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HOME=LIFE: THE STATE OF HOUSING IN AMERICA

HEARING

BEFORE THE

COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

ON

EXAMINING HOW LOCATION AND QUALITY OF HOUSING CAN DETERMINE HOW RESILIENT OR VULNERABLE WE ARE TO NATURAL DISASTERS

MARCH 16, 2021

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C O N T E N T S

TUESDAY, MARCH 16, 2021

HOME=LIFE: THE STATE OF HOUSING IN AMERICA

TUESDAY, MARCH 16, 2021

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 1:58 p.m., via Webex, Hon. Sherrod Brown, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN SHERROD BROWN

Chairman BROWN. The Committee on Banking, Housing, and Urban Affairs will come to order. This hearing, as we see, is in the virtual format. A few reminders as we begin.

Once you start speaking, there will be a slight delay before you are displayed on the screen. To minimize background noise, please click the mute button until it is your turn to speak or to ask a question.

You should all have one box on your screens labeled "Clock" that will show how much time is remaining. For witnesses, you have 5 minutes for your opening statement. And for Senators, the 5-minute clock still applies to your questions.

At 30 seconds remaining for both statements and questions, you will hear a bell ring to remind you your time has almost expired. It will ring again when your time has expired.

If there is a technology issue, we will move to the next witness or Senator until it is resolved. To simplify the speaking order process, Senator Toomey, the Ranking Member, and I have agreed to go by seniority for this hearing.

Thank you to the witnesses. Mr. DeMarco, I have not greeted you yet. How are you? Nice to see you. Thank you to all the witnesses for joining us today.

The title of today's hearing—Home = Life—comes from Matthew Desmond, the author of the book "Evicted". He scribbled that in the front cover of my copy of the book, which I bought. It tells you really all you need to know about housing. Where you live determines where your kids go to school, how far you have to go to get to work, and what kinds of jobs you can get.

It determines where you do your grocery shopping and determines whether your children are exposed to mold or hazardous lead. We saw over the past year that our housing certainly affects our health. That is only going to be even more true in an era of a changing climate.

The location and quality of our housing can determine how resilient or vulnerable we are to natural disasters. That is why this hearing is long overdue.

For the past 6 years, we have had numerous hearings on GSEs and the effects of housing on Wall Street, but we have ignored how our entire housing system is working for homeowners looking to buy a lower-cost home, seniors on a fixed income, and renters working a minimum wage job. We will have lots of discussions about the GSEs and their role in our housing finance system for sure.

I have put forward a set of principles on the role the GSEs should play in our housing market. But that is not what today's hearing is all about.

It has been some 9 years since this Committee held a hearing on the state of all housing in America. That is what we are here to discuss today. When we held that hearing in 2012, we were still trying to clean up the mess that Wall Street and predatory lenders had made. We might expect things to get better as we moved out of that recession.

As Wall Street reminds us daily, the stock market is up; interest rates have been near record lows. And for many Americans, things have gotten better.

Home prices have increased, giving some homeowners a valuable asset and the ability to finance home repairs and send their children to college. But that surely does not tell the whole story. People's paychecks have not kept up with the cost of living—we know that—particularly the cost of rent. The typical nursing assistant or janitor or retail worker—the very people we have called "essential workers" during this pandemic, the people that go to work every day exposing themselves to all of us and come home, anxious at night, hoping they did not spread this virus to their children. The essential workers—the nursing assistant, the janitor, the retail worker—they are not paid enough to afford a two-bedroom apartment anywhere in the country.

Even before the pandemic, 11 million renters—that is one in four renters—were paying more than half their income for housing before the pandemic. For more than half of Black and Latino renters, there is little left over each month for food and medication, let alone saving for a rainy day.

When a hard day's work does not even pay your bills, saving for a downpayment to buy a house, of course, is not a reality. It is not just renters. Today more than one in five homeowners still pay more than one-third of their income for housing.

The number of lower-income homeowners continues to shrink. Most concerning of all, perhaps, the Black home ownership rate is as low as it was—think about this—is as low as it was when housing discrimination was still legal.

Former HUD Secretary Romney—the father of our colleague Senator Mitt Romney—tried to fully implement the Fair Housing Act when it first passed, just days after Dr. King's assassination, to combat systemic discrimination in our housing markets. He was sidelined by the Nixon administration and its new-found Southern strategy, and the law has never been fully enforced, making it harder to ensure equal access to housing.

And while we are the wealthiest country in the world, we have more than half a million people—including more than 100,000 children—without a place to stay on a given night. Behind every one of these numbers is a family with a story. Last year, before the pandemic began, I asked Ohioans to tell me about their housing stories. Stories flooded in.

I heard from seniors who just were not sure how they could stay in their home on a fixed income.

I heard from people in their 40s and 50s who, in their entire adult life, had never been paid enough to make rent without more than one job. I heard from parents who would love to own a home for their children, but knew they would never be able to beat out an investor looking to buy the same property for cash. This is what families were facing a year ago.

This pandemic, of course, made it worse. Ten million renters were behind on rent at the beginning of January.

If they were paying more than half their income on rent before the pandemic, it is tough to see how they could ever hope to catch up. As some homeowners are bombarded with ads to refinance at the lowest cost on record, the homeowners who need help the most do not have the same opportunities. Meanwhile, millions of homeowners are behind on their payments or facing foreclosure.

Homeowners of color are more likely to have fallen behind because of the pandemic. The American Rescue Plan will help. It will get shots in arms to get the virus under control. It will speed additional help to renters, homeowners, and people experiencing homelessness.

But the Rescue Plan was just that—a rescue, to mobilize our resources to get through an emergency. Returning to the same broken system, where hard work simply was not paying off for so many workers, and still is not, is not good enough.

We have an opportunity on this Committee to make people's lives better through better housing policy—to expand access to affordable rentals, to make it easier to purchase a home, to put trades people to work building housing. and making it safer and more resilient.

Fundamentally, we pretty much want the same thing: a place that is safe, in a community we care about, where we can get to work and our children can have a good school, with room for our family -whether that is three kids, or an aging parent, or a beloved dog. You should get to define what home looks like for you. You should be able to find it and afford it without crippling stress every single month.

That is our charge on this Committee, to make it so for everyone. Thank you.

Ranking Member Toomey.

OPENING STATEMENT OF SENATOR PATRICK J. TOOMEY

Senator TOOMEY. Thank you, Mr. Chairman. Thanks for calling this hearing, and thank you to our witnesses for testifying today.

Last week, we took another step toward socializing housing. Last week, Congress nearly doubled the $40 billion in housing support it had already appropriated since the pandemic. Calls for additional assistance were being made before almost any of the December spending was ever distributed to households.

Billions in stimulus checks, unemployment insurance, often exceeding work income, and other welfare meant most households at risk of homelessness had already received more money from Government than they had lost in income. We have likely exceeded the point where someone who has worked hard, made sacrifices, paid their bills, cared for their families, but received little of this Government largesse is asking themselves: How is any of this fair?

And last week's bill added to an already vast Government role in housing. The number and cost of the many housing subsidy programs just boggles the mind. The mortgage interest deduction, capital gains exclusion on home sales, tax deduction on property taxes, FHA, VA, USDA, mortgage insurance, and Ginnie MBS guarantees, Government- induced downpayment assistance programs, LITHC, an overlapping array of HUD programs. There is project-based rental assistance, tenant-based rental assistance, public housing funding; Section 2002, housing for the elderly; Section 811, housing for persons with disabilities; Section 521, rural rental housing; CDBG, home block grants, homelessness. It is unbelievable. And then, of course, we have the GSEs which have historically subsidized mortgages.

Folks, Government is the problem here, not the solution. Fifty years and countless hundreds of billions of dollars in Federal housing support have had no meaningful impact on home ownership rates. In 1970, the home ownership rate in America was 64 percent; in 2020, 65.28. And as one of our witnesses will testify, Black home ownership levels are similar to when the Fair Housing Act was passed in 1968. In 1960, Black home ownership was about 38 percent; in 2019, just 42 percent.

Why is this? It is because Government policies mostly are making housing more expensive. Local zoning laws restrict the supply of housing, which drives up home prices and rents. The GSEs, FHA, and VA subsidize the debt financing component of home purchases, and those subsidies are passed on into the form of higher home prices.

Subsidized debt also encourages people to take on more debt than they can handle. We saw how badly that turned out in 2008.

The state of housing in America affirms the urgency of financing reform. As we will heard today, the housing market is cyclical. It is a question really of when, not if, there will eventually be a housing downturn, and the GSEs and the housing finance system are just not prepared. FHFA Director Calabria in the last administration made significant progress in reforming the system. Thanks to their good work, the net worth sweep has been suspended. The GSEs finally have begun to build capital under a constructive new capital rule.

For more than 12 years after the financial crisis, Congress has still not addressed the fundamental flaws in the system that led to the crisis. The system is still dominated by the GSE duopoly, and these $6 trillion behemoths actually have an even larger market share than they had before the crisis. They certainly remain too big to fail.

The GSEs and the system also remain gravely undercapitalized. Just as before the financial crisis, these flaws in the system continue to encourage excessive risk taking. They risk future taxpayer bailouts, and they threaten financial stability. And just as before the financial crisis, these flaws also continue to undermine the availability and affordability of housing in America.

The solution is not to double down on the old ways by simply easing underwriting standards, lowering FHA premiums, or further subsidizing mortgage debt. We need to try something new. We need to scale back the role of Government and leverage the power of free enterprise to promote housing for all Americans.

For more than 30 years, Chairmen and Ranking Members from both sides of the aisle on this Committee have worked together on an ongoing basis to improve our housing market. I am committing to working with you, Mr. Chairman, and other members of this Committee to continue that tradition in this Congress. And in that spirit, yesterday I released principles for reforming the housing finance system. Now, these principles build on the bipartisan efforts of current members of this Committee from both sides of the aisle.

And, Mr. Chairman, I think these principles also share considerable overlap with the principles you laid out in September of 2019. I think we need to end the "too big to fail" GSE model of privatizing gains and socializing the losses by permitting the chartering of competitors to the GSEs. We need to recapitalize the GSEs and end the conservatorship. And these reforms need to be done in an incremental and realistic manner that continues to foster a liquid secondary market for mortgages and the continued availability of the 30-year mortgage, while promoting equitable access for mortgage lenders of all types. These reforms should represent the rule of law and rights of the GSE shareholders that were infringed by the Third Amendment.

I know we have significant differences about the role of Government in the housing market, but I do believe that a compromise is possible. There is a lot of work that can be productively done on a bipartisan basis this Congress, and as part of that work, I look forward to hearing from Treasury Secretary Yellen soon, since that is required by the latest changes to the PSPAs, and then I hope we will act together.

Thank you.

Chairman BROWN. Thank you, Ranking Member Toomey.

I will introduce today's five witnesses.

Dr. Chris Herbert is the managing director, Harvard Joint Center for Housing Studies, which publishes an annual report examining the state of the rental and home ownership markets. He is also a lecturer at the Department of Urban Planning and Design at the Harvard Graduate School of Design. He serves on the Board of Director of Freddie Mac and is a member of the Milken Institute Center for the Future of Aging. Welcome, Dr. Herbert.

Ms. Diane Yentel is the president and CEO of the National Low Income Housing Coalition. She served as vice presidents of public policy and government affairs at Enterprise Community Partners and Director of the Public Housing Management and Occupancy Division at U.S. Department of Housing and Urban Development.

Welcome, Ms. Yentel. She is having some technical problems. She may end up doing this by phone. It is not clear.

Ms. Nikitra Bailey is an executive vice president at the Center for Responsible Lending. She leads mortgage policy advocacy. Ms. Bailey currently serves on the Consumer Financial Protection Bureau's Consumer Advisory Board, is vice chair of the North Carolina Housing Coalition, and a board member of the North Carolina Institute for Minority Economic Development. Welcome, Ms. Bailey.

