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**Re: Response to Request for Information, 84 Fed. Reg. 64,549 (Nov. 22, 2019)  
Docket No. FR-6187-N-01, Eliminating Barriers to Affordable Housing**

**Introduction**

On behalf of the 1.4 million members of the National Association of REALTORS® (NAR), I am submitting these comments to respond to the Department of Housing and Urban Development’s (HUD) Request For Information (RFI) regarding laws, regulations, and administrative practices that raise the costs of affordable housing and contribute to the current low housing inventory.

NAR believes that safe and affordable housing is critical to America’s families, communities, and businesses. NAR’s advocacy supports federal policies that increase affordable housing supplies, preserves the mortgage interest deduction and stabilizes the Government Sponsored Enterprises (GSEs) to ensure liquidity in mortgage markets. However, despite the success of such pro-housing policies over the decades, the nation is confronting a housing crisis, where inventory is at an all-time low and costs are beyond the reach of low- and middle-income families.

Dramatic increases in home prices and a lack of housing inventory is caused by many factors outside the control of the real estate industry. These include: restrictive zoning and land-use regulations by local governments; increased costs of labor and materials; stricter building codes and a “not in my backyard” (NIMBY) movement that impedes the development of high-density housing projects. NAR offers HUD a series of policy prescriptions that encourages all levels of government – in partnership with the private sector – to collaborate to provide safe and affordable housing for all Americans.

However, NAR would first like to commend and thank the Administration for the work it has already done in several of these areas. Since May of 2019, when we provided comments related to the creation of the White House Council on Eliminating Regulatory Barriers to Affordable Housing, several regulatory actions have been taken which contribute to enhanced housing affordability. These actions included:

- **Finalizing the FHA Condo Rules** – Condos are often the most affordable option for first-time buyers, urban dwellers, and those wishing to downsize. Reforming the Federal Housing Administration’s (FHA) condo rules should yield thousands of new homeownership opportunities and help alleviate affordability restraints impacting markets across the country.
- **Repealing and replacing WOTUS** - Thank you for repealing the 2015 Waters of the U.S. rule (WOTUS) and replacing it with a commonsense regulation that more clearly defines the regulatory limits of the Clean Water Act. The Navigable Waters Protection Rule will provide predictability, reduce red tape and lower costs for real estate developers, which will lead to the construction of more homes in all real estate markets.
- **Creating Qualified Opportunity Zones** – We applaud the creation of the White House Opportunity and Revitalization Council, chaired by Secretary Ben Carson. Opportunity zones have great potential to address housing affordability across our country. HUD has also provided additional incentives for development in opportunity zones through FHA products.



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## Federal Policy Suggestions

These are policy suggestions for federal legislation or programs that could be created or reformed to incentivize private sector development activity, especially in low-to middle-income real estate markets:

- **Mortgage market liquidity** - Re-focus the mission of Fannie Mae and Freddie Mac on liquidity in the mortgage markets for low- and middle-income homebuyers.
- **CRA reform** - Clarify existing regulations under the Community Reinvestment Act (CRA) so banks can receive “credit” in serving the mortgage and other lending needs of middle-class households and geographies (in the range of 80% to 120% of an area’s median income).
- **Improved underwriting criteria** - Consider whether the underwriting criteria used by FHA and the GSEs are unduly restricting access to mortgage credit for first-time homebuyers, saddled with student loan debt.
- **Update private flood insurance regulations**— In many instances, the private flood insurance market now offers higher quality coverage at more affordable prices than the National Flood Insurance Program (NFIP). Yet, due to decades old regulations, FHA only allows NFIP coverage resulting in otherwise suitable home loan transactions failing to close and in direct conflict with all of the other federal lending authorities, which mandate acceptance of certain private flood insurance. Updating these regulations would remove the conflict with other agencies and meet FHA’s twin objectives of affordability as well as sustainability.
- **G-Fee Reductions** – A G-fee reduction could occur 6 months after purchase through payments credited against homeowner’s principle. The fee is not capitalized into the price and it builds capital against a default, thus protecting the GSEs and taxpayers.
- **VA Home Loans** - The VA home loan guarantee program has helped millions of veterans purchase and maintain homes. But today, veterans are at a disadvantage when buying a home, because VA limits the fees which a veteran can pay. VA should ensure that veterans are able to negotiate all reasonable and customary fees as part of the real estate transaction.
- **Incentivize YIMBY** - Foster a “Yes in My Backyard” – or “YIMBY” – market to encourage states and localities receiving federal dollars to reform high-density zoning and other land-use rules.
- **Improve LIHTC** – The Low-Income Housing Tax Credit (LIHTC) has been a very successful program which produces affordable housing in the United States. The amount of tax credits allocated to each state should be increased by 50% over current levels. Changes should also be made to incentivize the construction or preservation of affordable housing.
- **Unnecessary Fees** – VA, FHA and the GSEs all have increased premium fees that help fund other programs. Federal loan insurance should be sufficient to cover the risk of the loan and nothing further. Artificially increasing the cost of housing is unfair to those purchasing a home, and can prevent otherwise eligible buyers from qualifying for a home.

