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May 17, 2021

Ms. Erika Poethig
Special Assistant to the President for Housing and Urban Policy
Domestic Policy Council
1600 Pennsylvania Ave NW
Washington, DC 20500

Dear Ms. Poethig,

On behalf of the National Association of REALTORS® (NAR) and its Public Policy Coordinating Committee (PPCC), I thank you for meeting with us to discuss the work of the Domestic Policy Council. We appreciated hearing your thoughts on how housing fits into President's Biden's American Jobs Plan and your acknowledgement of the serious shortage of available inventory of homes to purchase. We also valued your comments about the Administration's work to address racial equity and support underserved communities, especially with regards to access to mortgage credit and homeownership. As a follow-up to our meeting, we would like to share several of NAR's housing policy initiatives below.

Economic Benefits of Investing in US Housing as Critical Infrastructure

As we discussed at the PPCC meeting, the number of housing units for sale is at its lowest in almost 50 years given the vast scale of underbuilding and the lack of residential investment over the past 15 years. The lack of investment in housing in our country has made buying a home much more expensive and out of reach for many credit-worthy Americans. This lack of affordable housing supply limits wealth building, economic growth and job creation. According to new research by the Rosen Consulting Group (RCG), this prolonged shortfall in housing construction and renovation has translated into $4.4 trillion in lost economic activity during the past two decades.[1] RCG estimates that building 550,000 additional new homes per year for the next ten years would support 2.8 million new jobs nationwide and generate $411 billion per year in additional economic activity.

Solutions to Address Lack of Housing Supply

The National Association of REALTORS® thanks the Biden administration for making housing a major priority in the American Jobs Plan by investing $213 billion to "build, preserve, and retrofit more than two million homes and commercial buildings to address the affordable housing crisis." NAR is also

[1] Rosen Consulting Group. *Economic Benefits of Investing in US Housing as Critical Infrastructure*, 2021.

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working hard to advocate for solutions to increase housing supply, such as tax credits to lower the cost of converting under-utilized commercial properties to residential units, reduced capital gains tax rates to incentivize the sale of investor-owned rental properties to owner-occupants, improved GSE policies that allow affordable access to credit for first-time homebuyers and second-home purchasers, use of 1031 like-kind exchanges and other incentives to encourage pro-housing policies at the local level and the rehabilitation of owner-occupied homes in low and moderate-income communities.

Increase Incentives for Pro-Housing Policies at the Local Level

NAR supports the bipartisan Housing Supply and Affordability Act, which creates a Local Housing Policy Grant program for cities, states, tribes, and regional associations to enact pro-housing policies at the local level. NAR also supports the expansion of the Low-Income Housing Tax Credit and enactment of the Neighborhood Homes Investment Act (NHIA) that was included as part of the American Jobs Plan. The NHIA would offer tax credits to attract private investment for building and rehabilitating owner-occupied homes, creating a pathway to neighborhood stability through sustainable homeownership. The legislation would also expand homeownership opportunities and provide a powerful incentive to build and rehabilitate 500,000 homes for low- and moderate-income homeowners over the next decade.

Support 1031 Like-Kind Exchanges

NAR urges support for 1031 like-kind exchanges, which promote liquidity, encourage additional investment, and help small and minority-owned businesses expand and grow. By allowing property owners to defer capital gains taxes without a threshold limit, the like-kind exchange encourages and channels those dollars into real estate in underserved areas. For example, David Doig, President and CEO of Neighborhood Initiatives, developed a national grocery store in the food desert of a Chicago's Southside Bronzeville neighborhood. The site was formerly the demolished Ida B. Wells Public Housing Complex where it remained a vacant lot for more than 15 years. David's company developed a Mariano's grocery store in its place and then a New York investment group purchased the new development through a 1031 like-kind exchange. This outside capital infused a rebirth of jobs, housing, and commerce into the community.

Allow Tax Credits to Lower the Cost of Converting Commercial Properties to Residential Units

The current pandemic has exacerbated the shortage of residential units for sale, but has also contributed to a rise in unused or under-utilized commercial properties in many U.S. real estate markets. Vacancy rates are bound to decline as retail establishments start operating at higher capacity, travel for pleasure and business resumes, and more workers start heading back to the office once the population is broadly vaccinated and the pandemic ends. However, the lasting effect of the pandemic on work and consumer spending patterns— a hybrid work style, virtual events, and more online shopping— will most likely lead to the permanent underutilization of some commercial real estate properties.

NAR supports creating incentives to convert some of this unused commercial space into residential units. This could include affordable rental or owner-occupied housing, condominiums, or townhouses depending on what makes economic sense and meets the needs of the area. One such incentive could be a "commercial to residential conversion tax credit" that roughly follows the current-law rehabilitation tax credit of section 47 of the Internal Revenue Code. While many of the restrictions of section 47 are probably unnecessary and unwise for this new incentive, it makes sense to have basic limitations to ensure against abuse. For example, limiting the credit to older and historic buildings is likely not going to achieve the full purpose of the incentive. Such a conversion tax credit, if wisely crafted, could significantly lower the cost of creating more residential units, thereby producing a four-way win by:

- Increasing the number of residential units available for sale or rent, thus making them more affordable;
- Decreasing the amount of excess commercial space, thus bolstering this sagging sector of the economy;
- Increasing economic growth and creating jobs; and
- Producing much-needed revenue at every level of government.