Mr. Ed DeMarco has been in front of this Committee before, is president of the Housing Policy Council. Prior to joining them, he was a senior fellow and resident at the Milken Institute Center for Financial Markets and for 5 years served as Acting Director of the Federal Housing Finance Agency. He also served as Chief Operating Officer and Senior Deputy Director of FHFA and its predecessor agencies, held positions at Social Security, the Treasury Department, and the GAO. Mr. DeMarco, welcome.

And is that everybody? I am sorry. Mr. Pinto I skipped over. Sorry about that. Mr. Pinto is resident fellow and director of AEI Housing Center at the American Enterprise Institute. He oversees the publication of AEI housing market indicators. Mr. Pinto formerly served as Executive Vice President and Chief Credit Officer for Fannie Mae and as senior legal counsel and capital markets program manager for the mortgage insurer MGIC.

Dr. Herbert, please begin.

STATEMENT OF CHRISTOPHER HERBERT, MANAGING DIRECTOR, HARVARD JOINT CENTER FOR HOUSING STUDIES

Mr. HERBERT. Thank you, Senator Brown. Chairman Brown, Ranking Member Toomey, Members of the Committee, thank you for inviting me to testify at this hearing.

I am Chris Herbert, the managing director of Harvard Joint Center for Housing Studies. For more than three decades, the center has published the annual State of the Nation's Housing report, so I am pleased to share our views on the Nation's principal housing challenges today.

In addition, I serve on the Board of Director of Freddie Mac. Although I am here in my capacity with the Joint Center, I just want to note that, as with my responsibilities on the board, there will be some limit on things I might be able to comment on about the GSE operations.

This past year's tumultuous events have illuminated and exacerbated our Nation's many housing challenges. The pandemic has put further stress on millions of Americans who were already struggling to pay for their housing. The national reckoning with racial justice has put a spotlight on glaring racial disparities in access to decent and affordable housing. And the devastating series of earthquakes, hurricanes, wildfires, and extreme cold have done extensive damage to homes across the country.

But the past year has also highlighted the importance of the housing sector to the broader economy, having been a bright spot in an otherwise troubled year.

In my testimony today, I will highlight five key housing challenges we face across all areas of our country— urban, rural, suburban—that call for action by the public, private, and nonprofit sectors to address.

First is the need to expand rental assistance programs to help the 10.6 million renters spending over half their incomes, many of whom have extremely low incomes, making even the lowest market rents unaffordable. This heavy burden increases housing instability, undermining the ability of people to work and study, and forces them to cut back on food, health care, and savings. Expanding support for these renters would greatly enhance their wellbeing and help the economy.

Second is the need to address barriers to housing construction, and particular of modest-cost homes. Many things contribute to our current shortfall in housing supply: labor shortages, the rising cost of materials, and restrictive regulations that constrain efficient land use by limiting density, creating costly and complex approval delays and adding excessive fees. The Federal Government should leverage the tools it has to encourage State and local regulatory reform and to support more efficient means of building homes.

Third, given the significant financial and social benefits of owning a home, there is a compelling need to expand access to sustainable home ownership, particularly for people of color that historically have been shut out. The shortfall in home ownership among Black and Hispanic households, 31 and 26 percentage points, respectively, is simply shameful. We need to expand homeowner education and counseling to help people navigate this complex process, increase critically important financial supports for downpayments and closing costs, provide access to safe and affordable credit, and expand supports post-purchase to help sustain home ownership.

Fourth, we need to address the stubbornly high levels of segregation across America, which are perhaps most evident in the concentrations of people of color in high- poverty neighborhoods. Research provides compelling evidence that childhood exposure to high levels of poverty reduces lifetime earnings, lowers college attendance, and increases incarceration rates. In response, we need to expand affordable housing options in a broader range of communities to affirmatively further fair housing and to coordinate investments in housing with improvements in schools, public safety, and economic development in historically marginalized communities.

Finally, we need to invest in existing homes to make them more resilient, healthy, and age-friendly. Not only is climate change increasingly causing damage to our homes, it also calls for improved energy efficiency as weather becomes more extreme. Older, poorly maintained homes expose residents, particularly people of color and those with low incomes, to carbon monoxide, radon, lead, asbestos, and allergens, with significant health consequences. And with the population over age 75 poised to double over the next two decades, we need to modify millions of homes to allow older adults to age safely in their homes and their communities.

Let me conclude by saying that as the title of this hearing indicates, having a good-quality, affordable, and secure home in a thriving community is foundational for a healthy and productive life for every person in America. Addressing our country's housing challenges will take concerted action for the public, private, and nonprofit sectors, but this investment would pay substantial dividends to these individuals and to society at large.

Thank you for turning your attention to these critical issues and for your invitation to share this information with you today. I look forward to your questions. Thank you.

Chairman BROWN. Thank you, Dr. Herbert.

Ms. Yentel, you are recognized for 5 minutes. Welcome.

STATEMENT OF DIANE YENTEL, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL LOW INCOME HOUSING COALITION

Ms. YENTEL. Thank you. Chairman Brown, Ranking Member Toomey, and Members of the Committee, thank you for the opportunity to testify on the state of housing in America.

The COVID–19 pandemic and economic collapse of 2020 devastated millions of families, and people with low incomes and people of color have been disproportionately impacted through greater financial hardship or increased illness and death.

Racial disparities in housing contribute to the inequitable health outcomes during the pandemic. Decades of structural racism in multiple systems, including housing, leave Black people, Native Americans, and Latinos much more likely to be renters, to be rent-burdened, and to experience homelessness than white people. And people of color in homes are more likely to live in overcrowded housing, all risk factors for increased likelihood of contracting or spreading COVID–19.

The pandemic made clear that affordable homes are necessary for individual and public health, but renters and unhoused people have struggled to remain safely and stably housed throughout the pandemic due to the underlying affordable housing crisis that existed pre-pandemic. Pre- pandemic, there was a shortage of nearly 7 million affordable and available rental homes for America's lowest- income renters. For every ten of the lowest-income renter households, there are fewer than four homes that are affordable and available to them. Without affordable options, 10 million very-low-income households were severely housing cost-burdened, spending more than half of their incomes on rent and utilities, leaving them one financial shock away from missing rent and facing evictions or, in worst cases, becoming homeless.

So for many of these same renters, the coronavirus and its financial fallout was that financial shock. They lost jobs and wages. They have increased Internet, child care, health care, food expenses, and they struggled more than ever to pay the rent.

A patchwork of Federal, State, and local resources and protections, including a broad Federal eviction moratorium implemented in September 2020 by the CDC, kept many people stably housed during the pandemic, but renters struggled to keep up with the rent. The latest estimates are that about 10 million renter households owe over $50 billion in rent and utility arrears, and they remain at high risk of losing their homes.

In response, in December Congress extended [no audio] large part due to Chairman Brown's leadership, Congress provided a total of $47 billion for emergency rental assistance to assist low-income renters and landlord address these rent and utility arrears.

These are other resources in the American Rescue Plan are critically needed and will go a long way to helping renters remain in their homes and to keep people experiencing homelessness safe, healthy, and housed during COVID–19. Policymakers must now ensure that emergency rental assistance funds are quickly and equitably distributed to households facing the greatest needs. And President Biden must defend, extend, strengthen, and enforce the Federal eviction moratorium to keep renters in their homes while this historic allocation of rental assistance is distributed.

As the Nation recovers from the pandemic, Congress must turn its attention to advancing long-term solutions to resolve the Nation's housing crisis. These solutions include:

One, expanding rental assistance to make it universally available to all eligible households in need and improving the program to ensure that it meets the needs of the people with the lowest incomes and people of color.

Two, we must increase the supply of homes that are affordable to people with the lowest incomes through the preservation and construction of public housing, a major expansion of the National Housing Trust Fund, and incentives or requirements to reduce restrictive local zoning.

Three, we should create a permanent emergency rental assistance program to keep families stabilized during a crisis, [no audio] everyday financial shocks and crises that low-income people face.

And, four, we must lessen ongoing evictions and their long-term harm with robust renter protections like right to counsel and expunging eviction records.

This Committee and Congress have a historic opportunity to ensure both that unprecedented emergency resources are used for their intended purpose and to advance and enact solutions to address and end the affordable housing crisis in our country. And I look forward to working with you on this important work. I look forward to your questions, and thank you again for the opportunity to testify today.

Chairman BROWN. Thank you, Ms. Yentel.

Ms. Bailey is recognized for 5 minutes.

STATEMENT OF NIKITRA BAILEY, EXECUTIVE VICE PRESIDENT, CENTER FOR RESPONSIBLE LENDING

Ms. BAILEY. Good afternoon, Chairman Brown, Ranking Member Toomey, and Committee Members. Thank you for the opportunity to testify in today's hearing.

I am an executive vice president at the Center for Responsible Lending, an affiliate of Self-Help, one of the Nation's largest community economic development lenders.

Home ownership is the bedrock of the American middle class. It is the way that most Americans build wealth. It is the economic engine that fuels the greater economy. But we have to be honest about our country's inequitable investments in home ownership. We have left entire taxpaying communities behind. COVID–19 has brought these injustices into full view.

On the one hand, some people can shelter in place, benefit from a roaring stock market, and watch their homes increase in value. On the other, essential workers face economic uncertainty and service positions that make them more likely to contract the virus. Many families suffer reduced wages, unemployment, and needing to wait at food pantry lines that circle entire city blocks and stretch down rural roads.

Our Nation's housing policies are a core cause of these interconnected inequities. We all know that a home is much more than just its four walls.

Federal policies, especially the Homestead Act and the New Deal, subsidized land and home ownership, literally the foundation of the American middle class. But redlining admit these benefits were primarily available for white Americans and explicitly excluded most Black Americans and other people of color. These laws created wealth that could be passed forward to successive generations and cemented a white middle class that could use their wealth to provide for a child's education, seed money for a business, a secure retirement, and a buffer against economic setbacks.

The opportunities for many white Americans contrasts sharply with those for Black and brown families who have been systemically denied the ability to buildup the capital needed to obtain a mortgage and build equity.

Yes, today's Black home ownership rate is at levels similar to 1968 when the Federal Fair Housing Act was passed and even the 1890s. The law's formal outlawing of discrimination belies the fact that housing discrimination remains widespread to this day. There is a direct connection between this legacy and the inhumane events over the summer that led to the people-led protests demanding justice. We must act to eliminate racist structures and create inclusive communities.

In the run-up to the Great Recession, predatory lenders targeted communities of color with toxic and risky mortgage loans. Black and Hispanic families unnecessarily lost more than $1 trillion in wealth as a result. Since then, Fannie Mae and Freddie Mac have woefully underserved Black and Hispanic, Native and Pacific Islander communities. There could have been 770,000 more Black homebuyers if mortgage credit was not unnecessarily tight and lenders were willing to make small-dollar mortgage credit available.

Like the last economic recovery, today's is K-shaped and uneven. Once again the relief is failing to reach the hardest-hit families. While it seems the mortgage market is booming, a closer look at the data reveals a market dominated by refinances that mostly benefit the wealthiest.

Typically, refinancing accounts for only a third of the market, but in 2020 they were over half. Historically low interest rates and the Federal Reserve's monthly purchases of $40 billion in agency mortgage-backed securities are keeping the market strong, yet many hardworking families are unable to secure a simple rate refinance that would save them a couple hundred of dollars per month that would help them to stay out of foreclosure and remain housed as the health pandemic continues.

Given our national crisis and inequitable housing finance system, a new substantial public investment in home ownership is needed to bring in first-generation homebuyers. The future of the market is now, and its success depends on its ability to serve the 3 million

Black and more than 5 million Hispanic mortgage-ready potential homebuyers.

