THE COST OF REGULATION ON AFFORDABLE MULTIFAMILY DEVELOPMENT

HEARING

BEFORE THE

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HOUSING AND INSURANCE

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CONTENTS

THE COST OF REGULATION ON AFFORDABLE MULTIFAMILY DEVELOPMENT

Wednesday, September 5, 2018

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HOUSING
AND INSURANCE,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:04 p.m., in room 2128, Rayburn House Office Building, Hon. Sean Duffy [chairman of the subcommittee] presiding.

Present: Representatives Duffy, Ross, Posey, Luetkemeyer, Hultgren, Rothfus, Zeldin, Trott, Cleaver, Velazquez, Sherman, Beatty, Kildee, Kihuen, and Waters.

Also present: Representative Green.

Chairman DUFFY. The Subcommittee on Housing and Insurance will come to order. Today's hearing is entitled, "The Cost of Regulation on Affordable Multifamily Development." Without objection, the Chair is authorized to declare a recess of the subcommittee at any time. Without objection, all Members will have 5 legislative days within which to submit extraneous materials to the Chair for inclusion in the record.

Without objection, Members of the full committee who are not Members of this subcommittee may participate in today's hearing for the purpose of making an opening statement and questioning our witnesses.

The Chair now recognizes himself 4 or 5 minutes for an opening statement. I first want to welcome our witnesses and thank them for participating in today's hearing, looking at the cost of regulation and barriers preventing affordable multifamily housing development.

I have read your written statements and appreciate the time and effort you put in providing your insight to this subcommittee and to the committee as a whole. The lack of development is especially concerning because, while we continue to enjoy some of the lowest unemployment rates in our history, people are having trouble finding affordable housing in areas where jobs are being offered.

The Wall Street Journal ran an article on May 30th of this year entitled, "Rural America Has Jobs. Now It Just Needs Housing." The story starts with a man who was offered a job in Nebraska but had to turn it down because he couldn't find affordable housing to rent.

That man ended up staying in Iowa at his current job. He was making $2.00 less an hour without benefits. So he had housing. He could have gotten a pay raise and benefits, but because there was inadequate housing, he wasn't able to take advantage of that opportunity.

Another compelling fact from the article highlighted some housing and job numbers. So get this. There were over 990 job openings in Platte County, but only 65 homes available for sale in the median listing price. On the tails of The Wall Street Journal article, two of the organizations testifying today issued a study about the cost of multifamily development.

That study reported that regulation from all levels of government—Federal, State, local—ccount for an average of 32.1 percent of multifamily development costs, 32.1 percent of the cost. Today, I expect to hear our witnesses dive deeper into what those costs really are.

It seems a majority of the costs highlighted in the study are at the local level where building codes and zoning laws are handled, all other costs are the result of requirements from HUD (U.S. Department of Housing and Urban Development) relating to fair housing or ADA (Americans with Disabilities Act) compliance. While we want to be sure that we are protecting our most important financial investments from catastrophic disasters, we also must recognize that building codes add to construction costs, which, in turn, increases the cost of housing.

Testimony from both the National Multifamily Housing Council and the National Association of Homebuilders states that on average, 7 percent of regulatory costs come from building codes changed over the past 10 years. Mitigation is something I am a strong supporter of.

We, on this committee, have worked on a comprehensive flood insurance bill this past Congress. Like many things, it passed the House and has not passed the Senate yet—we are ever hopeful. But doing that work, we saw that for every dollar spent on pre-disaster mitigation, it saves $4 on recovery costs. There are clear benefits to building codes. No one is disputing that here, building codes are important.

But making sure we strike the right balance is critical. And when the pendulum swings too far over and costs increase too much, what should be affordable all of a sudden becomes unaffordable for so many of our constituents and American families. While some people make protecting their homes a top priority and spend more than others on construction costs, we must ensure that homes already being built to code are not being impacted by local authorities with additional regulations or red tape.

Now, Mr. Schloemer highlights several specific examples in which building codes, zoning issues, or permitting approvals have impacted multifamily development projects. I point him out because he is from the great State of Wisconsin and I appreciate him being here.

Some of those examples include instances in which cities have required you to pay for the entire cost of a traffic signal as opposed to the community living in that neighborhood paying for the traffic signal as well, or upsizing a water main for an unknown future development unrelated to the project that you are building at that point in time.

You said another example in which a municipality in Texas revised three of its zoning districts to specifically exclude multifamily as a permitted use. It is these specifics that help paint a picture of what you mean by regulatory barriers to building. Before we get to your oral statements, I want to thank you all for coming and testifying today. Again, this is a time for us to hear from you on what the right balance is for us and what role do we have at the Federal level and how this policy trickles down to the State and municipal levels.

What we want to do again is have smart codes, but not too many codes that increase the cost of building, which again affect our families and the most vulnerable among us. So with that, I yield to the Ranking Member, the gentleman from Missouri, Mr. Cleaver, for 5 minutes.

Mr. CLEAVER. Thank you, Mr. Chairman, and I appreciate as well your willingness to come and help us as we go through this very difficult issue. The Nation is facing a steady and dramatic decline in available and affordable housing, period, certainly multifamily housing is included.

And it is hard to imagine that it has been a decade since the housing crisis of 2008. As I said in here with maybe a few people who are here now, Mr. Green, all of us on this side were here and it doesn't appear as if it was that long ago.

But the economy has greatly improved since that time and many families particularly in minority communities were never fully able to recover from that crisis. The demand for rental units vastly increased in the years following the Great Recession and the availability of affordable unit, rental units has not kept pace.

In addition, millennial adults burdened as my children will often say with high student loans and limited job opportunities, they have put off homeownership and they have made conscious decisions to stay in the rental market. And so, that has contributed to the growing rental affordability crisis. According to the National Low Income Housing Coalition, there is no State, metropolitan area in our Country, where a worker earning Federal minimum wage can afford a two-bedroom rental home at fair market rent by working a standard 40-hour week.

I was the mayor of Kansas City for 8 years and I became very familiar with the challenges associated with developing affordable housing options. This is a challenge that is not only in existence in the urban core, but I represent a large rural area of Missouri. And there are some towns in my district where they have not been able to have a single new unit constructed in a decade.

And so it is an issue that I am concerned with. But it also brings into play some other issues, like what are we going to do with the programs like HOME, CDBG (Community Development Block Grant), the National Housing Trust Fund, and the low-income tax credit. These all must be preserved and, in fact, enhanced if we are going to deal with this crisis.

And so, Mr. Chairman, at this point I would yield to Mr. Sherman for the remainder of the time.

Mr. SHERMAN. The rent is too damn high, the paycheck is too damn low. Nothing we do is going to make housing affordable unless we increase supply. We cannot repeal the law of supply and demand. By first world standards, Europe, Japan, the United States, we have more square footage of housing per person by far than any of them. But we live in larger units and we need the number of units that we have for the family units.

This hearing is somewhat mistitled in that it talks up—in that it says the cost of regulation, there is also the benefits of government involvement including especially FHA (Federal Housing Administration) Fannie and Freddie loans and Section 8. And if we took those away, housing would be less affordable.

And in addition to the costs where you actually write a check to pay for regulation, you also have the density limits and the zoning and the prohibition. And I am not sure that that is even included in the 32 percent, I believe, that was cited by the Chairman, because it doesn't cost you more to build a three-story building than a five-story building. But if you can't build a five-story building, you can't pay for the land.

In my State, we are going to require that all new housing have solar panels on it. Now, if lenders will factor that in and say we will lend more to build those units because the landlord or the tenant will not have the electric bill and if in fact those solar panels create enough kilowattage to pay for themselves, that may be a good thing.

But assuming not, assuming that you just look at how much rent is provided and how much it costs to build the unit, this will mean fewer apartment buildings will be built in the State that has the greatest housing crisis. So I look forward to hearing from our witnesses how we are going to have enough housing units and how we are going to prevent NIMBYs (not in my backyard) from prevailing except in my district.

I yield back.

Chairman DUFFY. The gentleman yields back. We now welcome our witnesses. Our first witness today is Ms. Sue Ansel, President and CEO of Gables Residential, on behalf of the National Multifamily Housing Council and the National Apartment Association, welcome.

Ms. ANSEL. Thank you very much.

Chairman DUFFY. Next witness is Ms. Erika Poethig. I hope I am saying your name correctly. Vice President and Chief Financial Officer at the Urban Institute. Next witness from the great State of Wisconsin, Mr. James Schloemer is the Chief Executive Officer at Continental Properties Company. Welcome. And our final witness is Mr. Stephen Lawson, Chair of the Lawson Companies on behalf of the National Association of Homebuilders (NAHB).

The witnesses will, in a moment, be recognized for 5 minutes to give an oral presentation of their written testimony. Without objection, the witnesses' written statements will be made part of the record following their oral remarks. Once the witnesses have finished presenting their testimony, each Member of the subcommittee will have 5 minutes within which to ask all of you questions.

You will note that on your table, there are three lights. The green light means go. The yellow light means you have 1 minute left. And obviously, when the red light turns on, that means your time is up. The microphones are sensitive, so make sure you are speaking directly into them and make sure that they are actually on.

Now with that, Ms. Ansel, you are recognized for 5 minutes.

STATEMENT OF SUE ANSEL

Ms. ANSEL. Chairman Duffy, Ranking Member Cleaver, and Members of the subcommittee, it is my privilege to appear before you today on behalf of the National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA) to discuss regulatory barriers to developing multifamily housing and their impact on reaching our shared goal of addressing our Nation's rental affordability challenges.

I am the Chairwoman of NMHC and Chief Executive Officer of Gables Residential, a vertically integrated real estate company specializing in development, construction, ownership, acquisition, financing, and management of multifamily and mixed-use communities. Gables manages over 30,000 apartment units and over 430,000 square feet of retail space.

I see the harmful impact of our Nation's antiquated, duplicative, and costly regulatory systems on a daily basis. As outlined in a recent study by NMHC and the National Association of Homebuilders, 32 percent of multifamily development costs are attributable to local, State, and Federal regulations. And, in a quarter of the cases, that number can reach as high as 42.6 percent.

It is not easy to build apartments. It can take up to a decade just to break ground. Outdated zoning laws, unnecessary land use restrictions, arbitrary permitting requirements, inflated parking requirements, environmental site assessments, and more discourage housing construction and raise the cost of those properties that do get built. Localities impose a variety of fees on new housing, including impact fees, inspection fees, property taxes, inclusionary zoning mandates, and rent control rules further discourage housing investment.

These time and cost burdens lead to fewer apartment homes being built, and the apartments that do get built require higher rents to cover the high cost of development. Make no mistake, smart regulation plays a critical role in ensuring the health and well-being of the American public. But well-intentioned local, State, and Federal regulations are too often onerous and cumbersome and increase development and operational costs, sometimes forestalling development altogether.

My written testimony outlines in detail a host of barriers to development and examples from across the country where red tape has driven up project costs for both apartment construction and renovation. For example, in Texas, Gables was required to replace and increase the capacity of a storm line by 75 percent in conjunction with the development of a site and to help address community flooding unrelated to the project.

This resulted in 2 months of additional permit time, 30 days of additional build time, and $250,000 in additional costs. While the example I cite is a local requirement, Federal regulations also result in additional costs. The aforementioned cost of regulation study found that complying with Federal requirements added significant development costs.

For example, OSHA (Occupational Safety and Health Administration) requirements account on average for 2 percent of total project costs, while costs associated with the changes to building codes, which are developed in conjunction with the Federal Government, accounted on average for 7 percent of total development cost. My written testimony includes a variety of solutions that would reduce regulatory red tape impacting the development and operations of multifamily properties.

It should be noted that what works in one jurisdiction might not work in another. But utilizing outside-the-box thinking and innovative solution-oriented approaches can lead to progress. Some local solutions include establishing by right zoning, reducing parking requirements, or providing fast-track permitting approval for affordable housing developments.

Federal policy solutions range from incentivizing local and State governments to partner with the private sector to boost housing production at all price points to making commonsense, modest changes to the Community Reinvestment Act to remove impediments to obtaining credit for workforce and affordable multi-housing.

Additionally, Congress could further improve and streamline the Section 8 Housing Choice Voucher Program to make it easier for property owners to participate and provide increased and adequate funding for subsidized housing programs. The National Multifamily Housing Council and the National Apartment Association estimate that we need to build 4.6 million new apartments by 2030 to meet demand.

Meeting that demand will require both revamping how we build apartments and the courage of policymakers at the Federal, State, and local levels to implement inventive policy ideas, provide incentives, and reduce impediments.

On behalf of the apartment industry and our 39 million residents, we stand ready to work with Congress to ensure that every American has a safe and decent place to call home at a price that enables individuals to afford life's necessities. Thank you.

[The prepared statement of Ms. Ansel can be found on page 34 of the Appendix.]

Chairman DUFFY. Thank you. Ms. Poethig, you are recognized for 5 minutes.

STATEMENT OF ERIKA POETHIG

Ms. POETHIG. Thank you, Mr. Chairman, Ranking Member Cleaver, and Members of the Housing and Insurance Subcommittee for the opportunity to be on this expert panel. My name is Erika Poethig and I am Vice President and Chief Innovation Officer at the Urban Institute, which is based here in D.C.

We are a non-profit research organization dedicated to the power of evidence to improve lives and strengthen communities. The views expressed before you today are my own and should not be attributed to the Urban Institute, its trustees, or its funders.

Nearly every county in the United States lacks enough affordable rental housing to meet residents' needs. With expanded rental demand since the Great Recession, this crisis is particularly urgent for extremely low-income households and those living in rural, suburban, and urban counties in the heartland and on the coasts.

Because of the widespread nature of this problem, increasing the supply of affordable rental housing deserves national attention. And I am so glad that you are holding this hearing today, because I believe this issue deserves that kind of attention. While regulatory reforms can play an important role, they are not sufficient to fully address America's affordability challenge.

When considering regulatory reforms, I want to make three points. First, the multifamily housing supply challenges we face are the result of a market failure. It simply costs more to build and operate rental housing than many low-income Americans can afford to pay in rent. In fact, 11 million households pay more than 50 percent of their income in rent. That is a quarter of all renters. Public investment and subsidies are necessary to bridge the cost gap and meet the needs of extremely low-income renters, which account for 70 percent of these households.

Second, exclusionary zoning and exclusionary practices increase the cost of development, drive economic and racial segregation, and are grounded in the legacy of racial discrimination. Promoting more inclusive housing development will help lower development costs, integrate neighborhoods, and begin to repair a long history of racial discriminatory practices that still play out today.

Third, not all regulations are the same. Many housing regulations are grounded in efforts to protect public health and well-being, and a growing body of research links housing to health outcomes with ample evidence that healthy housing regulations protect children and older adults. Policy changes to reform regulation should retain and expand measures to protect health and well-being.

Between 2010 and 2030, there will be five new renter households for every three new homeowners. This increase in demand coupled with regulatory limits on housing supply puts pressure on rents. These costs the lowest-income Americans like older adults on fixed incomes can least afford. While removing barriers to multifamily development, such as exclusionary zoning, would increase supply and lower development costs, our research shows that these reforms would not be sufficient to close the gap for millions of American families.

We need to expand rental assistance to all eligible households to increase housing stability. Exclusionary zoning and discriminatory practices come at a real cost to people. Economic and racial segregation results in unequal distribution of access to opportunity and exposure to harm.

As my colleagues found in studying 20 years of data in Chicago, higher levels of economic segregation and black/white segregation were associated with lower per capita income for blacks. And additionally, higher levels of black/white segregation was associated with lower levels of educational attainment for both blacks and whites as well as higher homicide rates.

This is exactly why the requirement for communities to affirmatively further fair housing is so important. Without a requirement to facilitate inclusive communities and housing, homeowners of all political stripes oppose change at the expense of low-income renters and people of color. And research shows us that allowing and encouraging builders to create housing that expands choice for all households is a win-win scenario.

We need a more balanced housing policy in this country that combines reducing local regulatory barriers to multifamily development, expands Federal rental subsidies to all those that qualify, promotes healthy housing, and fully implements the obligations to affirmatively further fair housing. I hope this testimony shows that rationalizing local zoning and supporting the housing needs of our lowest-income neighbors will benefit every community across the Nation.

Thank you for this opportunity to testify before the committee. I am happy to answer any questions that you have.

[The prepared statement of Ms. Poethig can be found on page 107 of the Appendix.]

Chairman DUFFY. Thank You. Mr. Schloemer, you are recognized for 5 minutes.

STATEMENT OF JAMES SCHLOEMER

Mr. SCHLOEMER. Chairman Duffy, Ranking Member Cleaver, and Members of the subcommittee, thank you for this opportunity to discuss regulatory barriers to affordable housing development.

These barriers pose significant challenges for developers of apartment housing nationwide. I am Jim Schloemer, Chief Executive Officer of Continental Properties Company. We develop apartment communities across 24 States and are recognized as one of the largest apartment developers in the country.

Continental Properties has a unique business model in the industry. We are a production builder of reasonably priced workforce-attainable apartment homes, delivering over 3,000 new apartments each year. In contrast to recent urban core development trends, we build only in suburban and second-tier markets, some of the Nation's most underserved.

Employing prototypical designs for all locations, we gain efficiencies in construction and operation that allow us to reduce costs, resulting in 51 percent of the apartments in our portfolio offered at rents affordable to households earning just 80 percent of area median income.

This is a rare price point for new home construction and we believe that a 5 percent reduction in our development costs would allow us to offer 62 percent of our apartments at rents affordable to households earning 80 percent of AMI (area median income). Our apartments are not subsidized, but nearly all of our apartment communities are financed with mortgages issued through a GSE (government-sponsored enterprise).

The mortgages issued by the GSEs for multifamily financing have proven to be safe and effective in encouraging the creation of new multifamily housing. In Continental Properties' experience, the GSE-sponsored mortgages have supported our ability to provide new apartments at workforce attainable rents.

Over the past 5 years, the cost to develop apartment homes has increased drastically, dramatically faster than rent increases in all 24 States in which we do business. This trend cannot be sustained. Unnecessary, overly burdensome policies create significant barriers to the development of apartment homes. Their impacts increase the cost of development, restrict supply, and ultimately raise monthly rents.

Our industry and our company are constantly seeking ways to control development costs. Easing regulatory burden is a critical consideration as we explore solutions to close the affordability gap in America's housing. We regularly face hurdles intended to deter apartment development at the local level, and even well-intentioned policies promulgated by State and Federal authorities can inhibit apartment development.

My written testimony includes detailed examples of these challenges. Significant barriers exist in zoning rules, permitting systems, gratuitous infrastructure demands, onerous building codes, and land use requirements. The entitlement process is often structured against multifamily housing, rarely permitting by right development.

Municipalities employ arbitrary code interpretation and impose open-ended community demands. It is not uncommon for jurisdictions to deny rezoning requests for multifamily development despite documented substantial housing needs in those very communities. In one case, contradictory decisionmaking added 8 months to our approval process and increased our total project costs by over 3–1/2 percent.

Municipalities are also increasingly looking to pass along future infrastructure costs to developers, while some infrastructure enhancements around a development site may be mutually beneficial, jurisdictions often exploit developer resources and, by extension, burden renter households. Frequently, arbitrary mandates on dwelling size, project density, or site features like enclosed parking unnecessarily increase development costs.

Federal regulation can significantly increase the cost of affordable apartment development. For example, while apartment providers strongly support the goals of Federal accessibility laws, provisions that exceed practical needs for accessibility and impractical enforcement policies drive up costs. Compliance is so complex that developers often employ consultants to guide conformance.

Regulations fail to consider conditions that impact sincere compliance intentions such as topography, limitations of construction materials, and construction tolerances. By better aligning requirements with consumer needs for accessible homes, development costs could be significantly reduced while continuing to protect the needs of disabled residents and guests.

Housing affordability is a critical issue. I applaud your efforts to address this problem. Policymakers at every level of government have a role to play in removing obstacles to housing production and providing a supportive environment for the creation of affordable homes. Thank you.

[The prepared statement of Mr. Schloemer can be found on page 118 of the Appendix.]

Chairman DUFFY. Thank you. Mr. Lawson, you are recognized for 5 minutes.

STATEMENT OF STEVEN LAWSON

Mr. LAWSON. Thank you, Chairman Duffy, Ranking Member Cleaver, and Members of the subcommittee. I appreciate this opportunity to testify today. My name is Steve Lawson. I am Chairman of the Lawson Companies and also a third-generation homebuilder and multifamily developer from Virginia. I also serve as the Chairman of NAHB's Multifamily Council.

Homebuilding is one of the most regulated industries in America. And while there is a very necessary role for sensible regulation, the cost of excessive regulation creates a tremendous burden to the production of affordable housing. NAHB and NMHC produced a joint study to raise awareness of how much regulation currently exists, how much it costs, and also to encourage governments to thoroughly consider the implications for housing affordability when proposing new directives. The study found that, on average, nearly one-third of the cost of multifamily development is attributable to local, State, and Federal regulations.

The top regulatory barrier determined by the joint study was the compliance with increased building code requirements. These account for 7 percent of total development costs. Agencies such as the DOE (Department of Energy), EPA (U.S. Environmental Protection Agency), FEMA (Federal Emergency Management Agency), and HUD have used the codes' development process to advance their policy goals. In the recent energy code hearings, DOE testified and gave public support for code changes that would have removed flexibility and increased costs without improving energy efficiency.

Inclusionary zoning policies are another costly barrier that require developers to subsidize a specific percentage of total units within market-rate developments and set income-based rent controls for the subsidized units. IZ, as it is called, has become the preferred or only method, it seems, of achieving fair housing goals.

However, IZ acts like a tax on housing. And when it is used, it adds 5.7 percent to the cost of development. In fact, the burden of the subsidized unit actually raises the market, the cost of the market rate units, which results in pricing out the middle class.

Trade issues such as the imposition of a softwood lumber tariff on imports of lumber from Canada, a shortage of skilled labor, local land use challenges, and NIMBY opposition often kill the development of affordable housing before it even has begun. For example, the joint study found that 85 percent of developers experienced added costs or delays due to neighborhood opposition.

Additionally, the homebuilding industry is experiencing a major labor shortage. In a recent NAHB survey, 84 percent of builders identified the labor shortage as a problem which makes it the industry's top concern for 2018. What we see on the ground is that the skilled labor force is aging and new workers are not entering the trades. We need to encourage careers in construction. These are good family supporting jobs and NAHB has pledged to educate and train over 50,000 new workers over the next 5 years through our workforce development arm, the Home Builders Institute.

The ability of the homebuilding industry to address affordable housing needs is dependent on a housing finance system that provides adequate and reliable credit. NAHB urges lawmakers to consider the critical roles that the GSEs, FHA, USDA, and other entities play in the housing finance system and take into consideration multifamily developments' access to credit while examining legislation for housing finance reform.

Last, while regulatory reform will help us lower development costs to reach lower income households, it is financially infeasible to build new affordable rental units without Federal assistance. Regulatory reforms are not a substitute for programs like the low-income housing tax credit, project-based Section 8, HOME, or CDBG.

I would also be remiss to have this opportunity and go without applauding the New Democrat Coalition for releasing a white paper earlier this year, which seeks solutions to the chronic problems facing the housing industry. NAHB looks forward to working with them as they continue to help grow and support affordable housing.

Thank you again, Mr. Chairman, for the opportunity to testify today, we appreciate your efforts to examine regulatory burdens and we look forward to working with you to expand the availability of affordable housing.

[The prepared statement of Mr. Lawson can be found on page 73 of the Appendix.]

Chairman DUFFY. Thank you, Mr. Lawson, and I thank our whole panel for their oral testimony.

The Chair now recognizes himself for 5 minutes. And, Mr. Lawson, I think you bring up a good point in regard to the need for more young people to get into the trades. I think the Home Builders Institute were at the White House about a month ago on that very issue, committing to train more young people to make sure that as folks retire, they are being replenished with really good paying jobs. I suppose that is a different hearing though, so I am not going to get into that, but I want to commend the homebuilders, for that is a problem we are having across the country.

So, to the panel, we are saying, I think, the study that you cited, 32 percent of the cost of multifamily projects is from regulation, correct? Is this 32 percent or a third of the cost, is that from stupid regulation, smart regulation, or a combination of both? I am asking this question because if we were in Florida, I want certain regulation in regard to flooding, I want certain regulation in regard to hurricanes and wind, right? It is going to obviously increase the cost of a home in Florida.

If you had to break that 32 percent down, what percent of that is over-regulation versus appropriate regulation?

Ms. Ansel, can you answer that question?

Ms. ANSEL. Sure, I am happy to. Thank you for the question. I think it is a combination of both smart regulation and over-burdensome, antiquated, duplicative regulation.

Chairman DUFFY. You are going—

Ms. ANSEL. So, it is hard to put a specific percentage to that but often it is a combination of local, State, and Federal regulation that is often in conflict with each other, is duplicative, and creates additional time and burden. So, over-broad regulation would be what I would declare is the biggest problem.

We need to very carefully look at the unintended consequences of the regulation. Smart regulation is important; it is important.

We have always been supportive of that but it is time to take a look at specific regulation and assess their true unintended consequences.

Chairman DUFFY. Mr. Schloemer or Mr. Lawson, either one of you.

Mr. SCHLOEMER. I would share Ms. Ansel's response that it is a combination of appropriate and unnecessary regulation. The examples you cited for hurricane protection, for example, in Florida is entirely appropriate. But as I cited in one of my examples, if we just reduced our cost by 5 percent, we think we could increase the amount of housing available to families earning less than the area median income by a factor of 20 percent, from 51 percent to 62 percent or an additional 11 percent of all apartments in our portfolio.

And that isn't an unreasonable target to be shooting for. One-sixth of that regulatory cost to be reduced, to be reconsidered I think is an appropriate target and it certainly represents a number that is realistically within the unnecessary or over-burdensome regulation.

Chairman DUFFY. Mr. Lawson?

Mr. LAWSON. I would agree with previous speakers and also point out that I think we need to consider the cumulative effect of regulation. I am certainly not, I probably didn't coin the phrase but I have heard people say regulatory creep and that is we add one more regulation one year which is a good idea. The next year, it is another good idea. The year after, it is another good idea and so on and so on.

And I think what has happened is we have now found our place—found ourselves in a place where the cumulative effect is detrimental.

Chairman DUFFY. So, Mr. Lawson, are you in the business of doing projects to lose money?

Mr. LAWSON. No, I am not.

Chairman DUFFY. Ms. Ansel? Mr. Schloemer?

Ms. ANSEL. We are not.

Chairman DUFFY. I didn't think so. So, obviously, you are going to pass these increased costs onto your renters right?

Ms. ANSEL. We are required to.

Chairman DUFFY. Right. And so, when we have increased unnecessary costs of projects due to regulation, in the end the people that we are trying to help, those who need affordable housing, are the ones that are hurt the most. Is that not fair?

And Mrs. Poethig, I appreciate your testimony and you hit a wide range of things. Mr. Cleaver, as you were testifying, we were talking about your testimony and I think he is going to hit on some of the issues as well. But you would agree with this that we want to strike the right balance in regard to regulation, right?

Ms. POETHIG. Yes. And I think it would be important to study the cost and benefits of different regulations because I do think they provide some societal benefits, some health benefits, some other kinds of benefits to well-being, and we want to take those into account, because I think the tradeoffs you are raising are really important in terms of both affordability. But also let us think about some of the other benefits that regulations might be providing as we think about ways to rationalize them.

Chairman DUFFY. And I think that is important for us to look at, and every regulation probably has a do-gooder and pure heart behind it, but if we have so many regulations that do so many great things but they cause the cost to rise so much that people can't afford to get into the residence, that also is a problem. I think we have to look at what is a good policy but what is affordable policy as well.

Sometimes we don't all need to have BMWs. Sometimes we just may want a Yugo. I don't think they make Yugo's anymore but, sometimes you just need a simple car to get you to work or a motorbike, and especially if you can't afford a high-end car.

My time has expired but one question you guys can respond to in writing is obviously, we are very cognizant of the lanes of the Federal Government, the lane of the State government, and the lane of municipalities, and where a lot of us don't like to cross that lane. But if you have advice to us on what we can do at the Federal level through the whole spectrum, from us on down, how we can streamline this approach, I would welcome your insight on that, on how we can lead the way to have an impact up and down the food chain if you will.

With that, my time has long expired, I now recognize Ranking Member from Missouri, Mr. Cleaver for 5 minutes.

Mr. CLEAVER. Thank you, Mr. Chairman.

I am going to be beating up on myself on this a little. I may be the only former mayor here. But as we are talking about the regulations, the truth of the matter is most of the regulations actually have nothing to do with the Federal Government. Most of the regulations are municipally handled and, to some degree a few, the State government, but most of them are municipal.

I was in San Francisco over the weekend, a city that is I think 7–1/2 half square miles, and they have less than 10,000 people moving in in 10 years because they can't afford to move in there. So, the price of housing has just gone, and my analysis of that is that the city made some horrible zoning decisions that made it possible for or reduced the chances of people with low incomes to move in.

So, I connect that in many ways with the need for fair housing, and I think that the Brookings Institute study is rather clear. If you have poor fair housing decisions, you are going to end up with also the municipalities making decisions that would also eliminate—if they also eliminate really serious fair housing issues, you are going to wipe out any opportunities for people to come in and build new housing and buy new housing, and that is just the way it is.

Am I putting too much on the fair housing issue and should we be, as a Federal Government, in any way sending signals back to municipalities and State governments about what they need to do? We have some issues. I think we need to have low-income tax credits. I think we need more money in CDBG because it offers municipalities opportunities to use flexible dollars from the Federal Government, we need 202 loans for senior housing, all of this.

But can you focus a little on the fair housing issues and a little if you would on what the Federal Government could do to impact local government, and are we trespassing? Yes?

Ms. POETHIG. Thank you, Ranking Member Cleaver. I see these two issues as absolutely connected and my written testimony goes into greater detail. Because of the history of racist and discriminatory policies at the local level that are tied to the zoning practices and to redlining, the limits that we see on multifamily development are entwined with fair housing issues.

So, the Affirmatively Furthering Fair Housing rule was absolutely intentioned to enable local communities to really evaluate and assess those policies, to look for ways in which they could improve the environment for multifamily rental housing, but also to increase access to opportunity for all residents in the city. And I think we have to understand the history that led us to where we are today and the connection between fair housing and the limitations on multifamily development to see the benefits of the Affirmatively Furthering Fair Housing rule to stimulate more rental housing.

Mr. CLEAVER. San Francisco is the second largest or the largest city in California, which one it is I am not sure, but the weird thing about it is that it is a city that is only 6 percent African-American and dropping, by the way. And every decision made by the City Council, unless it is with a great intentionality to create opportunities using fair housing as the motivation, we are going to see one of our largest cities in the country with virtually no minorities or at least no African-Americans.

I think there is a large population of Asians. And I am hoping that from this discussion, and if we had time I would really like to know are we trespassing or should this hearing be done in city halls around the country instead of here in Washington?

Ms. ANSEL. Ranking Member Cleaver if I might add, National Multifamily Housing Council and NAA have always been strong supporters of fair housing, we believe in it completely. The issue we have is there is not enough supply in our communities, in our apartment homes. And so, we need to find ways to reduce the costs. The additional and over-burdensome regulation reduces the amount of new multifamily homes that are built.

Mr. CLEAVER. In cities, these are in cities.

Ms. ANSEL. In cities. Well, throughout—in cities and in rural areas as well. And so, I think there is a piece that the State, the local, and the Federal Government can play in this. I don't believe that we are overstepping our bounds. I think the Federal Government can look for ways to incentivize local and State governments to partner with private organizations to create the opportunities to build more apartment homes.

The additional supply will solve many of the problems that we have discussed here today and there are a number of steps that we can take to do that.

Chairman DUFFY. The gentleman's time has expired.

The Chair now recognizes the Vice Chairman of the subcommittee the gentleman from Florida, Mr. Ross, for 5 minutes.

Mr. ROSS. Thank you, Chairman. I thank the panel for being here. We are here today not to talk so much about regulation in and of itself of the housing industry especially the multifamily industry, but also the overburden caused by certain regulations. And I think that the title is correct, it is the cost of regulation on affordable housing, the cost should have a return and that return should be quantified objectively by assessing the health, safety, and welfare of those that we are trying to protect.

For example, in Florida in 1992, we had Hurricane Andrew, we realized our housing stock was flimsy as could be. We imposed the Nation's strongest building code, but as a result we have had a great return, lower insurance premiums, but most importantly we have kept people from being displaced from having to lose their home including in a multifamily housing.

Look at Louisiana, for example, that lost a congressional seat as a result of Hurricane Katrina because so many people were displaced.

But what I want to talk about here is I think it is important that we consider regulations that increase the cost of capital used for multifamily housing development. In what ways do regulations that increase the cost of financing for these projects, costs that are no doubt passed along in some form to the end-users, complicate efforts for affordable housing?

For instance, Mr. Schloemer, would you agree that various regulatory rules relating to financing such as the classification of High Volatility Commercial Real Estate or HVCRE loans impose hidden fees on the potential housing process and lead to the impediment of better housing projects?

Mr. SCHLOEMER. I think the short answer to that question is yes, I would agree. With the introduction of that particular policy, one of the things that we saw was a reduction in availability of bank-originated construction funds.

Mr. ROSS. Yes. Increased capital requirements with a loan-to-value of greater than 80 percent and you are impeding the ability to meet a demand that the market has stressed on your industry.

Mr. SCHLOEMER. The cost of the equity component of the financial stack, the capital stack is much higher than the debt portion. And so, therefore, by increasing the amount of equity capital that was put in, it increased the overall capital cost.

Mr. ROSS. And then to piggyback on the Ranking Member Mr. Cleaver, I think the Federal Government may be, in its own subtle way, increasing its regulatory influence on the multifamily housing just through the finance regulatory scheme. Would you agree?

Mr. SCHLOEMER. Yes, I would.

Mr. ROSS. Mr. Lawson, although local governments generally have the authority for building codes, your testimony states that Federal and State governments are becoming increasingly involved in the process. Do you have some examples of the Federal Government becoming more involved in the local building code process?

Mr. LAWSON. This is something that our staff has worked on in great detail. So, I can't say I am the most knowledgeable, but I do know that the energy codes department has had or the DOE through the energy codes process has taken a—

Mr. ROSS. It imposed a higher burden.

Mr. LAWSON. Higher burden but taken a very prescriptive approach instead of a more performance-based approach, meaning advocating for certain ways to achieve energy gains, energy efficiency gains when what we advocate as the industry is give us a performance measure—

Mr. ROSS. And let us meet that.

