homeownership opportunities for more Americans.

S. 3590 is included as **Annex A** and bipartisan companion legislation, H.R. 6109, has been introduced by Representatives Ron Kind and Vern Buchanan. A June 2021 joint letter of support for making the deduction permanent and entirely eliminating the AGI phaseout from the Mortgage Bankers Association (MBA), National Association of Home Builders (NAHB), National Association of Realtors® (NAR), National Housing Conference (NHC), and USMI is attached as **Annex B.**

USMI thanks you for devoting needed attention to the extremely important issue of housing, especially around policies that promote affordable and sustainable homeownership, and stands available as a resource to the committee. We appreciate the opportunity to discuss the MI Deduction, a tax policy that has long enjoyed bipartisan support, and requests for additional information may be directed to Brendan Kihn, USMI's Senior Director of Government Relations, at bkihn@usmi.org or 202–280–1820.

Very truly yours,

Adolfo Marzol
Chairman

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[3] IRS, Individual Complete Report (Publication 1304), Table 2.1, Tax Year 2019. Available at *https://www.irs.gov/pub/irs-soi/19in21id.xls.*

Annex A

117TH CONGRESS
2D SESSION

S. 3590

To amend the Internal Revenue Code of 1986 to increase the income cap with respect to the mortgage insurance premium deduction, and to make such deduction permanent.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 7 (legislative day, FEBRUARY 3), 2022

Ms. HASSAN (for herself and Mr. BLUNT) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to increase the income cap with respect to the mortgage insurance premium deduction, and to make such deduction permanent.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Middle Class Mortgage Insurance Premium Act of 2022".

SEC. 2. INCREASING THE INCOME CAP FOR AND MAKING PERMANENT THE MORTGAGE INSURANCE PREMIUM DEDUCTION.

(a) IN GENERAL.—(1) Section 163(h)(3)(E) of the Internal Revenue Code of 1986 is amended—

(1) in clause (ii), by striking "$100,000 ($50,000" and inserting "$200,000 ($100,000", and

(2) by striking clause (iv).

(b) EFFECTIVE DATE.—The amendments made by this Act shall apply to taxable years beginning after December 31, 2021.

Annex B

June 17, 2021

The Honorable Ron Wyden
Chairman
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Wyden:

The undersigned organizations are writing in regard to the current tax treatment of mortgage insurance premiums. Our organizations represent a diverse coalition of stakeholders in the housing finance system, including lenders, real estate professionals, homebuilders, and mortgage insurers, and we appreciate the opportunity to provide our collective perspective on this important tax provision. As explained further below, to better support existing homeowners and prospective homebuyers, we

urge you to modify current law to make the mortgage insurance premium tax deduction permanent and to eliminate its income phaseout.

Affordability remains a persistent barrier to homeownership across the country and mortgage insurance helps bridge the down payment gap for borrowers who lack the resources for a 20 percent down payment or have less than perfect credit. Low down payment mortgages—including conventional mortgages with private mortgage insurance and loans with government mortgage insurance and loan guarantees through the Federal Housing Administration (FHA), U.S. Department of Veterans Affairs (VA), and U.S. Department of Agriculture Rural Housing Service (RHS)—have proven critical for many first-time, lower wealth, and minority homebuyers to secure financing and attain the American Dream of homeownership. Using low down payment mortgages allows families to buy home sooner than they otherwise would be able and to reap the benefits of homeownership, including financial stability and building intergenerational wealth. In calendar year 2020 alone, nearly 5 million families obtained mortgages with some form of mortgage insurance, including more than two million conventional loans with private mortgage insurance, nearly 1.4 million FHA-insured mortgages, nearly 1.4 million VA-guaranteed mortgages, and more than 140,000 RHS-guaranteed single-family mortgages.[4] Further, the vast majority of borrowers with mortgage insurance are first-time homebuyers, traditionally the driving force of the housing market. Low down payment lending options are critical for these first-time homebuyers, as evidenced by the fact that more than 80 percent of first-time homebuyers relied on low down payment options to purchase their home in 2020.[5]

Since 2007, the tax code has treated mortgage insurance premiums as qualified residential mortgage interest and they have been tax deductible, subject to an income phaseout for taxpayers with adjusted gross incomes (AGI) over $100,000 ($50,000 if single or married filing separately).[6] The mortgage insurance premium tax deduction was enacted in 2006 to address affordability concerns and has been extended on several occasions, including most recently by the Further Consolidated Appropriations Act of 2020.[7] During the time period that mortgage insurance premiums have been tax deductible, millions of low- and moderate-income homeowners have benefited from this provision of the tax code. Based on publicly available data from the Internal Revenue Service (IRS), the average deduction for mortgage insurance premiums has been approximately $1,500.[8]

However, two key aspects of the current mortgage insurance premium deduction hamper its effectiveness: (1) its temporary nature; and (2) its relatively low AGI phaseout. Further, the mortgage insurance premium deduction is the only itemized deduction subject to an AGI cap and/or phaseout. As you know, the Tax Cuts and Jobs Act of 2017 (TCJA)[9] modified numerous aspects of the tax code and doubled the standard deduction. While millions of households still claim this deduction, no doubt this change, in concert with the current AGI phaseout, has significantly reduced the number of homeowners who benefit from the deduction. Prior to the enactment of the TCJA, more than 4 million taxpayers claimed the deduction each year and estimates indicate that about 2.4 million taxpayers claim the deduction each year post-TCJA implementation.[10] The current AGI phaseout represents a burdensome eligibility criterion for American families to claim the mortgage insurance deduction and millions more homeowners would benefit from a permanent extension that eliminates the AGI phaseout.

Thank you for your consideration of our recommendation that the mortgage insurance premium tax deduction be made permanent and that the AGI phaseout be eliminated. We welcome the opportunity to further engage on this important issue to support access to affordable mortgage financing for American families.

Very truly yours,

Mortgage Bankers Association

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[4] GSE aggregate data, HUD quarterly reports to Congress on "Financial Status of the Mutual Mortgage Insurance Fund," VA Lender Loan Volume Reports, and Housing Assistance Council Tabulations of RHS 205 Report Data.

[5] Enact MI First-Time Homebuyer Market Reports.

[6] 26 USC 163(h)(3)(E).

[7] Pub. L. 116–94 (December 20, 2019).

[8] For example, for tax year 2017 there were 2,285,440 returns that claimed the mortgage insurance premium deduction for a total amount of $3.376 billion, with an average deduction of $1,477.

[9] Pub. L. 115–97 (December 22, 2017).

[10] Analysis of IRS data for tax years 2012–2018.

National Association of Home Builders
National Association of Realtors®
National Housing Conference
U.S. Mortgage Insurers