

October 21, 2015

The Honorable Jeb Hensarling  
Chairman  
Committee on Financial Services  
United States House of Representatives  
2129 Rayburn House Office Building  
Washington, D.C. 20515

RE: The Future of Housing in America: 50 Years and its Impact on Federal Housing Policy

Dear Mr. Chairman:

Thank you for inviting me to address the Committee on Financial Services with respect to the Future of Housing in America.

Assessing 50 years of policy at the United States Department of Housing and Urban Development (“HUD”) on several pages certainly is a challenge. The overarching theme of this testimony is not so much focused upon the past or previous impact: HUD and its many arms have undoubtedly impacted housing policy over the decades in both positive and negative ways.

Better serving all Americans, but particularly the elderly, the disabled, very low income, and low income Americans, should always remain at the core of our Nation’s policy. Over its existence, HUD has succeeded in carrying out Congress’s intent in some ways and failed in others, but regardless, HUD and its various components have remained indispensably relevant to the Nation’s housing policy equation. For purposes of this testimony, the normative value of that impact – good, bad, positive, negative or neutral - is less emphasized in favor of asking this Committee to consider the possibility of rebuilding the future foundation of housing policy by moving towards a legislative policy that is relevant to our century, not the twentieth century.

This testimony suggests that the issue to be focused upon be more about change and less about HUD's past impact. Over the years, HUD, to a greater or lesser degree, has been and remains a relevant governmental and market influence in the segment of housing with which it is charged by Congress. HUD administers a significant budget and, through the FHA, insures single family, multifamily, and other assets valued in the trillions of dollars. Focusing on future policy is critical given our vast investment in housing.

This testimony suggests that the focus should be placed upon HUD's capacity to determine when it should become more active in the part of the marketplace in which it is a participant and when it should not. That matter is more about nimbleness, not relevance, and HUD is certainly many things but rarely nimble.

HUD's future business model will be determined in this body. This testimony proposes that the issue should be where to begin, not whether to begin. As a starting point, a critical area in which Congress should first invest really should relate to our century's model: give HUD the tools to obtain usable, scalable, shareable, and relevant information acquisition and dissemination capacity that all of HUD's stakeholders can use. HUD's biggest challenge is dealing with an institutional paradigm that is far more invested in our Nation's past, not our future. Moreover, Congress should first invest in parts of HUD that will enable more adept policymaking that better reacts to the market place simply because HUD is very slow about reacting to the market place at all, which itself has been harmful.

Spending a bit of time with our past might be helpful for the purpose of giving the suggestions set forth herein some context.

HUD is indeed 50 years old this year but the federal involvement in housing policy precedes HUD. The Federal Housing Administration was founded in 1934 and Congress passed the Housing Act of 1937 ("1937 Act"), which created the United States Housing Authority, soon thereafter. The 1937 Act included, of course, the enabling legislation that permitted the creation of state chartered, non-federal public housing authorities and other state-chartered agencies that would undertake the duties of public housing agencies under the 1937 Act. Over time, both of those legislative policy efforts became important arms for the implementation of federal housing policy.

Thereafter, Congress created the Federal National Mortgage Association in 1938 and the Housing and Home Finance Agency, which helped finance much of what became post-war home finance, was created in 1947. United States housing policy expanded to include community development and redevelopment and emergency assistance. In each case, those laws were focused on solving the critical problems at the time of their enactment but the cornerstone of U.S. housing policy was addressing the crisis brought on by the Great Depression and need for job creation.

Reflecting the federal impact on housing policy over the decades, HUD's organizational foundation is based on the past as well. HUD is essentially organized in silos. In the absence of our current ability to more fully and deftly capture and manage information, those silos made sense although they always carried the risk that one part of HUD would imperfectly communicate with another and cause unnecessary policy stress and inefficiencies somewhere. However, those silos now are an anachronistic device that serves as an impediment to more effectively serving the American public and is inhibiting fuller and more seamless communication that can help all stakeholders.

How has HUD done? At the risk of sounding unintentionally equivocal, it depends upon who is asked. HUD became very important to urban centers large and small, but also became a target for justifiable and sometimes misplaced criticism. What is clear is that HUD has impacted housing policy in large and small communities throughout the United States directly and indirectly. Essentially, HUD allocates resources, insures financial products, and regulates certain stakeholders. Additionally, HUD is charged with policing and prosecuting Fair Housing violations.