Mr. LAWSON. To achieve and let us figure out the best way to do that instead of picking winners and losers within the building supply category.

Mr. ROSS. I appreciate that. Let me follow up on something in your earlier testimony, too, that I really want to hit on. And you talked about labor shortage. And I have been very concerned about this because I have talked with my road builders, I have talked with construction, I have talked with many of the service industries out there, and the lack of skilled labor is adversely impacting our ability to sustain the GDP growth we are now experiencing.

You have talked about increasing careers in the construction arena and skilled labor. Let me ask you this specifically. That is a long-term program. And I think it is a very valid program that I support strongly in vocational training in skilled areas, but what about the use through an H-2B program, increasing the H-2B program so that we can meet our immediate labor shortage with foreign nationals coming here for temporary purposes? Is that something that you think would be supportive for your industry?

Mr. LAWSON. Absolutely.

Mr. ROSS. I appreciate that.

Ms. Ansel, in your testimony you note that the issue of rent control can be counterproductive and can serve as a disincentive to investing and developing the diversity of housing units that a community requires.

Are there policy alternatives that you would suggest to rent control or ideas that local governments can consider instead of rent control? And I have got 2 seconds.

Ms. ANSEL. I think there are a number of policy options that are available. We talked a little bit about different ways. Again, I go back to the issue, why rent control is a problem is because it is against economic forces of supply and demand. And it will serve to reduce the amount of supply of new apartment homes.

The thing that we need to do is to find ways to increase the ability for apartment developers to create more supply, that will have the biggest impact on our ability to reduce rents and create more affordable and workforce housing.

Mr. ROSS. Thank you. I yield back.

Chairman DUFFY. The gentleman yields back. The Chair now recognizes the Ranking Member of the full committee, the gentlelady from California, Ms. Waters, for 5 minutes.

Ms. WATERS. Thank you very much, and I appreciate the opportunity to share some of my thoughts. Having listened to some of the presentations that have been made and particularly reading Mr. Schloemer's testimony, I am absolutely moved to first say that most of the Members of this committee are committed to the proposition that we have to have more multifamily housing. I believe that this could be and should be a bipartisan issue because I think all of our communities all over this country are impacted by a combination of things that all of you are identifying.

And I am wondering if we could ask you to join with us in helping to eliminate some of these barriers, because I think that you have the knowledge. You have the background. And you understand how all of this works.

And while I have not had an opportunity to talk with my Ranking Member of this subcommittee or any other Members about this, just looking at these presentations, let me just say this. We are focused particularly on this side of the aisle for support for infrastructure development and the funding by the Federal Government to improve the infrastructure of this country.

And while a lot of people think about that in terms of issues like repairing bridges, developing new water systems, as I look at the testimony, I think there are a lot of things that can be done with infrastructure development and repair that would ease some of the burdens for the development of multifamily housing.

In looking at some of this testimony where you are required to pay for fire hydrants and even though it wasn't said here, I talked with a developer that had to move a big pole that had to do with the electricity distribution and all.

I think that should be part of what we pay for with infrastructure. Infrastructure helps to reduce the costs and makes it easier for our developers if they did not have to be involved with other areas other than getting that housing developed.

And so I would like you to think about that and think about, as we move toward support for infrastructure development in the Federal Government, what can you identify that could be included in infrastructure development that would reduce the cost of multifamily development in ways that make good sense?

The other thing I would like you to think about is this, a lot of this has to do with the locals. And whether we are talking about zoning laws or other kinds of laws that basically discriminate or whether we are talking about systems that don't work, when someone can have something sitting on their desk for a month and not move it, and permitting, et cetera.

I would like us to think about incentives, real incentives for locals to get rid of these impediments to development. You know what many of them are. And you have experienced many of them. Now, I have heard a lot of talk about one-stop shops that could expedite permitting and all of that. But I don't know if they really work as well as they should.

I think some of the ideas are good, that they want to have one-stop shops but in some of my cities, they have one-stop shops but they don't do any better than when they were not one-stop shops. And so, what can be included in this permitting and other kinds of things that you have to go through that would help to expedite the process?

I believe that we can come together around these issues. And I believe that all of us must be committed to the proposition that we can develop low-income housing. I, at the Federal level, support, of course, Section 8 and subsidies and the Housing Trust Fund and all of that because we need money. We can't do it without the dollars.

And if we can get together and support the dollars that are needed then I think these other kinds of ideas may go a long way to reduce that cost.

I think Mr. Schloemer, you said you—under certain conditions you could reduce by 5 percent development of multifamily housing. Let us see, we believe that a 5 percent reduction in our development costs would allow us to offer 62 percent of our apartments at rents affordable to households and but 80 percent of AMI income level, which I think is significant, significant. And if in fact we could concentrate on multiple ways by which to reduce by 5 percent or more or some percentage, we could get some of this done.

So, I would like you not to think purely about the development of low-income multifamily housing and not think about these other kinds of issues such as get right in the middle of support for infrastructure development with the Federal Government and identify specifically, I think you can do that, ways by which you have had to pay for costs that you never anticipated or costs that you should not have to bear because they want you to do something that perhaps the city could have done or the Federal Government could have helped with.

With that, I yield back the balance of my time. Thank you, Mr. Chairman.

Chairman DUFFY. There is no time left, Ranking Member.

The Chair now recognizes the gentleman from Missouri, the Chairman of the Subcommittee on Financial Institutions, Mr. Luetkemeyer for 5 minutes.

Mr. LUETKEMEYER. Thank you Mr. Chairman and just to follow up on the remarks of the Ranking Member. Infrastructure is necessary for any sort of development that you do, so how you structure that infrastructure it pays for is really important. And I agree with her to a certain extent, however, I know in my area a lot of development is done with tax increment financing, so that the cost is not borne by the individuals who do business with the commercial site or the people who rent apartments or homes already from whatever that area.

So they use a tax that whatever commercial development is in the area, the increased tax activity pays for the bonds to be able to build new roads, new water lines, sewer lines, or whatever, so that it is not borne by the people who have to do business with or rent apartments from.

So, to me that is the way that this can be done. I don't know if every State does this in the country, but Mr. Lawson and Mr. Schloemer, are you familiar with that? You guys are in the business.

Mr. SCHLOEMER. I am familiar with that. It has different acronyms in different parts of the country. For the most part, in suburban and second-tier markets it is not used for housing development.

It is often used for commercial development as you characterize it, that shopping centers, office buildings, industrial facilities, and not geared toward housing development. So we have not utilized it. And it has not been an available avenue for us in any of our housing development.

Mr. LUETKEMEYER. Mr. Lawson?

Mr. LAWSON. I would echo those comments. I would also say that to get a tax increment financing district established is a very political process and one that takes a long time and a lot of money.

Mr. LUETKEMEYER. I don't disagree with you there. A couple years ago I went to New Orleans and saw how they rebuilt their housing structure down there. And they have a lot of housing now that is the second and third stories, the buildings that they have the ground floor for commercial use.

So I think that is an opportunity if you have mixed use of your structures that you could utilize this tax increment financing situation for the building and constructing in these certain areas but just as a thought.

I know the Chairman made a great point a while ago when he said good policy is not necessarily affordable policy. And I think that is what we are talking about today. Nobody denies that some of the rules and regulations are not well-intentioned. It is, can we afford this? And does it put more burden on people, businesses, whoever, than we can afford to be able to do?

And one of the things—I Chair the Financial Institutions Subcommittee. And we had a roundtable yesterday with regards to a new rule that is being promulgated. It is not yet implemented, although it is going to be done pretty shortly. This deals with how banks structure their loan loss reserve for anticipated losses. It is called CECL (current expected credit loss). And what it does is it causes them to look forward rather than backward as to whether they make a house loan on a rural area, a multifamily housing loan, whether they are going to have any loss on that, and then they have to reserve for that, which you have to reserve an account before.

Now, in discussion yesterday while the tax accountant guys with their thick rimmed glasses and Coke bottle jobs really thought this was a great idea, all the rest of the folks around the table who deal with this in the real world said, Look, this is going to really increase costs. We may actually reduce the ability of us to provide services on certain products. If you have seen at the banks, already they have gotten rid of a lot of small-dollar lending. Some banks no longer do home mortgages at all. So, we have another rule that is while it is well-intended here and this is by a separate entity, this is not even the government. This is separate entity out here, the FASB folks who are looking at this.

And it is actually going to impact on, we have a discussion going about to CRA, which is Community Reinvestment Act, whether the banks can comply with some of the requirements of that, if you go to CECL, are you going to restrict the ability to loan to certain folks because they increased costs. Have you all talked about this or are you aware of CECL at all? Ever heard of it?

Mr. SCHLOEMER. I have not in my role in development, but as a bank director—

Mr. LUETKEMEYER. OK. Are you concerned about it at all as your role as a bank director, knowing what it could do to the folks that you do business with?

Mr. SCHLOEMER. Absolutely. The particular bank that I serve on the board of is a very financially sound bank but it is the CECL requirements and the proposals have had concern over our ability to make as many loans and to the extent that the bank would like to make loans, further restriction.

Mr. LUETKEMEYER. So that raises costs, again, that is a cost that has to be borne by the developer because you are going to the banks, it is going to raise the costs to do the loan to the developer, is it not?

Mr. SCHLOEMER. Unfortunately, it is not even just borne by the developer. It ultimately is borne by the renter household in the case of multifamily.

Mr. LUETKEMEYER. OK. Yes. Are the purchasers of the home, if you are doing a homebuilding loan, this is very concerning to me and we had a long discussion on it and hopefully we will get some consensus.

Mr. Chairman, my time is over. I thank you very much and I yield back.

Chairman DUFFY. The gentleman yields back.

The Chair now recognizes the gentlelady from New York, Ms. Velazquez, for 5 minutes.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Miss Poethig, while I agree that streamlining regulations can be important, the other side of the aisle often fails to look at the whole equation when it comes to affordable housing. Do you agree that the drastic cuts that have been made to programs like HOME, CDBG, Section 202 Program, Project-Based Section 8, many of which successfully combined Federal funding with private sector dollars have exacerbated the lack of affordable housing in this country?

Ms. POETHIG. Yes, I do, Congresswoman.

Ms. VELAZQUEZ. And Mr. Lawson and Miss—I am sorry I just can't see from here, Miss Ansel?

Ms. ANSEL. Ansel.

Ms. VELAZQUEZ. I just would like to specifically bring the issue of the CDBG and HOME cuts. How have those cuts inhibited your ability to produce and preserve additional units of affordable housing?

Ms. ANSEL. So NMHC and the National Apartment Association have been strong supporters for a number of years of not only reducing regulation, but increasing the funding for these programs, CDBG, the HOME, Section 8. There are a number of programs that can really help increase affordable housing and help those residents of the United States who need the most help.

So, we would agree completely that it needs to be a two-pronged approach to solve this problem.

Ms. VELAZQUEZ. So it is not enough to try to say here that regulations are the main factor for the lack of production of affordable housing in our in our country.

Ms. ANSEL. We think regulations are important but we think there are more steps that can be done to increase affordable and workforce housing.

Ms. VELAZQUEZ. So Miss Poethig, the Federal Financing Bank Risk Sharing program has proven to be a successful partnership between HUD, the Treasury Department, State, and local housing finance agencies.

And since its formation in 2014, the program has created more than 3,000 affordable homes in New York City alone and more than 20,000 homes around the country. Yet, the Trump Administration is considering letting this program expire.

Do you know of any argument that can be presented to us that will support the elimination of this program at this time?

Ms. POETHIG. Given the drastic gaps we have in affordable housing, I can think of no argument for canceling that program.

Mr. LAWSON. And I can say that we have used that program.

Ms. VELAZQUEZ. Yes.

Mr. LAWSON. And it has been extraordinarily helpful. Its implementation has been slowed by the uncertainty of future funding.

Ms. VELAZQUEZ. Yes, right, and that coming from an Administration that is headed by a businessman, so in business, we need certainty, because without that people will not make decisions whether or not to go ahead with a project in our districts.

So, I sent a letter to the Secretary of HUD, asking them not to let this program expire. And I hope that since we are so much interested, in this committee and subcommittee, about the affordability of housing in our Nation, that we invite our Chairman and the Members of the Subcommittee on Housing to send a letter to the Administration to not let this program expire.

With that I yield back, Mr. Chairman.

Chairman DUFFY. The gentlelady yields back.

The Chair now recognizes the gentleman from Pennsylvania, Mr. Rothfus, for 5 minutes.

Mr. ROTHFUS. Thank you, Mr. Chairman.

Mr. Schloemer, the Ranking Member talked about some of the data that you had in your testimony. I want to go back to it. You talked about a 5 percent reduction in your development costs would allow you to offer 62 percent of your apartments that are at rents affordable to households that earn 80 percent or less of AMI. This would be a significant increase from your current 51 percent rate.

And Miss Velazquez raised the issue of regulations, I want to get a feel for the scope of regulations and the extent to which they are a factor. What would be the main regulatory cost drivers that are impacting your developments?

Mr. SCHLOEMER. Well, as my written testimony indicated, it occurs at both the Federal and the local levels. And so, I think you have to break those down. I think on the Federal level, again, as has been stated by everyone here, I think there is unanimity in our industry for support of fair housing and accessibility regulations and laws, however the implementation may not meet the objectives that Congress has set forth.

And one of my favorite examples, I came down a ramp here into this auditorium today that I expect meets the ADA accessibility of an 8 percent slope on that ramp, and yet when we build apartment communities as opposed to a single-family subdivision that isn't subject to that ruling, we have to maintain a 2 percent slope throughout the development.

I can cite specific examples where the cost for maintaining that 2 percent slope has probably added 2 percent to 2.5 percent to our overall development costs on a project, so just an application of maintaining accessibility standards according to the ADA as opposed to the Fair Housing would be one specific example.

At the local level there has been a lot of discussion by the committee as well as by the people testifying about the importance of consistency and reliability of regulations or programs. We find often at the municipal level that even after permits have been issued, new requirements are imposed upon us. And those are examples where we can't anticipate and it slows, retards, or even eliminates development because of the uncertainty of implementation of rules even after a permit has been issued.

Mr. ROTHFUS. I am wondering if you or anybody on the panel might be able to cite some examples of local or State governments that have successfully facilitated more affordable housing construction through some type of regulatory reform. Anybody aware of any examples that we can point to?

Mr. SCHLOEMER. There was an earlier mention of the development that occurred in New Orleans after the hurricane and I think what was important about that circumstance was the exodus of residents, the destruction of housing, and the clear shared recognition that new housing needed to be created, whereas at the local level there is often not that recognition of the need for housing as people have used the NIMBY-ism term. They would rather see the jobs created in their communities and the housing created in another community.

Mr. ROTHFUS. Ms. Ansel, in your testimony you discussed possible modifications to the CRA to facilitate more lending to affordable multifamily developments. As you noted, the CRA currently allows banks to obtain credit for multifamily units serving occupants with incomes of up to 80 percent of area median income, but you also noted that income information is not typically captured.

How would you propose that the CRA be modified to address this issue and encourage more lending to affordable housing developers?

Ms. ANSEL. If you don't mind, I am going to answer your last question first.

Mr. ROTHFUS. OK.

Ms. ANSEL. So, I think it is important to note that many municipalities around the Nation are attempting different solutions. And while we applaud those different solutions, it is hard today to point to one that has been really successful, but we would be more than happy to get back to you in written testimony as to the things that have been successful.

With respect to CRA, I would like to do the same thing. I would like to provide a written response to you. It is a detailed answer and I would like to give you that full answer if I might.

Mr. ROTHFUS. Appreciate that. Thank you and I yield back.

Chairman DUFFY. The gentleman yields back.

The Chair now recognizes the gentleman from California, Mr. Sherman, for 5 minutes.

Mr. SHERMAN. Ms. Ansel, the National Multifamily Housing Council and the homebuilders have put out the study saying 32 percent of the costs of building multifamily housing is attributable to costs of complying with the local, State, and Federal regulation. How much of that is Federal regulation?

Ms. ANSEL. Well, we have identified in the study, sir, two Federal pieces that create the most burden are OSHA regulations that account for up to 2.6 percent of total project costs and building code compliance was 7 percent.

Mr. SHERMAN. I don't think anybody is calling for just eliminating OSHA.

Ms. ANSEL. No, sir, absolutely not. Yes.

Mr. SHERMAN. OK. Go ahead. Yes.

Ms. ANSEL. As we stated earlier, we strongly believe that—

Mr. SHERMAN. Go ahead. What is the second?

Ms. ANSEL. The second piece is the change in building codes, over the last 10 years changes in building codes that have been directed in conjunction with the Federal Government have increased costs by 7 percent—

Mr. SHERMAN. You are saying these are requirements imposed by the Federal Government for subsidized flood insurance or financing? I am not aware of a Federal building code that applies to everybody.

Ms. ANSEL. No, examples of those, sir, would be, as you know, there are a flood of regulations that impact apartments.

Mr. SHERMAN. Right, right.

Ms. ANSEL. So there are diverse Federal agencies, including the Department of Housing and Urban Development, Environmental Protection Agency.

Mr. SHERMAN. If the Federal Government is going to insure, guarantee its insurance, pay for it, we would have requirements.

Ms. Poethig, I know a couple dozen ways where the Federal Government can spend money and make sure people have housing. Do you know of any way in which the Federal Government cannot spend money but still get housing for people, and which would you suggest?

Ms. POETHIG. I can't think of any.

Mr. SHERMAN. OK. I know, I think it was Mr. Lawson, might have been Mr. Schloemer suggested changing ADA to provide a 2 percent slope instead of an 8 percent slope.

Mr. SCHLOEMER. Actually no, if I could just correct that.

Mr. SHERMAN. Yes.

Mr. SCHLOEMER. ADA requires an 8 percent slope and FHA, the Fair Housing imposes a policy of a 2 percent accessible slope throughout a development and that may have not even been in code but originated in policy regarding—

Mr. SHERMAN. So you are saying this is a case where the ADA allows for an 8 percent slope but another Federal law requires you to just have the 2 percent slope and the 2 percent slope, I assume is more expensive for you.

Mr. SCHLOEMER. That is correct.

Mr. SHERMAN. OK. So we have at least identified one thing the Federal Government ought to take a look at.

Ms. Poethig, we want to encourage more landlords to participate in Section 8. Are there regulations or HUD rules that burden landlords and make them unwilling to participate?

Ms. POETHIG. I think you have asked a really important question, and the Urban Institute most recently released a report on the ways in which landlords are in fact discriminating against Section 8 voucher holders.

There are certain jurisdictions that have source of income protection for voucher holders, and what we found in our research is that in fact, those local laws and regulations are enabling voucher holders to access more units, so those—

Mr. SHERMAN. Wait, wait. I think my question was more are there rules that burden landlords and make them unwilling to participate? And you have identified a situation where landlords may be unwilling to participate. And we could have some regulations that force them to participate, which is an interesting answer but not to my particular question.

Ms. POETHIG. Certainly.

Ms. ANSEL. If I might—

Mr. SHERMAN. Ms. Ansel.

Ms. ANSEL. If I might answer that. The cost of the regulations that are required by the Section 8 Voucher Program create significant additional operational costs for example.

There is paperwork that is cumbersome just to get the verification for voucher amounts, that is not—and it is dependent on the different localities but that varies by market, so that takes time and additional effort to understand what the verification amount is.

Members who participate in the Section 8 Voucher Program are required to use HAP the contracts which, in many cases, is different than what the other lease agreements that a property operation company would use.

The inspection process for that Section 8 housing can be slow, which requires the owners to maintain vacancy which is lost income. There are additional communications required with multiple third parties—

Mr. SHERMAN. And then that being said, Ms. Poethig, it brings up a good example. I think you were saying that in effect, some cities require you to view Section 8 as a source of income to pay for the housing instead of excluding that and then excluding the resident as not being, quote, qualified, because they don't have enough income.

Ms. POETHIG. That is correct and it is intended to address discrimination that the Urban Institute has, in fact, documented happens against voucher holders.

Mr. SHERMAN. OK, thank you. I yield back.

Chairman DUFFY. The gentleman yields back.

The Chair now recognizes the gentleman from Illinois, Mr. Hultgren, for 5 minutes.

Mr. HULTGREN. Thank you, Chairman Duffy.

Thank you all for being here. I am grateful for your work and your testimony today.

The first question I want to address to Ms. Ansel, if I may. There has been a lot of discussion around the shift from home ownership to rental, both those in their 20's entering the house market and Baby Boomers looking to downsize and shed the responsibility of homeownership.

I wondered if you could talk a little bit about, do you believe that this growing preference to rent instead of own will continue, and if so, what reforms do you view as the most pressing for policymakers to consider when looking at ways to address this shortage of affordable multifamily housing?

Ms. ANSEL. Yes, sir, the demographics, a study by the National Apartment Association, the National Multifamily Housing Council shows that there is going to be increasing demand for rental property homes because of the shift in demographics.

There are, as pointed out earlier in the testimony, young adults who are coming out of school and are burdened with school debt.

Young adults are getting married later in life and having children later in life, both of those issues are increasing demand for multifamily on the front end, and a number of older demographics, older than 45 are moving back into apartment residency.

Primarily this is because of lifestyle choices. A number of folks are recognizing that having a mortgage-free life is something that they would prefer. They are able to move for a job if the job moves to a different city. A lot of this has happened since 2008, so we believe that there will be continued demand for apartment housing.

And I think that we have talked about a number of different things that we can do at the Federal level to reduce regulations, but other things that I would suggest we consider is that we should retain and expand pro-development tax policies, think we should support housing finance reform that preserves multifamily mortgage liquidity provided by the government-sponsored entities.

We should increase funding and support for housing subsidy programs as we have talked about, and we should support funding for the FHA multifamily programs. We think all of those will help increase the number of apartment homes.

Mr. HULTGREN. All right, thank you.

Mr. Lawson, if I could follow up and I think you have touched on a little bit of this, but I know the National Association of Homebuilders Survey referenced in your testimony estimated that regulations account for as much as 30 percent of development and construction costs. And in some cases can exceed 40 percent.

How do we as a Congress make strides in reducing regulatory costs while allowing for independence and flexibility at the local level to be able to tailor regulation to the needs of the community?

Mr. LAWSON. That is an excellent question. And we certainly don't have all the answers. Land use is a local decision. However, I do think what we need to do is look at each regulatory regime and take an honest look at what the costs of that regime are. We need to strike that balance.

As all the panelists said, there is most certainly a place for regulation. But we need to judge those, the impact those regulations have on an economic basis very fairly.

I think energy efficient initiatives are a great, great example. We could demand that every home install a certain type of energy efficiency appliance. If the payback is greater than 10 years, I would suggest that that be a tipping point. If the payback is 30 years, 40 years and I have even heard some people in the industry talk about a 100-year payback, that is not something that strikes a balance in my humble opinion.

Mr. HULTGREN. In my last minute here, Mr. Schloemer, if I could address to you, in your testimony you discuss how your business focuses on suburban and secondary tier markets. These are not always the first to come to mind when you think of underserved markets.

According to the map included in your testimony, your company owns six of these properties in Illinois. We talked about that a little bit, with three in my district. When you discuss barriers to multifamily development you had actually used two instances in Illinois where infrastructure requirements increased the cost of two projects, one totaling more than $60,000.

I understand that you may not be able to identify specific regulations at your Illinois properties off of the top of your head. But I wondered and would be curious to learn more about these Illinois examples. And if any other State-specific burdens that your company sees as inhibiting further development in the State?

Mr. SCHLOEMER. Thank you. As my written testimony indicated, there are certain infrastructure improvements that are mutually beneficial, whereas others are done to satisfy infrastructure demands that a community has identified and they recognize that they can use that, an approval of a project as a lever.

One of the properties either in your district or adjacent to your district required us to put in a new public street that was not necessary to service the property, but in fact, alleviated existing traffic burdens that were in the market.

It is entirely possible with the discussion that was made earlier about Federal infrastructure programs that I know are a topic here, that the incentive may be tied to those infrastructure support dollars that come from the Federal Government entirely related to the availability and the speed, as well as the availability of approvals for multifamily improvements or developments within any particular community that utilizes those infrastructure dollars.

Mr. HULTGREN. Great. My time has expired. I yield back.

Thanks, Chairman.

Chairman DUFFY. The gentleman yields back.

The Chair now recognizes the gentleman from Michigan, the holder of the new position of Vice-Ranking Member, Mr. Kildee for 5 minutes.

Mr. KILDEE. Thank you very much and I appreciate the recognition of the title of assistant to the regional manager.

Well, first of all I apologize for not having been present for your initial testimony. So some of what I may ask may already have been covered, and I know it's covered in part in some of the written testimony.

But if I could start with Ms. Poethig who, we worked together in the past, and you are familiar with some of my past work on housing development. I wonder if you might comment and maybe the others would have some thoughts on this as well.

On the particular challenges in weak and very weak housing markets, one of the advantages of stronger markets when it comes to development of affordable units in housing, is the ability to leverage higher market rate rents to help subsidize or support the development of affordable units. In really weak markets it is really tough to do that.

And I wonder, that is just one example, I wonder if you might comment on a particular Federal involvement in supporting very weak markets in trying to address this challenge, where often there actually is an oversupply of very low quality housing and the question is really quality and affordability. I wonder if you might just comment generally on that subject.

Ms. POETHIG. Certainly and thank you for the question. I think you raised a really important issue, which is perhaps, in some markets that are weaker, there may be existing supply of affordable rental housing. And the goal is to preserve and improve that housing so that it meets quality standards, but it's also about preserving existing subsidy, which is why preserving Section 8 properties in some of those markets is important, because of the point I made earlier and that we make in our written testimony is that for every place around the country, whether you are a weak or a hot market, extremely low-income households face affordability gaps.

And so, that is the reason why I stress in my testimony the importance of expanding rental assistance to all eligible households, and I think that would address both weak market and hot market affordability challenges.

And those can be coupled with other affordable existing rental housing or they can be a stimulus also to the creation of new housing, because they provide a reliable supply of income over a period of time. And I think that expansion of rental assistance could be a really good solution in weak marketplaces as well.

We go into greater detail on this about a new tool that we created called Penciling Out, that I invite the committee to look at that allows you to really understand the role that these different regulations play, but the role that subsidy plays in closing that gap.

Mr. KILDEE. Thank you. If I could just zero in on another particular point because I am running out of time, as Erika, a lot of my background previous to being here was in the development of public land-bank authorities.

One of the advantage that land-bank partners bring to affordable housing development is that because it is a public entity it has to measure all the externalities associated with development, and because public entities end up paying the high cost, the very high price associated with a lack of affordable housing, the concentration of poverty, all the associated social and economic impacts that local communities face, it makes sense, it made sense to me to have that local entity serve as a very patient partner with capital that is available to help underwrite the cost and essentially be a partner in the development of affordable rental and for-sale housing.

The problem as I see it and I am running out of time, the work that I have done is very narrow and it is very focused and it has really never, at least recently we have seen some example, but we have never actually seen it come to scale.

And I know, Erika, you are somewhat familiar with the model that I helped to develop. Is there any thought about how to create local partnerships that can bring capital into this space on the basis that that investment actually saves so much more in terms of the negative externalities that come with the lack of affordable housing? And we just all pay such a high price, somebody is paying.

And I wonder, and I am not sure I am making myself particularly clear, but I wonder if you may just comment on how we might figure out a way to internalize those externalities and realize that we all pay such a heavy price. We hear so much about the cost of development and I get that, but what we don't hear very much about—hear so much about is the cost of all the ills, the social ills and the economic ills that come from the lack of affordable housing. That is a very high price. And we haven't figured out yet how to bring that capital to bear to prevent those costs. Any thoughts?

Ms. POETHIG. Just quickly. I think you are absolutely right and there is very good evidence about the costs and consequences of particularly a vacant land, vacant properties that are causing those externalities. So I think there are some interesting ways to think about using Pay For Success as a tool to bring capital to really address the rehabilitation of those properties as a way to internally do that, because I think there is evidence that points to the health benefits and safety benefits.

I also think that there is a good opportunity to align with the opportunity zones in some interesting ways. And so, I would put that on the table as something also to consider as we think about those policy options.

Ms. ANSEL. Might I add on that answer quickly and we are close to out of time. The cost, the land cost for development is up to 25 percent of the total project cost, so if there is a way for the Federal Government to incent localities to participate in a public-private partnership, to create those land banks and put that under-utilized land to work for creating affordable housing, it would create a win-win situation.

Mr. KILDEE. Thank you and I appreciate the Chairman's indulgence, it was probably because of the title that you gave, the additional—

Chairman DUFFY. The gentleman yields back. And I was going to note that only the Vice-Ranking Member gets the latitude to take 5 minutes and 20 seconds to actually ask his question, 20 seconds over before we hear the response.

Mr. KILDEE. I have learned from the best, Mr. Chairman.

Chairman DUFFY. The Chair now recognizes the gentlelady from Ohio, Mrs. Beatty, for 5 minutes?

Mrs. BEATTY. Thank you, Mr. Chairman. And to our Ranking Member and to all of our witnesses here, thank you.

I want to start by echoing the remarks of our Ranking Member on the full committee that today is very bipartisan or should be with this issue, and it's certainly been very educational.

I represent the Third Congressional District in the great State of Ohio, and then Franklin County within the Columbus Metropolitan area. Central Ohio is expected to grow up to 1 million residents by 2050, mostly in and around Columbus, which is the fastest growing metropolitan area in the Midwest.

And according to Zillow, the medium-income value in my district is up nearly 30 percent and the median rent is up 22 percent in just about the last 6 years. A vast majority of Americans around the country haven't had a wage increase in decades, while housing costs as you know continue to skyrocket.

I have repeatedly said in this committee, and in other forums, and I will say it again that according to the National Low-Income Housing Coalition, there is no State, metropolitan area, or county where a worker earning the Federal minimum wage can afford a two-bedroom rental home at fair market rent by working a 40-hour a week job. And in Columbus an individual would need to make $17.50 or more an hour to afford a two-bedroom apartment.

So I am open to any ideas of how to fix this problem. But certainly, cutting taxes and cutting regulations is not the silver bullet that maybe some people might think.

You have been very informative here, but a lot of the responses to me have appeared to be more things at the local or the State level for a fix. So I guess I am going to ask each of you briefly to tell me what is the one change you believe that Congress at the Federal level that falls within the purview of our jurisdiction, that Congress can do to lower the cost of building multifamily housing in the United States?

Ms. POETHIG. I think one interesting idea to consider that would be in the purview and has been done within education reform is to think about a Race to the Top. To think about some pot of money that localities really want, maybe it is transportation money but maybe it is in the housing space, and make it available to those States that do draft some regulatory reforms that are impeding multifamily development. I think that is one idea that would be in the purview of the Federal Government.

Ms. ANSEL. Thank you, Congresswoman. I think that you have hit the nail on the head in that we have two issues. One is an income issue and the second is the supply issue.

And so, I think the Federal Government needs to look for ways to create partnerships with the localities and private developers to create more supply. I think there are a number of ways to do that, some of those that we have identified. I know you have asked for one but development is a capital-intensive business, and so, I would tell you supporting housing finance reform that preserves the availability of capital for multifamily development is one of the most critical issues that we can address.

Mrs. BEATTY. Thank you.

Gentlemen?

Mr. LAWSON. I agree that you have absolutely hit the nail on the head and this is a three-decades-old problem where housing costs have risen faster than incomes.

I would say that the thing that we could do most easily and there is some legislation that has been introduced that would expand the housing tax credit. I would say we need to expand and enhance the housing tax credit, expand it from a volume perspective and enhance it to reach a much broader array of incomes, and specifically not have it face and fall off the cliff at 60 percent or in the case now, 80 percent with income averaging. I think we need to address affordability on the entire spectrum.

Mrs. BEATTY. Thank you and I like that. I don't know if you know, I co-sponsored that bill that was a piece of legislation that Congressman Pat Tiberi introduced. So thank you for that. I am not sure if it went anywhere, so maybe I can get my Chairman over here to take a look at that.

If my colleague could ask for a letter, I don't want a letter, I want legislation, so thank you for that. Last, I have 8, 9 seconds, left.

Mr. SCHLOEMER. One of the benefits of spurring more multifamily housing development is also the jobs that it creates. At our apartment communities for example, there isn't an entry-level maintenance person that makes less than double the Federal minimum wage as an entry-level wage and receives benefits on top of that.

So by creating more housing we are also creating more family supporting wages. So I would like to point that out.

And then second I made mention of gaining some consistency between ADA and FHA. I think that is a single item, that you asked for us to name a single item that the Federal Government could do, that would be it.

Chairman DUFFY. The gentlelady yields back. We will take a look at that.

The Chair now recognizes the gentleman from the great State of Texas, Mr. Green for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman. And I thank the Ranking Member and the witnesses for appearing as well.

I think that Mrs. Beatty has made some salient points with reference to wages, wage stagnation. Unfortunately the benefits of the economy seem to be inuring to those who are at the top, and those who are at the middle and at the bottom don't seem to be making nearly the gains.

But let us move to another topic. Federal funding for new construction of affordable housing, what impact has the lack of that funding had on the market itself? We are not constructing more with Federal dollars. You have fewer houses available.

Obviously when you have a great demand and the supply is limited, you have an impact. What about Federal spending? That is something that we can regulate. How does that impact the housing market?

Mr. LAWSON. I will take a stab at that. I think it simply exacerbates the problem. We know that there is great demand for affordable housing. The statistics have long shown that many, many families are spending far more than they should on housing costs. The rent burden, very well documented. All of those things are I think a result of our market being out of balance. Simply not enough supply of affordable housing and a high demand.

Mr. GREEN. Would someone else care to respond?

Ms. ANSEL. I think as identified in our testimony, NMHC and NAA are strong supporters of increasing the funding of the low-income tax housing credit program and also recommend creating a middle-income tax housing credit program. The fact that those programs have been receiving less funding has certainly resulted in the fact that there are less affordable apartments that have been built.

We have talked today about the ever-increasing cost of building apartment homes due to labor and commodity prices, and so, to build more supply, the Federal Government has a very real opportunity to help create incentives that allow us to create those additional homes.

Mr. GREEN. Yes?

Ms. POETHIG. And I would just add, there is not a county in the country where there is a balance of supply for extremely low-income renters. So even tax-credit housing will need some source of subsidy to ensure that those households that make less than 30 percent of area median income which is about an average of $22,000 for a family of four across the country but differs, can't find a place to live.

