

## MEMORANDUM

**To:** Members of the Committee on Financial Services

**From:** Committee Staff

**Date:** July 18, 2024

**Subject:** July 24, 2024, Housing and Insurance Subcommittee hearing entitled, “Housing Solutions: Cutting Through Government Red Tape.”

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On Wednesday July 24, 2024, at 10:30 AM, the Subcommittee on Housing and Insurance of the Committee on Financial Services will hold a hearing in 2128 Rayburn House Office Building entitled, “Housing Solutions: Cutting Through Government Red Tape.” Testifying at the hearing will be:

- **Mr. Carl Harris**, Co-Founder and President, Carl Harris Co., Managing Partner, Harris Homes, and Chairman, National Association of Home Builders (NAHB)
- **Mr. James H. Schloemer**, Chief Executive Officer, Continental Properties Company, and Chair, National Multifamily Housing Council (NMHC), on behalf of NMHC and the National Apartment Association
- **The Honorable Paul Compton**, Managing Partner, Compton Jones and Drescher LLP
- **Ms. Linda Couch**, Senior Vice President, Policy and Advocacy, LeadingAge

### **Hearing Background**

Housing affordability remains a serious issue in many areas of the country for both homebuyers and renters. While the private sector can address certain affordability challenges, others – such as those imposed by government red tape – are more difficult to overcome. This red tape, which can occur at the federal, state, or local levels, raises costs and produces costly delays in bringing new housing units online. While not all government requirements are negative, many requirements insert new costs into the system and come with trade-offs. For example, rules that noticeably improve individual occupant health and safety are broadly supported. Yet, others that pursue broader social goals might increase costs with little perceived benefit to residents. Striking the correct balance is essential to preventing market distortions and maximizing consumer choice and product availability.

These choices are particularly important now because of the significant impact system-wide costs are having on housing. According to a recent study from the National Association of Home Builders, regulations imposed by all levels of government account for \$93,870, or 23.8 percent, of

the current average sales price (\$397,300) of a new, single-family home.<sup>1</sup> Such policies include exclusionary and restrictive zoning requirements, questionable environmental mandates, and misguided economic policies that have increased the cost of construction and exacerbated the shortage of labor. Other efforts, such as rent control and eviction moratoria, have added new burdens that discourage investment in housing and increase housing scarcity.

While these requirements may be borne of genuine concern about limited availability or affordability, they often have the paradoxical effect of producing higher costs and fewer choices in the housing sector. Housing developers must factor in these additional fees and requirements on top of already-high interest rates for borrowing and increased construction costs. These cumulative costs impact consumers in the form of higher rent or more expensive homes. For example, the typical rent across the U.S. is now \$2,054, according to the Zillow Observed Rent Index.<sup>2</sup> That is up 3.5 percent from last year, and the fastest annual growth since July 2024.<sup>3</sup> Separately, according to analysis from real estate analytics firm ATTOM, between April and June 2024, homeowners in 80 percent of 589 counties were spending more than 28 percent of their wages on housing costs, including mortgage payments, property taxes and homeowners' insurance.<sup>4</sup>

Finally, cutting government bureaucracy to help lower housing costs is important because wages are not keeping pace with price growth. According to a recent report by Rocket Homes, median household income was \$68,710, while the nationwide median U.S. home price was \$416,100.<sup>5</sup> This means that average home prices are now six times higher than the median household income. Yet, annual wage growth remains, at 4.9 percent year over year, remains well below the growth rate needed to make up for this price difference.<sup>6</sup> Removing unnecessary costs from the production of new housing units can help to bend this curve and increase general affordability.

### ***International Energy Conservation Code (IECC)***

Many environmental regulations, while often well-intentioned, increase the overall costs to construct new homes that outweigh any benefits. One example is the International Energy Conservation Code (IECC). On April 26, 2024, the Department of Housing and Urban

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<sup>1</sup> National Association of Home Builders, "Regulatory Costs Add a Whopping \$93,870 to New Home Prices," May 6, 2021, available at: <https://www.nahb.org/blog/2021/05/regulatory-costs-add-a-whopping-93870-to-new-home-prices/>.

<sup>2</sup> "The Rental Market Slowdown is Leveling Off (June 2024 Rental Market Report)," Zillow, available at: <https://www.zillow.com/research/june-2024-rent-report-34213/>.

<sup>3</sup> *Ibid*

<sup>4</sup> "Home Affordability Gets Tougher During Second Quarter Across U.S. As Prices Shoot Back Up", ATTOM, available at: <https://www.attomdata.com/news/most-recent/attom-q2-2024-home-affordability-report/>.