Addressing inequities can create shared prosperity by adding potentially $1 trillion per year to the economy, generate billions in local revenues, and create thousands of jobs. It would bring us closer to an America as good as her ideals where the promise of America can reach all of our children.

Thank you for the opportunity. I look forward to answering questions.

Chairman BROWN. Thank you, Ms. Bailey.

Mr. Pinto is recognized for 5 minutes.

STATEMENT OF EDWARD J. PINTO, DIRECTOR, HOUSING CENTER, RESIDENT FELLOW, AMERICAN ENTERPRISE INSTITUTE

Mr. PINTO. Thank you, Chairman Brown, Ranking Member Toomey, and other Members of the Committee, for the opportunity to testify today.

Notwithstanding 70 years of Federal efforts, neither the goal of making homes affordable for lower-income households nor the goal of achieving generational wealth for lower-income homeowners has been met. Yet this year is the 100th anniversary of an even more troubling event: In 1921, the Federal Government began implementing zoning and land use policies designed to make it too expensive for racial and ethnic groups to be able to live in newly built homes and neighborhoods. I have estimated that since 1940 this has prohibited the construction of some 8 million homes. Therefore, it comes as no surprise that we have a broken housing ladder, with home prices rising much faster than incomes, pricing many out of the first rungs. We have an overheated housing market today with rapid home price appreciation, the result of extremely low interest rates, combined with the tightest supply in history. Last month, inventory was down 47 percent from 2 years before.

We also have a market that is far, far from equilibrium. The Federal Housing Finance Agency's metric shows that we currently have prices 14 percent above the long-term trend, and this trend is rising rapidly.

When we compare home prices to the fundamentals such as construction costs, wages, and rents, we find that since 2012 home prices have gone up two to three times faster than those fundamentals. We know from history the bigger the gap, the more painful the correction, with lower-income and minority homeowners being slammed the most.

Consider this thought experiment. Let us say rates go up to 5 percent by the end of next year. This last happened just 2–1/2 years ago, and home prices go up the expected 35 percent from the beginning of 1920 to the end of next year. We are already well on our way to that 35 percent. And the monthly payment would increase by 85 percent. This would sharply reduce demand, turning an overheated market into a buyer's market. The resultant price declines would inflict the most harm on low-income and minority homeowners, who are ill equipped to handle such price volatility.

The distortions that we have had due to zoning and other land use regulations have driven up home construction costs and land prices unevenly across the entire United States. For example, a home in Phoenix today sells for about a third as much per square foot as one in San Jose. Supply constraints and the inflationary effects of the Federal Government's 1921 zoning and land use regime that I described earlier continues in force today. It is embodied in thousands of State and local land use codes.

Since 1994 low-tier home prices have risen 39 percent faster than high-tier ones and have had much greater price volatility. This has had a detrimental effect on entry- level buyers. Further, high leverage, when combined with a constrained supply, is the key driver of higher home prices. It merely permits one borrower to bid against another would- be buyer for scarce goods.

The 1994 to 2020 period has seen extreme home price volatility in the low-price tier. Let us take Phoenix. There was an increase starting in 1994 of 225 percent in nominal prices. Then, in 2007, prices collapsed in the following years by 70 percent followed by a climb in 2012 to today of 225 percent. All of this in 27 years.

One of the most pernicious effects of rapidly increasing house price appreciations on lower-income households is that it creates the illusion of wealth. Earlier when I mentioned prices rising 225 percent followed by the decline of 70 percent, it was the land price, not the structures, that exploded and then collapsed. So we put low-income homeowners who purchased in 2004 and 2007 into the unknowing speculation in land.

How might we sustainably build generational wealth for lower-income households and minority households through home ownership? Financial assistance might be provided to buy down the rate on a wealth-building 20-year loan. This would provide potential equal buying power for the 20-year loan versus the 30-year loan. The 20-year loan reliably builds generational wealth, reduces defaults, and limits capitalization into higher prices. It could be narrowly targeted to lower-income, first-generation homebuyers. It would sustainably expand the credit box and growing home ownership opportunities, especially for minorities.

There are many other suggestions in my written testimony, but I will leave it here, and thank you for the opportunity for testifying today.

Chairman BROWN. Thank you, Mr. Pinto.

Mr. DeMarco is recognized for 5 minutes.

STATEMENT OF EDWARD J. DEMARCO, PRESIDENT, HOUSING POLICY COUNCIL

Mr. DEMARCO. Very good. Thank you, Chairman Brown, Ranking Member Toomey, Members of the Committee. Thank you for inviting me here today.

My written statement covers four broad topics: the pandemic, the racial ownership gap, housing supply, and housing finance reform.

The housing finance system generally, and mortgage services in particular, responded effectively to the needs of homeowners who saw their income disrupted by business shutdowns. Servicers quickly established processes to offer homeowners mortgage payment forbearance, even as their own employees were converting to work from home. By mid-April, more than 2 million families had received forbearance, and by late May, that number was up to 5 million.

Over the past year, nearly 7 million families have been on forbearance. More than half of these households, though, have resumed making their payments or paid off their mortgages. Today about 2.6 million households remain in forbearance, and most of them are approaching 1 year in forbearance.

Recently, FHFA and the Government-insured loan programs indicated that forbearance could be extended up to 6 more months. Despite this tremendous response by homeowners and mortgage servicers, a lot of work remains. By this fall, homeowners will need to resume payments. For those whose incomes have been permanently lost or reduced due to the pandemic, servicers will use all the tools available to them to find an appropriate solution.

Beyond the pandemic, we face a pressing challenge addressing the racial gap in home ownership, and I would like to thank my fellow panelists for all their thoughtful comments on this already.

While this is a challenging priority, it is also an opportunity. It is an opportunity to think differently about the most effective ways to promote sustainable home ownership for individuals and families who have the means to own a home but have been unable to realize that dream. HPC encourages more focus on downpayment assistance to give homebuyers some amount of equity in the property or that create rainy-day reserves to address future needs. Homebuyer counseling and education before starting the home purchase process would also be a big assist to many families. Since the long-term public policy goal is wealth building, we should focus on building and preserving homeowner equity.

My written statement also touched on the following points:

First, any discussion of broadening home ownership opportunities should include FHA.

Second, a critical factor to consider when pondering new approaches to expand home ownership opportunities is the changing characteristics of household income. It is becoming more volatile.

Third, we should not measure success simply by observing positive changes in home ownership rates. Any such gains must be sustainable through the economic cycle.

One key element in meeting both the racial ownership gap and the more general challenges of affordable housing is this: We need to build more housing. The lack of supply is both a rental and an ownership challenges. The barriers are well known, if difficult to surmount. Land use restrictions, zoning laws, building codes, and other requirements often slow or preclude home construction, particularly of more affordable dwellings. Beyond all these concerns, we cannot lose sight of a huge challenge that has been with us now for more than a dozen years: housing finance reform.

The good news is that there is broad agreement on the principles of reform, and HPC welcomes the latest contribution yesterday from Senator Toomey. In 2013, Senators Corker and Warner identified the basic policy compromise that remains the foundation for bipartisan reform: restore reliance on meaningful private capital to bear mortgage credit risk, backstop the system with a Federal guarantee to ensure deep liquidity in all markets, and charge fees both for that Government backstop and to fund affordable housing needs.

The 10 basis points affordable housing fee they proposed became part of virtually every reform bill since. Over the past 10 years, such a fee could have raised over $30 billion for affordable housing. Think of the opportunity cost of our failure to act. We still have significant taxpayer exposure and systemic risk, and we missed the opportunity to expand funding to support affordable housing and housing supply.

Thank you for inviting me today.

Chairman BROWN. Thank you, Mr. DeMarco.

The questioning will begin with Senator Ossoff from Georgia. He will be recognized for 5 minutes.

Senator OSSOFF. Thank you, Mr. Chairman, for convening this hearing and for your flexibility with my schedule. Thank you to our panel.

I would note, Mr. Chairman, that when the Chair of the Federal Reserve recently testified before this Committee, he noted that well-targeted fiscal policy is a more effective way of relieving economic distress and relieving poverty than loose monetary policy, and, accordingly, the American Rescue Plan includes not just very significant cash relief for working- and middle-class families, more than $12,000 between tax credits and stimulus checks for a typical working-class family of four, but, also, mortgage assistance, housing vouchers, rental assistance that people need during this crisis. And I think these and other provisions help explain why there is overwhelming bipartisan support for this stimulus bill. And I suggests that, moving forward, we should think about bipartisanship as a measure of the breadth of public support, whatever politicians in Washington may view, and three-quarters of Americans support this bill.

I want to ask you, Ms. Bailey, about the housing vouchers included in the American Rescue Plan. In my discussions with local housing authorities, I have heard that these are highly effective at helping lower-income households afford housing near good schools and good jobs.

In your view, during this pandemic, during this crisis, should HUD allocate those new vouchers that Congress just authorized to the housing authorities that are serving communities with the most acute housing crises rather than just distributing them according to population?

Ms. BAILEY. Thank you so much. One of the lessons of the Great Recession is that we need to have targeted relief, and that that relief must reach the hardest-hit communities. So anything that we do must really get to those socially and economically disadvantaged communities to make sure we do not miss them this time.

I would pause and turn it over to Ms. Yentel so that she can chime in on this answer, but I also want to thank you and I want to thank this entire Committee for the great work that Congress just did in passing the additional $10 billion to help struggling homeowners. Without that support in the home ownership Assistance Fund, we would not have an ability to really help consumers who are nearing a wave of foreclosures.

So I will stop there and turn it over to Ms. Yentel.

Senator OSSOFF. And thank you so much. And, Ms. Yentel, I may come to you in just a moment. Ms. Bailey, I appreciate that answer as we consider how to advocate that HUD proceed. But I have a question for you, Mr. Herbert, if I might, and considering the affordable housing crisis we have had in Georgia, cities like Atlanta, for example, predated this pandemic, the dynamic of gentrification whereby Black communities deeply rooted in the urban core of Atlanta, Georgia, and cities like them have been displaced as rapid economic growth has driven up rent and property taxes.

Just going back to Econ. 101, Mr. Herbert, housing is unaffordable in part because demand is outstripped supply. So how can Congress reduce impediments to density and support a sustainable expansion of housing supply, especially in those urban environments where gentrification is displacing Black residents?

Mr. HERBERT. Thank you, Senator Ossoff, for the question. It is absolutely the case that land use controls are a State and local purview, so it does put the Federal Government in a bit of a bind in how it can control that. But the Federal Government does have the power of the purse, so one method I would suggest is, looking at investments in housing and investments in infrastructure, that the availability of that funding be tied to evidence that localities and States are allowing for density of housing and communities where it is needed, communities of opportunity, areas near transit.

Certainly there are other ways in which the regulatory authority of the Federal Government could also be used to incentivize States to reduce these barriers to make it possible to build more affordable housing where it is needed.

Senator OSSOFF. Thank you, Mr. Herbert, and a follow- up there. I mentioned that Chairman Powell had noted in a recent discussion before this Committee that fiscal measures are a superior way of relieving poverty than monetary expansion. On the subject of monetary policy, I noted with interest that New Zealand's Prime Minister, Jacinda Ardern, recently announced she would instruct New Zealand's central bank to target home price stability as part of the central bank's mandate. Interestingly, New Zealand was the first country in the world to order its central bank to target consumer prices in 1989.

Since this Committee has jurisdiction over the Federal Reserve System, I would be curious for your reaction, Mr. Herbert, to that New Zealand policy initiative?

Mr. HERBERT. Well, certainly runaway house prices are a challenge for affordability and do damage both in the near term in terms of people being priced out of homes and in the long term. I think it is challenging given that the interest rate is also being used to support the economy, to know how you can thread the needle between providing the interest rate boost that will provide that needed boost to the economy, at the same time also providing a boost to home prices.