And so, it is both, it is a package of the CBDG HOME dollars that provide the source of subsidy for the development to make it affordable but, more often than that, we are seeing that folks holding vouchers are also utilizing low-income housing tax credit properties. So it is a whole bundle of important Federal assistance that is enabling the supply to be built, when it goes down, so too does the supply go down.

Mr. GREEN. And just briefly, assuming that we do construct and that Federal Government plays its role, that goes beyond simply providing a place for someone to live. It impacts the economy in the area.

When someone gets a job, that person then spends additional dollars, someone has to buy the carpet, that person will be paid, there's a washing machine that is purchased, drapes, there is a benefit beyond the living quarters that we will receive when we invest in these kinds of projects. And I think too often we see this as simply a handout to someone so that that person will have a place to stay, if you will. But it is really more about economic development for a community.

Anyone care to say just a word in the last 8 seconds I have?

Ms. POETHIG. I think you are absolutely right. And we have a web portal called How Housing Matters where we look at all the relationships between how housing is a platform to achieve better outcomes for individuals and families and communities that really assembles all of the research that underscores all the points that you just made.

Mr. GREEN. Thank you very much.

Mr. Chairman, you were very generous with the time. I owe you 22 seconds.

Chairman DUFFY. I will find some time to take it from you, Mr. Green. Thank you for yielding back.

This concludes our questioning portion. If I could just take a moment of personal privilege, I want to thank Chase Burgess who has served on this committee for a number of years. He came here as an intern with John Boehner while studying at Miami of Ohio. And then he joined the Financial Services Committee as an intern after graduation and has worked his way up to legislative assistant and now a professional staff member.

I don't know why anyone would choose to leave this great committee and go to the outside and do other work, but Chase is doing that, but we thank him for his service and dedication to this committee, its cause and to our country.

So, Chase, thank you. We will definitely miss you. I appreciate it.

And with that, I want to thank our witnesses for their testimony today. I would just note that you might think that we never get along, that there are no ideas that we can agree to but if you listen to both sides of the aisle there is an understanding that we have a problem, and there is a pathway forward in a bipartisan fashion that we could craft a solution.

We will look to you and others in this space to help us as we move forward to work on a bipartisan piece of legislation. So hopefully this is not the end, this is the beginning of a conversation that can have a real impact on affordable housing in America.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

Again, thank you for your testimony and your time. And with that, this hearing is now adjourned.

[Whereupon, at 3:50 p.m., the subcommittee was adjourned.]

APPENDIX

September 5, 2018

NATIONAL MULTIFAMILY HOUSING COUNCIL

NATIONAL APARTMENT ASSOCIATION

TESTIMONY BY
SUSAN ANSEL
PRESIDENT & CHIEF EXECUTIVE OFFICER,
GABLES RESIDENTIAL

ON BEHALF OF THE
NATIONAL MULTIFAMILY HOUSING COUNCIL
AND THE
NATIONAL APARTMENT ASSOCIATION

BEFORE THE
HOUSE COMMITTEE ON FINANCIAL SERVICES
HOUSING AND INSURANCE SUBCOMMITTEE

FOR A HEARING ENTITLED
THE COST OF GOVERNMENT REGULATIONS ON AFFORDABLE MULTIFAMILY DEVELOPMENT

SEPTEMBER 5, 2018

Chairman Duffy, Ranking Member Cleaver, members of the Subcommittee, it is my privilege to appear before you today to speak on behalf of the multifamily rental housing industry, the National Multifamily Housing Council and the National Apartment Association regarding regulatory barriers to apartment community development. My name is Sue Ansel and I am the President and CEO of Gables Residential.

Gables Residential is an award-winning, vertically integrated, real estate company specializing in the development, construction, ownership, acquisition, financing and management of multifamily and mixed-use communities. Gables owns, develops and manages communities in high-growth U.S. markets such as Atlanta, Austin, Boston, Dallas, Denver, Houston, South Florida, Southern California and metropolitan Washington, D.C. Gables also provides third party management services in the New York, Baltimore, Tampa, Phoenix, Charlotte, Central and North Florida markets. Gables manages over 30,000 apartment homes and approximately 430,000 square feet of retail space and has received national recognition for excellence in development, construction, management, sales, marketing, learning and development, benefits and corporate accommodations. These achievements reflect the impact of experienced and dedicated team members, superior knowledge of the markets served, and expertise in development and management.

For more than 25 years, the National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA) have partnered to provide a single voice for America's apartment industry. Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management and finance. NMHC represents the principal officers of the apartment industry's largest and most prominent firms. As a federation of more than 160 state and local affiliates, NAA encompasses over 73,000 members representing nearly 9 million apartment homes globally. One-third of all Americans rent their housing and 39 million of them live in an apartment home.

I appreciate the opportunity to be here today to present the multifamily industry's perspective on the regulatory barriers at the federal, state and local levels that can prevent, slow or increase the cost of development of multifamily housing units across the country. I will also use this as an opportunity to highlight a wide array of policy solutions that would help increase production of multifamily housing and lessen the existing shortage of housing that is affordable that plagues our nation.

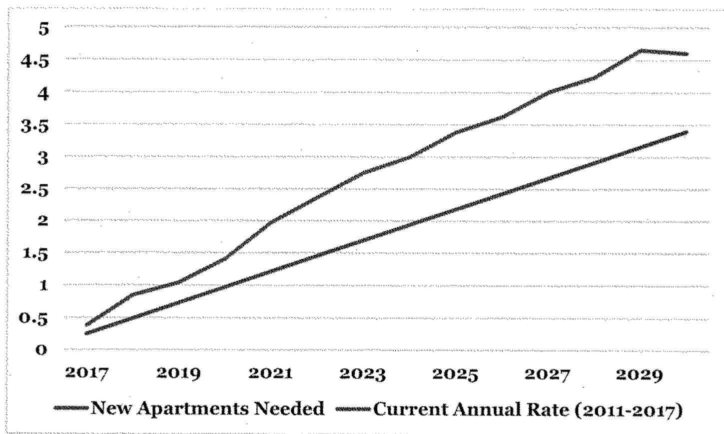
Before I do that, however, allow me to describe some key aspects of the apartment market and how changing demographics will demand policymakers at all levels of government to partner with the private sector to innovate our housing development and production process if we are to meet the nation's current and future housing needs.

The apartment sector is a competitive and robust industry that helps nearly 39 million people live in homes that are right for them. We help build vibrant communities by offering housing choice, supporting local small businesses, creating millions of jobs and contributing to the fabric of communities across the country. We are a critical sector in the housing industry and our economy overall.

Rental Housing – The Supply-Demand Imbalance

There has been a fundamental shift in our nation's housing dynamics as changing demographics and lifestyle preferences have driven more people away from the typical suburban house and towards the convenience of renting. This demand is fueled by a growing population, demand for rental housing by younger Americans, immigration trends and Baby Boomers and other empty nesters trading in single-family houses for apartments. There are more than 75 million people between 18 and 34 years old, many entering the housing market, primarily as renters.[1] Similarly, many of the over 74 million Baby Boomers and other empty nesters have the option of trading single-family houses for the convenience of rental apartments. In fact, more than half of the net increase in renter households between 2007 and 2017 came from the 45-plus demographic cohort.[2] Given these demographics, it is unsurprising that the apartment vacancy rate has remained at or below five percent for the past four years[3].

Apartments Needed by 2030 (Millions)



Source: Hoyt Advisory Services; NMHC/NAA; U.S. Census Bureau.

Beginning in the mid-2000s, the nation experienced the greatest renter wave in its history, as the number of households that rent rose by 7-12 million (different Census Bureau surveys show different figures). This increased apartment demand creates a critical need for 4.6 million new apartments at all price points by 2030 according to a study conducted by Hoyt Advisory Services and commissioned by the National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA).[4] To meet that demand, we will need to build an average of 328,000 new apartments every year. Yet we have only hit that mark once since 1989.[5]

The western U.S., as well as states such as Texas, Florida and North Carolina, are expected to have the greatest need for new apartment housing through 2030, although all states will need more

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[1] Annual Estimates of the Resident Population by Single Year of Age and Sex for the United States: April 1, 2010 to July 1, 2016, US Census Bureau.

[2] NMHC tabulations of 2017 Current Population Survey, Annual Social & Economic Supplement, U.S. Census Bureau.

[3] RealPage, Inc.

[4] Hoyt Advisory Services; NMHC/NAA

[5] U.S. Census Bureau, New Residential Construction.

apartment housing moving forward. Across all markets, the supply of multifamily housing at a variety of price points will play a role in promoting economic growth, attracting and retaining talent, and encouraging household stability for all American families.

There will also be a growing need for renovations and improvements on existing apartment buildings, which will provide a boost in jobs (and the economy) nationwide. Hoyt's research found that 51 percent of the nation's 20 million-plus apartment stock was built before 1980, which translates into millions of units that could need rehabilitation or renovation by 2030.

The growing demand for apartments – combined with the need to renovate thousands of apartment buildings across the country – will make a significant and positive impact on our nation's economy for years to come. For frame of reference, apartments and their 39 million residents contribute $1.3 trillion to the national economy annually.[6] As the industry continues to grow, so will this tremendous economic contribution.

While many factors influence the apartment industry's health and ability to meet the nation's growing demand for rental housing, the existing patchwork of overly complex, costly, duplicative and often counter-productive regulations at all levels of government remain one of the biggest threats to delivering much-needed housing units across the country.

Our Nation's Housing Affordability Challenge

Housing affordability is a significant challenge facing many Americans today who are seeking to rent an apartment. The number of households renting their homes stands at an all-time high, thus placing significant pressure on the apartment industry to meet the demand. This is making it challenging for millions of families nationwide to find quality rental housing that is affordable at their income level. For many families, the shortage of rental housing that is affordable creates significant hurdles that make it even more difficult to pay for basic necessities like food and transportation. Ultimately, this also impacts their future financial success.

Those at the lowest end of the income spectrum are especially vulnerable to these problems—for the one in five renter households that earns less than $15,000 annually, an affordable unit is one with a monthly rent of under $400. Yet from 2003 to 2013, 11 percent of these rentals were permanently lost from the housing stock.[7] This is also the hardest segment to build for without subsidy, given the costs associated with development.

The issue of lack of housing affordability is not unique to lower income households, however. The total share of cost-burdened apartment households (those paying more than thirty percent of their income on housing) increased steadily from 42.4 percent in 1985 to 54.8 percent in 2015.[8] Consider that the median asking rent for an apartment constructed in 2016 was $1,479. For a renter to afford one of those units at the 30 percent of income standard, they would need to earn at least $59,160 annually.[9] Affordability is an issue impacting the very fabric of communities

[6] Dr. Stephen Fuller; NMHC/NAA. "The Trillion Dollar Apartment Industry"
[7] Harvard Joint Center for Housing Studies, "America's Rental Housing" (2015), available at http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/americas_rental_housing_2015_web.pdf.
[8] NMHC tabulations of American Housing Survey microdata.
[9] NMHC calculation based on U.S. Census Bureau, Survey of Market Absorption.

nationwide, including our teachers, firefighters, nurses, police officers and their families.

According to Harvard's Joint Center for Housing Studies,[10] in 2015 more than one in four renter households – approximately 11.1 million – paid more than half of their income for rental housing. Setting aside that real (inflation adjusted) incomes in the U.S. are only slightly above their 2000 levels, clearly the key factor driving the affordability crisis, housing industry leaders agree that promoting construction, preservation and rehabilitation are three of the vital ways to meet the surging demand for apartment homes.

Barriers to Multifamily Development and the Cost of Regulation

Developing real estate, whether multifamily, single-family or commercial, is difficult. Production of any kind has its natural barriers. Those are for the most part objective barriers that can, and often do, fluctuate, but are predictable enough to still meet a pro forma. Multifamily, however, brings with it a level of entitlement subjectivity and regulation layered on top of these common barriers and is much more difficult to predict.

Plainly stated, many localities have a development preference that works against multifamily housing production and ultimately worsens the country's affordability challenges. Multifamily development often faces stiff community resistance, competes with other forms of real estate that produce sales tax revenue desired by municipalities and is subject to increasing regulatory barriers at all levels of government.

In a speech before the Urban Institute in November 2015, Jason Furman, former chairman of The White House Council of Economic Advisers, said that the U.S. could build a lot more apartments but noted "multifamily housing units are the form of housing supply that is most often the target of regulation." In fact, a recent study by NMHC and the National Association of Home Builders (NAHB) based on responses from a variety of multifamily developers throughout the country found that on average, 32 percent of multifamily development costs are attributable to the costs associated with complying with local, state, and federal regulations. In a quarter of cases, that number can reach as high as 42.6 percent.

Breaking down the government regulation costs showed that an average of 7.0 percent of regulatory costs come from building code changes over the past 10 years, 5.9 percent are attributable to development requirements that go beyond what the developer would ordinarily provide (such as complex architectural design, landscaping, and parking requirements), and 4.2 percent of the costs come from non-refundable fees charged when site work begins.

[10] Harvard Joint Center for Housing Studies, "The State of the Nation's Housing 2017", Appendix Tables.

Figure 1: Incidence and Typical Magnitude of Regulatory Costs

Type of Cost	Share of Developers' Projects Subject to the Cost	Average Cost When Present (as a Share of Total Development Costs)
Cost of applying for zoning approval	98%	4.1%
Interest costs on refundable fees charged when site work begins	50%	0.5%
Other (non-refundable) fees charged when site work begins	93%	4.5%
Development requirements that go beyond the ordinary	95%	6.3%
Land dedicated to the government or otherwise left unbuilt	50%	4.3%
Fees charged when building construction is authorized	93%	4.2%
Cost of complying with affordability mandates (e.g., inclusionary zon-	30%	5.7%
Cost increases from changes to building codes over the past 10 years	98%	7.2%
Cost of complying with OSHA requirements	90%	2.6%
Pure cost of delay (i.e., even if regulation imposed no other type of cost)	98%	0.7%

These are not regulations that only a few developers face when trying to build new housing. The respondents to the NMHC-NAHB survey built in virtually all types of markets—from garden apartments in rural and suburban areas to high-rise buildings in the urban core—and at least half of developers in the survey responded that they were subject to every cost item but one (complying with affordability mandates). At least 90 percent of respondents indicated that they had to figure cost of specific regulations into their overall development cost, including the costs of applying for zoning approval; non-refundable fees charged when site work begins; development requirements that go beyond the ordinary; fees charged when construction is authorized; increased costs due to building code changes; and the pure cost of delay.

While many of the costs associated with regulation in the study are attributable to local requirements, respondents reported that federal regulations create costs, including 90 percent of developers surveyed that included the cost of complying with Occupational Safety and Health Administration (OSHA) requirements as part of their total development cost, accounting for an average of two percent of the total. And as stated before, the costs associated with changes to building codes over the past ten years, which the federal government has involved itself in, accounted for an average of 7.0 percent of total development cost. And some local regulations are subject to federal requirements as well, including requiring certain conditions at the local level to obtain grants.

Regulatory Red Tape at the Local Level

Often, well-intentioned local regulations can be onerous and cumbersome, can increase development costs across the board and, in some cases, prevent development altogether. Below is a brief summary of some notable barriers to development at the local level:

- **Land Cost**: In an attractive market—take any major metropolitan area as an example—land can account for a significant portion of total development costs. Land in those markets is not only fundamentally more expensive to purchase than land in secondary or tertiary markets, but it also typically attracts multiple bidders, each seeking to deploy the land for diverse purposes, which further drives up costs. According to the Harvard Joint Center for Housing Studies, between 2012 and 2017, the price of vacant commercial land rose 62 percent; by comparison, the general inflation rate rose seven percent. This cost increase can stretch or stress other financial assumptions and, in some extreme cases, even make the property impossible right out of the gate.

- **Zoning Laws**: Zoning laws impact what is permitted to be built at a site. In some places, zoning requirements can make it extremely difficult to build new multifamily housing. Changing zoning can be onerous and expensive if it is even possible.

- **Entitlements**: The entitlement process, which covers approvals, zoning and nearly everything in between, is an amalgam of outright costs, additional fees, land-use regulation (some of which can date back to the first half of last century) and code compliance. During the navigation of this often-lengthy process, an apartment developer bears both direct and indirect costs with no assurance of a successful outcome. In some high-barrier-to-entry markets, entitlements can take four, five, six years or more before construction actually begins. As an example, according to NAA's Barrier to Apartment Construction Index, development timelines for properties with 50 or more units including permitting, land development, non-conforming use and zoning ranged from an average of three years in Miami to over eight years in San Diego.[11] Some municipalities have tried to fast track this process, but they have been met with only varying degrees of success. The long lead time and significant upfront investment required to obtain entitlement on land is leading some investors to rethink continued interest in multifamily development. Reduced investor demand for multifamily development may lead to fewer units delivered in the future and increased cost per unit delivered as remaining investor capital becomes scarce.

- **Impact Fees:** Impact fees are payments required of new development by local governments for the purpose of providing new or expanded public capital facilities to serve that development. These fees typically require cash payments in advance of the completion of development, are based on a methodology and calculation derived from the cost of the facility and the nature and size of the development, and are used to finance improvements offsite from, but to the benefit of, the development.

- **Linkage Fees**: A linkage fee is assessed on a development to pay for the cost of providing a public service. These fees are attributed to select developments to pay for a benefit deemed outside of what is recovered from property taxes.

- **Business License Taxes**: These are additional municipal taxes assessed on property owners that is not assessed on other forms of housing. These are used to justify the cost of impacts not covered by property tax assessments.

- **Assessment and Inspection Fees**: These are additional municipal fees assessed on property owners to inspect rental housing for habitability. While these fees are often

[11] National Apartment Association, 'Barriers to Apartment Construction Index,' https://www.naahq.org/news-publications/barriers-apartment-construction-index

assessed annually, the rental housing communities often do not realize additional benefits reflecting the cost.

- **Parking Space Requirements**: The requirement to build or offer parking spaces, especially in urban settings, can significantly impact site use and cost and often run counter to current resident trends and needs. According to a recent report by NAA entitled "The Transformation of Parking," estimated costs to build parking vary widely, with estimated price tags of $30,000 to $75,000 per space, depending on the market. The type of parking also greatly influences the cost, with surface parking the least expensive, and underground parking the most.[12]

- **Environmental Site Assessments:** An environmental site assessment is a report that identifies potential or existing environmental contamination liabilities. The analysis typically addresses both the underlying land and physical improvements to the property. In many local jurisdictions, each development site requires an environmental site assessment, the results of which could require costly remediation and/or project reconfiguration. Additionally, these assessments have been used by development opponents to frustrate planning and can serve to severely hamper or defeat the entitlement process.

Housing Affordability Initiatives and Community Barriers to Development

In addition to the often-used local regulatory fees and processes that can drive the cost of multifamily housing production up, community led initiatives and policy solutions can add cost and time to a project that in some cases can prevent much-needed housing from being built. Efforts by local officials to impose artificial price controls on rent levels or mandate the construction of affordable housing units or developments, while well-intentioned, can have the adverse effect. In addition, community opposition to the development of multifamily housing is a great driver of project delays and cost. While local input is certainly important, it can often be counter-productive and add a great deal of expense, which in turn drives up development costs and ultimately rents. Outlined below are several of the most significant of these challenges:

- **Housing Affordability Initiatives:**

    - **Rent Control:** There are various forms of rent control outside of the traditional version that most are accustomed to seeing: a rent control board that sets maximum rent for a unit or the maximum amount that rent can be raised annually. Rent control, in this context, is any mechanism that obligates a property owner to set rental rates for all or a portion of the units on a property. In any form, this policy works as a disincentive to investing and developing the diversity of housing units that a community requires. There are alternatives to rent control that take slightly different approaches but have the same detrimental effect. The most common form of these is inclusionary zoning.

    - **Inclusionary Zoning:** Inclusionary zoning refers to municipal and county planning ordinances that require a given share of new construction to be affordable to

[12] National Apartment Association, "Transformation of Parking," https://www.naahq.org/news-publications/transformation-parking

people with low to moderate incomes without an investment from the municipality. It is normally a condition of approval of the development. Proponents of inclusionary zoning often fail to acknowledge that these policies drive up costs, and ultimately rents, for the entire project, as developers are forced to raise rents for market-rate units to make up the difference from the affordable units to make the project financially feasible.

- **NIMBYism:** Another substantial cost driver for multifamily housing development comes in the form of community resistance through efforts commonly known as "Not In My Back Yard" or NIMBY. The narrative of NIMBYism typically focuses on a handful of themes outside of the normal zoning approval process, including:

  - Traffic impact;
  - Homeowner property values;
  - School overcrowding; and
  - Community character.

  NIMBY opposition can frequently occur during the rezoning process—the NMHC/NAHB study cited earlier found that 85 percent of multifamily developer respondents had experienced added costs or delays due to neighborhood opposition. In the end, NIMBYism keeps apartments from being built where they are needed most and at prices many people can afford.

All the factors outlined above, or a combination thereof, can lead to increased hurdles for multifamily development. Too often, the combination of local housing affordability initiatives and NIMBYISM can lead to a complex, duplicative and costly regulatory landscape that can drive up the costs of multifamily housing development and exacerbate our nation's housing affordability problem.

A Snapshot of Multifamily Development

To give policymakers a sense of the practical challenges faced by multifamily housing developers, one has to look no further than a few neighborhoods away from the Capitol Building in the historic Shaw neighborhood of Washington, DC.

The Bozzuto Group, a large regional real estate firm, aided in the development of a transformational multifamily project. As the property manager, Bozzuto provided assistance to the owner and lead developers of the project while they navigated a long and painful entitlement process only to realize operation after 12 years. The property serves as the anchor to the redevelopment of a historic area of our nation's capital, the O Street market, which sits on a 3 ½ acre site. At one time, it was a thriving public market built in 1881 and served the surrounding neighborhood as both a center of commerce and community. After a troubled history following riots and gang violence, the market closed in 1994 and laid empty until the current project got underway.

In the early 2000s, developers saw an opportunity to reinvent the area and combine the O Street Market, which is listed on the National Register of Historic Places and 8th Street, which was part of the original L'Enfant plan for Washington, DC into one large, iconic and transformational development for DC. The development team collaborated with 3 mayoral administrations to secure approvals, financing and a development program that would accommodate community expectations.

The lead project developer teamed up with a local affordable housing developer for the development of The Hodge on 8th. Locating all affordable apartments in one building on the site allowed for 15% more units to be created. The building now serves seniors with median incomes below 60% of the median income.

Development was not easy—the site was purchased in 2001. Construction began a decade later in 2011 and both the historic market and the apartments opened in 2013. The market-rate apartments leased up within a year of opening – a record pace by any measure – and the affordable, senior housing building, the Hodge, was 95% leased before it even opened and maintains an ongoing waiting list of over 500 seniors.

The project was financed with a complicated stack of 12 different private and public financing sources totaling $315 million which included:

- Private land and cash equity investments
- $102 Million of EB-5 financing
- Mezzanine debt
- $35 million in TIF bond proceeds
- $128 million Section 220 HUD loan – the largest ever granted for a mixed-use development
- LIHTC and tax-exempt bonds from the DCHFA and Home loans secured by the DCHCD

The mixed-used community now features:

- 90K square feet of retail
- 549 market-rate apartments – in three buildings
- 90 affordable apartments in a 4th building for senior citizens
- 182 room/suite hotel
- Preservation of a historic market that houses a Giant grocery store

The entitlement process, regulatory hurdles at the federal and city levels as well as the need for so many different sources of funding for this project took a significant amount of time to overcome. And while no two projects are exactly the same, the challenges this project faced often are. In this case, the project is a raging success serving as the anchor to a revitalizing neighborhood and catalyzing over $1 billion in new investment since its inception by bringing new jobs and new businesses to the area. In addition, the developer and construction firms privately funded skills training resulting in 51% of new construction jobs going to DC residents and awarding $192 million in project contracts to minority owned businesses.

Red Tape Across the Country—A View from the Field

The following list is comprised of real-world examples encountered by multifamily housing developers as they sought to build or renovate apartments across the country. These highlight the complex and tangled web of regulation, zoning requirements and other barriers to development that multifamily developers face as they aim to deliver housing for American families.

- In Georgia, one city required a new development project to pay the entire cost of widening a road and upgrading the traffic signals. Projected additional costs are approximately $200,000.

- In Georgia, the sewer capacity was inadequate for the number of units that were being built in a new multifamily development. The city had upsizing of the sewer main in their future infrastructure plans, but they could not commit to the timing. The developer took on the task of upsizing the sewer line under the highway, through the rapid transit maintenance facility and across railroad tracks into the main basin. The cost was $2 million, and the city agreed to split the cost. This took a significant amount of man hours to administer and cost the developer $1 million in pure trade cost. It also enabled the city to have an upgraded sewer system delivered at a fraction of what otherwise would have been their full cost, labor and administration.

- In Georgia, it is common for inspectors to require additional work that is often not part of the code or part of the approved plans. At one multifamily project, the fire marshal required approximately $500,000 in additions or changes that were not part of the approved plans. The largest single item change was the inclusion of a heat detection system in the parking deck of the project. This accounted for an increase of close to $200,000 in project costs. The same fire marshal had approved the plans as part of the permitting process and then dictated changes when inspectors conducted their review in the field.

- In Georgia, one city required a project to install metal louvers on the parking deck at an added cost of approximately $105,000. The metal louvers sit on top of the concrete crash walls. The concrete crash walls serve a dual purpose providing vehicular protection and blocking vehicle lights from shining into the residential project to the north. Due to close proximity of the adjacent building to the north, the required louvers are not visible and do not serve a purpose.

- In Texas, a new development was required to run a water line extension almost 600 linear feet to serve both the multifamily development and future growth in the area. The line was upsized by 50% to accommodate future growth. All of the $370,000 in cost was absorbed by the developer. Additionally, this project was required to have a specific blend of limestone exterior and clay tile roof as determined in the zoning process. This requirement added approximately $450,000 to the total cost of the project.

- In Texas, one multifamily project was required to replace and increase the capacity of a storm line by 75% in conjunction with the development of the site and to help address community flooding south of the project. This resulted in two months of additional permit time, 30 days of additional build time and $250,000 in added cost.

- In South Florida, several municipalities have adopted "Art in Public Places" requirements and fees, which range from .5% - 1% of the total hard cost project budget. On a recent multifamily project, the additional cost was over $275,000. The city also required the developer to rebuild and restore the public plaza adjacent to the site at an additional cost of $1.2 million.

- In Florida, a municipality required the installation of natural stone in lieu of pre-cast on the ground level column wraps and building entrance at one development. The cost of the natural stone is approximately a $80,000 premium to pre-cast.

- In Florida, at a potential new development, the city is requiring the developer to rebuild a long section of public sewer and repave a long section of road that is not part of the development.

Regulatory Red Tape at the Federal Level

Our industry, and particularly apartment owners and developers, must balance a wide array of concerns regarding project viability, regulatory cost and compliance at all levels of government. While many regulatory hurdles and costs such as impact fees, continual environmental reviews and antiquated zoning processes lie within the purview of state and local policymakers, there are a wide array of existing federal regulations that contribute to making housing less economically feasible to develop and operate.

We believe that regulations must have demonstrable benefits that justify the cost of compliance and that federal agencies should be aware that broad-stroke regulations often have a disproportionate effect on industries that serve as key drivers of our economy. As a highly regulated sector, the apartment industry is governed by a flood of regulations stemming from diverse federal agencies such as the Department of Housing and Urban Development (HUD), the Environmental Protection Agency (EPA), Department of Labor (DOL), OSHA, and the Department of Energy (DOE), as well as state and local jurisdictions.

NMHC/NAA members acknowledge the role that smart regulation has in ensuring the health and well-being of the American public. In the apartment sector, many such regulations allow for flexibility and complement the goal of building more multifamily housing in an efficient and cost sensitive manner. With that said, NMHC/NAA have worked with Congress and the Administration to identify and seek relief from federal regulatory barriers to multifamily development and operation. Excessive regulation and compliance uncertainty results in costly mandates that divert resources from the production and operation of multifamily housing.

Key State and Local Solutions to Address the Nation's Housing Shortage

Municipalities across the country are at the epicenter of the nation's housing affordability challenges. In that all politics is local, so is housing. Local officials have a leading role to play in driving development and reducing barriers to multifamily housing development while protecting the health and safety of their residents.

What works in one jurisdiction might not work in another but utilizing outside-the-box thinking can lead to progress. Officials have a range of options at their disposal. They can look to defer taxes and other fees for a set period of time to help the developer reduce the rents required to make the development viable. They also own tangible assets – buildings, raw land and entitled parcels – that can be leveraged to bring down the cost of construction or redevelopment. They can help streamline the development and approval processes with fast-tracking programs. Some additional state and local solutions to addressing the nation's housing shortage and affordability challenges are outlined below. These solutions enable the public and private sectors to bring their tools and assets into play and increase the likelihood of finding viable solutions to meet our rental housing challenges. Not all of these policies will work in every jurisdiction and oftentimes a variety of these policies must be utilized:

- **Adopt Policies that Leverage the Private Sector to Make Housing Affordability More Feasible:**
  - **Establish "By-Right" Zoning**—Most developments go through a discretionary review process such as public hearings or legislative review by the local land use authority or board of zoning appeals. Public review is certainly important, but it is often duplicative, arbitrary and inefficient, and establishing a "by-right" process allows the community to provide input on the character of an area before an individual project is proposed. Reviews also increase the cost of housing by slowing down its production or even preventing it from being built. "By right" development allows projects, both new construction and rehabs of existing properties, to be approved by local administrators without discretionary reviews as long as they comply with current zoning rules and community development plans.
  - **Expedite Approval for Affordably Priced Apartments**—Lengthy permitting processes add cost, time and uncertainty to housing construction. Fast-tracking review and permitting of housing that includes affordable units is a no-cost way for local jurisdictions to expand their supply.
  - **Reduce Parking Requirements**—Parking requirements are one of the biggest costs for a development, particularly in urban environments, ranging from \$30,000 to \$75,000.[13] The Urban Land Institute found that parking minimums were the number one barrier to building affordable rentals.[14] Many cities can significantly reduce or even eliminate parking requirements, particularly in transit-oriented or urban infill development.
  - **Establish Density Bonuses to Encourage Development of Affordable Housing**— Density bonuses make building affordable housing more cost-effective for developers. In return for including a certain number of affordable units in a building, the developer can build more market-rate apartments than are normally allowed. This allows for the developer to "make up" the difference from the

[13] National Apartment Association, "Transformation of Parking," https://www.naahq.org/news-publications/transformation-parking
[14] "Bending the Cost Curve: Solutions to Expand the Supply of Affordable Rentals," Urban Land Institute, 2014.

affordable units without being forced to pass the rent increase on to the market-rate units.

- **Adopt Separate Rehabilitation Building Codes**—Jurisdictions require developers to bring a building up to the current building code when they want to substantially rehab it, often making it prohibitively expensive to upgrade it. Localities can overcome this by adopting separate building codes for rehabilitation projects that balance the need to ensure safety and structural integrity, but do not sacrifice affordability. They can also offer tax abatement for properties that include affordable housing when property taxes rise because of improvements.

- **Create an Efficient Public Engagement Process**—New developments benefit from community input. But the public engagement process can also result in NIMBY opposition that creates long delays, and even lawsuits, that increase construction costs. There is no single model that works to strike a balance, but localities should examine their process to ensure it is not one-sided and does not create uncertainty.

- **Increase Public-Private Partnerships:**

  - **Leverage Underutilized Land**—Federal, state and local governments should prioritize affordable housing when disposing of public land. Land accounts for approximately 10 to 25 percent of an apartment project's cost, and even more in high-cost areas.[15] Developers also often struggle to find developable land in urban areas. Yet many localities own underused or abandoned land that could be used for affordable housing. Underutilized buildings, which can be renovated, are another resource. Making good use of these lands and buildings requires strong public-private partnerships.

  - **Use Property Tax Abatements**—Tax incentives and abatements are another way to spur development. While they do reduce public revenues, they are often more politically palatable than direct subsidies.

  - **Waive Fees for Properties that Include Affordable Units**—Housing developers often pay significant fees to expand public infrastructure or to support the creation of city amenities such as schools and parks. Because fees add to the cost of housing, jurisdictions should waive impact fees for properties that include affordable units.

- **Leverage State-Level Authority to Overcome Obstacles to Apartment Construction:**

[15] Based on evidence provided by NMHC members.

- States should enact laws that override local zoning restrictions that inhibit apartment construction, whether intentionally or not. States can also make some state financing contingent on a locality meeting a minimum affordable housing threshold or adopting policies that support housing production.

Key Federal Solutions to the Nation's Housing Challenges

The nation's challenge is to reduce the barriers and obstacles that inhibit the expansion of the housing stock and the federal government has a key role to play. While it is clear that new construction is often impeded at the local level, there are federal solutions that may be beneficial as well. Overhauling antiquated, overly-complex and costly regulations coupled with incentivizing new development, preservation and rehabilitation of existing apartments would go a long way to addressing our nation's housing affordability challenges. NMHC/NAA encourage Congress to take the following steps:

- **Retain and Expand Pro-Development Tax Policies** that incentivize investment in rental housing at all price-points:

  - **Expand the Low-Income Housing Tax Credit.** The Low-Income Housing Tax Credit (LIHTC) is a public/private partnership that leverages federal dollars with private investment to produce affordable rental housing and stimulate new economic development in many communities. Since its inception in 1986, the LIHTC program has financed over 3 million apartments and served 7 million households. The LIHTC program provides critical support to the nation's affordable housing production. Given that there are currently just 45 affordable units for every 100 very low-income apartment households, lawmakers should strengthen the program by: (1) making permanent the increased credit authority enacted in March 2018 to enable the production of new units; and (2) establishing a minimum 4 percent credit rate.

  - **Create a Middle-Income Housing Tax Credit.** Build on the success of LIHTC and complement its work by establishing a Middle-Income Housing Tax Credit (MIHTC), which would spur the production of multifamily rental homes for America's working families. This type of production would address housing shortages for populations who do not qualify for any type of housing subsidy but who struggle to afford their living expenses.

- **Support Housing Finance Reform that Preserves the Multifamily Mortgage Liquidity Provided by the Government-Sponsored Enterprises (GSEs):**

  One of the foremost priorities of federal policy makers should be getting multifamily right in any housing finance reform effort by recognizing its unique characteristics; it is the single most important factor to ensuring that the apartment industry can meet the nation's growing rental housing demand.