From a rental housing perspective, over the decades Congress had the federal government and HUD shift from being a landlord to devolving landlord duties to state entities that are known as public housing authorities. More recently (about 40 years ago), Congress changed policy direction again to provide very low and low income Americans with housing choice through the Section 8 voucher program, now known as the Housing Choice Voucher program. The Section 8 program was also, at one point, a construction program but became an excess supply program. In its own way, Section 8 is sort of a low income housing precursor to Uber. Section 8 allowed excess and available affordable housing stock to be absorbed by very low and low income Americans in lieu of building constructing more public housing.

Section 8 tenant based Housing Choice Vouchers serve approximately 2.6 million American households and 6 million Americans. Section 8 project based assistance serves approximately 1,000,000 more residents. A significant number of Section 8 recipients are elderly or disabled.

Although public housing was the policy anchor of affordable housing for decades, public housing has struggled mightily because of the enormous expense of building and maintaining public housing assets. Currently, in real estate market terms, public housing is an obsolete and aging asset that needs to be repositioned in a way that serves very low and low income people more effectively. In operational terms, most public housing authorities view public housing as an indispensable, expensive, and difficult to sustain community asset.

As an asset class in the rental market place, public housing is underperforming. Currently, of the nation's 1.1 million public housing units, roughly 11% of the units are off line because they are uninhabitable due to age and unmet capital needs. The official capital needs backlog for public housing is \$17 billion, which was last ascertained in 1996. The current estimate is that the capital needs are more than twice that amount with some estimates being as high as \$50 billion. No accurate estimate is known at this time.

Recently, Congress has permitted the conversion of 185,000 units of public housing to other forms of ownership – low income tax credit housing units and other non-federal sources through the Rental Assistance Demonstration (“RAD”). While it has been helpful, RAD is not a solution for meeting the capital needs dilemma faced by all housing authorities simply because the economics of a public housing development that utilize RAD may not make sense for some communities.

Congress has acted in the past to redirect policy focus, especially with respect to public housing. Congress authorized the HOPE VI program, the Choice Neighborhoods Initiative (“CNI”) and most recently RAD. Funding HOPE VI, CNI, or RAD will further move public housing from the realm of pure federal funding of public housing operational and capital finance toward project-supported operational finance and private investment.

Having summarily dealt with HUD's history, why would one start dealing with HUD's future by investing in data acquisition?

There are three essential steps to improving outcomes: define your desired result, know more about how to measure the result, and do what needs to be done faster and better than was previously done. In HUD's case, the first step would be to break away from the silo mold such that HUD becomes a more fluid and flexible organization. Secondly, the American taxpayer would benefit if HUD developed more relevant metrics than those currently being used. More specifically, Congress should begin by first providing HUD with the tools to capture not just better data and more relevant data, but complex data that can lead to defining better outcomes for very low and low income Americans.

In order to improve Congress's and HUD's impact on housing policy and better serve residents and the U.S. taxpayer, HUD needs to improve upon its current antiquated data tools. Today we all have the capacity to use data in order to build a foundation upon which we achieve better outcomes, but HUD does not (nor do most other agencies). If there were a launching platform for change at HUD, this testimony urges that it be an affirmative commitment to use metrics in order to build better housing outcomes that effectively measures other important outcomes, for example, how peoples' health and education are being impacted over time.

HUD-financed housing is just one component of a larger set of desirable policy outcomes that better data can inform. Better and integrated data could help us understand where to better assist the elderly, the disabled, children, very low income, and low income Americans and – importantly – when to leave them alone and who to leave alone. Data moves HUD away from a one-size-fits-all model to a model that better serves the people Congress intends to serve.

Much of our current policy was undertaken and based upon the best data available at the time that HUD's programs were created and did not focus upon outcome as much as it focused upon addressing the discrete issues of the day in the most general way possible. Nearly 80 years later, much of the policy articulated in the various acts remains as it was when those acts were adopted. Better data will improve HUD's capacity to meet legislative intent.

Our current world is data driven within a complex and potent set of algorithms that can be used to push toward and measure progress toward specific results, yet HUD's policy world is still pretty much a limited dimensional world because HUD does not have the infrastructure to capture either 'big' or granular and moving data. We have the capacity to know more about the needs of the various stakeholders in the housing policy context than we ever have in the past, but HUD lacks the most critical tool needed to better manage policy that would help them and the Nation.