So I think while it is a worthy goal, I am not sure how to square that circle myself.

Senator OSSOFF. Thank you, Mr. Herbert. Well, perhaps it is by utilizing fiscal policy more on the expansion side. To be continued.

And, Mr. Chairman, thank you for your indulgence and recognition.

Chairman BROWN. Thank you, Senator Ossoff.

Ranking Member Senator Toomey is recognized for 5 minutes.

Senator TOOMEY. Thank you, Mr. Chairman. You know, when we think about the state of housing, I do think it is important to think about housing prices compared to other economic fundamentals.

Mr. Pinto, you addressed this. I just want to make sure we have got this distilled down to its essence here.

First, let me say, isn't it true that in recent years housing prices have increased faster than income in many markets? Mr. Pinto, are you there?

Mr. PINTO. Yes.

Senator TOOMEY. Can you hear me?

Mr. PINTO. Yes, that is true, Senator.

Senator TOOMEY. OK. And is it also true that home prices just cannot rise faster than personal income indefinitely? That is not sustainable. Is that right?

Mr. PINTO. That is also correct. It is not sustainable.

Senator TOOMEY. Right. So since that is what has been going on for some time, does it follow that at some point in the foreseeable future housing prices are going to have to converge back toward income and other fundamentals? There is going to have to be a return to a convergence there, right?

Mr. PINTO. That is my opinion, yes.

Senator TOOMEY. OK. Dr. DeMarco, Mr. Pinto has confirmed that, to put it briefly, the housing market, at least in some places, is overheated. That is my term, but I think that is true. My question for you: Does this current state of the housing market reinforce the case for GSE reform, or does it weaken the case? What is your sense?

Mr. DEMARCO. I think the case is there today. It was there yesterday, and I believe it really needs to be dealt with now. There are a number of things affecting market conditions now that would be improved with housing finance reform.

Senator TOOMEY. So yesterday I released principles for housing finance reform, and you alluded to them. I do want to reiterate that I look forward to working with the Chairman, my colleagues on this Committee, and the administration to try to move the ball forward on that.

Let me ask you this, Dr. DeMarco, because I know you have done a lot of work in this space. The principles that I released yesterday include reforms that are meant to preserve access to the 30-year mortgage, increase the role of private capital, protect taxpayers against future bailouts. Are all of these possible in combination, or are they mutually exclusive?

Mr. DEMARCO. I believe they are quite possible, Senator, and I believe there have been a number of reform proposals that have aligned with the sort of principles that you put out, that Chairman Brown put out, and I believe that housing finance reform can do those things.

Senator TOOMEY. And despite the fact that the economy has not fully recovered from last year's shutdowns, you believe that now is as good a time as any to begin this process. Is that a fair statement?

Mr. DEMARCO. It is, Senator. It is going to take a number of years to do this, and there is no reason to be delaying. We have been delaying for 12 years.

Senator TOOMEY. And my last question, then, and I think I am going to run out of time, but if we were to go down this road in a bipartisan fashion, we could achieve something very close to the problems that, as you point out, have been discussed for some period of time. Could you discuss some of the advantages that people would find, some of the advantages for taxpayers, for homeowners, for future homeowners? What is your sense of some of the advantages of these reforms?

Mr. DEMARCO. I think reform can bring greater competition to the housing market, and that competition would spur greater innovation. All of the witnesses today have talked about some of the challenges for the racial ownership gap and so forth, and I believe that more innovation would really help. It would also lead to a reduction in systemic risk. Today we have got a lot of systemic risk by concentrating risk, you know, on the backs of the taxpayer through these Government-backed entities, and I believe housing finance reform can disseminate that risk through the system, which would lower risk to the whole financial system.

Senator TOOMEY. Thank you, Dr. DeMarco.

Thank you, Mr. Chairman.

Chairman BROWN. Thank you. Senator Reed is back, but I promised Senator Smith, because I did not know if Senator Reed was going to get back in time. Senator Smith is recognized for 5 minutes and then back to you, Jack, if that is OK.

Senator SMITH. OK.

Chairman BROWN. Sorry about this.

Senator SMITH. Thank you, Chair Brown, and thank you, Senator Reed. I appreciate that.

Chair Brown and Ranking Member Toomey, I really, really appreciate this conversation and the vital importance of addressing the underlying fundamental challenges that we have in the housing system in this country. And while I certainly agree that there is a need for us to look at what we do with GSE reform, I would just like to point out that the challenges that we have are really systemic and have existed for a long, long time.

This is what it looks like in Minnesota. In rural areas, small-town areas, big cities, the housing market is not working, and it especially is not working for working people. I hear this from mayors. I hear this from business owners who cannot find people to work in their companies because there is no affordable place for them to live. I hear about this from college presidents and students. It was a challenge before COVID, and now, of course, the systemic inequities in our system have just been made so much worse.

So I would like to start with the question of home ownership, and, Ms. Bailey, I am going to come to you on this. One of the issues that I am very interested in addressing on this Committee is the persistent gap in home ownership between white households and households of color. In my home State of Minnesota, we have one of the largest home ownership gaps in the whole country; 77

percent of white households in Minnesota own their own home, but only 24 percent of Black households own their own home.

So the question is: How do we fix this? I think we know a lot of this has happened. It is a combination of federally sanctioned redlining and unequal access to investments in infrastructure and discrimination in the housing service, the financial service industry. But what do we do to fix this?

I want to ask you about this. So Minnesota Housing Agency, our housing finance agency, has run an enhanced downpayment assistance program that has reduced barriers to home ownership for people of color. In the first few years, 68 percent of the borrowers who received this assistance were households of color, highly effective.

Ms. Bailey, can you just talk a little bit about how strategies like this can help to reduce disparities in home ownership and what else we ought to be considering as we think about this systemic challenge?

Ms. BAILEY. Thank you for the question. Those are exactly the type of strategies that we should consider. We know that targeting downpayment assistance can go a long way in bringing in underserved communities into home ownership. We also know that if we target this resource to first-generation homebuyers, we really are going to get those communities of color that have that history of underservice.

Another thing that we should really consider doing is using the Equal Credit Opportunity Act's special purpose credit programs. We often think about our fair lending laws as things that are penalties, but here we have a tool that we are not using that could really help us target individual solutions for specific financial institutions to really reach the consumers that they are underserving, that really create them in such a way that we could actually grow home ownership by millions of people and really generate the overall economic economy in localities all across the country.

Senator SMITH. So powerful, and it also allows us to really do something systemic to address the wealth gap that we have in this country.

Mr. Herbert, I would like to follow up on some of your comments. One of the challenges that we have in Minnesota and I know we have in other parts of the country is a real shortage of affordable housing, workforce housing, as well as, really, the whole gamut of housing in rural communities. I am excited to be the new Chair of the Housing Subcommittee, and Senator Rounds is my Ranking Member. We will be working together. We are both quite interested in addressing some of these rural housing needs.

So could you talk a little bit about what the barriers are to building new workforce housing in rural communities and what we should do to be addressing this challenge?

Mr. HERBERT. Thank you, Senator. You know, I think the challenges facing rural communities are quite similar to urban areas in the sense that housing costs have outpaced incomes. And so certainly if we are going to build workforce housing for some of our poorest residents, we are going to need to think about subsidy systems.

One of the challenges our rural communities face is that our current delivery mechanisms, primarily the low- income housing tax credit, end up requiring a certain scale of investment in order to make those deals work because of the huge complexity of them. So we need to think about other channels, I think, that are more effective at reaching rural communities. We have a number of programs through the USDA and have the Rural Housing Service that have been effective. I think it is more of a question of putting more resources through some of those channels to reach these communities than we have been doing in recent years.

Senator SMITH. Thank you so much for that. I could not agree more. I think about communities like Thief River Falls in northwestern Minnesota where Digi-Key, a very important employer, is literally struggling to fill the jobs that they have because they cannot find places for people to live. It strikes me that if we really want a housing system that works for working families, there are some specific problems that we can solve, and I think that you all have done a good job of laying out what some of those challenges are.

So thank you very much, Mr. Chair. I will yield back.

Senator REED. [presiding]. Thank you very much.

Normally I would recognize a Republican member to go back and forth, but I am not aware of who is on camera or ready to go on camera, so I will go ahead and take my questions, and then hopefully be given a response as to who is on camera.

So let me start with Ms. Yentel, if I may. Ms. Yentel, last Congress we appropriated more than $46 billion in emergency rental assistance. States are working hard to spend it. Can you please tell us what the resources will mean for the families that you represent for the National Low Income Housing Coalition? Who will be helped and how?

Ms. YENTEL. Yes, thank you for the question, Senator Reed. So there is an estimated about 10 million renter households who during the pandemic have accrued about $50 billion in rent and utility arrears. So these emergency rental assistance dollars will be a tremendous relief to them and to the landlords, some of whom have also struggled to pay the bills.

Throughout the pandemic many renters have had to make difficult tradeoffs to keep up with their bills, often having to forgo health care, school supplies, or food in order to keep their home. As a result, we have seen food pantry requests increase by 2,000 percent in some communities, and we have had as many as 30 million households say that they do not have enough to eat.

So at the National Low Income Housing Coalition, we hear from dozens of people every day who are in this situation. They are struggling. They are hungry. They are homeless. Or they cannot sleep because they are so worried that they are going to be evicted and lose their homes.

I included some of these stories in my written testimony that I hope you have an opportunity to review, stories from people like Stephanie in New Orleans who lives with her daughter and her infant granddaughter, and they owe about $7,000 in back rent and late fees from when she lost her job during the pandemic. She is terrified of having to go to a homeless shelter with her baby granddaughter if she loses her home. Her landlord is threatening to evict her, and she is on the waiting list, waiting for that emergency rental assistance to come through.

Or Stacy, who is a 46-year-old woman with chronic health issues. She lives in Nevada. She is homeless with her adult son after he lost his job during the pandemic and was not able to access unemployment benefits. And before they were evicted, they had to pay a couple months' rent on their credit card. So now in addition to being homeless, they are also in debt, and they are desperate for help to get back into housing.

So these families and millions more like them will get relief from this emergency rental assistance and from the funds that are going to local communities to help address the needs of people experiencing homelessness.

Senator REED. Thank you very much. And, Ms. Bailey and Dr. Herbert, as you know, the American Rescue Plan includes legislation that I initially introduced with a funding of $10 billion, a homeowner assistance fund, to help keep families in their homes. Can you please discuss how homeowners have been impacted by COVID–19 and why these resources are necessary investments? Ms. Bailey, why don't you start?

Ms. BAILEY. Yes, thank you so much for the question. I would also like to point out another really great thing that your legislation did was provide support for housing counseling and also for fair housing initiatives, which is so critical as we see so many Asian American families increasingly experiencing discrimination during this time of COVID–19. So thank you so much for your leadership.

So it is critically important because, even before COVID–19, we knew that 40 percent of Americans did not have $400 to cover an unexpected expenses. Families were already on the verge. So we needed these resources so that we can do everything that we can to really keep hardest-hit families in their homes. Sadly, the hardest-hit funds from the last crisis actually came to communities of color well too late. We actually started to see our foreclosures happen in 2006. The market did not crash until 2008. So having these funds and explicitly the resources for the equitable targeting for communities that have been socially disadvantaged is going to be critical in making sure all communities have a chance at recovery.

Senator REED. Thank you.

Dr. Herbert, please.

Mr. HERBERT. So I would just add to what Ms. Bailey said, which is, you know, right now the forbearance of support that has been provided through the Federal Government has been incredibly helpful. As Mr. DeMarco noted in his comments, 2.6 million homeowners are still in those forbearance plans. So in many ways, you have been insulated, I think, from the impacts of this pandemic on homeowners because of that protection. But as we look forward to September, when the 18-month forbearance period will end, we have to worry about the fact that many of those homeowners will now have accumulated substantial deficit in payments. Black Knight estimates that about one in five homeowners will owe more on their homes with their mortgage debt and the accumulated arrears than their homes are worth. One out of three FHA homeowners are in that situation. And all of this presumes that homeowners will go back to the income they had before the pandemic, and we know that loss of jobs will persist. We know that many loved ones who supported the homes have also been lost to the pandemic.