  The bursting of the housing bubble exposed serious flaws in our nation's housing finance system. The very successful multifamily programs of the GSEs, Fannie Mae and Freddie Mac, were not part of the meltdown and have actually generated over $34 billion in net profits since the two firms were placed into conservatorship. Preservation of the mortgage liquidity currently provided by the GSEs in all markets during all economic cycles is critical. NMHC/NAA urge lawmakers to recognize the unique needs of the multifamily industry. We believe the goals of a reformed housing finance system should be to:

- **Maintain an explicit federal guarantee** for multifamily-backed mortgage securities available in all markets at all times;
- **Ensure that the multifamily sector** is treated in a way that recognizes the inherent differences of the multifamily business; and
- **Retain the successful components** of the existing multifamily programs in whatever succeeds them.

These principles can be achieved through a reformed structure that preserves the high quality and value of the current multifamily secondary mortgage market's activities.

- **Increase Funding and Support for Subsidy Programs** that address housing affordability such as the Section 8 Housing Choice Voucher Programs, Project-Based Rental Assistance, Rental Assistance Demonstration, HOME and Community Development Block Grants.
  - Housing costs continue to grow and demand for rental housing continues to escalate, but incomes for many low-income families remain stagnant. Given these realities, demand for subsidized affordable housing has increased dramatically through the economic crisis and into the recovery years since. However, federal funding for the primary programs serving low-income households has been virtually flat or declining.
  - Programs like Tenant Based Section 8 and Project Based Rental Assistance allow low-income families to rent market rate housing, taking advantage of the broad offering of privately owned and operated properties in a given market. Programs like HOME and CDBG allow developers to address financing shortfalls often associated with affordable housing properties and stimulate meaningful development and preservation activity as a result.
  - In order to address housing affordability challenges for all Americans across the income spectrum, increased funding for these programs is essential.
- **Support Funding for the FHA Multifamily Programs**, which are an important source of capital supporting apartment construction and redevelopment.

  FHA Multifamily is best known for offering an alternative source of construction debt to developers that supplements bank and other private construction capital sources. It also serves borrowers with long-term investment goals as the only capital provider to offer 35-40-year loan terms. FHA lending is essential to borrowers in secondary markets, borrowers with smaller balance sheets, new development entities, affordable housing developers and non-profit firms, all of which are often overlooked or underserved by private capital providers.

It is important to the apartment industry that FHA continues to be a credible and reliable source of construction and mortgage debt. FHA not only insures mortgages, but it also builds capacity in the market, providing developers with an effective source of construction and long-term mortgage capital. The FHA Multifamily Programs provide a material and important source of capital for underserved segments of the rental market and do so while maintaining consistently high loan performance standards. NMHC/NAA encourage Congress to continue funding FHA's Multifamily Programs, including:

- HUD 221 (d)(4) Multifamily Loans – New Construction and Substantial Rehabilitation of Multifamily Properties
- HUD FHA 223 (f) Multifamily Loans for the Refinance or Acquisition of Multifamily Properties
- HUD FHA 241(a) Supplemental Loans
- HUD FHA 223(a)(7) Refinance of an Existing FHA Insured Multifamily Mortgages and Healthcare Mortgages

- **Reform Overly Burdensome Regulations and Programs.** The following federal programs and regulations could benefit from improved efficiencies and review by Congress and the Administration:

  - **Section 8 Housing Choice Voucher Program**

    This public-private partnership has the potential to be one of the most effective means of addressing our nation's affordable housing needs and supporting mixed-income communities. However, the program's potential success is limited by too many inefficient and duplicative requirements, which discourage private providers from accepting vouchers. The program has also been plagued with a flawed and volatile funding system that has undermined private-sector confidence in the program. Research by Johns Hopkins University found that bureaucratic factors were one of the three major reasons for landlords having a preference for or against residents with Housing Choice Vouchers.[16] With Congress focused on austerity measures, insufficient funding is expected to be worse in the near-term budget cycles.

    Common- sense reforms that could help control costs, improve the program for both renters and property owners, and increase private housing participation include:

    - **Establishing** a reliable funding formula;
    - **Streamlining** the property inspection process; and
    - **Simplifying** rent and income calculations.

[16] Garboden, et. Al. "Urban Landlords and the Housing Choice Voucher Program: A Research Report"

It is also imperative for lawmakers to reinforce the voluntary nature of the program. Congress specifically made participation voluntary because of the regulatory burdens inherent in the program. However, state and local governments are enacting laws that make it illegal for a private owner to refuse to rent to a Section 8 voucher holder. Recent examples include "source of income discrimination" provisions passed by a number of cities. While often well intentioned, such mandates are self-defeating because they greatly diminish private-market investment and reduce the supply of affordable housing.

- **Rental Assistance Demonstration (RAD) Program**

NMHC/NAA support RAD, which was established in 2011 as an affordable housing preservation strategy for public housing authorities (PHAs). The program allows PHAs to convert public housing properties at risk of obsolescence or underfunding into project-based vouchers or rental assistance contracts under the Section 8 program. Once the units are re-designated from public housing (Section 9 of the 1937 Housing Act) to Section 8 housing, housing authorities are able to leverage private capital to address capital needs. This allows housing authorities to work with private sector developers and managers to preserve their affordable housing stock. RAD is designed to reverse the trend of lost affordable units by accessing private capital to make up for related funding shortfalls. Congress should increase funding for this innovative program to prevent further public housing units from falling into obsolescence.

- **Modifying the Community Reinvestment Act (CRA)**

The three main banking regulators – Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, and Federal Reserve – who control the regulations around CRA have begun the process to modernize the existing rules. The CRA could be modified to include greater incentives for banks to provide loans for multifamily apartments that include workforce and affordable housing development. CRA guidelines currently allow banks to obtain Community Development (CD) credit for multifamily units serving occupants with incomes of up to 80 percent of area median income. While this level captures a significant portion of workforce households, the rules themselves make it difficult to obtain the CD credit due to a requirement to report incomes, information that is not captured.

We urge this Committee to work with the multifamily industry to encourage these regulators to make common- sense, modest changes that would remove impediments to obtaining CRA credit for workforce and affordable *multifamily housing*.

- **Fair Housing Rules**

Including: Disparate Impact Rule, Quid Pro Quo Rule, Resident Criminal History Screening Guidance, Limited English Proficiency Guidance, Local Nuisance Ordinance Guidance and Occupancy Memoranda

The apartment industry is committed to equal housing opportunity for all without regard to race, religion, color, sex, national origin, handicap or familial status. However, more guidance and clarity are needed from HUD on specific fair housing program areas. During the Obama Administration, HUD actively expanded fair housing compliance and enforcement efforts. Their regulations and guidance documents reinforce an interpretation of disparate impact that conflicts with recent Supreme Court precedent and creates uncertainty for housing providers. HUD has also asserted new criteria for familial status and occupancy compliance that is contrary to long-held practices.

o **Davis-Bacon Wage Determination**

Under current law, developers must adhere to Davis-Bacon wage rates for construction financed by federal dollars. Unfortunately, DOL's methodology and HUD's application of the wages are causing serious issues. The following Davis-Bacon issues are having a negative impact on the ability of the apartment industry to efficiently add new, or preserve existing, multifamily rental units: unwarranted split-wage decisions, disruptive updates to wages, applicability to the preservation of existing federally assisted housing stock and the determination of so-called prevailing wages suffers from structural defects related to the availability of data. DOL and HUD should look to reexamine and modify its methodology and process.

o **Affirmatively Furthering Fair Housing**

While the Trump Administration has announced a review of this rule, as it is currently written, the Affirmatively Furthering Fair Housing rule's broad mission to desegregate communities by combating exclusionary zoning and other practices deemed discriminatory could indirectly affect the multifamily industry. Specifically, the proposal could lead to delays in construction and permitting decisions. These types of disruptions may aggravate the housing market's already short supply of apartments.

o **American's With Disabilities Act (ADA) Enforcement**

The apartment industry supports the goals of ADA and is committed to creating communities that are accessible to people with disabilities. The responsibilities of the apartment industry under the Act sometimes require the inclusion of specific building design features. However, the complex and sometimes conflicting nature of guidance, building codes and statutory language have led to varying interpretations of design and construction compliance. Apartment owners and operators, along with many others in the broader real estate industry, have recently been targeted by a substantial increase in ADA compliance complaints dubbed "drive-by" lawsuits. Congressional action is needed to address what should be the primary concern in ADA compliance -- fixing design issues and increasing access for people with disabilities. Specifically, business owners should be provided an opportunity to cure an alleged ADA deficiency prior to the initiation of a lawsuit. This would eliminate the incentive for complaints motivated purely by financial gain and reduce unnecessary operational expense on the housing provider.

Conclusion

We applaud the Committee for engaging stakeholders to look for innovative ways to reduce regulatory barriers that inhibit multifamily housing development and exacerbate our nation's affordable housing shortage. Policymakers at all levels of government must recognize that addressing housing needs—at all price points-- requires a partnership between government and the private sector. Officials must utilize a variety of tools to drive investment and support affordable and market rate housing production. They can do this by *incentivizing* for-profit entities to produce the necessary multifamily units at a range of price points that households can afford. Federal, state and local governments all have a role to play in encouraging public-private partnerships and incentivizing private developers to implement proven solutions to deliver housing that acknowledges our nation's changing housing demographics and its accompanying demand. On behalf of the apartment industry and our 39 million residents, we stand ready to work with Congress to ensure that every American has a safe and decent place to call home at a price that enables individuals to afford life's necessities.

NAHB National Association of Home Builders

NMHC NATIONAL MULTIFAMILY HOUSING COUNCIL

BACKGROUNDER | June 2018

Regulation: Over 30 Percent of the Cost of a Multifamily Development

Paul Emrath, National Association of Home Builders
Caitlin Walter, National Multifamily Housing Council

Regulation imposed by all levels of government accounts for an average of 32.1 percent of multifamily development costs, according to new research released today by the National Association of Home Builders (NAHB) and the National Multifamily Housing Council (NMHC). In fact, in a quarter of cases, that number can reach as high as 42.6 percent.

Apartment and condo development can be subject to a significant array of regulatory costs, including a broad range of fees, standards and other requirements imposed at different stages of the development and construction process. However, until now there had been no previous research done to analyze the extent of this regulation. This joint research effort surveyed NAHB and NMHC members to quantify how much regulation exists and how much it is adding to the cost of developing new multifamily properties.

About NAHB Multifamily

NAHB Multifamily represents the interests of builders, developers, owners and managers of all sizes and types of multifamily housing, including affordable and tax-credit housing, market-rate rental apartments, condominium housing, student housing and mixed-used multifamily communities. NAHB Multifamily strives to ensure that multifamily housing functions as a strong sector within a thriving housing and real estate industry, and effectively serves the housing needs of a broad range of American families and households. For more information, please visit NAHB Multifamily at www.nahb.org/en/members/committees-and-councils/councils/multifamily-council.aspx.

About NMHC

Based in Washington, DC, the National Multifamily Housing Council (NMHC) is a national association representing the interests of the larger and most prominent apartment firms in the U.S. NMHC's members are the principal officers of firms engaged in all aspects of the apartment industry, including ownership, development, management and financing. NMHC advocates on behalf of rental housing, conducts apartment related research, encourages the exchange of strategic business information and promotes the desirability of apartment living. Nearly one-third of Americans rent their housing, and almost 15 percent live in an apartment (buildings with five or more units). For more information, contact NMHC at 202/974-2300, e-mail the Council at info@nmhc.org, or visit NMHC's Web site at www.nmhc.org.

Introduction

Many Industry experts have become concerned about affordability of rental housing in America, and how difficult it has become to address the problem through new construction. According to the report on America's Rental Housing 2017 published by the Joint Center for Housing Studies at Harvard University, "The lack of new, more affordable rentals is in part a consequence of sharply rising construction costs, including labor and materials." The Harvard report goes on to say, "Tight land use regulations also add to costs by limiting the land zoned for higher-density housing and entailing lengthy approval processes."

Recently, the National Association of Home Builders (NAHB) and the National Multifamily Housing Council (NMHC) undertook a joint research effort to find out how much government regulation adds to the cost of building new multifamily housing. Results show that well over 90 percent of multifamily developers typically incur hard costs of paying fees to local jurisdictions, both when applying for zoning approval, and again when local jurisdictions authorize the construction of buildings.

However, government regulation can impose costs in other ways as well. Over 90 percent of multifamily developers also incur costs of delays caused by sometimes lengthy approval processes, development standards that go beyond what would ordinarily be done, changes to building codes over the past decade, and OSHA requirements. Other regulations, such as requiring developers to dedicate land to the government, are somewhat less common, but can be quite costly when they are encountered. The bottom line is that regulation imposed by all levels of government (whether local, state or federal) accounts for 32.1 percent of the cost of an average multifamily development.

A substantial amount of regulation is well intentioned and some of it undoubtedly serves a worthwhile purpose. Few would argue, for example, that basic safety standards for structures and workers are unnecessary. But regulation that exceeds 30 percent of a project's development costs raises questions about how thoroughly governments are considering the consequences of their actions. Are they aware of how much regulation currently exists? Do they realize how multiple regulations with conflicting standards can cause delays and increase costs? And do they understand the extent to which these increased costs translate into higher rents and make it difficult to build new housing that families with modest incomes can afford?

Survey Design

While the assertion that regulations increase the cost of multifamily development is commonly heard, the extent to which this happens is not easy to measure, and currently does not exist on a national scale. The only way to gather data that is at all comprehensive is from multifamily developers, as they are the only ones who experience a wide range of the various forms regulation can take. NAHB and NMHC set out to accomplish this through a survey of both memberships. The purpose of the survey was to quantify how much regulation exists and how much it is adding to the cost of developing new multifamily properties.

Multifamily developers do not, in general, have accounting systems designed to tease out these regulatory costs, so NAHB and NMHC crafted questions that most developers would be able to answer. The questions asked developers about the typical projects they build. The questions covered various delays and costs incurred at different stages of the development process. Developers were asked to provide all hard costs as a percent of total development cost for their typical projects (see Appendix 2).

The survey was conducted in the fourth quarter of 2017. A total of 40 usable responses were received from multifamily developers, evenly split between NAHB and NMHC members (with no duplication). The developers who responded reported building multifamily projects in all regions of the country, and the typical projects they build vary widely: from fewer than 5 apartments to more than 400, and from under $2 million in total development costs to more than $100 million.

NMHC and NAHB combined the results with information from other survey collections and public data sources, such as typical terms on construction loans and the average time it takes to complete different phases of a project, to estimate the final costs (see Appendix 1).

Types of Regulation

Regulatory costs fall into several categories—fees, development standards, building codes, land dedicated to public purposes, etc. The range of these regulations can be broad, and the cost of complying with them substantial. Figure 1 shows the incidence of different types of regulations imposed on multifamily developers, as well as the average cost of complying with those regulations when they do exist.

Figure 1: Incidence and Typical Magnitude of Regulatory Costs

Type of Cost	Share of Developers' Projects Subject to the Cost	Average Cost When Present (as a Share of Total Development Costs)
Cost of applying for zoning approval	98%	4.1%
Interest costs on refundable fees charged when site work begins	50%	0.5%
Other (non-refundable) fees charged when site work begins	93%	4.5%
Development requirements that go beyond the ordinary	95%	6.3%
Land dedicated to the government or otherwise left unbuilt	50%	4.3%
Fees charged when building construction is authorized	93%	4.2%
Cost of complying with affordability mandates (e.g., inclusionary zon-	30%	5.7%
Cost increases from changes to building codes over the past 10 years	98%	7.2%
Cost of complying with OSHA requirements	90%	2.6%
Pure cost of delay (i.e., even if regulation imposed no other type of cost)	98%	0.7%

The first significant interaction between a multifamily developer and the government usually occurs when the developer applies for zoning approval to allow multifamily housing to be built on a particular parcel of land. The U.S. Constitution gives states the authority to regulate land use; and, although states sometimes try to influence land use patterns in various ways, they most often leave this up to local governments. Local governments, in turn, pass zoning ordinances that divide their territories into districts and specify how land in each district can be used (single-family versus commercial versus multifamily, for example). It's not impossible for a developer to acquire land that allows multifamily structures to be built on it without going through a rezoning process or obtaining some type of exemption to an existing ordinance, but this is the exception rather than the rule.

The typical projects of almost all the respondents (98 percent) were subject to costs at the zoning approval stage. When they exist, these costs average 4.1 percent of the total development costs. Regulatory costs incurred at this stage can include fees paid directly to a government but may also include other types of costs. For example, the developers may have to pay for environmental impact, archeological or other types of studies.

Although local governments have the authority to approve development, existing environmental laws also give a role to the federal government. A developer may need to obtain a wetlands, stormwater and/or endangered species-critical habitat permit, each of which is overseen by a different federal government agency. Many states manage the wetlands permits under federal guidance, and states and local jurisdictions may have their own sets of requirements. Indeed, it can be difficult to identify which level of government is ultimately responsible for some regulation and trying to reconcile conflicting requirements is one factor that can drive up the cost of compliance.

It is also common for governments to impose fees on a multifamily development when site work begins. Many communities charge impact, utility hook-up and other fees at this point. Impact fees are fees that are charged only on a new development and are supposed to be used only for capital improvements. State legislation establishes the types of impact fees local governments can charge. Examples are impact fees for the construction of new schools, roads, water facilities, sewer facilities, stormwater management, parks, fire, police, libraries, solid waste management, and general government. Some states allow all of these, while a select few of states do not allow them, such as Virginia. There are consultants who travel the country and specialize in calculating the maximum impact fees local governments can legally charge. Moreover, as a recently published University of California, Berkeley paper documented, cities often charge additional fees, negotiated on a case-by-case basis at different points in the development process, to allow a project to be built.

According to the 2012 Census of Governments, there are roughly 90,000 local governments in the U.S., and a particular development may be subject to fees from more than one of them—for example, from a municipality, a water district, and a school district with overlapping jurisdictions. The overwhelming majority (93 percent) of the typical projects of multifamily developers in the NAHB-NMHC survey pay fees at this stage of the process. When they exist, these fees average 4.5 percent of total development costs.

Some local governments charge developers guarantee or other fees that are refundable when the project is completed. Although these fees are also usually imposed when site work begins, the survey treats them separately, due to the different cost implications. If the fee is eventually refunded, the developer ultimately pays only the interest that accrues on the development and construction loans until that happens. Half of respondents' typical projects were subject to these fees; which, when present, averaged half a percent of the total development cost.

Many local governments require new development to conform to community design standards. This may include standards for streets and sidewalks, parking, height of buildings, landscaping and the architectural design of individual buildings. These standards impose little extra cost if they don't significantly exceed the developer's ordinary practices. In the absence of regulation, for example, developers will still ordinarily provide spaces for walking and parking, landscaping, and employ architects who attempt to design buildings that are attractive to potential tenants. The NAHB- NMHC survey asked multifamily developers specifically about the cost of standards that go beyond what they would otherwise do.

Almost all (95 percent) of the typical projects of the developers surveyed were subject to design standards that that go beyond what the developer would otherwise do. When these beyond-ordinary requirements were present, they accounted for an average of 6.3 percent of the overall development cost. Energy efficiency is a worthwhile objective, but NMHC and NAHB have argued that the up-front cost needs to be kept within reasonable bounds. NMHC and NMHC have supported some recent changes to the IECC but opposed others as not cost-effective. Not surprisingly, manufacturers of building products advocate for code changes that mandate more use of their products and tend to be less concerned than NMHC and NAHB about costs. Past analysis by NMHC on previous code cycles (which remain in effect in many states) has shown that changes to the IECC have the potential to drive up construction costs by over $3,000 per apartment (depending on type of building and climate zone) and argued that subsequent savings on utility bills come nowhere near justifying the cost.

Half of the typical projects required developers to dedicate land to the government or otherwise leave it unbuilt. This requirement can take many forms, such as creating a park on the property or reserving part of the property for the government to use in some way. In these cases, the developer must pay for the land but is not allowed to derive revenue from it, driving up the cost per unit for the housing that can be built. For those projects subject to this regulation, it represented an average of 4.3 percent of total development cost.

Almost all of respondents (93 percent) paid some sort of fee when construction in their typical project was authorized. This could be limited to a building permit fee, but additional impact, hook-up or other fees may also be charged at this point. When they exist, the fees charged at this point average 4.2 percent of development costs, large enough to suggest that they often encompass more than the building permit fees.

Local jurisdictions are increasingly beginning to consider imposing affordability mandates to attempt to create new affordable housing. These mandates without any offsetting incentive like a tax exception typically create few units and effectively tax some housing units (and their occupants) to subsidize others. The easiest way to see this is in cases where developers pay a fee to avoid the requirement—that amount gets added to the overall amount the developer must pay, thus raising the rents required. But even if they don't pay a fee, the regulation may require them to lose money on some of the housing they build, which is effectively a tax, resulting in higher rents on non-subsidized apartments. Almost one-third (30 percent) of developers who responded indicated that their typical projects incurred costs related to complying with such mandates. These costs, when they exist, averaged 5.7 percent of total development costs, enough to result in substantially higher rents.

The NAHB-NMHC survey also asked developers about the cost implications of changes to building codes over the past ten years. Most jurisdictions have been enforcing building codes for decades, and the codes have been updated and refined many times over that span. Most have adopted a version of national model codes, which have been in widespread use since the 1950s. These are updated every three years, and the number of refinements considered and voted upon during each three-year cycle runs into the thousands.

Virtually no one would argue against public standards for basic soundness and safety of residential structures, but over the decades codes have expanded well beyond this and are increasingly being used as a vehicle to advance various policy objectives. A leading example is energy efficiency. There is now a model International Energy Conservation Code® (IECC).

Energy efficiency is a worthwhile objective, but NMHC and NAHB have argued that the up-front cost needs to be kept within reasonable bounds. NMHC and NMHC have supported some recent changes to the IECC but opposed others as not cost-effective. Not surprisingly, manufacturers of building products advocate for code changes that mandate more use of their products and tend to be less concerned than NMHC and NAHB about costs.

This is another area where the federal government has become increasingly involved. The Environmental Protection Agency, the Federal Emergency Management Agency, and the Department of Energy (DOE), all actively participate in the development of national model codes, proposing changes to national model codes and testifying in favor of them during code hearings. DOE also has a share of its budget set aside for persuading state and local jurisdictions to adopt more stringent codes. Representatives from NAHB who witnessed all of the recent code hearings have criticized federal agencies for supporting certain code changes that removed flexibility and limited builders' options, driving up costs without improving energy efficiency, to the benefit of specific product manufacturers.

Nearly all (98 percent) of developers said changes in building codes over the past 10 years increased development costs in their typical projects, and these costs, when they exist, average 7.2 percent of total development costs.

Nine out of ten developers said complying with requirements of the Occupational Safety and Health Administration (OSHA) increased costs in their typical projects, and these costs, when present, average 2.3 percent of total development costs. Again, few would argue that safety standards for construction workers are unnecessary. In recent years, however, OSHA has issued a substantial number of regulations imposing costly compliance requirements all without providing any evidence that they would actually improve safety in the residential construction industry. In the Beryllium rule, for example, the evidence of a health risk came from workers in manufacturing industries or performing abrasive blasting activities. In the Volks rule, OSHA was criticized as doing little beyond driving up record keeping costs for businesses (and possibly violating the statute of limitations in the process).

Even when regulation imposes no direct costs, it can have a financial impact if it delays the development and construction process. If it takes longer to begin leasing and earning income on a property, it will take longer to pay off any development and construction loans and more interest will accrue.

Some regulatory delay is inevitable, as it will naturally take some time for local building departments to review and approve plans and respond to requests for inspections. Precisely how long it is reasonable for a developer to wait for approvals and inspections is open to debate, but there are examples that clearly seem excessive. One academic study, for example, found that it took an average of 788 days to prepare a submission and receive approval for an individual federal wetlands permit.

Virtually all the developers (98 percent) said complying with regulations caused some sort of delay for their typical projects. For these projects, NMHC and NAHB estimated that average additional interest was 0.7 percent of total development costs. This is a "pure" cost of delay that regulation would cause even if it imposed no other type of cost. It is calculated by subtracting every other type of regulatory cost, then estimating the additional interest accruing on the share of the remaining development cost that is typically financed.

Total Cost of Regulation

To estimate how much in total the government regulations described above add to multifamily development costs, it is necessary to take both the incidence and magnitude of the various types of regulation into account—in other words, to average in the "zeroes" when a particular regulation does not apply. Figure 2 shows that, when this is done, the listed categories taken together on average account for 32.1 percent of development costs for a multifamily project.

Among the listed categories, average cost is highest for changes to building codes over the past 10 years (7.0 percent of total development costs), followed by development standards imposed by government that go beyond what the developer would ordinarily do. It is interesting that government control over how a project is built can be more costly than actual fees charged, but unsurprising given that they can be time consuming and thus cost more.

Figure 2: Government Regulation as a Share of Multifamily Development Costs

Type of Cost	Lower Quartile	Average	Upper Quartile
Cost of applying for zoning approval	1.1%	4.0%	5.3%
Interest costs on refundable fees charged when site work begins	0.0%	0.2%	0.2%
Other (non-refundable) fees charged when site work begins	1.9%	4.2%	5.5%
Development requirements that go beyond the ordinary	1.1%	5.9%	8.4%
Land dedicated to the government or otherwise left unbuilt	0.0%	2.1%	3.3%
Fees charged when building construction is authorized	1.1%	3.9%	5.4%
Cost of complying with affordability mandates (e.g., inclusionary zon-	0.0%	1.7%	2.6%

Cost increases from changes to building codes over the past 10 years	5.2%	7.0%	7.1%
Cost of complying with OSHA requirements	1.3%	2.3%	2.3%
Pure cost of delay (i.e., even if regulation imposed no other type of	0.1%	0.7%	1.2%
TOTAL ESTIMATED REGULATION AS A SHARE OF DEVELOPMENT	**21.7%**	**32.1%**	42.6%

Affordability mandates, when they exist, are nearly as costly as relatively recent changes to building codes and beyond- ordinary development starts, but overall have a smaller average impact on costs because they are encountered less frequently. In contrast, regulatory delays are encountered very frequently, but have a comparatively small average impact on costs because they are limited to the extra interest that accrues on development and construction loans.

Refundable fees have the smallest impact of any of the types of regulatory costs listed, both because they apply only half of the time and because they are limited to the interest that accrues until they are refunded.

To illustrate the variability in regulatory costs, in addition to averages, Figure 2 shows the upper and lower quartiles (costs are below the lower quartile for 25 percent of respondents, and above the upper quartile for 25 percent). While on average regulation accounts for 32.1 percent of total multifamily development costs, the quartiles give a range of
21.7 to 42.6 percent.

Although the cost components sum to the bottom line total for the averages in Figure 2, the components of the upper and lower quartiles do not. The ten components in the "lower quartile" column in particular sum to considerably less than 21.7 percent. The implication is that multifamily developers can minimize some types of regulatory costs depending on where they operate—but not all of them proportionately at the same time.

Costs Not Captured

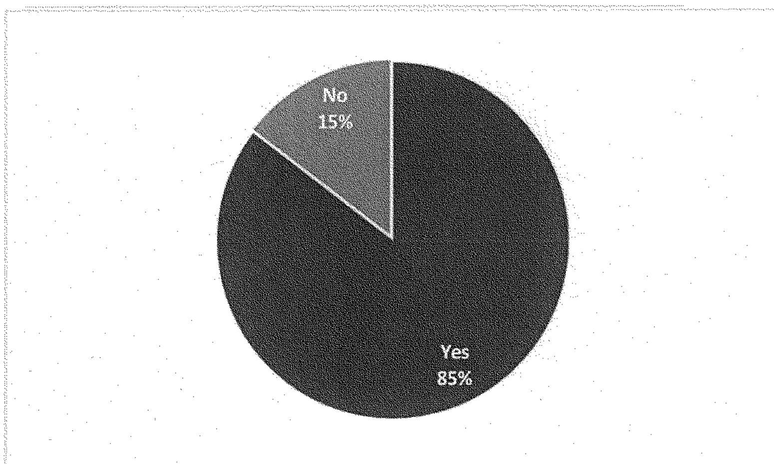
Although the NAHB-NMHC survey sought to be as comprehensive as possible, the above results do not capture everything. Some government actions impact development costs in a way a multifamily developer can't reasonably be expected to quantify. For example, federal immigration policy may affect the supply of construction labor, and tariffs can affect prices of building materials like lumber[1] and steel. Developers do not in general have a way of evaluating how much the prices they pay for labor and materials are influenced by these federal policies.

The survey asked developers about delays due to government regulation, but there can be multiple reasons for those delays not all unambiguously tied to a government action. One is neighborhood opposition to the development. At the local level, governments may encourage or facilitate local groups who oppose multifamily development. An obvious way to do this is by allowing local groups to sue any developer who proposes to build multifamily housing, but there are many more subtle ways to encourage opposition.

A developer may have to devote time and financial resources to deal with this opposition, by meeting with local groups before seeking zoning approval, for instance. To quiet the opposition, developers may find it necessary to make concessions to local groups, such as reducing size of the buildings so that land costs are allocated to fewer apartments and cost per apartment is increased. In an extreme case, local opposition may be able to cause a local government to reverse its decision to approve a project after the developer has already invested heavily in it. In many of these cases, there is an obvious cost to neighborhood opposition, but how much responsibility the local government bears for it may not always be clear. It is not uncommon for developers to hire consultants to debunk claims made by opposition to a project.

Figure 3 below shows that the overwhelming majority (85 percent) of the developers responding to the NAHB-NMHC survey have experienced added costs or delays due to such opposition.

Figure 3: Have you experienced added costs or delays due to neighborhood opposition to multifamily construction?

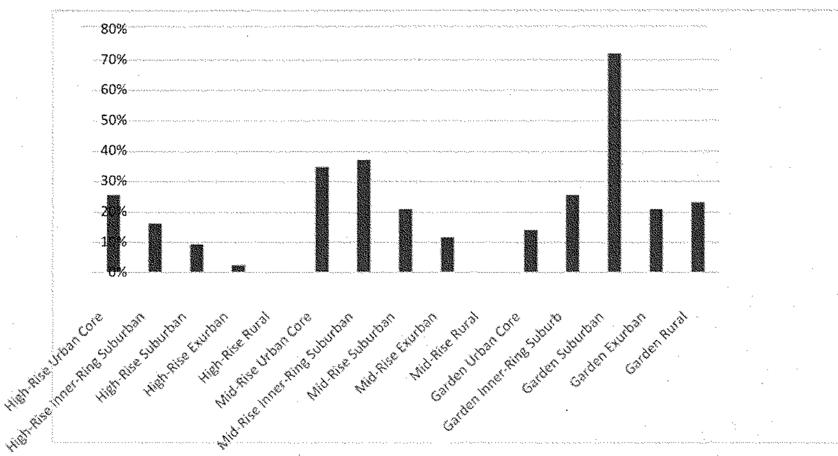


Profile of Respondents and Their Typical Projects

The range of costs highlights that not all development projects are the same. Costs can vary by jurisdiction, as well as by geographic location and type of project—garden apartments on undeveloped land can be much less complicated to build than a high-rise in an urban area, for example. Respondents were able to choose more than one option as to their typical project type.

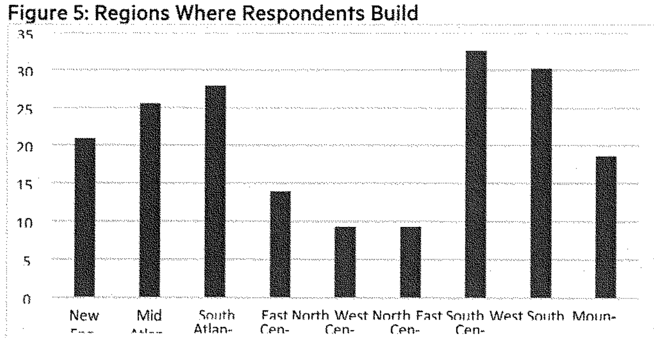
Respondents built a variety of product types that also varied by location (see Figure 4). The most common type of project was a garden development in the suburbs (72 percent). Mid-rise projects were the next common, with 35 percent building mid-rise developments in urban areas, and 37 percent building similar projects in inner-ring suburbs. About one-quarter (26 percent) of developers reported that they typically build high-rise apartments in urban settings.

Figure 4: Type and Location of Multifamily Projects



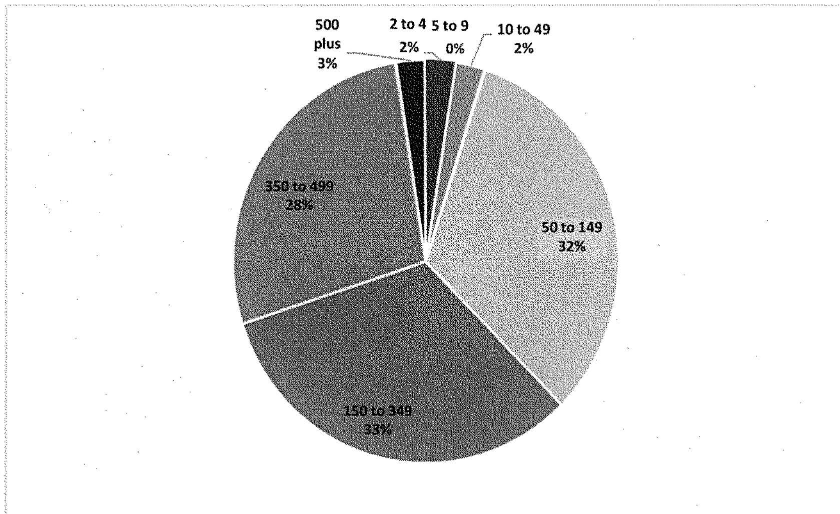
All regions of the United States were represented in the survey sample as well. The largest percentage of developers operated in the West South Central (33 percent) and Mountain (30 percent) regions (see Figure 5). The South Atlantic and Pacific regions featured the highest distribution of multifamily permits in the U.S. in 2017 and had the third and fifth largest distribution of respondents, respectively.