HUD's dated information technology platform is not simply an issue of better data: investing in HUD's technology will help address HUD's coming personnel crisis. HUD personnel, as is the case in every federal agency, is rapidly aging and retiring but the programs HUD runs still touch millions of Americans and countless homeowners and others. Restructuring the silos using information technology would assure a smoother transition for HUD and Congress.

This testimony would be less useful, if it is useful at all, if one did not propose some thoughts about what Congress and HUD could do right now without substantial or even any legislative changes.

HUD overreaches on occasion and should resist doing so. There are three examples I know best.

HUD should encourage competition wherever possible, especially in the case of allocating of its appropriated resources. Most of HUD's appropriation funds tenant based and project based rental assistance and, pursuant to the 1937 Act, those funds are allocated only by public housing agencies. Public housing agencies include organizations in addition to public housing authorities yet HUD used regulation, not statutes, to restrict the competitive field of possible service providing public housing agencies through a

legally unsupportable regulatory artifice. Housing policy, services, and value to the taxpayer would improve if HUD encouraged more competition, not less.

The second example deals with the Federal Housing Administration (“FHA”). Two years ago the FHA issued underwriting guidelines that increased reserves to a multiple of what any development’s actual needs. The result is that in just one program that helps affordable housing development by creating more stable financing structures, FHA’s 223(f) program, the number of units financed has decreased by over 50% largely because the FHA-required reserves exceed anything that the market would require. If the concern is helping affordable housing developments, many of which are already in FHA’s risk pool, become more financially viable and therefore avoid future claims on FHA insurance, it is a challenge for me to understand how such excessive reserves help the market, FHA, affordable housing or the taxpayer.

The third example deals with the Moving To Work program (“MTW”). A policy contest over MTW is being waged between those who run public housing and Section 8 programs and clearly see the benefit of MTW for their community and others who, for well-intentioned reasons, want to hold on to a past paradigm that is failing those agencies, local communities, and their residents. MTW was created in 1998 as part of an amendment to the 1937 Act and enacted as a demonstration program that encouraged public housing authorities to become almost entirely entrepreneurial with minimal HUD oversight (within legislative constraints) as long as they complied with the intent of the 1937 Act and their MTW contract. While hiccups have occurred as they always will, the vast majority of MTW agencies have transformed themselves positively. Yet HUD is now requiring more 1937 Act reporting and that requirement essentially guts the intent of MTW in many ways. I would urge Congress and HUD to let MTW continue as it was originally envisioned – as a device to let housing authorities create their own community priorities, not HUD’s. The reward offered by MTW to all stakeholders far exceeds the risk.

Finally, beyond law and regulation, HUD can be a better listener. HUD has a really difficult time when it perceives a somewhat unsupportable, misplaced federal prerogative that competes with a legitimate state or local prerogative. For example, a HUD-articulated federal policy might condition the use of federal resources upon the state or local recipient undertaking certain acts important to HUD that will clearly undermine both the federal and local mission and are not legally required. The state or local government might offer a workable solution, but HUD decides that those solutions might conflict with their desired federal outcome even though the local idea is more viable and might also be indispensable to the local undertaking. So the unfortunate result is that HUD prevails because the local entity concedes, and when the local entity concedes, it all too often causes a bad outcome for HUD, the local entity, and the community the local entity serves.

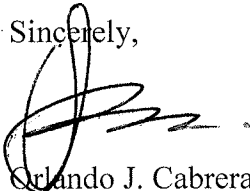
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In closing, the world that our Nation's housing policy has been designed to serve has become more complex. Our current world is data driven within a complicated, multidimensional, and potent set of algorithms that could help better serve us all better. Yet HUD's policy world is still pretty much two dimensional and static because it reflects its available technology. We could know more about the various stakeholders in the housing policy context than we ever have in the past in order to better serve communities and the taxpayer, but because of a lack of support and current statutory impediments, HUD only perceives and captures a sliver of that data.

I would ask that we invest time in good ideas above all from wherever they may come. Good ideas have no politics. The business world, and therefore the housing world, has come to be defined by those who embrace change and those who do not. Those who do not embrace change do not fare well. HUD needs help, but HUD can also help right now by simply allowing markets to work to their fullest extent and, more critically, by avoiding intervention with markets wherever it is clear that no intervention is lawfully allowed or warranted.

Thank you for the opportunity to testify before the Committee on Financial Services. As always, I am happy to answer any questions that you or any committee members may have.

Sincerely,



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cc: The Honorable Maxine Waters, Ranking Member, Financial Services Committee

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