So as we look forward, dealing with these arrears and dealing with this permanent loss of income that will result is going to be important if we are going to sustain home ownership. I think one thing we learned from the last crisis is that if we do not sustain home ownership, the gap between whites and people of color in home ownership will only grow. And so this investment in making sure those homeowners are able to keep their homes and benefit from today's rising prices is critical.

Senator REED. Well, thank you very much, Dr. Herbert.

Now, on behalf of Chairman Brown, let me recognize Senator Rounds.

Senator ROUNDS. Thank you, Mr. Chairman.

First of all, I would just like to say thank—I appreciate the fact that we are actually having this discussion today on housing. I have a real interest in rural housing, as Senator Smith has indicated, and one area that I want to at least look at with some particular focus is that with regard to affordable housing on Native American reservations. Tribal communities have many unique challenges from economic and housing standpoints that make them distinct from other rural areas.

Ms. Yentel, where do you think Congress should focus its efforts when it comes to housing on tribal lands with all of its concerns, the fact that we have got low economic income to begin with, we have got real challenges with regard to the poverty that is there, and at the same time we have tribal trust lands which makes it even more difficult for someone to actually have land to build a house or put housing on?

Ms. YENTEL. Absolutely. Thank you, Senator Rounds, for the question. As you know very well, Native Americans in tribal areas face some of the worst and most acute housing needs in the country. They have such high poverty rates, low incomes, overcrowding, in some cases—in many cases there is a lack of plumbing, lack of heat, and very unique development issues. And despite this growing need for safe and decent homes on tribal lands, Federal investments in housing for Native Americans on reservations and off reservations has been underfunded for decades. And certainly centuries of structural racism that stripped land and wealth from Native Americans combined with ongoing discrimination today also result in Native Americans being dramatically overrepresented in the homeless population.

Prepandemic, I had the privilege of visiting your State and going to Pine Ridge reservation with a member of the Oglala Sioux Tribe who is also a member of the National Low Income Housing Coalition, Pinky Clifford, and I saw firsthand just the tremendous overcrowding and poor housing conditions.

So to meet the needs, Congress should expand the National Housing Trust Fund. Much of that fund can be used to develop and preserve affordable housing on tribal lands and for Native Americans in urban areas. And also in recent years, Congress, as you know, passed a Competitive Tribal Housing Program that went especially to tribes that have the greatest need and capacity to use those funds. This was a really important improvement and development, and we think that program should be continued and expanded.

Senator ROUNDS. I know that some of the reservations in South Dakota have some of the greatest degrees of poverty any place in the Nation. One of the challenges that we find there is that their land is held in trust, and since it is held in trust, it is very difficult for them to be able to actually have the asset to begin with and to allow people to actually make a mortgage to them.

We found the same problem when it came to VA loans where you have veterans coming back onto reservations, but they literally have a very difficult time getting set up to bust through that issue of the land that they are going to be using is tribal trust land. I look forward to working with different organizations to work our way through that.

Mr. DeMarco, I would like to start with you on a question that I have, and then I would like a follow-up with Ms. Bailey and Mr. Pinto in terms of their quick thoughts on it.

Late last year, FHFA finalized its capital rule, which seeks to increase the amount of capital that GSEs hold. I applaud steps that FHFA is taking to reduce the GSEs' leverage, but I am concerned about the capital rule's punitive treatment of credit risk transfer, or CRT. CRT can be an important tool used to offload and competitively price risk. And given that the capital rule demands that Fannie and Freddie raise capital that is several times greater than the largest IPO ever, it is important for the GSEs to have every tool in the toolbox available to manage that risk.

My question for you, Mr. DeMarco, is: How much more difficult will it be for the GSEs to raise capital given the capital rule's treatment of CRT? And does the rule need to be revised? And then just as a quick follow-up for Ms. Bailey and Mr. Pinto, I understand that both you and your organizations have filed comment letters expressing concern about the treatment of CRT, and I would like any thoughts that you may have in my remaining time.

Mr. DeMarco, would you begin, please?

Mr. DEMARCO. Certainly. Thank you, Senator. Look, I think FHFA did a nice job putting out a comprehensive capital framework and worked hard to align it with other regulated financial institutions. But a real weakness is exactly what you identified, and that is the treatment of credit risk transfer is such that it means that GSEs will have to build more capital in order to meet the capital requirements. It also means that we are going to be concentrating more risk on the GSEs because we are reducing the incentive to do CRT. CRT is an opportunity to really disperse risk across the market, and not giving it fair capital treatment reduces the probability that that happens.

Senator ROUNDS. Thank you.

Ms. Bailey.

Ms. BAILEY. Thank you for the question. Our concern is that the rule does not do enough to really distribute systemic risk broadly, which is the foundation of the housing finance system. So I would be happy to talk with you when we have a few more minutes in detail about all our details.

Senator ROUNDS. Thank you.

Mr. Pinto.

Mr. PINTO. The concern that I have had with the credit risk transfers is that if there is a market meltdown at some point—and we experienced that with the GSEs back in 2008— the credit risk transfer market is going to disappear. And so just when—while I would have put some [audio disruption] earlier, they would have the ability [no audio] future, and that is going to limit their ability at that point.

Senator ROUNDS. Thank you.

Thank you, Mr. Chairman. I believe my time has probably expired.

Senator REED. Thank you, Senator Rounds.

And on behalf of the Chairman, Chairman Brown, let me recognize Senator Warren.

Senator WARREN. Thank you, Mr. Chairman, or Acting Chairman.

So today millions of families are behind on their rent, millions of families who lost jobs during the pandemic, who had their pay reduced, or who lost a loved one.

Now, we fought hard to make sure those families will have access to emergency rental assistance and protection from eviction. But the fear of not being able to make rent has been a daily reality for too many families since well before the COVID–19 pandemic. Rents are high because supply is low.

Ms. Yentel, right now is there rental housing available for every family who needs it at a cost that they can afford?

Ms. YENTEL. No, Senator Warren, there is absolutely not. There is a pervasive and longstanding shortage of homes, affordable and available to the lowest-income renters, such that for every ten of the lowest-income renter households, there are fewer than four apartments that are affordable and available to them.

Senator WARREN. So, in other words, this is just Econ. 101. Finding adequate affordable housing is a challenge because we have a nationwide housing shortage. One problem with the supply has been Federal law.

Ms. Yentel, why hasn't our country built more affordable places for people to live?

Ms. YENTEL. I would say that there are a few reasons. In the private market, certainly the local restrictive zoning inhibits the supply of apartments, and especially affordable apartments, and that drives up costs for everyone.

For the lowest-income renters, there has been an ongoing underfunding of Federal investment in programs like the National Housing Trust Fund that could develop and preserve affordable apartments for the lowest-income renters. And for public housing, specifically the Faircloth amendment limits the total number of public housing units that can be built to levels that existed back in 1999. So it prohibits any increase of public housing above units that existed back then.

Senator WARREN. So every time we talk about putting a unit of new Federal housing on the market, we have to take a unit off, which means we have needlessly restricted the creation of affordable housing.

So we are in a housing crisis. Is there any reason that we shouldn't repeal the Faircloth amendment?

Ms. YENTEL. No, there is no reason. And just to be clear, that prohibition is on public housing units alone.

Senator WARREN. Yes.

Ms. YENTEL. There is no reason, and repealing the Faircloth amendment is part of a comprehensive solution to the housing crisis, yes.

Senator WARREN. OK, good. So that is at least a part of addressing that shortage. We can repeal the cap on the number of federally funded housing units. In addition, we can build more housing.

Now, President Biden has called for increasing the Housing Trust Fund, a fund dedicated to building, rehabilitating, preserving, and operating rental housing, and I have a bill on this ready to go. By adding nearly $45 billion every year for the next decade in the Housing Trust Fund and making other necessary investments, my bill would create more than 3 million new housing units.

Ms. Yentel, let me ask you—that is how we build new housing, but let me ask one more quick question before we quit here, and that is about the condition of our existing stock of public housing. Is it in good shape?

Ms. YENTEL. So first to say we strongly support your bill to provide $45 billion from the Housing Trust Fund. That is just what we need. And for public housing, you know, some developments that have acquired resources to redevelop in recent years, they are in OK shape. Some are in good shape. But most of the public housing stock is not in good condition, and some of the public housing stock is really in deep disrepair. The housing stock is old, and decades of Federal investment by the Federal Government has resulted in today where we have an estimated $70 billion of capital repairs that are needed to stop the loss of units to obsolescence and decay and also to restore it to livable conditions for the people who live there today and to preserve it for future generations.

Senator WARREN. Yes, make an investment. You have got to take care of what we own.

I just reintroduced a bill with Representative Nydia Velazquez to do exactly that, to invest $70 billion in addressing the repair backlog. It is not a mystery why we have an affordable housing crisis. Through decades of underinvestment and unnecessary restrictions, Congress has helped create this crisis. That means that Congress can help fix it by making serious investments in increasing the supply of affordable housing and expanding public housing for the first time in decades. We need to do this as soon as possible. Thank you very much for being here today.

Thank you, Mr. Chairman.

Senator REED. Thank you, Senator Warren.

We are in a complicated situation, so let me do this: If there are Republican members who are on, I would ask you to turn your camera on so that you can be recognized. And if we do not see that materialize very quickly, then I will just go down the roster of Republican members and see if we can get our next speaker.

So I do not a Republican member on the screen, so Senator Shelby? Senator Crapo? Senator Scott of South Carolina? Senator

Tillis? Senator Kennedy? Senator Hagerty? Senator Lummis? Senator Moran? Senator Cramer? Senator Daines?

Having exhausted the Republican list, I shall now go to—ah, Senator Menendez, you are recognized.

Senator MENENDEZ. Well, thank you. Thank you all.

Ms. Bailey, New Jersey has some of the toughest housing challenges of any State in the country. A new report by Adams Solutions shows that of the 50 U.S. counties who housing markets are most vulnerable to the impact of the COVID pandemic, eight of them are in New Jersey. One of those is Essex County, home to the city of Newark, where nearly two-thirds of renters are paying more than 30 percent of their income toward rent, according to a recent Rutgers University report.

These and other statistics suggest that after the current moratorium ends, we might be facing an eviction and foreclosure wave even worse than what we saw in the Great Recession.

The American Rescue Plan that Congress just passed includes one of my major priorities, $100 million in housing counseling funding that can help renters and homeowners avoid a worst-case scenario. What impact will this new housing counseling funding have on preventing evictions and foreclosures?

Ms. BAILEY. It will do a great deal, and thank you for the question. We have to be honest. Servicers are not housing counselors. We know that people who get pre- and post-housing counseling actually perform much better in home ownership. So the $100 million that you pushed for in the last bill will go a great way in really helping those communities get the kind of information that they need to really weather this economic calamity and be able to hold onto their homes. It is money that is definitely needed and money that will help us avoid that cliff of foreclosures that you talked about. It will just keep them far, far away.

Senator MENENDEZ. I appreciate that. The plan also requires at least 40 percent of housing counseling funding go to minority or low-income households. Do you believe this targeted funding can help ensure that the COVID economic recovery is a more equitable one than the 2008 crisis?

Ms. BAILEY. Indeed. As I stated earlier, foreclosures happened in Black and Latino communities in 2006, far sooner than any of the relief showed up. We also know that Black and Latino families were disproportionately steered into risky and toxic mortgage loans even when the data showed that they qualified for loans that were cheaper and more affordable. In fact, I believe there was a piece, a research piece that was published by the Wall Street Journal that showed that up to 80 percent of those families actually qualified for mortgage loans that were much cheaper than the ones that they actually ended up receiving.