Figure 5: Regions Where Respondents Build



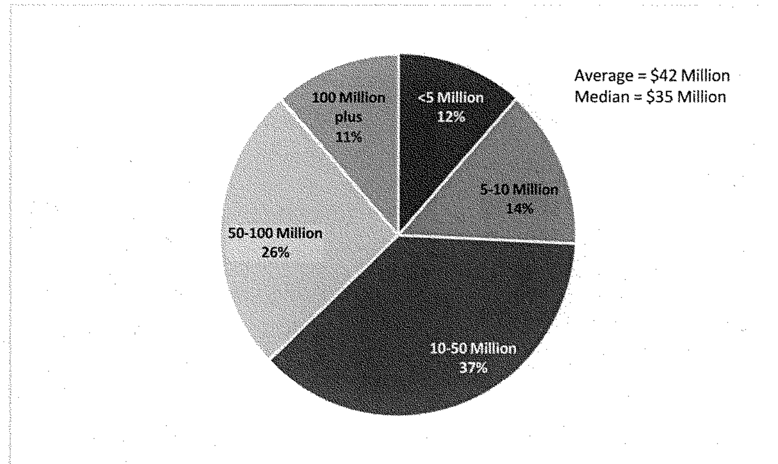
A fairly wide range of typical development size was represented by respondents as well (Figure 6). A small portion of respondents (4 percent) typically built projects fewer than 50 units or greater than 499 units (3 percent), while the remaining respondents were relatively evenly split between 50 to 149 units (32 percent), 150 to 349 units (33 percent) and 350 to 499 units (28 percent).

Figure 6: Typical Project Size (No. of Units)



In terms of financial costs, the cost was even more widely distributed (see Figure 7). The average cost of a typical development project for these developers was $42 million. Over one-third (37 percent) of respondents had a typical project size of $10-$50 million.

Figure 7: Typical Project Size (Development Costs)



Summary and Conclusion

As the above discussion has demonstrated, multifamily development can be subject to a bewildering array of regulatory costs, including a broad range of fees, standards, and other requirements imposed at different stages of the development and construction process. In view of this, it may not be surprising that regulation imposed by all levels of government accounts for 32.1 percent of multifamily development costs on average, and one-fourth of the time reaches as high as 42.6 percent.

Although local governments generally have authority for approving development and adopting building codes, state and federal governments are becoming increasingly involved in the process. Sometimes the federal involvement is readily apparent, as when issuing stormwater permits or enforcing OSHA requirements. At other times, the federal involvement is less obvious. Examples include federal participation in model building codes and attempts to influence local development through conditions for obtaining grants or other sources of funding. Indirect influences like these sometimes make it impossible to untangle which level of government is ultimately responsible for a given dollar of regulatory cost.

The current estimate that government regulation accounts for 32.1 percent of total development costs is almost certainly understated to some extent, as it was not possible to account for items like the effects of tariffs on building materials or the extent to which local jurisdictions may empower their citizens to oppose multifamily housing in their communities. Average costs could be even higher now or in the near future due to regulations taking effect since the multifamily projects in the survey were completed. For example, OSHA's Silica Rule went into effect in late 2017, a regulation that industry groups have criticized as unreasonably onerous and unnecessarily costly. Similarly, local jurisdictions are just beginning to adopt the 2018 versions of the model international building codes. Home Innovation Research Labs has recently estimated that the difference between the 2018 and 2015 versions of the codes can add thousands of dollars onto the cost of a multifamily building. As is typically the case, federal agencies supported several of the cost-increasing changes to the codes.

When the cost of multifamily development rises, it unavoidably translates to higher rents and reduced affordability of rental housing. Multifamily developers can not secure financing to build their projects unless they can demonstrate to lenders that the rents will be sufficient to cover costs and pay off the loans.

The purpose of this report is not to argue that all regulation is bad and should be eliminated, but to raise awareness of how much regulation currently exists, how much it costs, and to encourage governments to do a thorough job of considering the implications for housing affordability when proposing and implementing new directives.

Appendix 1: Assumptions Used in the Calculations

In order to calculate a final effect on development costs, many of the NAHB-NMHC survey responses need to be combined with additional information. Primarily these are assumptions about the terms of development and construction loans, and how long construction typically takes, and how to allocate costs to different stages of the development and construction process. This appendix lists all the assumptions used in the calculations and gives the sources for each.

Loan Terms

1. 1 point charged for all land acquisition, development, and construction (AD&C) loans, based on results from a Quarterly Finance Survey (QFS) that NAHB was conducting in the early to mid-2000s.

A 7.65 percent interest rate on all AD&C loans. The QFS indicates that rates are typically set one point above prime, and 6.65 percent is NAHB's estimate of the prime rate that would prevail in the long run under neutral Federal Reserve policy.

The estimates also assume that three-fourths of any category of costs are financed, based on typical AD&C loan-to-value ratios in the QFS.

Construction Lags

The source for information lags not directly collected in the NAHB-NMHC questionnaire is the Survey of Construction, conducted by the Census Bureau and partially funded by the Department of Housing and Urban Development.

Preliminary estimates are taken from the published annual tables, averaged over the 2001-2016 period:

If project is 2-4 units

- Authorization to start = 1.71 months
- Start to completion = 10.87 months

If project is 5-9 units

- Authorization to start = 1.95 months
- Start to completion = 11.64 months

If project is 10+ units

- Authorization to start = 1.94 months
- Start to completion = 13.21 months

The NAHB-NMHC survey collected data on how much time regulation adds to the development process. To assign this to a particular phase of the development the following assumptions are used.

The regulatory delay is split and attributed half to the lag between applying for zoning approval and the beginning of site work, and half to the period after site work begins. If half of the regulatory delay exceeds the lag between applying for approval and beginning of site work, the excess is also attributed to the period after site work begins. It is first assumed that the resulting regulatory delay is attributable to the period between the start of site work and the start of building construction, minus 3 months (the assumed minimum time it would take to do site work in the absence of regulation, based on conversations with developers). If any regulatory delay remains after being allocated to the zoning approval and site work periods, it is then attributed to the building construction period, and the start-to- completion lag is adjusted upward beyond the SOC-based average, accordingly.

The analysis assumes all loans are paid off when the buildings are completed.

Cost Breakdown

To implement the process described in the paragraph above and calculate a "pure" cost of delay (i.e., the effect regulatory delay would have even if the regulation imposed no other cost), estimates of costs incurred during different phases of the development process are needed.

The breakdown is based on the split between lot and construction costs in NAHB's Construction Cost Surveys (averaged over surveys conducted since 2000) and the Census Bureau's "noncostruction cost factor" for raw land. The calculations also assume three-fourths of these costs are financed, based on typical AD&C loan-to- value rations in the QFS.

Resulting assumptions:

- Only the cost of applying for zoning occurs at the very start of the development process. Financing costs associated with this are charged are to the regulatory cost of the application and not counted in the pure cost of delay.
- 10.2 percent of total development represent costs financed by a land acquisition loan at the start of the site work phase.
- 10.8 percent of total development costs represent costs financed by a development loan during the site work phase, assuming draws on the loan occur on average halfway through this phase.
- 54.0 percent of total development costs represent costs incurred after building construction has started and financed with a construction loan, again assuming draws on the loan occur on average halfway through the site work phase.

Appendix 1: Survey Questionnaire

1. What type of multifamily projects do you typically build in what areas? *Select all that apply*

	Urban Core	Inner-Ring Suburban	Suburban	Exurban	Rural
High-Rise					
Mid-Rise					
Garden/Low-Rise					

2. What regions do you build in? Please select all that apply.

New England (CT, ME, MA, NH, RI, VT)
Mid Atlantic (NJ, NY, PA)
South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)
East North Central (IN, IL, MI, OH, WI)
West North Central (IA, KS, MN, MO, NE, ND, SD)
East South Central (AL, KY, MS, TN)
West South Central (AR, LA, OK, TX)
Mountain (AZ, CO, ID, NM, MT, UT, NV, WY)
Pacific (AK, CA, HI, OR, WA)

3. Including units you may start before the end of the year, how many multifamily units will your company start in 2017?

When answering this survey, please refer all your answers to the typical (most common) multifamily project your company builds.

Respond only for your local office/division, if you are part of a larger company.

4. How many units does your typical project have?

2-4 units
5-9
10-49
50-149
150-349
350-499
500 units or more

5. What is the total dollar amount spent on development costs in your typical project?
$____________________

Land Use & Planning Regulations

6. For a typical piece of land, how much does it cost to apply for zoning approval as a % of total development cost? *(Include costs of fiscal or traffic impact or other studies, and any review or other fees that must be paid by time of application. Please enter "0" if application costs are Zero percent).*

_______%

7. For a typical project , how many months does it take between the time you apply for zoning approval and the time you begin site work?

_____________________months

8a. When you begin site work, do you pay any guarantee or other fees that are refundable when the project is completed?

☐ Yes No

8b. If "yes" in question 8A, how much are those refundable fees, as a % of total development costs?

_____________________%

9. Other than the refundable fees mentioned in question 8a, how much does it cost to comply with regulations when site work begins, as a % of total development costs? *(Include costs of complying with environmental or other regulation as well as the cost of hook-up or impact or other fees.) Please enter "0" if cost of complying with these regulations is Zero percent).*

_______%

10. How much do development requirements that go beyond what you would otherwise do (in terms of property layout, landscaping, materials used on building facades, etc.) add to your cost, as a % of total development costs? *(Please enter "0" if the jurisdiction's requirements don't go beyond what you would normally do).*

__________%

11. In the typical case, what is the value of any land that must be dedicated to the local government or otherwise left unbuilt (for parks, open green space, etc.), as a % of total development cost? *(Please enter "0" if dedicating land is required infrequently).*

__________%

12. How many months does it take between the time you begin site work and the time you obtain authorization to begin construction of the apartment building(s)?

_____________________ months

13. How much extra time (in months) overall does complying with regulations add to the development process? *(Please enter "0" if regulations typically cause no delay).*

_____________________months

14. **When you obtain authorization to begin construction, how much do you pay in additional fees, as a % of total development costs?** *In many cases, this will be only a permit fee, but include any additional impact or hook-up or inspection fees if they kick in at this time. (Please enter "0" if fees paid during or after construction are Zero percent).*

_______%

15a. In the typical case, does a jurisdiction have inclusionary zoning/affordable housing requirements that apply to your project?

Yes No

15b. In the typical case, how much do these requirements (or a fee in lieu of affordable housing) cost as a percent of total development costs? *(Please enter "0" if inclusionary zoning/affordable housing mandates/fees in lieu of affordable housing are encountered infrequently).*

_____%

Construction/Building Regulations

16. **Over the past 10 years, how much have changes in construction codes and standards added to the cost of building a typical multifamily project, as a % of total development costs?** *(Please enter "0" if code changes have had minimal impact on costs).*

_______%

17. **How much does complying with OSHA or other labor regulations cost, as a % of total development cost?** *(Please enter "0" if labor regulations have no impact on development costs).*

_______%

Don't know/use of subs makes it impossible to estimate

18. **Have you experienced added costs or delays due to neighborhood opposition to multifamily construction?**

Yes No

NAHB®

Testimony of Steven E. Lawson

On Behalf of the

National Association of Home Builders

Before the

House Financial Services Committee

Subcommittee on Housing and

Insurance

Hearing on

"The Cost of Regulation on Affordable Multifamily Development"

September 5, 2018

Introduction

Chairman Duffy, Ranking Member Cleaver and members of the subcommittee, I am pleased to appear before you today on behalf of the National Association of Home Builders (NAHB) to discuss the impact of regulatory burdens on multifamily housing developments.

My name is Steve Lawson. I am a third-generation home builder from Virginia. As president of The Lawson Companies, I oversee a portfolio of more than 5,000 apartments and $15 million in annual construction and development. I also serve as chairman of NAHB's Multifamily Council, which represents NAHB members who build market-rate and affordable rental apartment buildings, condominiums for sale, student rental housing and mixed-use development projects.

NAHB represents more than 140,000 members who are involved in building single-family and multifamily housing, remodeling and other aspects of residential and light commercial construction. NAHB's members construct approximately 80 percent of all new housing in the United States each year. Many of our builders, including myself, rely on federal programs to help provide decent, safe and affordable multifamily housing to millions of our fellow Americans.

I would like to thank the subcommittee for holding this important hearing. Reasonable people would agree that there is a role for sensible regulations to protect health, safety and fair housing rights. Today we have the opportunity to examine the impact on affordable housing when regulations at all levels of government exceed these traditional parameters and the regulatory process becomes a vehicle to advance other public policy goals. At a time when affordable housing is out of reach for so many Americans, and new estimates from NAHB and the National Multifamily Housing Council (NMHC) indicate regulatory costs account for nearly one-third of the cost of multifamily development, it is not hard to conclude that overregulation is stifling new production of rental housing.

My testimony will emphasize the following themes:

- NAHB's economic forecast for multifamily production indicates demand remains strong, but production is constrained by regulatory burdens, high cost of building materials and labor shortages;
- A new joint study by NAHB and NMHC, estimates that regulations account for 32 percent of the cost of multifamily development. Therefore, NAHB recommends that policy makers:
    - Consider the *cumulative* effects of regulatory requirements to determine whether a new mandate is necessary to protect the health and safety of the public, or if it is simply a means to achieve a policy goal;
    - Remove barriers to production of multifamily housing;
    - Ensure that energy codes and standards are cost-effective, affordable and have a reasonable payback period of 10 years; and
    - Common sense updates to Davis-Bacon wage determination policies would help builders construct more affordable housing;
- Fair housing laws are important, and NAHB sees an opportunity to make constructive improvements to the Affirmatively Furthering Fair Housing (AFFH) Rule;
- The Trump Administration must resolve issues related to lumber and steel tariffs, which have needlessly raised the price of building materials;
- Multifamily builders and developers need reliable access to credit; and

- It is essential to maintain and properly fund federal rental assistance and multifamily production programs to serve very-low-income and extremely low-income Americans

Economic Data on Multifamily Housing

The demand for multifamily housing is still strong, but builders' confidence in the market has taken a slight hit recently.

Multifamily Production

From 1997 to 2006, a period seen as normal, multifamily housing starts averaged 340,000 units annually. Production fell to a low of fewer than 120,000 units per year in 2009 and 2010. Though annual production levels have recovered, they still have not been able to compensate for the severe lows in 2009 and 2010.

NAHB's most recent housing forecast calls for 376,000 multifamily housing starts in 2018 and an average of 355,000 starts from 2018 through 2020. These projections equate to multifamily housing starts of about 11 percent above the normal rate of 340,000 in 2018 and an average of about 4.5 percent above the normal rate from 2018 through 2020. Considering there are more than 135 million housing units in the U.S., multifamily housing units are contributing less than three-tenths of one percent to the housing stock per year.

In 2006, prior to the downturn, the homeownership rate was nearly 69 percent. Today, the homeownership rate is slightly over 64 percent. In the decade from the first quarter of 2007 through the first quarter of 2017, year-over-year growth in renter households averaged roughly 860,000 households. Although the number of renter households has declined slightly since the start of 2018, as the homeownership rate has recovered somewhat, it is still clear that the growth in the number of renter households has far exceeded the number of multifamily housing units being built. Additionally, the new construction of multifamily housing units that has taken place has served the upper end of the market.

Moreover, renters typically have more modest incomes. The latest available data from the American Community Survey show that median income of renter households in 2016 was $37,264. To be considered affordable, according to the conventional criterion, housing costs for a household at this income level should be no more than about $930 per month, or 30 percent of income. However, in the same year, the median asking rent for apartment units completed (in buildings with at least 5 apartments) was almost $2,200. This amount did not include any utility costs in cases where they are paid directly by the tenant. Only 11 percent of the apartments completed in 2016 had asking rents under $1,050—which is still above the level that would make them affordable to the median renter.

The reason such a large segment of the rental market is not being served by new multifamily construction is not because developers are unwilling to build for this market segment. Most often it is because those developers' costs of acquiring the land and building on it are too high to allow them to do so unless they receive a substantial government subsidy.

A significant category of these costs is the cost of local, state and federal regulation that a developer faces.

Multifamily Production Index and Multifamily Vacancy Index[1]

NAHB monitors multifamily builder and developer confidence in the market through its Multifamily Production Index (MPI). The MPI measures builder and developer sentiment about current conditions in the apartment and condo market on a scale of 0 to 100. The index and all of its components are scaled so that a number above 50 indicates that more respondents report conditions are improving than report conditions are getting worse. In the second quarter of 2018, the MPI showed that confidence slipped two points to 51, compared to the previous quarter. Although the MPI dropped slightly compared to the first quarter of 2018, an MPI above 50 still reflects a solid number of multifamily starts this year.

The MPI is a weighted average of three key elements of the multifamily housing market:

- Construction of low-rent units—apartments that are supported by low-income tax credits or other government subsidy programs;
- Construction of market-rate rental units—apartments that are built to be rented at the price the market will hold; and
- Construction of for-sale units—condominiums.

The component measuring low-rent units rose three points to 57, while the component measuring market rate rental units fell six points to 50 and the component measuring for-sale units dropped three points to 46.

NAHB's Multifamily Vacancy Index (MVI), which measures the multifamily housing industry's perception of vacancies, rose three points to 45 in the second quarter of 2018. The MVI is a weighted average of current occupancy indexes for class A, B, and C multifamily units, and can vary from 0 to 100, where any number over 50 indicates more property managers report more vacant apartments. Although the MVI increased in the second quarter, a reading of 45 is still seen as a healthy number for the multifamily market.

Multifamily builders and developers are seeing strong demand, but there are headwinds that have impacted further development. Some developers have had difficulty getting projects off the ground due to regulatory burdens and neighborhood opposition in certain parts of the country. In addition to regulatory costs, developers still need to monitor the impact of tariffs and the threat of further trade restrictions on building materials prices, especially lumber.

Regulations Account for Nearly One-Third of the Cost to Develop Multifamily Housing

Home builders and their subcontractors are among the small businesses that are disproportionately burdened by complicated regulations and expensive compliance costs. The multifamily sector is particularly subjected to these obligations. Overregulation of the housing industry is felt at every phase of the building process. It results from local, state and federal mandates. It includes the costs of applying for zoning and subdivision approval, environmental mitigation, and permit, hook-up, impact and other government fees paid by the builder.

These added costs result in higher rents and reduced affordability. In many cases, these projects become financially infeasible and, therefore, not built. Multifamily developers cannot

[1] Please see "Multifamily Market Survey Second Quarter 2018" National Association of Home Builders Economics and Policy Group, August 23, 2018.

secure financing unless they can demonstrate to lenders that the rents will be sufficient to cover costs and pay off the loans.

As a small business owner operating in a heavily regulated industry, I understand how difficult (and often costly) it can be to comply with the myriad of government regulations that apply to my day-to-day work. This is particularly noteworthy in an industry where margins are so thin and consumers' sensitivity to price fluctuation is so acute.

According to *Multifamily Cost of Regulation*, a study conducted jointly by NAHB and NMHC, regulation imposed by all levels of government (whether local, state or federal) accounts for 32.1 percent of the cost of an average multifamily development. This study is based primarily on a survey of multifamily developers from both organizations.

Before I discuss the results of this analysis, I would emphasize that NAHB does not believe ***all*** regulation is bad. However, mandates at all levels of government have expanded beyond basic safety and soundness considerations and morphed into complicated compliance regimes, expensive code changes, energy efficiency mandates and/or restrictive land use policies. The compliance costs and fees associated with such policies are exacerbating the difficulty of providing safe, decent, and affordable rental housing.

When regulatory and compliance costs account for nearly one-third of the project cost, or exceed 42 percent in some cases, it is time to take a hard look at the *cumulative* effect of regulatory requirements. It has become relatively common for proposed federal legislation or regulations to encourage local jurisdictions to adopt particular types of building codes or land development patterns. An informed discussion of these proposals should recognize that, on average, regulation already accounts for almost one-third of a new multifamily project's development and building costs.

Multifamily Cost of Regulation Joint Study

The purpose of the joint analysis is to raise awareness of how much regulation currently exists, how much it costs and to encourage governments to do a thorough job of considering the implications for housing affordability when proposing and implementing new directives.

The only way to gather comprehensive data is by questioning multifamily developers, as they are the only ones who experience the wide range of forms regulation can take. NAHB and NMHC set out to accomplish this through a survey of both memberships. The purpose of the survey was to quantify how much regulation exists and how much it is adding to the cost of developing new multifamily properties.

Since multifamily developers do not, in general, have accounting systems designed to tease out these regulatory costs, NAHB and NMHC crafted questions for developers about the typical projects they build, including delays and costs incurred at different stages of the development process. Developers were asked to provide all hard costs as a percent of total development costs for their typical projects.

Housing affordability is a serious issue throughout the country, and this new research only further illustrates how the layers of excessive regulation translate into higher rents and reduced affordability for consumers. The results show that well over 90 percent of multifamily developers typically incur hard costs of fees paid to local governments, both when applying for zoning approval, and again when local jurisdictions authorize the construction of buildings. The study also shows that government regulations often imposes costs in other ways. Although local governments generally have authority for approving development and adopting building codes, state and federal governments are increasingly becoming involved in the process and layering on additional levels of fees and regulations.

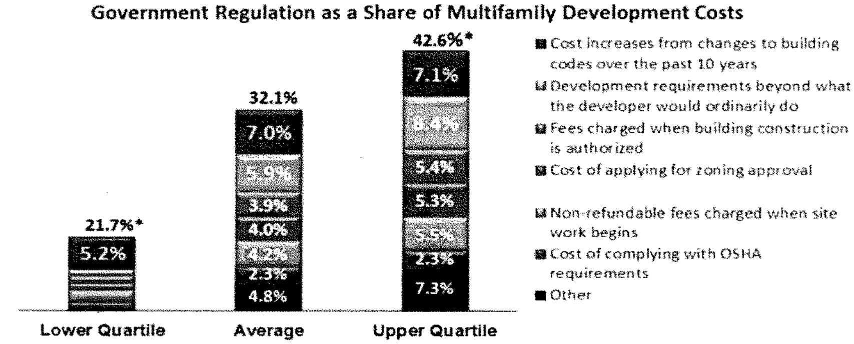
The components that have the biggest cost impact are changes to building codes and costs attributable to development requirements (such as streets, sidewalks, parking, landscaping and architectural design) that go beyond what the developer would ordinarily provide.

Changes to building codes over the past 10 years have accounted, on average, for 7.0 percent of the cost of developing the property. No one would argue against standards for basic soundness and safety of structures, but building codes have expanded well beyond this.

The requirements by many local governments for new development to conform to community design standards (for example, streets, sidewalks, parking, height of buildings, landscaping, and architectural design) impose added costs if these standards go beyond what a multifamily developer would normally provide. These beyond-ordinary development requirements were the second most costly type of regulation, accounting for 5.9 percent of development costs, on average.

The chart below shows the average costs for the various types of regulation covered in the NAHB-NMHC study.

Government Regulation as a Share of Multifamily Development Costs



Note: * For quartiles, all types of costs do not sum to the total.

In the chart, the "other" category includes interest on refundable fees charged when site work begins, the value of land that the developer must dedicate to the government or otherwise leave unbuilt, the cost of so-called affordability mandates imposed without any incentives to offset the cost, and a "pure" cost of delay (i.e., how much the delay would cost even if regulation imposed no other type of cost).

As mentioned above, on average these costs add up to 32.1 percent of the cost of developing a new multifamily property. One-fourth of the time they reach as high as 42.6 percent. Oftentimes, these regulations end up pushing the prices of housing beyond the means of many middle-class working American families. The extent of the impact varies widely across states and metro areas, depending on population, income distributions and new home prices. This highlights the real effect that building regulations have on housing affordability.

Although local governments generally have authority for approving development and adopting building codes, state and federal governments are becoming increasingly involved in the process. Sometimes the federal government involvement is readily apparent, as when issuing storm water permits or enforcing OSHA requirements. Other times, the federal government involvement is less obvious. Examples include federal participation in the development of model building codes, and attempts to influence local development through conditions for obtaining grants or other sources of funding. Sometimes, indirect influences like these make it impossible to untangle which level of government is ultimately responsible for a given dollar of regulatory cost.

The current estimate that government regulation accounts for 32.1 percent of total development costs is almost certainly understated. It was not possible to account for items like the effects of tariffs on building materials or the extent to which local jurisdictions may empower their citizens to oppose multifamily housing in their communities. Average costs could be even higher now or in the near future due to regulations taking effect since the multifamily projects in the survey were completed. For example, OSHA's Silica Rule went into effect in late 2017, a regulation that industry groups have criticized as unreasonably onerous and unnecessarily costly. Similarly, local jurisdictions are just beginning to adopt the 2018 versions of the model international building codes which are estimated[2] to add thousands of dollars to the cost of a multifamily building. Several of these cost-increasing changes were supported by federal agencies.

Specific Burdensome Regulations

Building Codes

Virtually no one would argue against public standards for basic soundness and safety building codes for residential structures. Over the decades, however, building codes have expanded well beyond the basics. They are increasingly used as a vehicle to advance various policy objectives. In particular, federal agencies, such as the Environmental Protection Agency (EPA), the Federal Emergency Management Agency (FEMA) and the Department of Energy (DOE) actively participate in the development of national model codes, proposing changes to national model codes and testifying in favor of them during code hearings

As previously noted, the highest regulatory costs identified in the NAHB-NMHC study were changes to building codes over the past 10 years. These code changes accounted for an average of 7.0 percent of property development costs.

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[2] Home Innovation Research Labs. "Estimated Costs of the 2018 ICC Code Changes for Multifamily Buildings," April 2018.

Moreover, the costs associated with building codes are still on the rise. A report by the Home Innovation Research Labs[3], _Estimated Costs of the 2018 ICC Code Changes for Multifamily Buildings_, shows minimum cost impacts for typical multifamily buildings ranging from $2,500 for a small 2-story multifamily project to $25,000 for a larger 5-story project.

The higher costs are primarily due to significant changes involving elevators and wind load design.

Home Innovation looked at four multifamily buildings ranging from a 2-story, 24-unit building to a 5-story, 167-unit building. Two of the four buildings included public spaces such as community or fitness rooms, leasing offices or retail spaces. The study also looked at a typical 4-story townhouse. All the buildings were selected from actual completed projects certified by Home Innovation under the ICC-700 National Green Building Standard.

The 2018 International Building Code (IBC) requires all elevators, including service elevators and elevators not accessible to the public, to have a two-way text-and video-based communication system for the hearing- and speech-impaired. It was difficult to quantify the cost, as no consensus standard for such a system exists, but an estimated cost per elevator is between $2,500 and $5,000. While proposed by a private individual, inclusion of this system was supported by the Department of Housing and Urban Development (HUD) and the US Access Board, despite it not being a requirement of the Fair Housing Act or the ADA, or otherwise included in nationally-recognized, consensus-based accessibility standards.

Revisions to design methods for wind resistance in the 2016 edition of the ASCE 7 Minimum Design Loads for Buildings and Other Structures standard, incorporated by reference in the 2018 IBC, significantly increased costs for roof construction..

Cost increases of $2,400 to $4,300 per building were estimated for buildings with steep-sloped hip- or gable-roofs, commonly seen in suburban condominium or apartment complexes. Buildings with low-slope roofs, more commonly seen in dense, urban environments, could see cost increases of $8,400 to $16,700 per building.

Fire code officials' ability to require a fire watch during construction was strengthened and expanded in response to a perceived increase in such fires. For larger projects, the cost to provide a 24/7 fire watch can exceed $233,000. Industry coalitions are working to address this issue by educating contractors regarding fire-safe work practices and do not believe increased and burdensome regulations are necessary.

Energy Efficiency

A leading example of how codes are used to advance policy objectives is energy efficiency. For instance, DOE has a share of its budget set aside for persuading state and local jurisdictions to adopt more stringent codes to promote energy efficiency objectives. Representatives from NAHB who witnessed all of the recent code hearings have criticized federal agencies for supporting certain code changes that removed flexibility and limited builders' options, driving up costs without improving energy efficiency, and to the benefit of specific product manufacturers.

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[3] Home Innovation Research Labs is an independent subsidiary of NAHB.

NAHB agrees that energy efficiency is a worthwhile objective, and we support a number of voluntary initiatives and research to promote this goal. Nevertheless, up-front costs of these initiatives must be kept within reasonable bounds. NAHB strongly urges that energy codes or standards must be cost-effective, affordable, and supported by a reasonable payback period of 10 years.

Implementation of Davis-Bacon and Related Acts

Davis-Bacon prevailing wage requirements apply to a number of HUD's programs, including Federal Housing Administration (FHA) multifamily mortgage insurance programs for new construction and substantial rehabilitation. These critical mortgage insurance programs, especially HUD's Section 221(d)(4) program[4], enable NAHB's members to develop apartment communities affordable to low-and-moderate-income families. For multifamily builders, the requirement to use Davis-Bacon wage rates artificially drives up the cost of constructing affordable housing. NAHB is concerned that these policies will dissuade builders and lenders from using FHA multifamily mortgage insurance programs, resulting in fewer affordable units for hard working Americans during an affordable housing crisis. Further, the compliance burdens are creating barriers to entry for small mom-and-pop subcontractors to work on these projects.

Several key steps in the wage determination process can be improved, but achieving such results will require an ongoing commitment from the senior leadership of both HUD and the U.S. Department of Labor (DOL). Two of the most important Davis-Bacon policy issues that require inter-agency cooperation are resolution of split wage determinations on residential buildings and improving the timing for assignment of wage rate determinations.

Davis-Bacon Split Wage Determinations

Under Davis-Bacon, there are four basic categories of wage determinations based on the type of construction: residential (projects with no more than four stories), building, heavy and highway. DOL and HUD guidance set a threshold for determining substantial construction which requires a separate wage determination, and incidental construction which does not.

Using its 1996 Labor Relations Letter No. LR-96-03[5], HUD would issue one Davis-Bacon wage determination for multifamily properties if construction items (such as parking, club houses, streets etc.) are incidental in function to the overall character of the project, and if there is not a substantial amount of construction in the other categories. Except in the most extraordinary circumstances, the residential classification would not be altered by the cost of incidental items, even if their costs reached the "substantial" thresholds. "Substantial" construction is defined under various handbooks and guidance documents as greater than 20 percent of total project cost and/or $1 million or more in terms of absolute cost. Multiple wage determinations *could* be required when a project included separate and distinguishable

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[4] HUD's Section 221(d)(4) program insures mortgage loans to facilitate the new construction or substantial rehabilitation of multifamily rental or cooperative housing for moderate-income families, elderly, and the handicapped. It is the largest of the FHA multifamily mortgage insurance programs for new construction and substantial rehabilitation.

[5] HUD (OLSE) Labor Relations Letter No. LR-96-03 "Application of Department of Labor guidance concerning 'projects of a similar character'" to Guide Davis-Bacon Wage Determination Policies (12/02/1996)

components that fall into different construction categories and the components are not incidental to each other, but multiple wage determinations on HUD multifamily jobs were extremely rare.

In 2013, DOL directed HUD to revise its Davis-Bacon guidance documents and handbooks. DOL objected to FHA's broad interpretation of incidental construction, and directed HUD to scrutinize the cost of construction items that exceed 20 percent of the total project cost or cost more than $1 million.

Unfortunately, the policies DOL directed HUD to use for assigning split Davis-Bacon wage determinations to "substantial construction"[6] items on residential apartment projects are jeopardizing FHA-insured multifamily deals. Since 2016, it has become common for multifamily lenders and borrowers seeking FHA mortgage insurance to be assigned split wage decisions for residential properties when construction items exceed $1 million in costs, even though the items historically have been treated as incidental construction.

The $1 million threshold is especially problematic for multifamily properties. On larger projects, it is not difficult for the cost of garages, club houses, landscaping, roads and other common apartment components to exceed this threshold. As the cost of construction continues to climb, this figure will be even more easily surpassed. DOL's insistence that HUD use the $1 million cost threshold as a basis for assigning separate wage determinations results in confusing, costly and administratively burdensome split wage decisions on residential projects. In many cases, borrowers and lenders receive this information very close to the closing date on their loans, and must substantially re-work the deals at the last minute to make them feasible.

For these reasons, NAHB requested DOL and HUD to enact policies that account for the current realities of residential construction. NAHB continues to strongly encourage DOL to draft a wage determination policy with HUD that:

- Classifies any housing development project that is 4 stories or less as "residential;" and
- Does not alter the residential classification by assigning a split wage determination based on the cost of construction for items, unless those costs exceed 20 percent of total project costs.

Alternatively, DOL and HUD could simply reaffirm Labor Relations Letter No. LR-96-03 as the appropriate guidance for FHA insured residential projects.

Timing of Davis-Bacon Wage Rate Determinations

When borrowers use FHA multifamily mortgage insurance for new construction or substantial rehabilitation, unexpected changes in Davis-Bacon wage rates that occur late in the application process may result in higher rents to tenants or even totally derail a project.

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[6]DOL is relying on these documents: U.S. Department of Labor Employment Standards Administration Wage and Hour Division All Agency Memorandum No. 130 "Application of the Standard of Comparison 'Projects of a Character Similar' Under The Davis-Bacon And Related Acts" (3/17/1978) and U.S. Department of Labor Employment Standards Administration Wage and Hour Division All Agency Memorandum No. 131 "Clarification of All Agency Memorandum No. 130" (7/14/1978).

There is no predictability to the timing or variation in dollar amounts of Davis-Bacon wage rate modifications. Surveys may be done frequently or not for many years. Some wage rates are changed in response to union collective bargaining agreements, but timing is also unpredictable. For example, there were 18 modifications to the "building" category wage rates in Montgomery County, Maryland, during 2014. Sometimes the modifications are so extreme, it renders a feasible development impossible. A September 2012 wage rate determination for a number of counties in Ohio increased a variety of trades' wage rates by 100 to 400 percent from the previous determination issued in 2010.

For these reasons, we urge interagency cooperation between HUD and DOL to permit borrowers on FHA-insured multifamily developments to lock in the wage rate determination for individual projects as early in the application process as possible. Developers and builders risk considerable sums up-front just in preparing an FHA application; once they have received a firm commitment, the mortgage amount is set, and it becomes time-consuming and costly to make changes.

An appropriate time for locking in Davis-Bacon prevailing wages for a new construction or substantial rehabilitation multifamily project is when HUD accepts a lender's application for a Firm Commitment. At the time HUD accepts a lender's application, it deposits the application fee and issues a receipt. The date on the receipt HUD issues to the lender should be accepted as a government source for a date-certain to lock in the current prevailing wage rates. NAHB continues urging DOL to change its policies, so HUD may lock in the Davis-Bacon prevailing wage rates at the time it accepts an application for a firm commitment of multifamily mortgage insurance for new construction or substantial rehabilitation.

Inclusionary Zoning

Inclusionary Zoning (IZ) requires a portion of new construction be designated as affordable housing for those with low-to-moderate income. Specifically, IZ policies typically require developers to subsidize a specified percentage of total units within market-rate developments and to set income-based price controls for the subsidized units. NAHB is concerned that there is too much focus on IZ as the single preferred method of achieving fair housing goals.