## Federal Programs Incentivizing State and Local Action to Improve Affordability

- **HUD Counseling Program** - Consumers that participate in homebuyer education and/or counseling are often eligible for financial assistance programs to help purchase a home. HUD should develop programs that reward local counseling agencies and local governments to work collaboratively to increase public awareness about counseling availability and value. Consumers who participate in counseling should be eligible for reduced mortgage insurance fees.
- **Community Development Block Grant (CDBG) Funds** – Encourage states and localities to update their comprehensive housing and development plans periodically to include activities to address barriers to housing affordability to receive these resources. If they do so, their reward would be to receive additional CDBG funds.
- **Oppose Rent Control** – Studies have shown that rent control destabilizes housing markets and results in a dearth of new construction, lack of rehabilitation, and only minimal maintenance on the existing housing stock. Disincentives could be integrated in grant programs like CDBG and HOME to prevent communities from putting such provisions into place. Reducing rent control would restore the normal operations of the real estate market, resulting in increases in demand, inventory, and affordability.
- **Expand 203k program** – FHA’s 203k program is a valuable tool that allows homeowners to purchase and rehabilitate a home. In a number of communities, there is a significant need for rehabilitation of vacant housing. By allowing individual investors the opportunity to use the 203k program, this housing could again be available housing stock. To combat the previous abuse of the program, controls could be put in place to ensure appropriate use and appropriate valuation of rehabilitated properties.
- **Incentivize Voucher Usage** - Landlords are discouraged from accepting housing choice vouchers in their conventional units due to the burdens placed by housing authorities, and the uncertainty of voucher funding. However, there are a number of policies that housing authorities and HUD can implement that will make the process for voucher tenants more similar to conventional tenants. These include security deposits that match conventional; quicker inspection times; reserves for damage; and quick response to concerns about tenant’s payments or damage to property.

- **Infrastructure** – Infrastructure improvements have been shown to enhance property values by creating livable communities and enhancing economic vitality. Poorly maintained streets and traffic congestion impose extra costs throughout the local economy. Infrastructure funding should be sufficient to maintain the current physical condition and level of performance of highways and transit systems while making improvements to reduce congestion and foster economic growth. This funding should also consider all transportation users; and should be inclusive so that critical systems, such as water systems or ports, are prioritized when maintaining a community’s infrastructure.

### State and Local Policy Suggestions

NAR received voluminous information from our state and local boards and associations about programs and practices that could be reformed or improved to address housing affordability concerns. The following are common themes and areas of agreement among our state and local associations:

- **Accessory Dwelling Units (ADUs)** – Allowing for development of ADUs is a simple way to increase density in residential neighborhoods, and can increase the affordable housing stock. State and local laws and ordinances can be well-crafted to protect the rights of property owners and concerns of neighbors about increased traffic or demand for resources.
- **Zoning** – One of the biggest impacts on the development of affordable housing is zoning laws. Local and state governments use zoning to regulate land use. The growth of local economies will be spurred if new jobs and migration are matched with homeownership opportunities in attractive, viable neighborhoods. Zoning should meet locally defined community needs; should create viable neighborhoods by providing economic opportunities; should include preservation and development of housing that aligns with incomes of the workforce and improved community facilities; and should encourage innovative development techniques.
- **Impact Fees** – Impact fees are used to finance roads, schools, affordable housing, transit systems, and other projects and services in municipalities throughout the United States. The fees are frequently passed on by developers to purchasers in the price of a new property and, therefore, increase the cost of housing and decrease the profitability (and therefore the impetus to develop) of building housing. If used, these should be limited to development needs in the immediate area.
- **Housing Needs Assessments** Local Governments should conduct regular market assessments and studies to determine how well the supply is meeting demand for various income levels and household sizes to ensure a strong economy.
- **Task Forces** - Local Governments should convene a cross-sector task force comprised of agencies, advocacy groups and non-profit service providers in areas including housing, transportation, education, workforce and health to create and maintain a dialogue on emerging issues, policy solutions and best practices to ensure a comprehensive approach to addressing affordability challenges.

Thank you for your consideration of these comments to address the housing affordability crisis. Although NAR believes there is no single solution to promoting housing affordability and increasing housing supplies, NAR does believe that a broad-based policy approach to bring safe, decent, and affordable housing to low-income households, as well as methods to enhance the availability of affordable middle-income housing, can be achieved. We look forward to working with you to reach these goals and provide access to the American dream of homeownership.

Sincerely,



Vince Malta

2020 President, National Association of REALTORS®