As a result of people in our communities receiving these disproportionate levels of toxic and risky mortgages, we have seen a disproportionate amount of foreclosures, and we have seen communities really suffer from losing a whole trillion dollars of wealth as a result of those foreclosures being disproportionately in communities. So having these resources in the hands of housing counselors who actually are closest to the members of the communities, the people who are going to naturally get the first phone call for help, will go a long way in giving our community members access to people who can really help them weather this economic challenge and get the answers and solutions that they need.

Senator MENENDEZ. Thank you for that.

As we consider ways to work out of the current crisis and ensure a sustainable and equitable recovery, we need to start thinking about how we coordinate housing and transit development so that our communities can improve economic resiliency, expand transportation and housing options, and promote job creation for all segments of our society.

We had a great example of this after the last recession when—in my home State, we have something called the "Hudson-Bergen Light Rail System" that came online to connect the North Jersey communities of Bayonne, Jersey City, Hoboken, Weehawken, Union City, North Bergen. That project revitalized the region and spurred new development and helped local businesses. It was a catalyst for economic growth and brought new jobs to the neighborhoods along the line.

So I would like to ask Dr. Herbert, do you think this type of coordinated development is important when considering the various challenges and preferences, for example, seniors who may rely on transit for their independence, low-income [no audio] with transit that helps them get to work, and millennials, many of whom want to drive less and live in more walkable communities?

Mr. HERBERT. Absolutely, Senator, and thank you for the question. In particular, you mentioned seniors. The need to have accessible housing so that people who cannot drive can get access to services, amenities, and family and friends is critical. And certainly given the issues around climate change and the need to reduce our carbon footprint, having housing that is accessible to transit and tying development of our transit system to housing development is critically important.

Earlier I mentioned the idea that, to the extent that we do invest in transit, if we can tie that to localities, having requirements about making density allowable in those communities in order to get access to the funding will go a long way to make sure housing is tied to transit.

Senator MENENDEZ. Well, thank you. I have legislation called "Livable Communities," and that is exactly the concept behind it, and I look forward to exploring it with the Chairman and my colleagues on the Committee.

Thank you, Mr. Chairman.

Chairman BROWN [presiding]. Thank you, Senator Menendez. I wanted to say thank you to Senator Reed for taking time during this.

I have not asked my questions yet. I am going to go last. Senator Tillis is next and then Senator Tester. Senator Tillis, you are recognized for 5 minutes. The microphone is not on.

[Pause.]

Chairman BROWN. Senator Tillis, your microphone is not working or you have been muted the whole time.

Want to try again? Still cannot hear you.

Cameron, do you want to work on this? And I will go on to Senator Tester. Senator Tester from Montana is recognized for 5 minutes.

Senator TESTER. Thank you, Mr. Chairman. And thank you, Tom Tillis.

So this is a question for the whole panel, and I just want to know what your view of housing is in rural America and if it is any different in rural America than it is in urban America. And you can just start in the order that you testified.

Mr. HERBERT. Senator Tester, I will go first as the first person to speak. You know, I would say that the issues in rural America are very similar in many respects to urban America. There are rural communities that are impoverished. There are rural communities that are thriving. There are rural communities that are gentrifying. And so as we think about rural areas, I think we do not think about separate housing problems but very similar housing problems.

We need to expand access to rental housing. As we talked earlier with the Senator from Minnesota, there is a need for workforce rental housing in rural areas, and many of our Federal delivery systems do not work well on a smaller scale.

There is also a need for affordable home ownership. There is a need for investment in housing that is of low quality, that we need to increase the quality of housing in rural areas.

So as much as I think there are some unique aspects of rural areas, in many respects the challenges and issues are similar, given the diversity of rural areas.

Senator TESTER. Does anybody have anything to add to that or disagree with what he said?

Mr. PINTO. Senator Tester——

Ms. BAILEY. The thing that I would add—and thank you for the question—is that we have got to make sure when we are reaching out to rural communities we are doing so in a way that they can actually get the information that they need. Oftentimes when we think about them, we do not understand that they have all been limited to access, so we propose these solutions and we put the information out and we use the Internet, but we might be missing people who do not have that access. So anything that we do needs to make sure we can communicate with those communities.

And then, finally, there are many families of color that are in rural communities all over our Nation, and oftentimes we do not talk about that increased diversity there, and that is a really critical component of all the solutions that we have to have across rural communities.

Senator TESTER. Thank you.

Mr. Pinto, you were going to say something?

Mr. PINTO. Yes, I agree with Chris that the challenges are very similar in rural communities and urban communities. I would say that some sensible steps at the local level and at the State level would be to increase supply. There has been a lot of discussion about the limitations of zoning and the history of that, to increase supply, reduce income stratification by legalizing two-, three-, and four-unit structures in single-family areas, single-family attached housing in single-family neighborhoods; increased density for single-family and multi-family zoning. A lot of that is not applicable in true rural areas, but the small towns have plenty of areas where there is more density that that can be taken advantage of, and by right zoning, just allow the marketplace—mobile homes to be used, manufactured housing. These are all things that could add tremendously to the supply.

I would add that what is going on with the work-from-home phenomenon is rural communities, we are seeing demand has increased quite a bit in rural communities. So rural communities are going to need more supply than they have in the past 10 or 15 years.

Senator TESTER. So anybody want to add to the supply issue very quickly? Because that is an important issue also. Anybody want to add to that?

Ms. YENTEL. Yes, I would add quickly that, in addition to what was said, just to recognize that the shortage of homes for the lowest-income people is pervasive, whether it is rural, suburban, or urban areas. There is no community that has a sufficient number of homes affordable to its lowest-income renters. So, again, expanding the National Housing Trust Fund to meet that need, and also to point out how essential preservation is everywhere and in rural areas. Preserving the Section 515 loan program homes where, you know, the people who live within them earn maybe $13,000 a year, and there is very little housing stock in their communities where they could go if their homes expire, the affordability expires. So the preservation of those homes is critical as well.

Senator TESTER. I am just going to—Mr. DeMarco, go ahead.

Mr. DEMARCO. Just very briefly, Senator. To add to everything my colleagues said, there are two things that have not really come up. One is rural areas really have a predominance of low-balance loans, and there are some different challenges with low-balance lending. I think if we could encourage the CFPB, other Government agencies, to develop loan products or accommodations to help lenders with low-balance loans be able to sell them. There are also certain appraisal challenges, as you well know, that need some attention.

Senator TESTER. I am going to leave it at that because there are only 20 seconds left. But I will say I want to thank all the witnesses for being here today. I can tell you that the housing challenges in a State like Montana—I do not think they are any different than anywhere else—have really created some economic problems where there is no workforce housing, there is no affordable housing, businesses cannot expand. That is a real challenge.

Thank you all for being here.

Chairman BROWN. Thank you, Senator Tester.

Senator Tillis is recognized for 5 minutes. He will be followed by Senator Warner.

Senator TILLIS. Mr. Chairman, can you hear me?

Chairman BROWN. Yes, perfectly now. Thank you.

Senator TILLIS. I think Senator Tester has perfected some way of muting me at a perfect time so he can skip ahead of me, but I am glad I am back.

Just a real quick question for all the witnesses. I am trying to get my head around disparity in estimates on back rent and utilities. I know Moody's had the report out at $57 billion. The National Multi-Family Housing Council rental tracker has an estimate, and the National Council of State Housing Agencies is about half of Moody's. And then the Philadelphia Reserve put the number at a fraction of either of those two estimates.

So, in your opinion, what sort of metrics should we be using to accurately depict the back rent, back expenses situation? And I would also be curious in your answer if you can tell me with respect to the COVID response, separate from the housing issue, if you think Congress' actions up to this point have been adequate? We can start with Mr. Pinto and go down the line.

Mr. PINTO. Well, thank you for that question, Senator Tillis. Let me respond to your second question in particular. The initial actions that Congress took in the CARES Act would then be picked up by the Federal agencies— FHA, VA, Rural Housing, Ginnie Mae, and eventually Fannie and Freddie—put in place the forbearance program that was authorized by Congress, put in a program that focused on how to provide relief to the homeowners, and provided an exit plan for many of those homeowners by allowing those amounts that were forborne to be added at the end of forbearance to their balances without interest.

And so all those steps that were taken very rapidly in March and April really saved us from a crisis, and we have been able to take advantage of that forward thinking since that time.

Ms. BAILEY. Thank you for the question. One of the things that I would add is the point that we have to make sure that for privately backed mortgages, that those protections extend there. And what would be great would be to see the direction that private lenders actually follow those same protections. Doing so will help us keep the kind of uniformity that consumers need who are struggling under the weight of potential foreclosure.

Senator TILLIS. And to go through the responses, I am trying to get my head around how we could have vastly different estimates. Are they measuring the same challenge? In any of your opinions, does one of the studies—is there a metric that we should follow? Or is there something else we can to balance out what are disparate estimates and what the real need is?

Ms. YENTEL. So I think it is very difficult to have a concrete estimate of rent arrears. There is no way to measure that with certainty. All of the estimates that you named I think have different pros and cons. I believe the $57 billion estimate of rent and utility arrears that accrued during the pandemic is likely the most accurate. One measure of that is seeing programs for emergency rental assistance that opened with their initial allocation from December's $25 billion of emergency rental assistance, that very quickly after opening, they had to close their programs and no longer accept applications because they were overwhelmed with need.

What we do know right now is that Congress has appropriated $46.5 billion for emergency rental assistance, and our work now I think is to ensure that those funds get out as quickly as possible and to the people who have the greatest needs, the lowest-income and most marginalized people. And certainly we and the Federal Government and others will be tracking very carefully as we go whether and how those rental assistance dollars are meeting the need or whether continued need exists. Certainly it will exist for the longer-term stability of these low-income renters who struggled to pay the rent even before the pandemic.

Mr. HERBERT. And if I just might add, Senator, I think the challenge is that we have good information about different pieces of the market; we do not have information about the whole market. So when we look at professionally managed apartment associations who have good access to data, they are also getting information on the most well-to-do renters.

The other thing I think we have to bear in mind is that when we are looking at missed rent payments and how far the renters are is that renters have been doing all they can to tap every resource possible. So if they look at how much maybe rent has been collected, that does not take into account that they have borrowed that from friends, they took it from retirement savings, they got it from other resources that ultimately have to be paid back.

And so it is a complicated measure in many respects, but I think the estimate that puts this at the upper end is really reflecting the financial hardship that has been imposed on renters from their loss of income.

Mr. DEMARCO. If I may just add with regard to the other part of your question, I do, I think Congress has done a great job with the CARES Act, and I think that servicers, Government agencies, and so forth have also done their part to see that it has been implemented well. And with regard to loans not covered by the CARES Act, private lenders are actually providing that same kind of forbearance, the same assistance to borrowers that are not in Government-backed loans, and I think that is a credit as well.

Senator TILLIS. Thank you, Mr. Chairman.

Chairman BROWN. I just lost you. Thank you, Senator Tillis.

Senator Warner from Virginia is recognized for 5 minutes.

Senator WARNER. Thank you, Mr. Chairman.

I think we all agree with need to expand the housing market without increasing credit risk or, frankly, inflating home prices. I also think we realize—and other experts on this panel are very well aware of this—that in many ways when we look at the wealth gap in this country, 10:1 white families over Black families, a lot of that is due to the failure of families of color to be able to afford home ownership.

So working with a group of experts, is have been working on a proposal that would help first-generation homeowners by offering shorter-term mortgages, literally 20- year mortgages rather than 30-year mortgages, but by decreasing and a little bit of subsidy on these already low interest rates, you would still be making payments approximately the same as you would on a 30-year loan. But the benefit here is because of the equity accumulation, these families would be accumulating equity in these homes at a 2:1 rate over a 30-year loan. This really does subsidize wealth building without driving up home prices, and in the current low interest rate environment, I think it is a proposal, Mr. Chairman, that really warrants some review.