Use Capital Gains Tax Reductions to Incentivize the Sale of Investor-Owned Properties

One major reason for the record low number of homes for sale today is that millions of houses that were once owner-occupied became rental units in the wake of the housing crisis of 2008. From 2005 to 2019, the number of single-family houses that are rented grew by over 3.1 million. Naturally, when families renting a home move to another residence, the house they leave most often will see another renting family move in, while most owner-occupied homes are sold to another owner-occupant when the first owner moves away. Thus, the conversion of a single-family home from owner-occupied status to rental status has major implications on the number of homes available for sale in the future.

A relatively rapid way to increase the number of homes available for purchase would be to incentivize the reversal of this trend of owner-occupied homes moving to rental status. For example, one such incentive could be the offer of a more favorable capital gains tax rate (zero or a rate that is significantly less than current law) for investors of rented single-family homes who sell them to first-time homebuyers. Such an incentive could persuade someone who was already planning to sell the house to find a buyer who would live in it as a first-time owner-occupant instead of selling it to another landlord. Or the investor might even decide to sell the property to such a buyer under these favorable terms at a time when he or she might normally have not considered disposing of the property at all.

Given the hesitancy that some might have to reward large corporate or institutional landlords through lower taxes, the incentive could be crafted in a way that only includes individual or smaller pass-through owners as eligible for the reduced rate. This could still result in hundreds of thousands of homes moving into the for-sale inventory column and making the American Dream of homeownership much more likely for many.

Safeguard affordable financing for First-Time Homebuyers and Second Homes

The agreements between the federal government and the Government Sponsored Enterprises (GSEs), known as preferred stock purchase agreements (PSPAs), were updated on January 14, 2021. The new agreements limit the GSEs' annual volume of second home and investor property loans at 7%, and limits the number of loans for borrowers with multiple risk factors, like first-time homebuyers. With second home and investor loans making up between 7-12% of the market since 2008, the 7% cap could have a significant and detrimental impact on both the second home and under-served markets. Some buyers may be forced to use more expensive portfolio or PLS loans or forgo their purchases all together—further limiting the number of homes on the market for sale. The GSEs already screen and price for these risks and use more than $1 billion in profits annually from investor homes to support first-time buyers and the under-served, making these changes unnecessary and detrimental to the housing market.

Furthermore, NAR supports transitioning Fannie Mae and Freddie Mac to systemically important financial market utilities (SIFMUs) as the most effective and least disruptive way to lock in their critical role in the market. As market utilities they would support the charter duties including supporting a national market as well as underserved communities and countercyclical role, while utilizing private capital to protect taxpayers, and private ownership to optimize innovation, but in a sustainable, mission-driven structure.

Ensure Fair Housing for All

NAR strongly supports public policies that help redress the legacy of the past and combat the systemic barriers to homeownership resulting from it. NAR supports the Fair Housing Act's directive that all federal agencies with housing or housing finance portfolios, as well as their funding recipients, affirmatively further fair housing. NAR looks forward to working with HUD to develop a new AFFH rule that will restore its focus on examining and addressing segregation in our communities, and to working with the Domestic Policy Council to address the AFFH commitments of all federal agencies.

NAR also supports strong enforcement of fair housing laws to eliminate the ongoing discrimination that the 2019 *Newsday* investigation reminds us still exists. Last July, NAR called on HUD to withdraw its proposed rule weakening the agency's interpretation of the disparate impact theory of liability under the Fair Housing Act, and will work with HUD to develop a new rule that better hews to the Supreme Court's *Inclusive Communities* decision. NAR supports increased funding for HUD's Office of Fair Housing and Equal Opportunity, increased funding for discrimination testing, and strengthening the capacity of the nation's private fair housing groups receiving funds under HUD's Fair Housing Initiatives Program to carry out impactful fair housing enforcement activity.

In early 2020, NAR launched its “ACT! Initiative,” a fair housing action plan emphasizing accountability, culture change, and training. As part of “ACT!,” NAR is launching a self-testing program for brokerages to assess their agents’ compliance with fair housing laws and correct fair housing problems. NAR is engaged in efforts to strengthen fair housing education and enforcement provisions in state real estate licensing laws. We are pioneering new forms of anti-discrimination training, including implicit bias training customized for the real estate context, and an interactive simulation that put agents in the role of consumers experiencing discrimination, along with video testimonials of real people who have been impacted by housing discrimination. NAR is producing films about REALTOR® fair housing champions to inspire and motivate our members to lead the charge in advancing fair housing in their businesses and communities.

Protect the Stability of the Residential Rental Sector

NAR advocated for and applauds the creation of the federal Emergency Rental Assistance Program and the nearly $47 billion dollars Congress appropriated for it to assist renters unable to pay rent due to COVID-19 and provide relief to property owners struggling to make mortgage payments and cover operational expenses on buildings due to unpaid rent. Now, as employment and vaccination rates go up around the country and many areas begin to return to a state of normalcy, these funds will play a crucial role in returning stability to the rental housing industry by allowing many renters to return to reduce or completely pay their debt to their housing provider and return to a normal payment schedule. To accomplish that, those funds must be disbursed efficiently to housing providers, with as little burden as possible on them and their tenants seeking assistance. The Treasury Department guidelines have provided the states with a good blueprint to base their programs on, and we look forward to the launch of the centralized online hub for both housing providers and renters to find information about their local program and other sources of assistance they can utilize.

We appreciate the opportunity to share our ideas for increasing housing supply and advancing fair housing in the US and are happy to answer any follow-up questions you may have. We look forward to continuing to work with you and the Biden-Harris Administration to ensure that more Americans can achieve the dream of homeownership.

Sincerely,

Charlie Oppler
2021 President, National Association of REALTORS®