In the typical case where there are no or insufficient offsetting subsidies, IZ requires developers to lose money on some of the housing they build. This is effectively a tax, resulting in higher rents on non-subsidized apartments. In the NAHB-NMHC study, 30 percent of the multifamily projects were subject to IZ or similar "affordability" mandates. In these cases, IZ accounted for 5.7 percent of development costs on average, enough to cause a substantial increase in rents.

The reality is that different market segments may require different tools for improving affordability, from direct or indirect subsidies at the low end of the income bracket to better planning for housing and regulatory barrier removal strategies at the upper end of the income range. An economic study conducted for NAHB that focused on price and production effects concluded that in places like California, there was not an overall increase of housing production from IZ, and that IZ acts like a tax on housing.

The middle class gets squeezed out under IZ. Due to an increase in the cost to cover subsidized IZ units, the middle class is no longer able to afford the market-priced units and they are ineligible for the subsidized rates. IZ simply shifts the burden without solving the long-term affordability issues.

IZ may be feasible if the right incentives are available. There are other approaches such as planning and zoning changes to assess development capacity and encourage affordable housing. Expedited permitting processes and advocacy efforts to reduce NIMBYism can also have broad effects on housing affordability.

NAHB urges government to encourage and coordinate with, and not prescribe to, local communities to adopt long-term comprehensive plans that will meet the demand for new housing and economic development. Eliminating exclusionary planning and zoning practices will encourage the production of the full range of housing options for all members of the community.

Fair Housing

NAHB supports the goals of the Fair Housing Act, as amended, to protect individuals' ability to own or rent property free from discrimination and ensure that those individuals have equal access to housing, regardless of race, color, national origin, religion, sex, disability, and familial status. NAHB supports policies that allow all individuals the opportunity to pursue their American Dream and seek the housing of their choice while allowing its members to develop and build safe and affordable housing in all areas where it is needed.

Furthermore, NAHB urges Congress to pass legislation that reduces barriers to, and supports the development of, much needed affordable housing and to provide clear exemptions from liability under the Fair Housing Act, where such liability may arise from good faith unintentional acts in pursuit of compliance with the requirements of local, state and federal housing programs. NAHB resolves to work with HUD staff to help the Agency clarify rules for preventing discrimination in accordance with the Fair Housing Act.

Affirmatively Furthering Fair Housing

I would also like to take a moment to discuss NAHB's position on HUD's Affirmatively Furthering Fair Housing (AFFH) Rule, which became effective Aug. 17, 2015. It requires states, local governments and public housing agencies to conduct a formal fair housing planning process as a condition of receiving certain HUD funds, such as the HOME Investment Partnership Program (HOME) and Community Development Block Grant (CDBG) Programs.

Many of NAHB's multifamily builders often encounter fierce opposition to their projects, especially when they attempt to build in more affluent areas. In fact, the NAHB-NMHC study found that 85 percent of the developers surveyed experienced added costs or delays due to neighborhood opposition to multifamily construction.

NAHB supports the rule's goals of reducing concentrations of poverty and housing segregation as well as providing greater economic opportunity to all residents in a community. The rule may help remove some barriers to affordable housing, but in its current form, the AFFH regulation could pose further challenges to producing and preserving affordable housing. NAHB is concerned that this initiative could have the unintended consequences of the federal government dictating prescriptions for land use and program design. Because HUD has authority to withhold housing funds from areas whose fair housing plans were not accepted, the AFFH rule may also pressure local jurisdictions to undertake misguided and shortsighted quick fixes, such as inclusionary zoning, in order to ensure that federal grants and subsidies are not disrupted, rather than pursuing solutions that are sustainable over the longer run. As one NAHB member noted, "Sometimes even the suggestion [of inclusionary zoning] is all the local government staff needs to run with a program, and to 'get the housing done.' They don't realize how expensive, and hard it is to implement [inclusionary zoning] within a development." NAHB also expressed concerns about the rule's potential for inappropriate federal encroachment on legitimate business practices, such as a landlord's refusal to accept rental subsidies.

Under the rule, local governments, states and public housing agencies must submit an Assessment of Fair Housing (AFH) analysis which:

- Examines fair housing data to identify patterns of racially concentrated areas of poverty and disproportionate housing needs;
- Prioritizes fair housing goals;
- Determines what actions are necessary to achieve those goals; and
- Sets a timetable for reaching them.

In May, HUD withdrew the Local Government Assessment Tool. HUD explained that it initially rejected about 35 percent of AFH plans submitted by local governments in 2017, and called the tool "inadequate to accomplish its purpose of guiding program participants to produce meaningful AFHs." The Department committed to make it less burdensome and more helpful in creating impactful fair housing goals. In the absence of a working information collection device, program participants were directed to use the previous analysis of impediments to fair housing choice (AI).

On August 13, HUD published an Advanced Notice of Proposed Rulemaking inviting public comment on amendments to its AFFH regulation. The Agency requested comments on changes that minimize regulatory burdens, focus on positive results rather than analysis, provide greater local control and innovation, increase housing choice and supply, and more efficiently use HUD resources. NAHB will work with HUD in hopes of making constructive improvements to this regulation.

Other Factors That Inhibit New Multifamily Production

Unfortunately, burdensome regulations are not the only policies pushing construction costs higher and housing affordability lower. Multifamily builders are also struggling with the effects of tariffs placed on goods that are integral to construction. Shortages of skilled labor also cause delays and drive up costs.

Tariffs

In early 2017, the Trump Administration levied combined tariffs as high as 27 percent on softwood lumber imported from Canada. As a result, the cost of framing lumber spiked and has been as volatile as we've ever seen. These price increases have caused the market value of every newly built multifamily unit to rise $1,500.

But lumber isn't the whole story, particularly for multifamily developers. Tariffs on steel have also had adverse effects on the industry. Earlier this year, tariffs and quotas on steel and aluminum were put in place in the name of national security. As a result of this policy, the price of structural steel, including beams used to frame taller multifamily projects, has increased 20 percent in 2018.

If President Trump decides to move forward with tariffs on $200 billion of Chinese imports, the effects would be dire. The list of goods that would see a sudden 25 percent tax increase includes countertops, nails, saws, light fixtures, wire, kitchen cabinets and almost everything else we use to build homes.

Taken together, the price of building materials has been rising two to three times faster than the rate of inflation over the last six months.

Labor Shortages

The NAHB/Wells Fargo Housing Market Index[7] from December 2017 indicated that the cost and availability of labor was the top problem for builders in 2017. Eighty-two percent of builders reported problems with the cost and availability of labor in 2017. Eighty four percent of builders cited labor shortages as the top problem they expected to face in 2018, placing this issue in a tie for first place with building material prices.

Simply put, the skilled labor workforce is aging, and not enough new workers are entering the trades. The result of this dynamic is a chronic labor shortage in the home building industry.

In response to President Trump's plan to expand workforce development, NAHB pledged to educate and train 50,000 new workers over the next five years for careers in the construction trades. NAHB's Home Builders Institute (HBI), our workforce development arm, offers youth and adult training programs across the country to provide students with the hands-on experience necessary to build careers in construction and related fields. HBI will expand training, certification and job placement programs for underserved and at-risk youth, transitioning military, veterans, ex-offenders and displaced workers.

Section 3 Program

HUD's Section 3 Program is a little-known program that has been on the books for well over 20 years but has been administered under an interim regulation since 1994.

"Section 3" refers to Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992. An obscure HUD program usually associated with public housing, Section 3 requires recipients of certain HUD financial assistance (including HOME and CDBG), to the greatest extent possible, to provide job training, employment, and contract opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

Reports from NAHB members indicate that Section 3 requirements are not uniformly enforced across the country. Where it is enforced, some builders attribute increased costs, administrative burdens and project delays to the program's requirements. Although well-intended, HUD's plans for Section 3 could present serious unintended consequences, such as additional costs and project delays, for multifamily builders.

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[7] The NAHB/Wells Fargo Housing Market Index is a monthly survey of NAHB members designed to take the pulse of the single-family housing market. The survey asks respondents to rate market conditions for the sale of new homes at the present time and in the next six months as well as the traffic of prospective buyers of new homes.

NAHB has offered solution-oriented ideas that address the construction labor shortage and promote job opportunities for low-income men and women. NAHB urged HUD to develop strategic partnerships with job training and social skill-building specialists who will deliver employees from the local community trained in the skill appropriate for the job site. For instance, HUD could work in partnership with NAHB's HBI to offer youth and adult training programs across the country that provide students with the hands-on experience necessary to build careers in construction and related fields. NAHB also asserted that HUD should either require the local government to maintain and/or certify a list of Section 3 firms, or HUD should take on that responsibility. The onus should also be on HUD or the local government to verify the eligibility of a Section 3 business, rather than shunting that responsibility to the builder, general contractor or subcontractors. HUD's online Section 3 Business Registry is a positive first step. Unfortunately, HUD does not verify the self-certifications submitted by the businesses, and it cautions database users to perform due diligence before awarding contracts.

Although the status of Section 3 regulations have not changed at this time, NAHB continues to monitor this issue and remains engaged with the appropriate HUD staff.

Access to Credit

Affordable multifamily development is dependent on accessible financing options. Fannie Mae and Freddie Mac (the Enterprises), HUD, FHA, the Rural Housing Service (RHS) in the Department of Agriculture (USDA) and Ginnie Mae all play a significant role in providing various credit options to support affordable multifamily development. State and local housing finance agencies (HFAs) also are a source of affordable multifamily financing programs. These agencies have proven to be dependable sources of financing even when private market sources of multifamily financing have withdrawn from the market in adverse economic conditions.

The Enterprises' multifamily programs form the core of multifamily debt financing provided by major financial institutions. The range of products and business lines employed by the Enterprises allow a wide range of multifamily rental properties that provide housing for very-low to middle income households to be financed in the conventional market. In fact, the Federal Housing Finance Agency (FHFA) announced in November 2017 that Fannie Mae and Freddie Mac will be allowed limited re-entry into the LIHTC market as equity investors. Allowing Fannie and Freddie to compete with private investment capital is expected to increase competition for the credits and thereby increase the value of the credits, resulting in more capital and greater affordability for LIHTC projects in rural areas.

Ginnie Mae's guarantee of securities of eligible multifamily FHA insured loans and multifamily Rural Development (RD) loans guaranteed by the RHS is essential to affordable multifamily development. Together, these agencies provide crucial counter-cyclical support to the housing market, expanding in downturns and contracting when the market improves.

HFAs generally have a mission to provide funding to increase and sustain affordable rental options and homeownership. These agencies support low- and moderate-income renters and homebuyers, and/ or special populations such as first-time homebuyers, active military and veterans, police and teachers, individuals with disabilities, and homeless individuals. Their programs are funded primarily through tax exempt bonds, HUD's HOME, and LIHTCs.

Preserving all these financing options is critical to ensuring that developers of affordable multifamily housing units have steady and reliable access to affordable credit. NAHB urges lawmakers and regulators to consider the critical role these agencies and their programs play in the housing finance system as housing finance reform legislation and policies are considered going forward. Additionally, federal banking regulations, such as the High Volatility Commercial Real Estate rules, should be examined to ensure these regulations are not impeding the availability and affordability of credit for acquisition, development and construction financing for multifamily development projects.

Regulatory Reform Will Complement, but Not Replace Federal Multifamily Programs

Regulatory reform will help improve affordability, but it is not a substitute for a direct subsidy. While regulatory reform will help us lower development costs, to reach lower-income households, it is financially infeasible to construct new, unsubsidized affordable rental units without federal assistance.

NAHB's members utilize a number of single family and multifamily housing programs administered by federal agencies. While this list is not all-inclusive, it does represent the most important programs for our members and the modest income Americans they serve. The major federal programs most important to NAHB members include:

- Tax programs: Mortgage Interest Deduction, LIHTC, Mortgage Revenue Bonds, and Mortgage Credit Certificates;
- FHA Mortgage Loan insurance: Single family homeownership, Multifamily new construction and preservation (most notably Section 221(d)(4) for multifamily new construction and substantial rehabilitation and Section 223(f) for multifamily refinancing);
- HUD Block Grant Programs: HOME and CDBG;
- HUD Rental Assistance: Primarily Section 8 Project Based Rental Assistance (PBRA) and the Housing Choice Voucher (HCV) Programs; and
- RHS single family, multifamily (Section 515 direct loan and Multifamily Preservation and Revitalization Demonstration Programs), and Section 521 Rural Rental Assistance programs.

Each of these programs serves an important purpose. They are not interchangeable, but are complementary. Different strategies are necessary to meet the housing needs of households with different income levels and in different parts of America. The array of federal government programs that have been developed over the years in response to identified needs are essential elements in ensuring that there are affordable options for providing housing. Steps should be taken to make the operations of these agencies more efficient and effective.

As the subcommittee examines the cost of regulations in multifamily development, we also request your continued support for successful housing programs such as the Low Income Housing Tax Credit (LIHTC), and full funding for vital rental housing programs such as the Housing Choice Voucher Program, Project-Based Section 8 Rental Assistance, the HOME

Program, and the Rural Development Multifamily Programs.

Conclusion

NAHB thanks the subcommittee for the opportunity to testify. Whether they rent or own, Americans want to choose where they live and the type of home that best meets their needs. NAHB thanks the chairman and this subcommittee for their leadership on this important issue, and stands ready to work with you to achieve necessary reforms and expand the availability of affordable housing.

In closing, NAHB would also like to applaud the New Democrat Coalition for releasing a white paper which seeks solutions to chronic problems facing the housing industry.
In crafting the document, the New Dems worked closely with NAHB and highlighted leading factors hindering new construction. This paper is an important step towards ensuring housing issues are kept a priority in Congress, and NAHB looks forward to continuing to work with them.

Thank you again, Mr. Chairman for the time and effort you devoted to the important issue.

Multifamily Cost of Regulation

2018 Special Study

Paul Emrath, National Association of Home Builders
Caitlin Walter, National Multifamily Housing Council

NAHB
National Association of Home Builders

NMHC

Regulation: Over 30 Percent of the Cost of a Multifamily Development

June 12, 2018

Paul Emrath, National Association of Home Builders
Caitlin Walter, National Multifamily Housing Council

Many Industry experts have become concerned about affordability of rental housing in America, and how difficult it has become to address the problem through new construction. According to the report on America's Rental Housing 2017 published by the Joint Center for Housing Studies at Harvard University, "The lack of new, more affordable rentals is in part a consequence of sharply rising construction costs, including labor and materials." The Harvard report goes on to say, "Tight land use regulations also add to costs by limiting the land zoned for higher-density housing and entailing lengthy approval processes."

Recently, the National Association of Home Builders (NAHB) and the National Multifamily Housing Council (NMHC) undertook a joint research effort to find out how much government regulation adds to the cost of building new multifamily housing. Results show that well over 90 percent of multifamily developers typically incur hard costs of paying fees to local jurisdictions, both when applying for zoning approval, and again when local jurisdictions authorize the construction of buildings.

However, government regulation can impose costs in other ways as well. Over 90 percent of multifamily developers also incur costs of delays caused by sometimes lengthy approval processes, development standards that go beyond what would ordinarily be done, changes to building codes over the past decade, and OSHA requirements. Other regulations, such as requiring developers to dedicate land to the government, are somewhat less common, but can be quite costly when they are encountered. The bottom line is that regulation imposed by all levels of government (whether local, state or federal) accounts for 32.1 percent of the cost of an average multifamily development.

A substantial amount of regulation is well intentioned and some of it undoubtedly serves a worthwhile purpose. Few would argue, for example, that basic safety standards for structures and workers are unnecessary. But regulation that exceeds 30 percent of a project's development costs raises questions about how thoroughly governments are considering the consequences of their actions. Are they aware of how much regulation currently exists? Do they realize how multiple regulations with conflicting standards can cause delays and increase costs? And do they understand the extent to which these increased costs translate into higher rents and make it difficult to build new housing that families with modest incomes can afford?

Survey Design

While the assertion that regulations increase the cost of multifamily development is commonly heard, the extent to which this happens is not easy to measure, and currently does not exist on a national scale. The only way to gather data that is at all comprehensive is from multifamily developers, as they are the only ones who experience a wide range of the various forms regulation can take. NAHB and NMHC set out to accomplish this through a survey of both memberships. The purpose of the survey was to quantify how much regulation exists and how much it is adding to the cost of developing new multifamily properties.

Multifamily developers do not, in general, have accounting systems designed to tease out these regulatory costs. So NAHB and NMHC crafted questions that most developers would be able to answer. The questions asked developers about the typical projects they build. The questions covered various delays and costs incurred at different stages of the development process. Developers were asked to provide all hard costs as a percent of total development cost for their typical projects (see Appendix 2).

The survey was conducted in the fourth quarter of 2017. A total of 40 usable responses were received from multifamily developers, evenly split between NAHB and NMHC members (with no duplication). The developers who responded reported building multifamily projects in all regions of the country, and the typical projects they build vary widely: from fewer than 5 apartments to more than 400, and from under $2 million in total development costs to more than $100 million.

NMHC and NAHB combined the results with information from other survey collections and public data sources, such as typical terms on construction loans and the average time it takes to complete different phases of a project, to estimate the final costs (see Appendix 1).

Types of Regulation

Regulatory costs fall into several categories—fees, development standards, building codes, land dedicated to public purposes, etc. The range of these regulations can be broad, and the cost of complying with them substantial. Figure 1 shows the incidence of different types of regulations imposed on multifamily developers, as well as the average cost of complying with those regulations when they do exist.

Figure 1: Incidence and Typical Magnitude of Regulatory Costs

Type of Cost	Share of Developers' Projects Subject to the Cost	Average Cost When Present (as a Share of Total Development Costs)
Cost of applying for zoning approval	98%	4.1%
Interest costs on refundable fees charged when site work begins	50%	0.5%
Other (non-refundable) fees charged when site work begins	93%	4.5%
Development requirements that go beyond the ordinary	95%	6.3%
Land dedicated to the government or otherwise left unbuilt	50%	4.3%
Fees charged when building construction is authorized	93%	4.2%
Cost of complying with affordability mandates (e.g., inclusionary zoning)	30%	5.7%
Cost increases from changes to building codes over the past 10 years	98%	7.2%
Cost of complying with OSHA requirements	90%	2.6%
Pure cost of delay (i.e., even if regulation imposed no other type of cost)	98%	0.7%

The first significant interaction between a multifamily developer and the government usually occurs when the developer applies for zoning approval to allow multifamily housing to be built on a particular parcel of land. The U.S. Constitution gives states the authority to regulate land use; and, although states sometimes try to influence land use patterns in various ways, they most often leave this up to local governments. Local governments, in turn, pass zoning ordinances that divide their territories into districts and specify how land in each district can be used (single-family versus commercial versus multifamily, for example). It's not impossible for a developer to acquire land that allows multifamily structures to be built on it without going through a rezoning process or obtaining some type of exemption to an existing ordinance, but this is the exception rather than the rule.

The typical projects of almost all the respondents (98 percent) were subject to costs at the zoning approval stage. When they exist, these costs average 4.1 percent of the total development costs. Regulatory costs incurred at this stage can include fees paid directly to a government, but may also include other types of costs. For example, the developers may have to pay for environmental impact, archeological or other types of studies.

Although local governments have the authority to approve development, existing environmental laws also give a role to the federal government. A developer may need to obtain a wetlands, stormwater and/or endangered species-critical habitat permit, each of which is overseen by a different federal government agency. Many states manage the wetlands permits under federal guidance, and states and local jurisdictions may have their own sets of requirements. Indeed, it can be difficult to identify which level of government is ultimately responsible for some regulation, and trying to reconcile conflicting requirements is one factor that can drive up the cost of compliance.

It is also common for governments to impose fees on a multifamily development when site work begins. Many communities charge impact, utility hook-up and other fees at this point. Impact fees are fees that are charged only on a new development and are supposed to be used only for capital improvements. State legislation establishes the types of impact fees local governments can charge. Examples are impact fees for the construction of new schools, roads, water facilities, sewer facilities, stormwater management, parks, fire, police, libraries, solid waste management, and general government. Some states allow all of these, while a select few of states do not allow them, such as Virginia. There are consultants who travel the country and specialize in calculating the maximum impact fees local governments can legally charge. Moreover, as a recently published University of California, Berkeley paper documented, cities often charge additional fees, negotiated on a case-by-case basis at different points in the development process, to allow a project to be built.

According to the 2012 Census of Governments, there are roughly 90,000 local governments in the U.S., and a particular development may be subject to fees from more than one of them—for example, from a municipality, a water district, and a school district with overlapping jurisdictions. The overwhelming majority (93 percent) of the typical projects of multifamily developers in the NAHB-NMHC survey pay fees at this stage of the process. When they exist, these fees average 4.5 percent of total development costs.

Some local governments charge developers guarantee or other fees that are refundable when the project is completed. Although these fees are also usually imposed when site work begins, the survey treats them separately, due to the different cost implications. If the fee is eventually refunded, the developer ultimately pays only the interest that accrues on the development and construction loans until that happens. Half of respondents' typical projects were subject to these fees; which, when present, averaged half a percent of the total development cost.

Many local governments require new development to conform to community design standards. This may include standards for streets and sidewalks, parking, height of buildings, landscaping and the architectural design of individual buildings. These standards impose little extra cost if they don't significantly exceed the developer's ordinary practices. In the absence of regulation, for example, developers will still ordinarily provide spaces for walking and parking, landscaping, and employ architects who attempt to design buildings that are attractive to potential tenants. The NAHB-NMHC survey asked multifamily developers specifically about the cost of standards that go beyond what they would otherwise do.

Almost all (95 percent) of the typical projects of the developers surveyed were subject to design standards that that go beyond what the developer would otherwise do. When these beyond-ordinary requirements were present, they accounted for an average of 6.3 percent of the overall development cost. Energy efficiency is a worthwhile objective, but NMHC and NAHB have argued that the up-front cost needs to be kept within reasonable bounds. NMHC and NMHC have supported some recent changes to the IECC but opposed others as not cost-effective. Not surprisingly, manufacturers of building products advocate for code changes that mandate more use of their products, and tend to be less concerned than NMHC and NAHB about costs. Past analysis by NMHC on previous code cycles (which remain in effect in many states) has shown that changes to the IECC have the potential to drive up construction costs by over $3,000 per apartment (depending on type of building and climate zone) and argued that subsequent savings on utility bills come nowhere near justifying the cost.

Half of the typical projects required developers to dedicate land to the government or otherwise leave it unbuilt. This requirement can take many forms, such as creating a park on the property or reserving part of the property for the government to use in some way. In these cases the developer must pay for the land but is not allowed to derive revenue from it, driving up the cost per unit for the housing that can be built. For those projects subject to this regulation, it represented an average of 4.3 percent of total development cost.

Almost all of respondents (93 percent) paid some sort of fee when construction in their typical project was authorized. This could be limited to a building permit fee, but additional impact, hook-up or other fees may also be charged at this point. When they exist, the fees charged at this point average 4.2 percent of development costs, large enough to suggest that they often encompass more than the building permit fees.

Local jurisdictions are increasingly beginning to consider imposing affordability mandates to attempt to create new affordable housing. These mandates without any offsetting incentive like a tax exception typically create few units and effectively tax some housing units (and their occupants) to subsidize others. The easiest way to see this is in cases where developers pay a fee to avoid the requirement—that amount gets added to the overall amount the developer must pay, thus raising the rents required. But even if they don't pay a fee, the regulation may require them to lose money on some of the housing they build, which is effectively a tax, resulting in higher rents on non-subsidized apartments. Almost one-third (30 percent) of developers who responded indicated that their typical projects incurred costs related to complying with such mandates. These costs, when they exist, averaged 5.7 percent of total development costs, enough to result in substantially higher rents.

The NAHB-NMHC survey also asked developers about the cost implications of changes to building codes over the past ten years. Most jurisdictions have been enforcing building codes for decades, and the codes have been updated and refined many times over that span. Most have adopted a version of national model codes, which have been in widespread use since the 1950s. These are updated every three years, and the number of refinements considered and voted upon during each three year cycle runs into the thousands.

Virtually no one would argue against public standards for basic soundness and safety of residential structures, but over the decades codes have expanded well beyond this and are increasingly being used as a vehicle to advance various policy objectives. A leading example is energy efficiency. There is now a model International Energy Conservation Code® (IECC).

Energy efficiency is a worthwhile objective, but NMHC and NAHB have argued that the up-front cost needs to be kept within reasonable bounds. NMHC and NMHC have supported some recent changes to the IECC but opposed others as not cost-effective. Not surprisingly, manufacturers of building products advocate for code changes that mandate more use of their products, and tend to be less concerned than NMHC and NAHB about costs.

This is another area where the federal government has become increasingly involved. The Environmental Protection Agency, the Federal Emergency Management Agency, and the Department of Energy (DOE), all actively participate in the development of national model codes, proposing changes to national model codes and testifying in favor of them during code hearings. DOE also has a share of its budget set aside for persuading state and local jurisdictions to adopt more stringent codes. Representatives from NAHB who witnessed all of the recent code hearings have criticized federal agencies for supporting certain code changes that removed flexibility and limited builders' options, driving up costs without improving energy efficiency, to the benefit of specific product manufacturers.

Nearly all (98 percent) of developers said changes in building codes over the past 10 years increased development costs in their typical projects, and these costs, when they exist, average 7.2 percent of total development costs.

Nine out of ten developers said complying with requirements of the Occupational Safety and Health Administration (OSHA) increased costs in their typical projects, and these costs, when present, average 2.3 percent of total development costs. Again, few would argue that safety standards for construction workers are unnecessary. In recent years, however, OSHA has issued a substantial number of regulations imposing costly compliance requirements all without providing any evidence that they would actually improve safety in the residential construction industry. In the Beryllium rule, for example, the evidence of a health risk came from workers in manufacturing industries or performing abrasive blasting activities. In the Volks rule, OSHA was criticized as doing little beyond driving up record keeping costs for businesses (and possibly violating the statute of limitations in the process).

Even when regulation imposes no direct costs, it can have a financial impact if it delays the development and construction process. If it takes longer to begin leasing and earning income on a property, it will take longer to pay off any development and construction loans and more interest will accrue.

Some regulatory delay is inevitable, as it will naturally take some time for local building departments to review and approve plans and respond to requests for inspections. Precisely how long it is reasonable for a developer to wait for approvals and inspections is open to debate, but there are examples that clearly seem excessive. One academic study, for example, found that it took an average of 788 days to prepare a submission and receive approval for an individual federal wetlands permit.

Virtually all the developers (98 percent) said complying with regulations caused some sort of delay for their typical projects. For these projects, NMHC and NAHB estimated that average additional interest was 0.7 percent of total development costs. This is a "pure" cost of delay that regulation would cause even if it imposed no other type of cost. It is calculated by subtracting every other type of regulatory cost, then estimating the additional interest accruing on the share of the remaining development cost that is typically financed.

Total Cost of Regulation

To estimate how much in total the government regulations described above add to multifamily development costs, it is necessary to take both the incidence and magnitude of the various types of regulation into account—in other words, to average in the "zeroes" when a particular regulation does not apply. Figure 2 shows that, when this is done, the listed categories taken together on average account for 32.1 percent of development costs for a multifamily project.

Among the listed categories, average cost is highest for changes to building codes over the past 10 years (7.0 percent of total development costs), followed by development standards imposed by government that go beyond what the developer would ordinarily do. It is interesting that government control over how a project is built can be more costly than actual fees charged, but unsurprising given that they can be time consuming and thus cost more.

Figure 2: Government Regulation as a Share of Multifamily Development Costs

Type of Cost	Lower Quartile	Average	Upper Quartile
Cost of applying for zoning approval	1.1%	4.0%	5.3%
Interest costs on refundable fees charged when site work begins	0.0%	0.2%	0.2%
Other (non-refundable) fees charged when site work begins	1.9%	4.2%	5.5%
Development requirements that go beyond the ordinary	1.1%	5.9%	8.4%
Land dedicated to the government or otherwise left unbuilt	0.0%	2.1%	3.3%
Fees charged when building construction is authorized	1.1%	3.9%	5.4%
Cost of complying with affordability mandates (e.g., inclusionary zoning)	0.0%	1.7%	2.6%
Cost increases from changes to building codes over the past 10 years	5.2%	7.0%	7.1%
Cost of complying with OSHA requirements	1.3%	2.3%	2.3%
Pure cost of delay (i.e., even if regulation imposed no other type of cost)	0.1%	0.7%	1.2%
TOTAL ESTIMATED REGULATION AS A SHARE OF DEVELOPMENT COSTS	**21.7%**	**32.1%**	42.6%

Affordability mandates, when they exist, are nearly as costly as relatively recent changes to building codes and beyond-ordinary development starts, but overall have a smaller average impact on costs because they are encountered less frequently. In contrast, regulatory delays are encountered very frequently, but have a comparatively small average impact on costs because they are limited to the extra interest that accrues on development and construction loans.

Refundable fees have the smallest impact of any of the types of regulatory costs listed, both because they apply only half of the time and because they are limited to the interest that accrues until they are refunded.

To illustrate the variability in regulatory costs, in addition to averages, Figure 2 shows the upper and lower quartiles (costs are below the lower quartile for 25 percent of respondents, and above the upper quartile for 25 percent). While on average regulation accounts for 32.1 percent of total multifamily development costs, the quartiles give a range of 21.7 to 42.6 percent.

Although the cost components sum to the bottom line total for the averages in Figure 2, the components of the upper and lower quartiles do not. The ten components in the "lower quartile" column in particular sum to considerably less than 21.7 percent. The implication is that multifamily developers can minimize some types of regulatory costs depending on where they operate—but not all of them proportionately at the same time.

Costs Not Captured

Although the NAHB-NMHC survey sought to be as comprehensive as possible, the above results do not capture everything. Some government actions impact development costs in a way a multifamily developer can't reasonably be expected to quantify. For example, federal immigration policy may affect the supply of construction labor, and tariffs can affect prices of building materials like lumber[1] and steel. Developers do not in general have a way of evaluating how much the prices they pay for labor and materials are influenced by these federal policies.

The survey asked developers about delays due to government regulation, but there can be multiple reasons for those delays not all unambiguously tied to a government action. One is neighborhood opposition to the development. At the local level, governments may encourage or facilitate local groups who oppose multifamily development. An obvious way to do this is by allowing local groups to sue any developer who proposes to build multifamily housing, but there are many more subtle ways to encourage opposition.

A developer may have to devote time and financial resources to deal with this opposition, by meeting with local groups before seeking zoning approval, for instance. To quiet the opposition, developers may find it necessary to make concessions to local groups, such as reducing size of the buildings so that land costs are allocated to fewer apartments and cost per apartment is increased. In an extreme case, local opposition may be able to cause a local government to reverse its decision to approve a project after the developer has already invested heavily in it. In many of these cases, there is an obvious cost to neighborhood opposition, but how much responsibility the local government bears for it may not always be clear. It is not uncommon for developers to hire consultants to debunk claims made by opposition to a project.

Figure 3 below shows that the overwhelming majority (85 percent) of the developers responding to the NAHB-NMHC survey have experienced added costs or delays due to such opposition.

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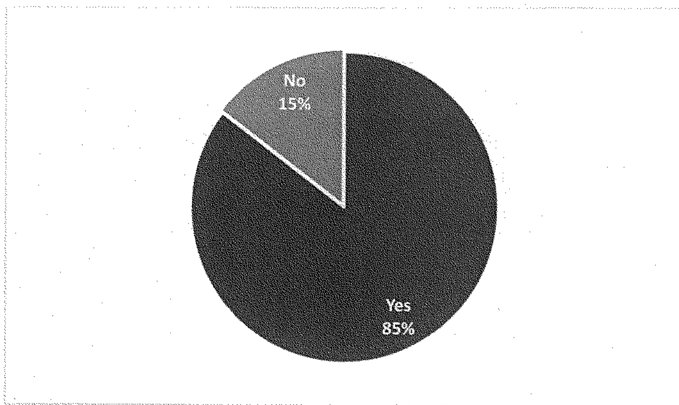
[1] The effects of the current lumber tariffs are estimated in Impact of the Canadian Lumber Duties on the U.S. Economy in 2018.

Figure 3: Have you experienced added costs or delays due to neighborhood opposition to multifamily construction?

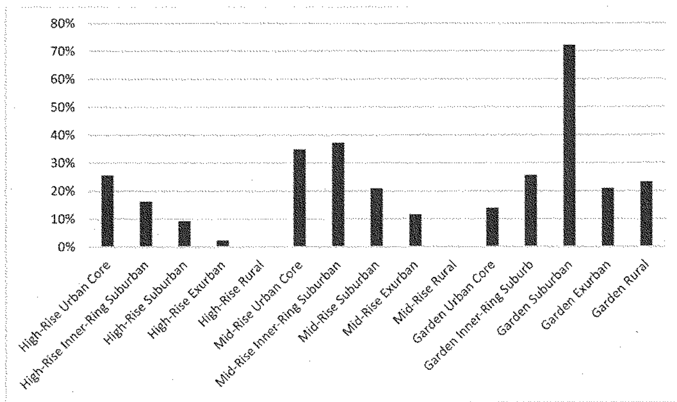


Profile of Respondents and Their Typical Projects

The range of costs highlights that not all development projects are the same. Costs can vary by jurisdiction, as well as by geographic location and type of project—garden apartments on undeveloped land can be much less complicated to build than a high-rise in an urban area, for example. Respondents were able to choose more than one option as to their typical project type.

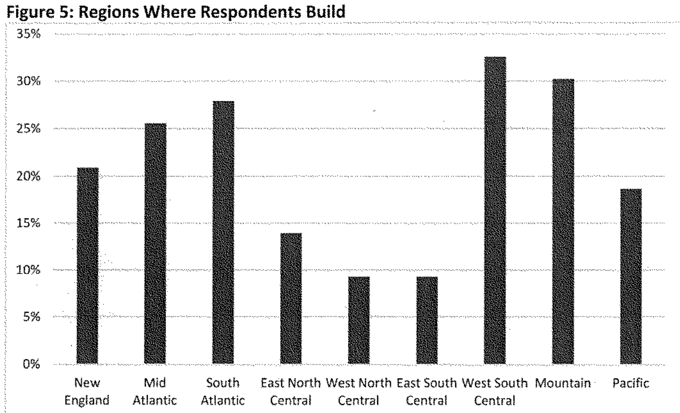
Respondents built a variety of product types that also varied by location (see Figure 4). The most common type of project was a garden development in the suburbs (72 percent). Mid-rise projects were the next common, with 35 percent building mid-rise developments in urban areas, and 37 percent building similar projects in inner-ring suburbs. About one-quarter (26 percent) of developers reported that they typically build high-rise apartments in urban settings.