Mr. Pinto, would you agree that investing in equity rather than debt to help close the ownership gap might be a proposal worth looking at?

Mr. PINTO. Absolutely, Senator. I mentioned that in my remarks. I believe that we do, as you indicated, need to subsidize wealth building and stop subsidizing debt, more and more debt. This would go a long way to building generational wealth. It would go a long way toward providing the cushions that homeowners need. I mentioned that they do not have the ability to withstand the ups and downs of the market. This will be a very large equity cushion. At the end of 5 years—and it happens just about every year along the way—you end up with twice as much equity at the end of 5 years with a 20-year loan as a 30- year loan. So I endorse it.

Senator WARNER. Mr. DeMarco, do you agree with Mr. Pinto?

Mr. DEMARCO. I do, Senator, and I agree with what you are proposing. The other thing I would add that is really well constructed about what you are doing is it is structured in a way not to bring a new subsidy into the market at a time in which house prices are already inflated, and that is a very thoughtful feature, as well as the focus on supporting equity building as opposed to supporting families becoming highly levered.

Senator WARNER. And, Dr. Herbert, if we do this, there would be some Government involvement in subsidizing the interest rate on these loans to bring it down so that the equivalent—that you would be making the same payment you would make on a 30-year basis, but it would be on a 20-year loan. And the truth is if we—I think the idea of limiting this to first-generation homebuyers really gets at some of the racial equity issues that exist in our country.

Dr. Herbert, isn't this issue in terms of home ownership one of the big drivers of the racial wealth gap? And I would love to have Ms. Bailey and Ms. Yentel in the last minute and 45 weigh in on that subject as well.

Mr. HERBERT. Senator, absolutely. The disparity in wealth you mentioned tend to run between whites and Black households is largely due to differences in home ownership, and the targeting of a program to first-generation homeowners would be an effective way of ensuring that people of color who have been left out of the opportunity to own a home for generations have that opportunity.

One of the things that is often overlooked is that people like myself, when they buy a home, often turn to our parents who benefited from home ownership as a way to pay for that downpayment and get over the hump. People of color do not have that opportunity, and so targeting first-generation homeowners in particular would be a great way to target those benefits and also to make sure that the program is at a scale that is benefiting people who most want to help and not inflating the market. So I think it is a well-designed program.

Senator WARNER. Ms. Bailey and Ms. Yentel, would you like to make comments?

Ms. BAILEY. Thank you. I actually agree with the targeting of first-generation homebuyers as a specific way to really get at those socially and economically underserved communities that, as has been explained already, struggle with intergenerational transfers of wealth, which has allowed people to really save for a downpayment, along with broader societal discrimination where we see inequity in pay. So I am looking forward to seeing your bill and just working with it and working through it with you.

Senator WARNER. Thank you so much.

Ms. Yentel, please. I have had a good streak going. You get the last 20 seconds.

Ms. YENTEL. Yeah, I would echo and reinforce that certainly it was decades of [audio interruption] in housing and transportation policies that created this yawning wealth gap that exists today, and in large part it is intentional housing policies that can help bridge that gap, and policies like yours sound like the kind of creative approach that we need to move forward.

Senator WARNER. Thank you, Mr. Chairman. I look forward to sharing this with the whole Committee. Thank you so much.

Chairman BROWN. Thanks, as do we.

The Senator from Montana, Senator Daines, is recognized for 5 minutes.

Senator DAINES. Thank you, Chairman.

I want to jump in on concerns I am hearing across our State in Montana, and that is conversations with realtors, home builders, developers, they agree there is simply not enough inventory to keep pace with demand, and we are seeing some significant, in fact, historical increases in property values and homes.

I grew up the son of a contractor. My dad founded the Southwest Home Builder Association in Montana, in fact, and so my summers were spent on construction crews. So I have been watching this for many, many years, since the early 1970s, in fact. But we all remember our economics classes in high school. When demand outpaces supply, prices rise, and right now housing in many parts around our State frankly is not even affordable for most.

As you look at COVID–19 forbearance programs, they have been a lifeline for millions of families. House price appreciation has helped homeowners build equity in their homes these past years. The problem is when somebody decides to sell their house and move somewhere else, the question is: What do you move next to in terms of replacing it, even though you get a big value for what you might sell your current home for.

I am pleased to see the number of people in forbearance totally decrease, but I am worrying about some of these trends we are seeing in the housing market. According, in fact, to the Federal House Finance Agency, home prices rose nearly 11 percent between the fourth quarter of 2019 and 2020 nationwide. So if we look at our price appreciation in Montana, it was 15.5 percent, the second-fastest in the Nation, by the way. And it comes back to, again, this fundamental issue of supply not keeping pace with demand.

Mr. Pinto, are you concerned about this rapid rate of house price appreciation we are seeing in our country?

Mr. PINTO. Absolutely, Senator, and thank you for that question. I have been tracking this for many years. The boon started in the beginning of 2012, and it has continued unabated. But it accelerated tremendously last year starting in May, and now prices are going up, as you indicated, 11 percent year over year. We think when the April data come out for the transactions that end up closing in April, we will be seeing house prices up nationwide about 13 or 14 percent year over year.

This is going to create a tremendous problem in the future. As was mentioned earlier, real estate cycles are cyclical, and we will get back to some level of—return to some sustainable level, and that is going to require some adjustment in prices. It will not be anything, in my opinion, close to what happened in 2007 and 2008 and 2009 and 2010. However, it will hurt when it occurs, and it will hurt low-income and minority buyers the most because, as I mentioned earlier, they have the least ability to withstand these fluctuations in home prices.

Senator DAINES. So, you know, the age-old question— and I want to get your opinion on this—is: How do we best address the issue of housing supply while continuing to responsibly increase home ownership?

Mr. PINTO. I think it comes down to reversing what the Federal Government put in place back in 1921, which is this zoning structure that was specifically designed, believe it or not, to raise house prices, to make them too expensive for minorities and ethnic groups. And that system is still in place in the United States, and what is suggested is if you start building two-unit, three-unit, four-unit structures, some attached structures—I call it "light-touch density"—if you allow some higher density in marketplaces, I personally tried to build a workforce housing development without subsidies in the Southeast, and I ended up with a $100,000 cost all in, but the restrictions that applied in terms of fees and other things per unit is what made it uneconomical, and, therefore, I had to abandon it even though I invested a substantial amount of my own money. I have tried to do this. It is possible to do, but you cannot do it with the local communities putting roadblock after roadblock in the way.

Senator DAINES. Thank you. I have got a question for Mr. DeMarco, and this is really looking more at the rental market, because as we are starting to see home appreciation and the costs going up, of course, it is taking a lot of folks out of the ability to buy a home and look at renting if they might otherwise want to be renting—or buying, I should say. In fact, one of the jokes in my hometown of Bozeman, where I went to kindergarten to college, Bozeman, Montana, it is being called "Boz-Angeles," "Boze-Man Cisco." I mean, we are seeing this huge influx. We are one of the fastest-growing micropolitans in America, the No. 1, in fact, the last few years. And so it is putting a lot of pressure on the market, and it is raising rents as well. In fact, there are places, looking at the rental market there, that it looks more like a D.C. market than a Montana market.

So my question, Mr. DeMarco, is: What market-conscious test might be taken to ease pressure on renters? And how does the limited supply of homes factor in this equation?

Mr. DEMARCO. Well, the first basic is to bring more supply, and Ed Pinto, what he just went through with regard to some of the barriers in building, you know, housing for home ownership also applies with rental. It takes a long time to bring things into market. The market is slow to respond, and all the costs that are involved in trying to do that are really quite something.

So, really, if you want the market to work, we have got to reduce these sort of regulatory barriers that keep new housing supply from coming online.

Senator DAINES. Thank you. I am out of time. Mr. Chairman, thanks for your grace. I will turn it back to you.

Chairman BROWN. Thank you, Senator Daines.

Senator Cortez Masto from Nevada is recognized for 5 minutes.

Senator CORTEZ MASTO. Thank you, Mr. Chairman. Thank you to the Ranking Member. I so appreciate the panelists in this conversation today.

Like everyone else, Nevada has not only an affordable housing crisis, but we have high, high prices in housing happening right now because of the lack of supply.

Let me start with a conversation that I think, Dr. Herbert, you were having with Senator Warner. I know a recent report that I saw from the National Association of Realtors found that Black households are more than twice as likely as white ones to be rejected for mortgage loans.

I also know, Dr. Herbert, in your research you found that, on average, Black homebuyers pay a higher interest rate than that of white homebuyers. In fact, I believe your research finds that high-income Black homeowners pay a higher interest rate than low-income white homeowners.

My first question to you is: As you did your research to gather this data and to make this conclusion, did you rely on the Home Mortgage Disclosure Act data to determine, help you determine these disparities?

Mr. HERBERT. The analysis of interest rates, I believe, was using the American Housing Survey, which provides information on the interest rates that homeowners have. So we did not use HMDA for that, I do not believe, although, Senator, I have to admit that was done by one of my researchers, not myself directly.

If it were done using HMDA, that certainly is a comprehensive data set covering the entire country, and it represents the vast majority of borrowers in the country. So I may have to correct the record, and I will get back to you on that.

Senator CORTEZ MASTO. I appreciate that. So let me ask for the panelists that do their research how many of you rely on HMDA data to make your determinations and your research on the impact to homeowners, particularly homeowners of color. I am curious. Does anybody else rely on HMDA data?

Mr. PINTO. Yes, Senator. This is Edward Pinto. We really, at the Housing Center, tremendously on HMDA data along with much other data that we assemble in conjunction with HMDA data. We created a data base that allows us to analyze housing markets at very fine levels, including using HMDA data.

Senator CORTEZ MASTO. Thank you. That is helpful. So I guess my next question is, you know, we recently passed legislation that actually limited the HMDA data for the vast majority of small banks and credit unions that make between 25 and 100 mortgage loans, limited your ability to conduct research and gather that information. Does that recent change that we made in limiting the data from these institutions, has it impacted your ability to conduct research and make a determination whether there is redlining or discrimination happening?

Mr. PINTO. We just downloaded the preliminary 2020 data, and until we get the final data for 2020, we will not know the exact impact. But the fact of the matter is the housing markets in the United States are highly concentrated among larger lenders, and I think it is a question of paperwork burden versus the data.

There were always some lenders that were not required to submit HMDA data. It adds up to a very small percentage, and I would have to look and get back to you on how the change would affect specifically our research.

Senator CORTEZ MASTO. And that will be helpful. That will inform legislation for me, and so I really look to the practical experience, so whatever you can respond to that, that would be wonderful.

Was somebody else going to respond?

Mr. HERBERT. Senator, yes. This is Chris Herbert. I was just going to add, while it is the case that large lenders cover the vast majority of the country, we have had several Senators representing rural States asking about conditions in their States, and I think it is really important to have information from small lenders in particular which will be located in smaller communities. And so if we want to have a complete picture of lending in this country, which I think we do, then having data that covers all lenders is important. As Mr. Pinto mentioned, there is an issue around reporting burden, but I think we need to balance that against the fact that HMDA has been enormously consequential in understanding lending patterns, and to lose that insight is a real loss.

Ms. BAILEY. And if I may add, we cannot watch for discrimination that we cannot see. Or fair lending laws are critical for letting us understand what is going on in the marketplace, so it is critical that we have all of the data so we can understand what is going on.

We also need the CFPB to really connect the dots for us. They can actually, in issuing their reports on HMDA, really tell us what is going on with FICO scores and other credit scores, so we need them to act proactively so that we can have that information, so that we can really determine if our fair lending laws are being fully enforced.