<sup>5</sup> Katie Ziraldo, "Median Home Prices By State: 2023 Edition," Rocket Homes, updated October 1, 2023, available at: <https://www.rockethomes.com/blog/housing-market/median-home-price-by-state>.

<sup>6</sup> "United States Wages and Salaries Growth," Trading Economics, updated June 2024, available at: <https://tradingeconomics.com/united-states/wage-growth#:~:text=Wages%20in%20the%20United%20States,percent%20in%20April%20of%202020>.

Development (HUD), in concert with the Department of Agriculture (USDA), promulgated a Final Rule regarding new energy standards for properties that receive federally-backed financing from either agency.<sup>7</sup> This rule will require all HUD and USDA financed single-family homes to be built to the 2021 IECC, which will require many builders to retool the development process. It also requires HUD-financed multifamily building construction to be built to the same IECC code or American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) standard.

The Energy Independence and Security Act, enacted by Congress in 2007, requires HUD and USDA to adopt revised energy standards if, after the Department of Energy determines that the revised standards would improve energy efficiency, the agencies “*make a determination that the revised codes do not negatively affect the availability or affordability*” of newly constructed or rehabilitated homes insured or guaranteed by HUD or USDA.<sup>8</sup> USDA and HUD have made a preliminary ruling that these revised standards would not have an adverse impact on affordability and ability,<sup>9</sup> but industry and lawmakers have voiced strong disagreements with this assessment citing how it would negatively impact low-income buyers. On June 27, 2024, Housing and Insurance Subcommittee Chairman Davidson introduced legislation, H.J.Res. 170, to disapprove of the rule via the Congressional Review Act.

### ***Federalization of Local Renter Laws***

Despite the proven failure of rent control policies to increase the supply of affordable housing, just last week the Biden Administration announced a plan to effectively cap rent growth to 5 percent a year. This proposal, which would require legislation to enact, would revoke the depreciation tax credit for landlords above a certain threshold that do not implement these price controls. It follows a January 2023 “Blueprint for a Renters Bill of Rights,”<sup>10</sup> which seeks to limit “dramatic rent increases”<sup>11</sup> and outlines multiple ways for renters to challenge and delay evictions for those with a longstanding record of non-payment of rent. Evictions, while unfortunate, are often a necessary part of functioning rental ecosystem to avoid costs being passed onto innocent other tenants or property owners. Further, in July of 2024, the Federal Housing Finance Agency (FHFA) also announced that it would take additional steps to implement recommendations from the Blueprint to require tenant protections for properties financed by Fannie Mae and Freddie Mac.<sup>12</sup>

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<sup>7</sup> “Final Determination: Adoption of Energy Efficiency Standards for New Construction of HUD- and USDA-Financed Housing,” Federal Register, available at: <https://www.federalregister.gov/documents/2024/04/26/2024-08793/final-determination-adoption-of-energy-efficiency-standards-for-new-construction-of-hud-and->

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> “The White House Blueprint for a Renters Bill of Rights,” January 2023, available at: <https://www.whitehouse.gov/wp-content/uploads/2023/01/White-House-Blueprint-for-a-Renters-Bill-of-Rights.pdf>.

<sup>11</sup> *Ibid.*

<sup>12</sup> “FHFA Announces Multifamily Tenant Protections,” July 12, 2024, available at: <https://www.fhfa.gov/news/news-release/fhfa-announces-multifamily-tenant-protections-july-2024>.

### ***Cumulative Burdens to Housing Development***

Given the lengthy and complicated timeline for housing development, especially for multifamily properties, even incremental policy changes and mandates can pose large cumulative costs to homebuilders. Many regulatory and sub-regulatory decisions made by government agencies add costs and delays that far outweigh their benefits. This in turn jeopardizes projects that would otherwise increase the housing supply. For instance, HUD has imposed a plethora of new guidance, directives, and interpretations that threaten the viability of its multifamily lending program through FHA. Examples of these include the broad application of the National Environmental Protection Act (NEPA) to housing programs. However, NEPA is a statute designed for heavy, large-scale industrial projects like power plants with significant environmental impacts. Further, labor policies, such as the Davis-Bacon “mixed wage” requirement, add tremendous uncertainty as builders often cannot finance projects until HUD has determined wage rates. Layers of governmental reviews, approvals, and communications add to the already-cumbersome planning, zoning, financing, and development process for apartment construction.