Figure 4: Type and Location of Multifamily Projects



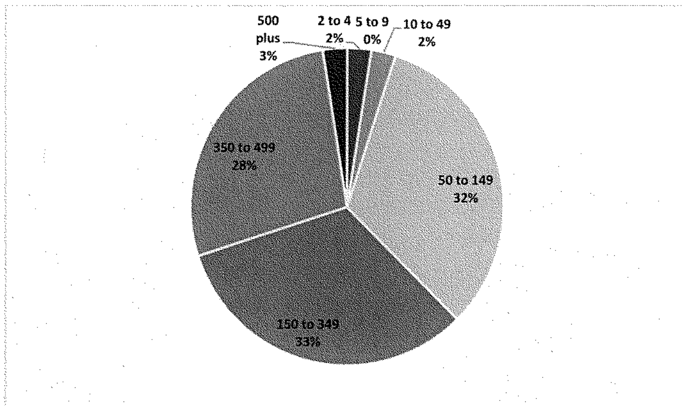
All regions of the United States were represented in the survey sample as well. The largest percentage of developers operated in the West South Central (33 percent) and Mountain (30 percent) regions (see Figure 5). The South Atlantic and Pacific regions featured the highest distribution of multifamily permits in the U.S. in 2017 and had the third and fifth largest distribution of respondents, respectively.

Figure 5: Regions Where Respondents Build



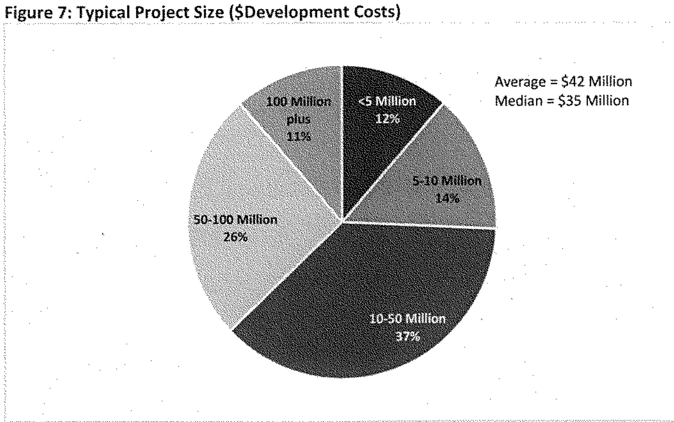
A fairly wide range of typical development size was represented by respondents as well (Figure 6). A small portion of respondents (4 percent) typically built projects fewer than 50 units or greater than 499 units (3 percent), while the remaining respondents were relatively evenly split between 50 to 149 units (32 percent), 150 to 349 units (33 percent), and 350 to 499 units (28 percent).

Figure 6: Typical Project Size (No. of Units)



In terms of financial costs, the cost was even more widely distributed (see Figure 7). The average cost of a typical development project for these developers was $42 million. Over one-third (37 percent) of respondents had a typical project size of $10-$50 million.

Figure 7: Typical Project Size ($Development Costs)



Summary and Conclusion

As the above discussion has demonstrated, multifamily development can be subject to a bewildering array of regulatory costs, including a broad range of fees, standards, and other requirements imposed at different stages of the development and construction process. In view of this, it may not be surprising that regulation imposed by all levels of government accounts for 32.1 percent of multifamily development costs on average, and one-fourth of the time reaches as high as 42.6 percent.

Although local governments generally have authority for approving development and adopting building codes, state and federal governments are becoming increasingly involved in the process. Sometimes the federal involvement is readily apparent, as when issuing stormwater permits or enforcing OSHA requirements. At other times, the federal involvement is less obvious. Examples include federal participation in model building codes, and attempts to influence local development through conditions for obtaining grants or other sources of funding. Indirect influences like these sometimes make it impossible to untangle which level of government is ultimately responsible for a given dollar of regulatory cost.

The current estimate that government regulation accounts for 32.1 percent of total development costs is almost certainly understated to some extent, as it was not possible to account for items like the effects of tariffs on building materials or the extent to which local jurisdictions may empower their citizens to oppose multifamily housing in their communities. Average costs could be even higher now or in the near future due to regulations taking effect since the multifamily projects in the survey were completed. For example, OSHA's Silica Rule went into effect in late 2017, a regulation that industry groups have criticized as unreasonably onerous and unnecessarily costly. Similarly, local jurisdictions are just beginning to adopt the 2018 versions of the model international building codes. Home Innovation Research Labs has recently estimated that the difference between the 2018 and 2015 versions of the codes can add thousands of dollars onto the cost of a multifamily building. As is typically the case, federal agencies supported several of the cost-increasing changes to the codes.

When the cost of multifamily development rises, it unavoidably translates to higher rents and reduced affordability of rental housing. Multifamily developers can not secure financing to build their projects unless they can demonstrate to lenders that the rents will be sufficient to cover costs and pay off the loans.

The purpose of this article is not to argue that all regulation is bad and should be eliminated, but to raise awareness of how much regulation currently exists, how much it costs, and to encourage governments to do a thorough job of considering the implications for housing affordability when proposing and implementing new directives.

Appendix 1:
Assumptions Used in the Calculations

In order to calculate a final effect on development costs, many of the NAHB-NMHC survey responses need to be combined with additional information. Primarily these are assumptions about the terms of development and construction loans, and how long construction typically takes, and how to allocate costs to different stages of the development and construction process. This appendix lists all the assumptions used in the calculations and gives the sources for each.

Loan terms

1.0 point charged for all land acquisition, development, and construction (AD&C) loans, based on results from a Quarterly Finance Survey (QFS) that NAHB was conducting in the early to mid-2000s.

A 7.65 percent interest rate on all AD&C loans. The QFS indicates that rates are typically set one point above prime, and 6.65 percent is NAHB's estimate of the prime rate that would prevail in the long run under neutral Federal Reserve policy.

The estimates also assume that three-fourths of any category of costs are financed, based on typical AD&C loan-to-value ratios in the QFS.

Construction Lags

The source for information lags not directly collected in the NAHB-NMHC questionnaire is the Survey of Construction, conducted by the Census Bureau and partially funded by the Department of Housing and Urban Development. Preliminary estimates are taken from the published annual tables, averaged over the 2001-2016 period:

If project is 2-4 units
- Authorization to start = 1.71 months
- Start to completion = 10.87 months

If project is 5-9 units
- Authorization to start = 1.95 months
- Start to completion = 11.64 months

If project is 10+ units
- Authorization to start = 1.94 months
- Start to completion = 13.21 months

The NAHB-NMHC survey collected data on how much time regulation adds to the development process. To assign this to a particular phase of the development the following assumptions are used.

The regulatory delay is split and attributed half to the lag between applying for zoning approval and the beginning of site work, and half to the period after site work begins. If half of the regulatory delay exceeds the lag between applying for approval and beginning of site work, the excess is also attributed to the period after site work begins. It is first assumed that the resulting regulatory delay is attributable to the period between the start of site work and the start of building construction, minus 3 months (the assumed minimum time it would take to do site work in the absence of regulation, based on conversations with developers). If any regulatory delay remains after being allocated to the zoning approval and site work periods, it is then attributed to the building construction period, and the start-to-completion lag is adjusted upward beyond the SOC-based average, accordingly.

The analysis assumes all loans are paid off when the buildings are completed.

Cost Breakdown

To implement the process described in the paragraph above and calculate a "pure" cost of delay (i.e., the effect regulatory delay would have even if the regulation imposed no other cost), estimates of costs incurred during different phases of the development process are needed.

The breakdown is based on the split between lot and construction costs in NAHB's Construction Cost Surveys (averaged over surveys conducted since 2000) and the Census Bureau's "noncostruction cost factor" for raw land. The calculations also assume three-fourths of these costs are financed, based on typical AD&C loan-to-value rations in the QFS.

Resulting assumptions:

- Only the cost of applying for zoning occurs at the very start of the development process. Financing costs associated with this are charged are to the regulatory cost of the application and not counted in the pure cost of delay.
- 10.2 percent of total development represent costs financed by a land acquisition loan at the start of the site work phase.
- 10.8 percent of total development costs represent costs financed by a development loan during the site work phase, assuming draws on the loan occur on average halfway through this phase.
- 54.0 percent of total development costs represent costs incurred after building construction has started and financed with a construction loan, again assuming draws on the loan occur on average halfway through the site work phase.

Appendix II.

NAHB-NMHC Multifamily Regulations Cost Survey Questionnaire

1. **What type of multifamily projects do you typically build in what areas?** ***Select all that apply***

	Urban Core	Inner-Ring Suburban	Suburban	Exurban	Rural
High-Rise	☐	☐	☐	☐	☐
Mid-Rise	☐	☐	☐	☐	☐
Garden/Low-Rise	☐	☐	☐	☐	☐

2. **What regions do you build in? Please select all that apply.**

- ☐ New England (CT, ME, MA, NH, RI, VT)
- ☐ Mid Atlantic (NJ, NY, PA)
- ☐ South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)
- ☐ East North Central (IN, IL, MI, OH, WI)
- ☐ West North Central (IA, KS, MN, MO, NE, ND, SD)
- ☐ East South Central (AL, KY, MS, TN)
- ☐ West South Central (AR, LA, OK, TX)
- ☐ Mountain (AZ, CO, ID, NM, MT, UT, NV, WY)
- ☐ Pacific (AK, CA, HI, OR, WA)

3. **Including units you may start before the end of the year, how many multifamily units will your company start in 2017?** __________________

When answering this survey, please refer all your answers to the typical (most common) multifamily project your company builds.

Respond only for your local office/division, if you are part of a larger company.

4. **How many units does your typical project have?**

- ☐ 2-4 units
- ☐ 5-9
- ☐ 10-49
- ☐ 50-149
- ☐ 150-349
- ☐ 350-499
- ☐ 500 units or more

5. **What is the total dollar amount spent on development costs in your typical project?**

$__________________

Land Use & Planning Regulations

6. **For a typical piece of land, how much does it cost to apply for zoning approval as a % of total development cost?** *(Include costs of fiscal or traffic impact or other studies, and any review or other fees that must be paid by time of application. Please enter "0" if application costs are Zero percent).*

__________________%

7. For a typical project , how many months does it take between the time you apply for zoning approval and the time you begin site work?

_________________months

8a. When you begin site work, do you pay any guarantee or other fees that are refundable when the project is completed?

☐ Yes ☐ No

8b. If "yes" in question 8A, how much are those refundable fees, as a % of total development costs?

_________________%

9. Other than the refundable fees mentioned in question 8a, how much does it cost to comply with regulations when site work begins, as a % of total development costs? *(Include costs of complying with environmental or other regulation as well as the cost of hook-up or impact or other fees.) Please enter "0" if cost of complying with these regulations is Zero percent).*

_________________%

10. How much do development requirements that go beyond what you would otherwise do (in terms of property layout, landscaping, materials used on building facades, etc.) add to your cost, as a % of total development costs? *(Please enter "0" if the jurisdiction's requirements don't go beyond what you would normally do).*

_________________%

11. In the typical case, what is the value of any land that must be dedicated to the local government or otherwise left unbuilt (for parks, open green space, etc.), as a % of total development cost? *(Please enter "0" if dedicating land is required infrequently).*

_________________%

12. How many months does it take between the time you begin site work and the time you obtain authorization to begin construction of the apartment building(s)?

_________________ months

13. How much extra time (in months) overall does complying with regulations add to the development process? *(Please enter "0" if regulations typically cause no delay).*

_________________months

14. When you obtain authorization to begin construction, how much do you pay in additional fees, as a % of total development costs? *In many cases, this will be only a permit fee, but include any additional impact or hook-up or inspection fees if they kick in at this time. (Please enter "0" if fees paid during or after construction are Zero percent).*

_________________%

15a. In the typical case, does a jurisdiction have inclusionary zoning/affordable housing requirements that apply to your project?

☐Yes ☐No

15b. In the typical case, how much do these requirements (or a fee in lieu of affordable housing) cost as a percent of total development costs? *(Please enter "0" if inclusionary zoning/affordable housing mandates/fees in lieu of affordable housing are encountered infrequently).*

________________%

Construction/Building Regulations

16. Over the past 10 years, how much have changes in construction codes and standards added to the cost of building a typical multifamily project, as a % of total development costs? *(Please enter "0" if code changes have had minimal impact on costs).*

________________%

17. How much does complying with OSHA or other labor regulations cost, as a % of total development cost? *(Please enter "0" if labor regulations have no impact on development costs).*

________________% ☐ Don't know/use of subs makes it impossible to estimate

18. Have you experienced added costs or delays due to neighborhood opposition to multifamily construction?

☐ Yes ☐ No

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A WINNING COMBINATION TO INCREASE MULTIFAMILY HOUSING SUPPLY: LOCAL REGULATORY REFORMS, FEDERAL RENTAL SUBSIDY, AND AFFH

Statement of

Erika C. Poethig *

Vice President and Chief Innovation Officer, Urban Institute

before the

Subcommittee on Housing and Insurance,

Committee on Financial Services,

United States House of Representatives

THE COST OF GOVERNMENT REGULATIONS ON AFFORDABLE MULTIFAMILY DEVELOPMENT

Wednesday, September 5, 2018

*The views expressed are my own and should not be attributed to the Urban Institute, its trustees, or its funders.

I thank Maya Brennan, Oriya Cohen, and Courtney Jones for help in preparing this testimony.

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Thank you for asking me to testify at this hearing. My name is Erika C. Poethig, and I am a vice president and chief innovation officer at the Urban Institute in Washington, DC. I am honored to share evidence on the impact of policies on the development of affordable multifamily rental housing and recommend reforms to meet the current and future demand for affordable multifamily housing. The views expressed here are my own, and should not be attributed to any organization I am affiliated with, their trustees, or their funders.

The US multifamily housing market faces systemic market failures that result in unaffordable housing costs for the lowest-income households in every county across the nation. Reducing regulatory barriers that exclude or limit multifamily housing development can bring costs down and add supply, but our analysis shows that no amount of tinkering with regulations will replace the need for rental subsidies that close the gap for extremely low-income households. In 2013, the Bipartisan Policy Center's Housing Commission recommended making rental assistance an entitlement for extremely low-income (ELI) households to help close this gap and stabilize housing conditions. The racist roots of housing and land-use regulations impedes progress on increasing the supply of rental housing to meet demand, and exclusionary zoning continues to segregate communities by race and income. Policymakers should act to prevent and reverse the long-standing practice of exclusionary zoning in communities across the US. Other housing regulations, such as housing-quality standards first instituted in the late 1800s and early 1900s, have greatly improved health and well-being by reducing the spread of infectious disease in tenement housing and later reducing preventable illness and injury. Policymakers should be mindful of the full picture on housing regulations, the market failures that call for rental subsidies, the need for action to prevent and reverse exclusionary zoning, and the increasing role of rental regulations in protecting the health and well-being of children, older adults, and historically marginalized neighborhoods and people.

Summary

The demand on the American rental market has only increased since the great recession and mortgage crisis. Higher-income families are part of an expanded rental demand, and projections suggest the homeownership rate will continue to decline. But the supply of rental housing is not keeping up. While rents skyrocket in some markets, this is not simply a hot-market problem. No county in the US has enough housing that its lowest-income renters can afford. These trends only look to continue, with demographic research projecting a significant expansion of renters, including seniors and families, over the coming decades.

As more and more Americans come to rely on multifamily rental housing, the rental supply needs to grow and become available in more types of communities. My testimony makes three points that research shows will be critical in creating an equitable and effective regulatory framework for the rental housing market to meet this growing demand.

1. Easing regulatory barriers that limit or exclude multifamily development is essential to fixing the supply problem, but they will not be enough. This is a market failure and public investment and subsidies are necessary to bridge the cost gap and meet the needs of extremely low-income renters.

2. Exclusionary zoning and practices increase the cost of development, drive economic and racial segregation, and are grounded in a legacy of racial discrimination. Promoting inclusive housing

development will help lower development costs, integrate neighborhoods, and begin to repair a long history of racially discriminatory practices that still play out today.

3. Not all regulations are the same. Many housing regulations are grounded in efforts to protect public health and well-being. A growing body of research links housing to health outcomes, with ample evidence that healthy housing regulations protect children and older adults and can prevent exposure to pollutants that disproportionately affect historically black and brown neighborhoods. Policy changes to reform regulations should retain and expand measures that protect health and well-being.

Changing rental demand has heightened and expanded the long-standing low-income housing crisis.

According to recent analysis by my colleagues Rolf Pendall and Laurie Goodman, the United States added more than one million new households in 2015, but only 620,000 net new units of housing were added to the stock, creating a shortage of just over 430,000 units. This gap has contributed to rising home prices and rents, a trend that is likely to continue (Pendall and Goodman 2016).

Looking at the rental side, demand surged and changed after the recession and mortgage crisis. Displaced homeowners and delayed home buyers added rental demand—and many of these new renters have higher incomes (JCHS 2018; Myers et al. 2016). Supply has not been keeping up, and much of the new rental stock is unlikely to filter down to lower-income households for some time. With this surge in rental demand, the long-standing rental affordability crisis for America's lowest-income households worsened and affordability problems climbed the income ladder.

This dynamic makes finding affordable housing even tougher for individuals and families with low incomes. The number of households who are housing cost–burdened has ticked downward slightly after hitting a record high. In 2016, over one in four renters in the United States, or 11.0 million households, were facing severe rent burdens, meaning they spend more than half of their income on housing (JCHS 2018). Affordability challenges are especially pronounced at the lowest end of the income spectrum. Over 70 percent of severely cost burdened renter households are ELI, meaning they make less than 30 percent of the area median income.

High housing-cost burdens are unlikely to come down through market forces alone. Rental demand is expected to grow even more in the future. Between 2010 and 2030, the growth in rental households will exceed that of homeowners, five new rental households for every three homeowners (Goodman, Pendall, and Zhu 2015). As a result, experts predict that the national homeownership rate may drop below 60 percent for the first time in more than 50 years (Becketti and Kiefer 2016). The US needs to preserve and expand its rental supply to keep pace with projected growth, and that calls for a set of policies that include reducing some regulations, maintaining and expanding other regulations, and filling long-standing affordability gaps with subsidy.

Even with regulatory reform, builders cannot deliver low enough rents without subsidy.

Rental affordability problems are found in rural, suburban, and urban counties, in the heartland and on the coasts. Nearly every county in the United States lacks enough affordable housing to meet residents' needs, a crisis that is particularly urgent for ELI households. Nationally, only 46 adequate and affordable rentals are available for every 100 ELI renter households. Without federal support, this problem would be significantly worse. As my colleagues at the Urban Institute report, a lack of affordable options affects ELI households whether they live in Tampa, Florida, or Kansas City; Polk County, Wisconsin, or Columbus, Ohio. A shrinking number of existing affordable units and insufficient funding for rental assistance programs at the US Department of Housing and Urban Development and the US Department of Agriculture are only widening the affordability gap (Getsinger et al. 2017). Only about one in five renter households who are both eligible for and need federal rental assistance actually receives it (Kingsley 2017).

Although regulations and zoning practices can impact the ability to build and preserve affordable housing, our research shows that changes to regulation will not be enough to address the affordability crisis. Based on development cost data from the Denver metro area, my colleagues at the Urban Institute found that:

> Most multifamily properties, even market-rate apartments, face a gap between how much it will cost to construct the project and the private, public, and other funds available to pay for the development. Changes to land use, to regulations, or in what and how we build all will help close the gap, but we won't get where we need to be without subsidies. (Blumenthal and Handelman 2016)

Data from every county nationwide show that this is not just true for Denver but for Albuquerque, St. Louis, Los Angeles, and beyond. This is a market failure. Our research team built an online tool that allows users to try and solve this market failure called Penciling Out. I invite you to try it. You can find it here: http://apps.urban.org/features/cost-of-affordable-housing/.

The private market alone cannot supply housing at rents that America's lowest-income households can afford. Public subsidies are needed to close the gap between the costs of constructing and operating multifamily rental housing and the revenue that affordable rents can bring in. This is especially true for projects targeting low-income families. Yet, the need for rental assistance far exceeds the supply. Unlike other safety net programs—Social Security, food stamps, Medicaid, or Medicare—housing assistance is not treated as a universal benefit for eligible households. In 2015, 22.3 million households had housing needs that could be addressed through federal rental assistance programs like vouchers and public housing, but only 21 percent of these needy and eligible households received such help (Kingsley 2017). As a result, millions of low-income individuals and families face serious challenges ranging from severe cost burdens to overcrowding to homelessness.

The Bipartisan Policy Center Housing Commission offered several federal policy recommendations to help address the affordable housing crisis facing our country. A cornerstone of their recommendation is the establishment of a universal housing voucher for ELI households. As they write in their report:

> The commission recommends that our nation transition to a system in which our most vulnerable households, those with extremely low incomes (at or below 30 percent of area median income) are assured access to housing assistance if they need it. Assistance should

> be delivered through a reformed Housing Choice Voucher program that, over time, limits eligibility to only the most vulnerable families. (BPC 2013)

Exclusionary zoning regulations and practices increase costs and drive segregation.

Exclusionary zoning, from lot-size restrictions and zoning approvals to growth boundaries and structure type, is known to increase the costs of housing development and drive both economic and racial segregation. These impacts are rooted in a racist regulatory legacy that is still playing out today. Decades after the Fair Housing Act passed, we still see persistent levels of racial segregation and increased levels of economic segregation (Pendall 2017). Exclusionary zoning is driving these outcomes. As my colleague Rolf Pendall writes,

> From a land-use perspective, the separation of people by race and income begins with separation by structure type, with single-family homes, small multi-unit buildings, larger apartment structures, and mobile homes confined to different neighborhoods or entirely separate jurisdictions in most parts of the US (Pendall 2000). Separation by structure type translates into separation of renters from owners, because most attached housing is rented and most single-family homes are owner occupied. (Pendall 2017)

Clear economic and racial lines persist between renters and homeowners, primarily because of a history of discriminatory housing practices. As Pendall describes,

> Though working-class whites were widely able to access homeownership in new suburbs after World War II, African Americans had much less access to homeownership because of explicitly and implicitly discriminatory policies and practices (Jackson 1985, Rothstein 2017). Differences in homeownership rates across racial and ethnic lines persist today with the legacy of redlining, continued discrimination and disparate treatment in credit markets, and wealth and income gaps between white households and households of color (Rothstein 2017). (Pendall 2017)

Research across metropolitan regions in the United States shows that the highest-income households tend to concentrate in a limited number of suburban locations with good access to jobs and open space, large new or renovated homes, spacious lots, and quality public schools. To protect high property values, residents of these neighborhoods support exclusionary zoning regulations that limit housing development, keep lot sizes large, restrict dense housing development, and add uncertainty in the development process (Pendall 2017). Opposition to the already fragile development process causes increased costs, delays, and sometimes project cancellations or site relocations into poorer neighborhoods with less political efficacy to oppose the development (Scally and Tighe 2014).

The impact of these disparities on segregation patterns is amplified today by the voting patterns and civic engagement of homeowners. As Emily Badger (2018) points out,

> ...Homeowners of both parties support restricting development around them. And they do so in spite of their own ideologies — whether conservative voters might otherwise value free markets, or whether liberals value policies that aid the poor.
>
> ...The crucial divide in the politics of housing development isn't between left and right, but between people who own homes and those who don't.

These exclusionary practices come at a real cost to people. Segregation results in an unequal distribution of access to opportunity and exposure to harm. As my colleagues found in studying 20 years of data on the city of Chicago, higher levels of economic segregation and black-white segregation were associated with lower black per capita income. Additionally, higher levels of black-white segregation were associated with lower levels of educational attainment for both blacks and whites as well as higher homicide rates (Acs et al. 2017).

This is exactly why the requirement for communities to affirmatively further fair housing is so important. Without a requirement to facilitate inclusive communities and housing, homeowners of all political stripes oppose change at the expense of low-income renters and people of color. And research shows us that allowing and encouraging builders to create housing that expands choice for people of color, renters, and others with lower assets and incomes—as opposed to communities that perpetuate segregation—is a win-win scenario.

When the township of Mount Laurel, New Jersey, finally added an affordable rental development as a result of a court ruling and despite strong community opposition, residents feared crime would increase, tax burdens would rise, and property values would decline. A decade after the opening of the Ethel Lawrence homes, researchers found no evidence that the development had any effects on crime, taxes, or property value. In fact, nearly one-third of residents were unaware of where the development had been built or if it was in their neighborhood (Massey 2013). Meanwhile, the people who moved in got access to not just affordable rents but also a safe community with strong schools. The new residents saw drastic reductions in exposure to violence, decreased stress, increased employment and earnings, and relied less on cash assistance programs. For children, the move resulted in increased school quality, reduced exposure to violence and disorder at school, and produced higher grades (Massey 2013).

Not all regulations are the same.

Though history of housing regulations includes racist acts of exclusion, it also includes regulations with dramatic benefits for public health. In the late 1800s and early 1900s, public health advocates succeeded in adding housing-quality standards to prevent the spread of disease in poorly regulated and maintained tenement housing. Today, many housing regulations are grounded in efforts to protect public health and well-being, and new regulations are added in response to emerging science. Policy changes to reform regulations should remain conscious of regulations' goals, costs, and benefits so that the essential foundation for protecting health and well-being for people and communities remains intact.

A growing body of research links housing to health outcomes, with ample evidence that healthy housing regulations protect children and older adults and can reduce exposure to toxins that disproportionately affect historically black and brown neighborhoods.

Children

Healthy housing regulations matter for children. Though lead paint remains a risk in many older homes, a 1992 federal regulation on lead exposure in federally assisted housing resulted in lower blood lead levels among children in families with housing assistance than other children in low-income families (Ahrens et al. 2016). Notwithstanding reductions in blood lead levels, when viewed in the aggregate, children growing up in federally assisted housing are not immune to residential lead exposure. The public housing capital needs backlog, which in 2010 was $26 billion with projected growth of $3.4 billion each year, contributes to deferred maintenance and substandard conditions that impose real and lasting harm for children in public housing in New York, East Chicago, Baltimore, and elsewhere.

For the overall housing stock, regulations can also reduce the spread of lead-contaminated dust and debris during repair and remodeling work. For example, the EPA's Renovation, Repair, and Painting rule (2010) increased the required safety precautions when any home repair could disturb lead paint, which will further decrease the risk of lead exposure (Korfmacher and Hanley 2013).

Regulations also promote children's physical safety. Home injuries are the leading cause of death for young children, with window falls as the leading cause for severe injury and death. The cost for an effective window guard is around $20. After window guard requirements took effect in Boston and New York City, the incidence of falls by children from windows decreased 96 percent over 10 years (American Public Health Association and National Healthy Housing Standard 2014).

For children, housing regulations matter for more than health. Research shows that living in substandard housing, which can be prevented by adequate housing quality regulations, code enforcement, and subsidy access, leads to lower literacy scores for children entering kindergarten (Coulton et al. 2016). Improved housing standards can be a smart investment in children's futures. However, the balance of regulations and subsidy is key. Just as children experience developmental harms from substandard housing, research has also shown harms—namely reduced spending on child enrichment materials, such as books in the home—when low-income parents spend too much of their income for rent (Newman and Holupka 2014).

Older Adults

According to a study by Laurie Goodman, Rolf Pendall, and Jun Zhu (2015), the number of households headed by someone 65 or older will expand by over 9 million households in this decade and another 10.5 million in the 2020's. This dramatic expansion of senior households increases the urgency of developing housing policies and regulations that enable independence and dignity for seniors aging-in-place. That includes more (and more accessible) multifamily rental housing in communities where older owners currently live and have ties to family, friends, medical providers, faith communities, and more.

Policies that improve housing accessibility will be critical to meeting the needs of our aging adults and others with mobility impairments. According to a report from the Research Institute for Housing America, "Fifty-four percent of individuals 65 and older in poor-quality housing had fallen in the last two years, compared to 34 percent for those in excellent quality housing" (Engelhardt, Eriksen, and Greenhalgh-Stanley 2013). These falls have serious health care costs. In 2015, fatal and nonfatal falls among older adults added health care costs of almost $50 billion. Nonfatal falls cost Medicare around $28.9 billion and Medicaid $8.7 billion (Florence et al. 2018). These falls can be easily prevented with grab bars, curb-free showers, and other basic home accessibility features. When accessibility features are planned in the construction phase, they are relatively low-cost additions and can blend in with the home's design (Brennan 2017 and Maisel, Smith, and Steinfeld 2008). Grab bars, for example, can masquerade as decorative molding. By emphasizing accessibility from the start, both rentals and owned homes will eventually need fewer and less costly modifications—meeting the needs of a growing population of older renters and enabling people with mobility challenges to live independently and maintain social connections through visits to family and friends (Brennan 2017).

Neighborhood Toxin Exposure

Neighborhood-level health disparities that have arisen out of a long history of discrimination and disinvestment call for regulations to protect and enhance the health and well-being of people of color and traditionally black and brown neighborhoods. A recent national study in the *American Journal of Public Health* on exposure of different populations to sites that emit particulates (which are linked to respiratory and cardiovascular diseases) found that black populations had the highest proportional exposure at 1.54 times the overall population. Nonwhite populations (including blacks, Hispanics, and Asian/Pacific Islanders) had more proportional exposure than the white population at 1.28 times the overall population (Mikati et al. 2018). Extensive previous research also documents the disproportionate effects of pollution on communities of color. A recent Urban Institute report, using data from the Department of Housing and Urban Development affirmatively furthering fair housing community assessment tool, found that black, Hispanic, and Asian/Pacific Islander communities had significantly lower opportunity index scores for environmental health in their neighborhoods compared with their white counterparts (Gourevitch, Greene, and Pendall 2018). These outcomes have serious implications for racial and ethnic health disparities.

Neighborhood exposure to air pollutants exacerbates child respiratory ailments, such as asthma, bronchitis, and pneumonia (Currie et al. 2014). Communities can reduce such exposure through housing codes that improve indoor air quality and through zoning that ensures a sufficient buffer around known pollution sources so that children and families are not put at risk.

Natural experiments have also found that neighborhood air quality affects prenatal and neonatal outcomes—in particular low birth weights and preterm deliveries (Currie and Walker 2015). Land-use regulations and harm reduction measures can improve birth outcomes. Economists Janet Currie and Reed Walker found that, by reducing pollution related to traffic congestion, the creation of new EZ pass lanes in New Jersey and Pennsylvania resulted in improved infant health outcomes for expectant mothers within 2 kilometers of the EZ pass lanes compared with mothers in unaffected areas. This emerging evidence underscores the importance of protecting residential communities from air pollution and ensuring that residents of both multifamily and single-family housing do not have to put infant health at risk just to get an affordable home. Disparities in black maternal and infant outcomes are in part about neighborhoods—and regulations determine where people can (or can afford to) live.

Conclusion

In conclusion, I want to reiterate three points research shows will create a winning combination to increase the affordable housing supply in our country: addressing exclusionary zoning practices, supporting public investment to support affordable housing, and continuing efforts to protect health and well-being of all communities.

I hope this testimony shows that rationalizing local zoning and supporting the housing needs of our lowest-income neighbors will benefit every community across the nation. Thank you for the opportunity to testify before the committee and I am happy to answer any additional questions you may have.

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TESTIMONY BY

JAMES SCHLOEMER

CHIEF EXECUTIVE OFFICER, CONTINENTAL PROPERTIES COMPANY

BEFORE THE

HOUSE COMMITTEE ON FINANCIAL SERVICES

SUBCOMMITTEE ON HOUSING AND INSURANCE

FOR A HEARING ENTITLED

"THE COST OF GOVERNMENT REGULATIONS ON AFFORDABLE MULTIFAMILY DEVELOPMENT"

SEPTEMBER 5, 2018

Chairman Duffy, Ranking Member Cleaver and members of the Subcommittee, on behalf of myself and Continental Properties Company, thank you for this opportunity to testify on the regulatory barriers to affordable multifamily development. I appreciate your efforts to examine this multifaceted problem and your recognition of the challenges facing the developers of apartment housing today.

I am James Schloemer, a founder of the company, and its Chairman and Chief Executive. Continental Properties Company, Inc. was founded in 1979 by three 20 year-old college students in a small Wisconsin community and originated as a residential and commercial real estate brokerage. Over time, the company began developing retail, hotel and apartment properties. Today, Continental Properties is the eighth largest apartment developer in the United States according to the National Multifamily Housing Council's annual list of largest developers. The company is headquartered in Menomonee Falls, Wisconsin, a short distance from downtown Milwaukee and employs over 120 professionals at its home office and over 220 property management professionals at locations throughout 14 states.

I received a B.S. in Accounting from Valparaiso University in Valparaiso, Indiana and an MBA with a concentration in Finance from the University of Chicago. I am an officer of the National Multifamily Housing Council and a member of the International Council of Shopping Centers. I also served on a developer advisory board for Starwood Hotel's launch of the aloft and Element hotel brands.

In addition to my work in real estate development, I am a director of Park Bank in Milwaukee and West Bend Mutual Insurance Company, also headquartered in Wisconsin. I am also Chairman of the Board of Whole Child International, a Los Angeles based foundation serving the needs of institutionalized children in Central America and a past trustee of the Milwaukee Art Museum and the Milwaukee Repertory Theater.

The Role of Apartment Development in Housing Affordability

A healthy housing market includes a diversity of housing options both rental and for-sale, multifamily and single-family. More broadly, there is a well-established relationship between a community's well-being and economic strength and the availability of suitable and affordable housing. Apartments have an important role in meeting these housing needs nationwide and play a fundamental part in ensuring housing affordability.

Continental Properties' business model is somewhat unique among national apartment development firms. Specifically, we view ourselves as a "production builder" of workforce attainable apartment homes, delivering over 3000 new apartments each year. Contrary to the recognized expansion of multifamily development in urban core markets, our branded "Springs Apartment Community" homes are located only in suburban and second tier markets (Attachment A). We believe that these markets are some of the most underserved in terms of affordable housing supply and are within reasonable distance of primary employment generators. For cost efficiency, we maintain our prototypical two- and three-story building designs for all locations with variation in exterior finish materials to complement local building styles and tastes.

