HEARD FROM HUD

The Case for Eliminating Regulatory Barriers to Housing

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Housing affordability has become an increasingly popular topic within the media, primarily due to the impact it has on families' pocketbooks. In 2017, more than thirty-five million renter and owner households spent greater than thirty percent of their incomes on housing ("cost-burdened"), and more than eighteen million renter and owner households spent greater than half of their incomes ("severely cost-burdened").

Although rising housing costs can be attributed to a variety of factors, one major area continues to garner bipartisan attention: the need to reduce regulatory barriers that unnecessarily increase the cost of construction and development and decrease the supply of housing. Artificial, arbitrary, and unnecessary regulatory and administrative burdens increase the cost of building and development and constrain a community's ability to increase its supply of housing. One study has found that regulations at all levels of government account for nearly twenty-five percent of the cost of new single-family home construction and development on average.[1] For new multifamily construction and development, regulations at all levels account for between thirty-two and forty-two percent of project cost,[2] particularly in high cost areas.

The Trump administration is intensely focused on this issue, principally manifested on June 25, 2019, by the creation of an inter-agency White House Council on Eliminating Regulatory Barriers to Affordable Housing.

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1. Paul Emrath, *Government Regulation in the Price of a New Home*, HousingEconomics.com (May 2, 2016), http://www.nahbclassic.org/generic.aspx?sectionID=734&genericContentID=250611&channelID=311&_ga=2.252928649.1887109764.1566494640-1023550401.1566494640.

2. Paul Emrath & Caitlin Walter, *Regulation: Over 30 Percent of the Cost of a Multifamily Development*, Nat'l Ass'n of Home Builders & Multifamily Hous. Council (June 2018), https://www.nmhc.org/contentassets/60365effa073432a8a168619e0f30895/nmhc-nahb-cost-of-regulations.pdf.

This council, which I have the privilege to chair, is tasked with (among several things) reviewing laws, regulations, and administrative practices on all levels of government that artificially raise the costs of development and contribute to shortages in housing supply; identifying practices and strategies that most successfully reduce and remove said laws, regulations, and administrative practices; assessing the actions that each council member agency can take to reduce regulatory barriers that unnecessarily raise the costs of housing development; and recommending federal, state, local, and tribal actions that can ultimately reduce regulatory barriers to the development of affordable housing.

The U.S. Department of Housing and Urban Development (HUD) will continue to do its part to reduce regulatory barriers at the federal level and will work with our agency partners to do the same. One recent example is the issuance of a new rule that will ease restrictions on using FHA mortgage insurance to purchase condominiums (the "condo rule") that has increasingly become a critical source of entry-level housing. However, as acknowledged by the executive order, reducing the regulatory underbrush on the development and construction of housing requires the participation of all levels of government. Regulatory barriers—including minimum lot size requirements or restrictive density allowances, undue parking requirements, inordinate impact and developer fees, and protracted permitting and entitlement review processes—are known to inhibit development and to lead to a daunting shortage in housing supply for low- and middle-income households. Many communities are grappling with this issue, and states and localities are responding with various strategies. For example, San Diego has demonstrated a concerted effort by expediting permitting for projects that meet specified standards of sustainability and affordability. Many other communities such as Denver, Colorado; Leesburg, Virginia; and Goodyear, Arizona have set up one-stop administration of permitting processes.

Reviewing and modernizing outdated regulations, laws, and ordinances with an eye towards facilitating housing development or preservation is a useful exercise regardless of a community's market conditions. However, the practice is especially needed in Opportunity Zones. This new federal place-based initiative, created through the 2017 Tax Cuts & Jobs Act, encourages investors with capital gains to deploy money into economically distressed neighborhoods. By investing in these low-income areas certified as Opportunity Zones, *investors can benefit from various tax elections*.

The White House Opportunity and Revitalization Council, which is led by Executive Director Scott Turner and which I have the honor to chair, is the federal government's inter-agency group focused on targeting, streamlining, and coordinating federal resources and support towards the nation's 8,764 Opportunity Zones. In fact, the council has already undertaken more than 150 action items[3] across the member agencies. Through

3. White House Opportunity & Revitalization Council, Completed Program Targeting Actions (2019), *available at* https://www.hud.gov/sites/dfiles/documents/OppZone_Agency_Completed_Actions_2019_0808.pdf.

this council, we are also learning the strengths, weaknesses, and areas of potential growth for these historically underinvested communities, as Scott Turner and our team have already visited more than forty cities since mid-April. During these travels, all types of community stakeholders have a common question that remains at the forefront: "How do we attract investment into our Opportunity Zones?"

As we approach the two-year anniversary of the Opportunity Zone legislation, it is clear that cities and localities are continuing to look for ways to maximize this initiative for their economically distressed areas. There is not a one-size-fits-all answer to the question above, yet taking a close look at the local regulatory environment can be a useful strategy. The real estate community yearns for the closest thing to certainty in terms of budget and scheduling before committing to a project, and thus providing the comfort of knowing to developers and investors—as it relates to approval processes—makes a world of difference. Most importantly, identifying key community needs and tailoring zoning parameters to achieve those needs should be a priority for local officials.

One case study that should be given attention is being played out in the city of Austin, Texas. The city's Planning Commission is currently considering an initiative that would modify the city code to allow Opportunity Zone property with general commercial services zoning to add, if desired, a vertical mixed-use designation. The idea behind the proposed initiative is to facilitate and secure more housing production—particularly affordable housing—in conjunction with commercial activity. While this may not be the ultimate problem-solver in addressing housing shortfalls, it is exciting that localities are viewing Opportunity Zones as a newfound way to rethink strategies around housing supply and affordability.

HUD's work on reducing regulatory barriers to housing and revitalizing distressed communities is indicative of our strong commitment to improving the quality of life for Americans living in urban, suburban, and rural areas. Fortunately, many non-profit organizations and private sector businesses are deeply committed to this same goal. Working together with the general public, we are confident that we can make real progress in addressing some of our nation's most pressing housing and community development challenges.