By carefully following this production model to control costs, 51 percent of the apartments in our leased portfolio are offered at rents that are affordable to households earning just 80 percent of the Area Median Income (AMI) (per HUD affordability standards). This portfolio consists of nearly 12,000 apartment homes in 14 states. Our apartments are not subsidized by any federal, state or local programs. It is important to point out however, that nearly all of our completed apartment communities are financed with mortgages issued through a Government-Sponsored Enterprise (GSE) - Fannie Mae and Freddie Mac (one property is financed with a HUD 221(d)4 mortgage). Our ability to deliver new, workforce attainable housing has been advanced by the availability of these GSE-sponsored mortgages and in our long history of securing GSE-sponsored debt, we have never missed a payment or been in default on mortgage terms.

In our efforts to expand the number of apartments that can be offered at rents affordable to households earning 80 percent of AMI, we examined the rents necessary IF we could realize a 5 percent reduction in our development costs - a conservative estimate of savings through modest reduction in regulatory burden. **We believe that a 5 percent reduction in our development costs would allow us to offer 62 percent of our apartments at rents affordable to households at that 80 percent of AMI income level (Attachment B).**

The State of Wisconsin's Apartment Market

The apartment industry including developers, owners, managers and our residents contribute over $10 billion to the Wisconsin economy annually. Building 100 new apartments in the state generates over $15 million to the Wisconsin economy and supports over 100 jobs. Our company has developed 500 new apartment homes in Wisconsin in the past two and a half years.

Forty-five percent of occupied apartments in Wisconsin were built before 1980, making it likely that many will need renovation or replacement in the coming years. Overall, research shows that Wisconsin needs to add 49,000 apartments by 2030 at a variety of price points in order to meet housing demand.

When we look at just the Milwaukee metro area, affordability is a critical need as approximately half of the renter households (51 percent) earned less than $35,000.[1] In addition, 38 percent of Milwaukee rental households already pay 35 percent or greater of their income towards rent.[2] Overall, in addition to the demand for new apartment units, the demand for renovation of the existing apartment stock in Milwaukee is expected to be strong—60 percent of apartments in the Milwaukee metro area were built before 1980.[3]

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[1] U.S. Census Bureau, 2016 American Community Survey.
[2] *Id.*
[3] Hoyt Advisory Services, NMHC/NAA.

Barriers to Multifamily Development

The apartment industry can be a robust economic engine that provides high-quality, affordable housing and lasting job growth. However, the ability of our sector to deliver these benefits depends on collaboration and partnership at all levels of government. The cost to develop apartment homes has increased at a dramatically faster pace than rent rate increases in all 24 states in which we do business. This is obviously a trend that cannot be sustained. As the affordability of housing is already strained, development costs must be controlled in order to create needed and affordable housing throughout the United States.

A range of outdated, unnecessary and overly burdensome policies create significant barriers to the development of apartment properties. The resulting impacts increase the cost of apartment development and construction, exacerbate supply constraints and ultimately raise the necessary monthly rent of apartment homes. Easing regulatory and other policy obstacles in apartment production is a critical consideration as policymakers explore solutions to close the affordability gap in America's housing.

Our company has experienced widespread and recurrent impediments to cost-conscious apartment development and we are all too familiar with the consequences of needless delay and regulation. Importantly, some commonplace hurdles are deliberately intended to deter multifamily development and further the ideas of NIMBYISM ("Not In My Back Yard"), which explicitly oppose new apartment development in many communities. Support from policymakers, along with educational and planning tools, can help promote the acceptance of apartments and demonstrate the benefits of multifamily development.

However, even well-intentioned policies can inhibit apartment development and increase costs. We hope that in raising these issues, we can begin on a path of resolution and improve the state of apartment housing nationwide.

Barriers in Wisconsin

In Wisconsin alone, we faced a range of situations that interrupted the construction and development process and increased costs. For example:

- One city required the entire cost of a traffic signal to be paid by our project in lieu of a cost-sharing approach with adjacent property owners – adding $300,000 to project costs;
- One city required the upsizing of a water main for an unknown future development unrelated to our project – adding $130,000 to project costs;
- A municipality delayed review of our project plans after their staff arbitrarily assigned a higher priority to other projects that they felt were more high profile;

- We were required to construct a large amount of road and utility infrastructure based on an outdated comprehensive plan despite a lack of planned development;
- Jurisdictions sometimes demand unexpected design and construction elements that can raise costs by tens of thousands of dollars like one city that required a project to add $30,000 in concrete pump pads for remote fire protection and alter hand rails – costing an additional $8000;
- Some municipalities in the State have very high service connection fees that undermine the financial feasibility of the project; and
- A municipality would not support re-zoning of a commercially zoned tract and required a market study to prove the need for housing, despite lack of commercial demand for the site.

Prevalent Barriers to Multifamily Development

The challenges we have encountered in Wisconsin are emblematic of the harsh and often counter-productive development conditions we face around the country. While there are a large variety of policies that can interfere with the development of apartment communities, several issues present on-going and recurring setbacks.

➢ Zoning, Project Approval and Permitting

Apartment development is subject to an array of complex project approvals and permitting. While jurisdictional zoning laws often permit single-family development by-right, multifamily projects commonly require unique approvals and/or variances. Moreover, the local approval process is frequently structured to allow for arbitrary interpretation on the part of permitting officials and fairly open-ended community demands, which leads to inconsistent and uncertain results. In particular, the lack of uniform interpretations of jurisdictional requirements, coupled with individualized decision-making by code, planning and other jurisdictional staff, allows for potentially costly delays and unpredictable conclusions.

- In Colorado, a newly assigned permitting official contradicted a previous official's approval of the allowable height of retaining walls. This reconsideration added one month to the project schedule and increased project costs by approximately $660,000.
- In another Colorado project, understaffing and erratic decision-making added eight months to our approval process. Coupled with particularly onerous submittal requirements and delayed reviews, our total project costs increased by 3.5 percent due to an inflation of construction costs.
- Three weeks prior to closing, a Colorado city informed us that they "accidently" approved the incorrect street section as part of the City's Public Improvement Plan. We were required to expedite the re-engineering of our plans which had a cost of approximately

$5000 and the construction costs for the off-site work increased by approximately $50,000.

- In Tennessee, we were subject to a decision by three municipal agencies who could not agree on the off-site improvements required for the project. This added eight months to the project schedule and cost $265,000. Due to the delay, the total project budget was increased 2.54 percent due to the inflation of construction costs.

- In Texas, one municipality revised three of its zoning districts to specifically exclude multifamily as a permitted use.

- In Minnesota, a municipality with no existing multifamily homes rejected a re-zoning of a commercial site. The municipality was not acting in compliance with the state's growth plans.

- In Georgia, one municipality would not support the re-zoning of a site due to a higher percentage of already existing multifamily housing. This jurisdiction had a "guideline" capping multifamily development at no more than 20 percent of their housing stock.

➢ Infrastructure

Successful housing development requires suitable and reliable infrastructure. Yet, communities nationwide struggle with aging and inadequate transportation, water, sewage and other public systems. At the same time, jurisdictions facing serious deficits in infrastructure funding are increasingly looking to pass improvement costs along to developers. While some infrastructure enhancements on or around a development site may be mutually-beneficial, jurisdictions sometimes exploit developer resources, and by extension renter household expenditures, making project approvals contingent on ever-increasing infrastructure investments.

- In Illinois, one city required us to build a public street through our site increasing the total project costs by $1.2 million. Additional improvements required to an existing road beyond our site cost another $63,000.

- Another Illinois city required the re-painting of brand new fire hydrants adding $3500 to the project.

➢ Building Codes and Design Standards

Apartment developers recognize the important role that building codes play in ensuring the construction and development of safe and structurally sound properties. However, onerous code requirements unnecessarily raise the cost of construction. Similarly, arbitrary restrictions or mandates on dwelling unit size, project density, building height or site features like parking minimums can stymie new multifamily development or significantly increase design and construction costs.

- In Florida, we were required to add approximately 105 sq.ft. to our studio apartments, despite robust acceptance of the original unit size in other jurisdictions and demand for the smaller studio in the marketplace, to meet a minimum unit square footage requirement of 700 sq.ft. – increasing project costs by approximately $410,000.

- Subsequent to plan approvals and permit issuance, a Florida city imposed additional sprinkler requirements with an additional project cost of $110,000.

➢ Accessibility

Apartment providers have responsibilities under both the Americans With Disabilities Act (ADA) and the Fair Housing Act (FHA) to ensure accessibility in apartment communities by including particular building and site design features in our properties. We strongly support the goals of the Acts, but have concerns about specific compliance and enforcement aspects that drive up the cost of construction.

Compliance with federal accessibility laws is so complex that apartment developers, including Continental, must employ expert consultants to guide our efforts. Even with this specialized support, we face numerous compliance challenges and legal risks. For example, the law fails to properly consider the challenges presented by sites with difficult topographical features. Under the FHA, a site must be graded to meet exacting slope requirements. While federal sources recognize that this may be impractical on certain sites, exemptions are rarely, if ever, granted. This leaves developers with the choice of ignoring otherwise desirable sites or devoting significant resources to modify an entire site's topography. Regardless of a site's natural topography, FHA requires an "accessible pathway," defined as a slope not exceeding 2 percent, to and from *every* ground floor apartment to all areas of the community. This contrasts with single-family subdivisions which have no such requirement for *any* of the homes.

Additionally, developers are limited by the construction materials available, such as pavement that is subject to heaving, cracking and other changes that can complicate site conditions. Equipment calibration and deviations also create limitations on precise and consistent measurements, yet the necessary construction tolerances are not recognized nor is the age of improvements considered in accessibility enforcement actions.

However, we think there are opportunities for meaningful change within the Acts that alleviate barriers for housing developers while continuing to ensure property accessibility. For example, policymakers could reduce the percentage of units required for compliance under the FHA. Today, developers face a heavy burden to construct all first-floor units in an accessible manner and on an accessible route. This alone can deter apartment firms from selecting certain sites. Consider this development illustration:

- In addition to FHA requirements, many local codes require at least two percent of first floor homes to be constructed with enhanced accessibility features "ADA homes."
- A typical Continental apartment community contains 300 units across twelve to fifteen buildings on an 18-acre site. It includes a clubhouse and pool. If the community is in a jurisdiction requiring two percent ADA homes, six of the 300 units are ADA homes and are in four different buildings.
- Of the remaining 294 homes, 140 homes are first floor homes required to comply with the FHA (as currently drafted). Those 140 homes and the amenities are connected by

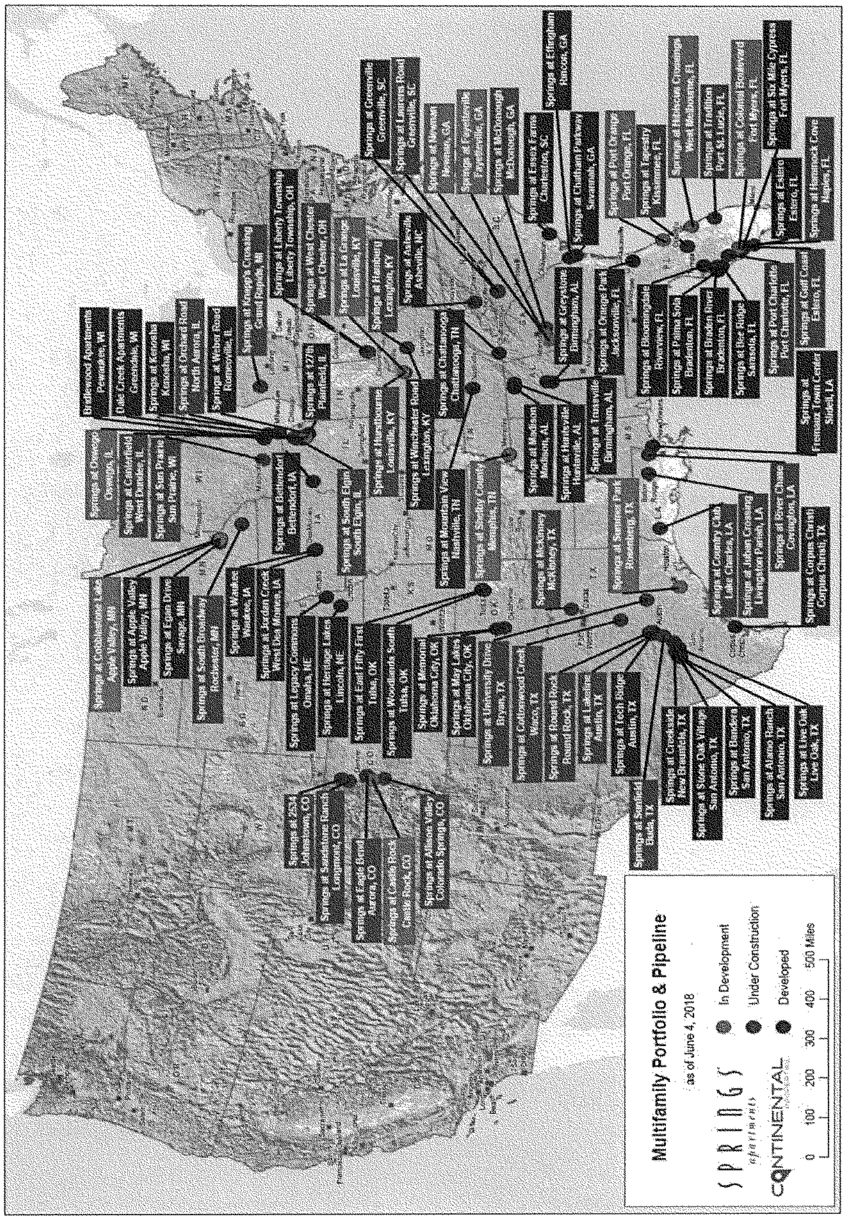
an interwoven network of sidewalks comprising the "accessible route" that can be over one mile in length.

Under this fact pattern, the FHA would require our firm to eliminate grade and level changes throughout the site and eliminate stairs along the accessible routes. In Continental's 39-year history, we have found no market demand for such a high percentage of accessible homes. If FHA compliance could be reached by constructing a more practical percentage of accessible units – say 30 percent of ground floor homes – project costs would be significantly reduced while still serving the needs of our disabled residents and guests.

Conclusion

Housing affordability is a critical need nationwide. I applaud the Subcommittee's efforts to address this problem and identify the regulatory barriers to new multifamily development. Policymakers at every level of government have a role to play in removing obstacles to housing production, easing costs and creating a supportive environment for the providers of apartment homes. The apartment industry is committed to providing high-quality and attainable housing for all Americans. Using a combination of incentive-based programs, streamlined regulatory burdens and innovative solutions, we stand ready to work with Congress to achieve these goals.

ATTACHMENT A


Multifamily Portfolio & Pipeline
as of June 4, 2018
In Development
Under Construction
Developed
0 100 200 300 400 500 Miles

ATTACHMENT B

Springs Apartments That Qualify for HUD 80% AMI Income Limits

April 5, 2018 5% Lower Rent Analysis

Based on Q1 '18 average rents

Income Limit is based on 80% of AMI (HUD FY2018) and varies by household size
Household size shown is the most commonly occuring household size for the number of bedrooms, across the portfolio

Summarized by State
Sorted by Potential Share of Qualified Units

State	Share of Units That Qualify	Potential Share of Qualified Units (Qualified or Within 5%)	Rent Gap Pct.	Rent Gap	Units Within 5% Rent Gap	Number of Units That Qualify	Total Potential Qualified Units (Qualified or Within 5%)	Total Units	Avg. Springs Rent	Avg. HUD 80% Qualifying Rent
Oklahoma	94 %	95 %	-17 %	($200)	6	770	776	820	$954	$1,155
Minnesota	85 %	93 %	-8 %	($127)	58	679	737	796	$1,401	$1,528
Kentucky	81 %	88 %	-8 %	($96)	41	433	474	536	$1,095	$1,191
Georgia	80 %	89 %	-5 %	($62)	24	214	238	268	$1,199	$1,261
Iowa	77 %	80 %	-8 %	($101)	16	366	382	476	$1,159	$1,261
Ohio	75 %	80 %	-5 %	($69)	32	447	479	596	$1,262	$1,331
Texas	63 %	71 %	-5 %	($59)	190	1,505	1,695	2,381	$1,171	$1,230
South Carolina	51 %	80 %	-0 %	($0)	165	281	446	556	$1,180	$1,180
Wisconsin	49 %	72 %	1 %	$11	144	302	446	620	$1,369	$1,358
Louisiana	31 %	54 %	8 %	$86	253	346	599	1,116	$1,209	$1,123
Colorado	30 %	43 %	6 %	$91	101	216	317	732	$1,506	$1,415
Illinois	19 %	35 %	9 %	$127	191	215	406	1,152	$1,556	$1,429
Florida	14 %	20 %	21 %	$238	94	195	289	1,432	$1,368	$1,130
Michigan	11 %	11 %	25 %	$300		28	28	248	$1,479	$1,179
Grand Total	51 %	62 %	1 %	$14	1,315	5,997	7,312	11,729	$1,277	$1,262

CONTINENTAL

1

Springs Apartments That Qualify for HUD 80% AMI Income Limits

April 5, 2018 5% Lower Rent Analysis

Based on Q1 '18 average rents

Income Limit is based on 80% of AMI (HUD FY2018) and varies by household size
Household size shown is the most commonly occuring household size for the number of bedrooms, across the portfolio

Summarized by State
Sorted by State

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Florida	14 %	20 %	21 %	$238	94	195	289	1,432	$1,368	$1,130
Georgia	80 %	89 %	-5 %	($62)	24	214	238	268	$1,199	$1,261
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Louisiana	31 %	54 %	8 %	$86	253	346	599	1,116	$1,209	$1,123
Michigan	11 %	11 %	25 %	$300		28	28	248	$1,479	$1,179
Minnesota	85 %	93 %	-8 %	($127)	58	679	737	796	$1,401	$1,528
Ohio	75 %	80 %	-5 %	($69)	32	447	479	596	$1,262	$1,331
Oklahoma	94 %	95 %	-17 %	($200)	6	770	776	820	$954	$1,155
South Carolina	51 %	80 %	-0 %	($0)	165	281	446	556	$1,180	$1,180
Texas	63 %	71 %	-5 %	($59)	190	1,505	1,695	2,381	$1,171	$1,230
Wisconsin	49 %	72 %	1 %	$11	144	302	446	620	$1,369	$1,358
Grand Total	51 %	62 %	1 %	$14	1,315	5,997	7,312	11,729	$1,277	$1,262

CONTINENTAL PROPERTIES

2

Springs Apartments That Qualify for HUD 80% AMI Income Limits

April 5, 2018

5% Lower Rent Analysis

Based on Q1 '18 average rents

Income Limit is based on 80% of AMI (HUD FY2018) and varies by household size
Household size shown is the most commonly occuring household size for the number of bedrooms, across the portfolio

Summarized by Metro Area
Sorted by Potential Share of Qualified Units

Metro Area	Share of Units That Qualify	Potential Share of Qualified Units (Qualified or Within 5%)	Rent Gap Pct.	Rent Gap	Units Within 5% Rent Gap	Number of Units That Qualify	Total Potential Qualified Units (Qualified or Within 5%)	Total Units	Avg. Springs Rent	Avg. HUD 80% Qualifying Rent
Rochester, MN	100 %	100 %	-18 %	($270)		228	228	228	$1,253	$1,523
Milwaukee, WI	100 %	100 %	-7 %	($92)		112	112	112	$1,197	$1,288
Des Moines, IA	100 %	100 %	-23 %	($304)		160	160	160	$1,038	$1,342
Oklahoma City, OK	97 %	98 %	-19 %	($224)	6	517	523	532	$944	$1,169
Austin, TX	93 %	98 %	-13 %	($191)	37	786	823	844	$1,259	$1,450
Madison, WI	53 %	97 %	-3 %	($52)	102	120	222	228	$1,466	$1,518
Lexington, KY	86 %	92 %	-12 %	($138)	15	217	232	252	$1,037	$1,175
Charleston, SC	60 %	92 %	-3 %	($43)	91	169	260	284	$1,193	$1,236
Baton Rouge, LA	62 %	91 %	-3 %	($36)	80	168	248	272	$1,224	$1,261
Minneapolis, MN	79 %	90 %	-5 %	($69)	58	451	509	568	$1,461	$1,529
Atlanta, GA	80 %	89 %	-5 %	($62)	24	214	238	268	$1,199	$1,261
Tulsa, OK	88 %	88 %	-14 %	($156)		253	253	288	$973	$1,128
Louisville, KY	76 %	85 %	-5 %	($58)	26	216	242	284	$1,147	$1,205
Cincinnati, OH	75 %	80 %	-5 %	($69)	32	447	479	596	$1,262	$1,331
Denver, CO	50 %	75 %	-1 %	($18)	60	120	180	240	$1,499	$1,517
Quad Cities, IA	65 %	70 %	0 %	$1	16	206	222	316	$1,221	$1,220
Greenville, SC	41 %	68 %	4 %	$44	74	112	186	272	$1,166	$1,122
San Antonio, TX	55 %	67 %	-2 %	($22)	129	587	716	1,061	$1,104	$1,127
New Orleans, LA	30 %	59 %	5 %	$54	173	178	351	592	$1,161	$1,107
College Station, TX	45 %	56 %	2 %	$28	24	98	122	216	$1,162	$1,134
Sarasota, FL	28 %	42 %	10 %	$122	94	181	275	653	$1,317	$1,195
Chicago, IL	20 %	36 %	9 %	$122	233	285	518	1,432	$1,517	$1,395
Colorado Springs, CO	25 %	35 %	9 %	$122	28	70	98	280	$1,434	$1,312
Fort Collins, CO	12 %	18 %	12 %	$174	13	26	39	212	$1,610	$1,436
Waco, TX	13 %	13 %	15 %	$148		34	34	260	$1,160	$1,011
Grand Rapids, MI	11 %	11 %	25 %	$300		28	28	248	$1,479	$1,179
Orlando, FL	5 %	5 %	25 %	$274		14	14	288	$1,351	$1,077
Fort Myers-Naples, FL	0 %	0 %	34 %	$371		0	0	491	$1,447	$1,076
Lake Charles, LA	0 %	0 %	29 %	$294		0	0	252	$1,306	$1,012
Grand Total	**51 %**	**62 %**	**1 %**	**$14**	**1,315**	**5,997**	**7,312**	**11,729**	**$1,277**	**$1,262**

CONTINENTAL

Springs Apartments That Qualify for HUD 80% AMI Income Limits

April 5, 2018 — 5% Lower Rent Analysis

Based on Q1 '18 average rents

Income Limit is based on 80% of AMI (HUD FY2018) and varies by household size
Household size shown is the most commonly occuring household size for the number of bedrooms, across the portfolio

Summarized by Metro Area
Sorted by Metro Area

Metro Area	Share of Units That Qualify	Potential Share of Qualified Units (Qualified or Within 5%)	Rent Gap Pct.	Rent Gap	Units Within 5% Rent Gap	Number of Units That Qualify	Total Potential Qualified Units (Qualified or Within 5%)	Total Units	Avg. Springs Rent	Avg. HUD 80% Qualifying Rent
Atlanta, GA	80 %	89 %	-5 %	($62)	24	214	238	268	$1,199	$1,261
Austin, TX	93 %	98 %	-13 %	($191)	37	786	823	844	$1,259	$1,450
Baton Rouge, LA	62 %	91 %	-3 %	($36)	80	168	248	272	$1,224	$1,261
Charleston, SC	60 %	92 %	-3 %	($43)	91	169	260	284	$1,193	$1,236
Chicago, IL	20 %	36 %	9 %	$122	233	285	518	1,432	$1,517	$1,395
Cincinnati, OH	75 %	80 %	-5 %	($69)	32	447	479	596	$1,262	$1,331
College Station, TX	45 %	56 %	2 %	$28	24	98	122	216	$1,162	$1,134
Colorado Springs, CO	25 %	35 %	9 %	$122	28	70	98	280	$1,434	$1,312
Denver, CO	50 %	75 %	-1 %	($18)	60	120	180	240	$1,499	$1,517
Des Moines, IA	100 %	100 %	-23 %	($304)		160	160	160	$1,038	$1,342
Fort Collins, CO	12 %	18 %	12 %	$174	13	26	39	212	$1,610	$1,436
Fort Myers-Naples, FL	0 %	0 %	34 %	$371		0	0	491	$1,447	$1,076
Grand Rapids, MI	11 %	11 %	25 %	$300		28	28	248	$1,479	$1,179
Greenville, SC	41 %	68 %	4 %	$44	74	112	186	272	$1,166	$1,122
Lake Charles, LA	0 %	0 %	29 %	$294		0	0	252	$1,306	$1,012
Lexington, KY	86 %	92 %	-12 %	($138)	15	217	232	252	$1,037	$1,175
Louisville, KY	76 %	85 %	-5 %	($58)	26	216	242	284	$1,147	$1,205
Madison, WI	53 %	97 %	-3 %	($52)	102	120	222	228	$1,466	$1,518
Milwaukee, WI	100 %	100 %	-7 %	($92)		112	112	112	$1,197	$1,288
Minneapolis, MN	79 %	90 %	-5 %	($69)	58	451	509	568	$1,461	$1,529
New Orleans, LA	30 %	59 %	5 %	$54	173	178	351	592	$1,161	$1,107
Oklahoma City, OK	97 %	98 %	-19 %	($224)	6	517	523	532	$944	$1,169
Orlando, FL	5 %	5 %	25 %	$274		14	14	288	$1,351	$1,077
Quad Cities, IA	65 %	70 %	0 %	$1	16	206	222	316	$1,221	$1,220
Rochester, MN	100 %	100 %	-18 %	($270)		228	228	228	$1,253	$1,523
San Antonio, TX	55 %	67 %	-2 %	($22)	129	587	716	1,061	$1,104	$1,127
Sarasota, FL	28 %	42 %	10 %	$122	94	181	275	653	$1,317	$1,195
Tulsa, OK	88 %	88 %	-14 %	($156)		253	253	288	$973	$1,128
Waco, TX	13 %	13 %	15 %	$148		34	34	260	$1,160	$1,011
Grand Total	**51 %**	**62 %**	**1 %**	**$14**	**1,315**	**5,997**	**7,312**	**11,729**	**$1,277**	**$1,262**

CONTINENTAL

4

Qualifying Rents by Metro Area
HUD 80% AMI Income Limits (FY2018)

Qualifying Rent: Based on qualifying income of 3x rent
[HUD Income Limit] /12 / 3

Income Limit: Based on 80% of AMI and number of persons in the unit

Household Size: Based upon the moost commonly occuring household size for the number of bedrooms, across the portfolio

Studio: 1 person
1 BR: 1 person
2 BR: 2 persons
3 BR: 3 persons

Sorted by Metro Area

	Qualifying Rent				HUD 80% Income Limit			
	Unit Type				Unit Type			
Metro Area	Studio	1 BR	2 BR	3 BR	Studio	1 BR	2 BR	3 BR
Atlanta, GA	$1,163	$1,163	$1,329	$1,496	$41,900	$41,900	$47,900	$53,900
Austin, TX	$1,338	$1,338	$1,528	$1,719	$48,200	$48,200	$55,050	$61,950
Baton Rouge, LA	$1,163	$1,163	$1,329	$1,496	$41,900	$41,900	$47,900	$53,900
Charleston, SC	$1,159	$1,159	$1,324	$1,489	$41,750	$41,750	$47,700	$53,650
Chicago, IL	$1,284	$1,284	$1,468	$1,651	$46,282	$46,266	$52,917	$59,511
Cincinnati, OH	$1,218	$1,218	$1,392	$1,565	$43,900	$43,900	$50,150	$56,400
College Station, TX	$1,046	$1,046	$1,195	$1,344	$37,700	$37,700	$43,050	$48,450
Colorado Springs, CO	$1,209	$1,209	$1,381	$1,553	$43,550	$43,550	$49,750	$55,950
Denver, CO	$1,397	$1,397	$1,597	$1,797	$50,350	$50,350	$57,550	$64,750
Des Moines, IA	$1,238	$1,238	$1,415	$1,591	$44,600	$44,600	$51,000	$57,350
Fort Collins, CO	$1,324	$1,324	$1,512	$1,701	$47,700	$47,700	$54,500	$61,300
Fort Myers-Naples, FL	$991	$991	$1,132	$1,274	$35,700	$35,700	$40,800	$45,900
Grand Rapids, MI	$1,086	$1,086	$1,242	$1,397	$39,150	$39,150	$44,750	$50,350
Greenville, SC	$1,034	$1,034	$1,182	$1,329	$37,250	$37,250	$42,600	$47,900
Lake Charles, LA	$932	$932	$1,066	$1,199	$33,600	$33,600	$38,400	$43,200
Lexington, KY	$1,091	$1,091	$1,246	$1,401	$39,300	$39,300	$44,900	$50,500
Louisville, KY	$1,111	$1,111	$1,271	$1,429	$40,050	$40,050	$45,800	$51,500
Madison, WI	$1,397	$1,397	$1,597	$1,797	$50,350	$50,350	$57,550	$64,750
Milwaukee, WI	NA	$1,202	$1,374	NA	$43,300	$43,300	$49,500	$55,700
Minneapolis, MN	$1,397	$1,397	$1,597	$1,797	$50,350	$50,350	$57,550	$64,750
New Orleans, LA	$1,020	$1,020	$1,166	$1,311	$36,750	$36,750	$42,000	$47,250
Oklahoma City, OK	$1,078	$1,078	$1,232	$1,386	$38,850	$38,850	$44,400	$49,950
Orlando, FL	$993	$993	$1,135	$1,277	$35,800	$35,800	$40,900	$46,000
Quad Cities, IA	$1,124	$1,124	$1,285	$1,446	$40,500	$40,500	$46,300	$52,100
Rochester, MN	$1,397	$1,397	$1,597	$1,797	$50,350	$50,350	$57,550	$64,750
San Antonio, TX	$1,039	$1,039	$1,188	$1,336	$37,450	$37,450	$42,800	$48,150
Sarasota, FL	$1,093	$1,093	$1,249	$1,406	$39,400	$39,400	$45,000	$50,650
Tulsa, OK	$1,043	$1,043	$1,193	$1,342	$37,600	$37,600	$43,000	$48,350
Waco, TX	$932	$932	$1,066	$1,199	$33,600	$33,600	$38,400	$43,200
Grand Total	$1,155	$1,163	$1,330	$1,498	$41,621	$41,895	$47,925	$53,993

CONTINENTAL

Qualifying Rents by Metro Area
HUD 80% AMI Income Limits (FY2018)

Qualifying Rent: Based on qualifying income of 3x rent
[HUD Income Limit] /12 / 3

Income Limit: Based on 80% of AMI and number of persons in the unit

Household Size: Based upon the moost commonly occuring household size for the number of bedrooms, across the portfolio

- Studio: 1 person
- 1 BR: 1 person
- 2 BR: 2 persons
- 3 BR: 3 persons

Sorted by Metro Area

	Qualifying Rent				HUD 80% Income Limit			
	Unit Type				Unit Type			
Metro Area	Studio	1 BR	2 BR	3 BR	Studio	1 BR	2 BR	3 BR
Denver, CO	$1,397	$1,397	$1,597	$1,797	$50,350	$50,350	$57,550	$64,750
Madison, WI	$1,397	$1,397	$1,597	$1,797	$50,350	$50,350	$57,550	$64,750
Minneapolis, MN	$1,397	$1,397	$1,597	$1,797	$50,350	$50,350	$57,550	$64,750
Rochester, MN	$1,397	$1,397	$1,597	$1,797	$50,350	$50,350	$57,550	$64,750
Austin, TX	$1,338	$1,338	$1,528	$1,719	$48,200	$48,200	$55,050	$61,950
Fort Collins, CO	$1,324	$1,324	$1,512	$1,701	$47,700	$47,700	$54,500	$61,300
Chicago, IL	$1,284	$1,284	$1,468	$1,651	$46,282	$46,266	$52,917	$59,511
Des Moines, IA	$1,238	$1,238	$1,415	$1,591	$44,600	$44,600	$51,000	$57,350
Cincinnati, OH	$1,218	$1,218	$1,392	$1,565	$43,900	$43,900	$50,150	$56,400
Colorado Springs, CO	$1,209	$1,209	$1,381	$1,553	$43,550	$43,550	$49,750	$55,950
Milwaukee, WI	NA	$1,202	$1,374	NA	$43,300	$43,300	$49,500	$55,700
Atlanta, GA	$1,163	$1,163	$1,329	$1,496	$41,900	$41,900	$47,900	$53,900
Baton Rouge, LA	$1,163	$1,163	$1,329	$1,496	$41,900	$41,900	$47,900	$53,900
Charleston, SC	$1,159	$1,159	$1,324	$1,489	$41,750	$41,750	$47,700	$53,650
Quad Cities, IA	$1,124	$1,124	$1,285	$1,446	$40,500	$40,500	$46,300	$52,100
Louisville, KY	$1,111	$1,111	$1,271	$1,429	$40,050	$40,050	$45,800	$51,500
Sarasota, FL	$1,093	$1,093	$1,249	$1,406	$39,400	$39,400	$45,000	$50,650
Lexington, KY	$1,091	$1,091	$1,246	$1,401	$39,300	$39,300	$44,900	$50,500
Grand Rapids, MI	$1,086	$1,086	$1,242	$1,397	$39,150	$39,150	$44,750	$50,350
Oklahoma City, OK	$1,078	$1,078	$1,232	$1,386	$38,850	$38,850	$44,400	$49,950
College Station, TX	$1,046	$1,046	$1,195	$1,344	$37,700	$37,700	$43,050	$48,450
Tulsa, OK	$1,043	$1,043	$1,193	$1,342	$37,600	$37,600	$43,000	$48,350
San Antonio, TX	$1,039	$1,039	$1,188	$1,336	$37,450	$37,450	$42,800	$48,150
Greenville, SC	$1,034	$1,034	$1,182	$1,329	$37,250	$37,250	$42,600	$47,900
New Orleans, LA	$1,020	$1,020	$1,166	$1,311	$36,750	$36,750	$42,000	$47,250
Orlando, FL	$993	$993	$1,135	$1,277	$35,800	$35,800	$40,900	$46,000
Fort Myers-Naples, FL	$991	$991	$1,132	$1,274	$35,700	$35,700	$40,800	$45,900
Lake Charles, LA	$932	$932	$1,066	$1,199	$33,600	$33,600	$38,400	$43,200
Waco, TX	$932	$932	$1,066	$1,199	$33,600	$33,600	$38,400	$43,200
Grand Total	**$1,155**	**$1,163**	**$1,330**	**$1,498**	**$41,621**	**$41,895**	**$47,925**	**$53,993**

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