Senator CORTEZ MASTO. Thank you. Thank you. That is very helpful.

Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Cortez Masto.

Senator Van Hollen from Maryland is recognized for 5 minutes.

Senator VAN HOLLEN. Thank you, Mr. Chairman and Ranking Member Toomey, and thank you for holding this hearing on these fundamental housing questions.

We have been bouncing around between votes, but I want to thank all the members of the panel for your testimony. Lots of good ideas to a challenging issue, but one where there are some clear ideas for moving forward.

We know that from 1979 to 2018 real hourly wages grew at 6.1 percent for median-wage workers while the median gross rent increased by approximately 37 percent. So, obviously, a big gap in people's capacity to afford rent. There is a big supply piece, and there is also a shortage of affordable housing vouchers.

Ms. Yentel, I want to thank you and the Low Income Housing Coalition for your good work, and I know that Senator Young and

I have been working with you on the legislation that we introduced, the Family Stability and Opportunity Vouchers Act, which would create another 500,000 housing vouchers and focusing on families with young children and moving to areas of opportunity with wrap-around services. Can you just speak to how you think this could help meet the challenge?

Ms. YENTEL. Yes, thank you, Senator Van Hollen, for the question, and thank you for your work and your leadership on this bipartisan legislation, which is so important and we strongly support.

Housing choice vouchers are a proven solution to ending homelessness and ending housing poverty and must be expanded? We need to work toward universal housing vouchers for all those in need, and creating 500,000 new mobility vouchers would be a tremendous step forward. These vouchers are targeted to pregnant women and moms of kids that are younger than 6 years old for whom the long-term consequences of living in deep segregated poverty and in unaffordable housing are very clear in the research.

So it is very important. This legislation, if it were enacted, could largely eliminate homelessness among families with young kids, and it could sustainably reduce the number of children that are growing up in concentrated poverty. So we strongly support it and believe Congress should enact it soon.

Senator VAN HOLLEN. Well, I appreciate that. I hope we can work with the Committee to get that done.

You also in your testimony mentioned the emergency rental assistance that we provided during this COVID pandemic with the hopes of making something permanent. And I want to thank the Chairman, Senator Brown, for all his efforts. Our Committee worked to provide that $25 billion rental assistance fund, first in the December bill and then in the more recent American Rescue Plan. But we know—and Matthew Desmond and others have written on this—that sometimes just a one-time missing payment of $300 or $500 on the rent can make the difference between whether a family stays in their home or is put out on the street through eviction.

So if we are working hard to prevent evictions now, doesn't it make sense to try to identify a way to create a sort of permanent rental assistance insurance fund so families are not tossed out on the street simply because they cannot make a payment on a one-time basis? I do not know if it is a revolving fund. Can you just elaborate on that idea?

Ms. YENTEL. Yeah, one, I would underscore and agree with the importance of having some type of emergency rental assistance permanently available for low-income families who generally can make ends meet but have a financial shock or a financial crisis that threatens to drive them deeper into poverty, which is what results from a single eviction filing. So, yeah, and it is much more cost-effective in the long term to pay a small amount relatively always to keep people housed than to pay for the long-term effects that come from eviction for those families, for communities, and for our country.

So a rental insurance program is an innovative, interesting way to move forward. Another way is through the bipartisan legislation that you are an original cosponsor of, the Eviction Crisis Act, and to take that national emergency assistance fund that was envisioned pre-pandemic as a pilot—I would say the last year has been our pilot of learning how emergency rental assistance programs work. And we should move forward with making that program permanent.

Senator VAN HOLLEN. Well, thank you. With the Chairman's indulgence, if I could just get a short answer from the other panelists as to whether or not this is an idea worth exploring in your view.

Mr. HERBERT. I will voice my support. I think we could spend a little money up front and keep people housed, avoid the cost to them and for society in terms of trying to get them re-housed. HUD had the Family Options Study a few years ago to look at the cost of, you know, people who had to go into the system, the shelters and the like, and it is much more expensive. So money that would keep people housed is both good for them and good for society.

Ms. BAILEY. I would agree. We know that about a million and a half people have really transitioned into rental from home ownership, so I would totally agree.

Mr. DEMARCO. It is certainly an idea worth a lot of exploration because it could really help.

Senator VAN HOLLEN. I appreciate it. Thanks.

Chairman BROWN. Anybody else?

Mr. PINTO. Just to say that, as with any program, the devil is in the details. I listed some things, acts that Congress passed on multi-family and community development, all of which were going to do great things, and here we are with these discussions.

I would point you, Senator, to the State of Massachusetts, which has a data program on home ownership where they have an unemployment component built in by the Massachusetts Housing Finance Agency, built into the mortgage insurance that the State provides. But it has a lot of provisions in it to make sure it does not get abused and it actually does what it is supposed to do. But that is something on the mortgage side that might be a good example on the rental side.

Senator VAN HOLLEN. I appreciate that. I thank all of you for your testimony.

Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Van Hollen.

I will yield myself 5 minutes. I have not yet asked questions. I put myself last today, so I will start with Ms. Yentel. Thank you. This has been a fascinating hearing, and I really appreciate the patience of all five of you and other committees members, all the back and forth.

Ms. Yentel, it is clear we do not have nearly enough homes that people can afford, particularly people that corporations pay small wages to. We need to create more homes people can afford. We also need to ensure that we do not fall further behind by failing to maintain the homes we have.

Ms. Yentel, what do we need to do to preserve our existing affordable housing so that it can still provide a safe home for the lowest-income families?

Ms. YENTEL. Thank you for the question, Chairman Brown. Yes, there is a tremendous need not only to build more housing and expand Section 8 vouchers, but to preserve the affordable housing that we have in our country now. Public housing in particular needs an infusion of funds to repair and preserve these units that are home to over 2.5 million low-income people and predominantly people of color. Because of decades of disinvestment by the Federal Government, many of these affordable homes are in severe disrepair. There is an estimated need for $70 billion in public housing capital repairs, and project-based rental assistance, too, needs to be adequately funded for affordable housing preservation.

Without adequate and timely appropriations to renew project-based rental assistance contracts, some of these rental homes could be lost to the affordable housing stock. And as I mentioned earlier, we need sufficient funds to preserve the affordable housing that is supported through USDA's Section 515 loan program. These are rural tenants with extremely low incomes, and they live in communities where there is very little, if any, replacement housing stock. So preservation is really critical there.

Chairman BROWN. Thank you, Ms. Yentel.

Ms. Bailey, my hometown of Cleveland, there were a lot of homes, and older cities like that, a lot of homes that look affordable. They are listed for $50,000, $60,000, $70,000, yet low-income families cannot seem to find lenders to make the loans. Sometimes we see these lower-cost properties snapped up by investors paying cash.

What do we do to help more families get affordable, smaller mortgages in neighborhoods like that?

Ms. BAILEY. Absolutely. Thank you for the question. One of the ways to really encourage some of our larger lenders to actually make these loans—many of them are not making the loans on the front end, but their investment arms are actually benefiting from supporting the lenders who are. And then the next thing that we need to do is really make sure that there is just this affordable credit. When we look at cities like Detroit, we know that the only option that many of those people there have is kind of this exploitative notion around what credit access is. So we need to make sure we are funding these mortgages because they are critical for home ownership for low-wealth families all across the country, including your home State.

Chairman BROWN. Thanks, Ms. Bailey.

Dr. Herbert, I voted to confirm Secretary Carson 4 years ago because of his interest in and knowledge of the impact that lead-based paint has on children's brain development. What do we do? What do we do about that?

Mr. HERBERT. Thank you, Senator, for the question. You know, I think we often overlook the quality of the current housing stock as an important determinant of health. We often focus on affordability as the No. 1 problem we face in this country, but particularly in low-income communities and communities of people of color, older homes offer a number of hazards. Lead is one; asbestos, radon, allergens. And so we really do need to take a concerted effort to invest in these homes to be able to make them healthy and make them good places to live.

In your question to Ms. Bailey, the homes in Cleveland that cost so little are opportunities for home ownership, but they do need to also be coupled with support for financing to upgrade those homes and make sure they are healthy, safe, and sanitary.

Chairman BROWN. Thank you. My last question, and just a comment first. This is the first hearing this Committee has held, as I said in my opening statement, in nearly a decade on the full picture of the housing market. It seemed like leaders in Washington do not want to talk about housing when it affects people's lives. They only want to talk about it in sort of grand terms of how it affects Wall Street. So this discussion is long overdue because housing is about people's lives.

We know if people do not have affordable homes, it is almost impossible for them to join the middle class, to build wealth across generations, and pass some of that wealth on to their children. And we know when a family is thrown out of a home they love, it just upends their whole lives, and it is hard for them to recover.

So my last question for both Ms. Bailey and Ms. Yentel. Just paint a picture for us. When somebody gets evicted or foreclosed on, what happens to them?

Ms. BAILEY. Thank you. One of the things that we know is that people get pushed out of communities. We have had many Hurricane Katrinas all over the United States as a result of the last foreclosure crisis. We have seen family members get displaced from the very communities that they have had long foundations in. And if I could just revert back really quickly to your last question, I think small-dollar-balance mortgages are really a way for lenders to use the Equal Credit Opportunity Act's special purpose credit programs. They actually allow lenders to tailor solutions for the communities that they are underserving. So in those various communities across the country, lenders can proactively seek out solutions to really provide mortgages to the consumers that they are underserving, and it is really critical that we do so, because at this time we have many lenders talking about the social unrest that happened all over the Nation, and so much of that social unrest is rooted in housing. And many of them have made really bold pledges around solutions that they want to really invest, so these tools that the special purpose credit provisions provide really give them the ability to get at those solutions that they have talked about.

Chairman BROWN. Thank you.

Ms. Yentel.

Ms. YENTEL. So evictions risk lives. They drive families deeper into poverty. During a pandemic evictions further burden overstretched hospital systems. They make it much more difficult for the country to contain the virus. Evictions have been shown to increase the spread of and potentially deaths from COVID–19. And at any time, evictions are profoundly traumatizing and destabilizing. They lead to poor health, especially for children and moms who can report depressive episodes related to their eviction many years later. Evictions harm mental health with documented increases of depression and anxiety and suicide. And they harm physical health, from high blood pressure to other poor health outcomes. And evictions, even a single eviction filing, create a spiraling down into poverty that can be very difficult for a family to climb back out of. Evictions are expensive. Families have to pay to reclaim their belongings, another bill that they cannot afford. And having that eviction filing on their record makes it harder for them to find landlords who will rent to them, which leads them to live in housing that is in poorer condition or is in neighborhoods with lower-performing schools and less access to jobs or transportation.

So evictions truly can harm all aspects of a person's and a family's lives, and they certainly harm communities and the long-term financial health of the country, because evictions are expensive to the Federal Government as well.

Chairman BROWN. Thank you, Ms. Yentel. I never thought of that, about having to pay to get your belongings back, out of storage or wherever they are.

Thank you all. All five of you gave us good insight. Thank you for that. I know that Ranking Member Toomey appreciates the questions offered by members on both sides. As the hearing's title states, "Home = Life." It is fundamental to the work of the Banking, Housing, and Urban Affairs Committee. This hearing is the start of a long overdue conversation about our Nation's housing supply, and I appreciate Ranking Member Toomey's cooperation, and everybody on this Committee.

For Senators who wish to submit questions, those questions are due 1 week from today, Tuesday, March 23rd. To the witnesses, you have 45 days to respond to any questions. Thank you for that.

With that, the hearing is adjourned. Thank you all.

[Whereupon, at 4:03 p.m., the hearing was adjourned.]

[Prepared statements, responses to written questions, and additional material supplied for the record follow:]

PREPARED STATEMENT OF CHAIRMAN SHERROD BROWN

The title of today's hearing—Home=Life—comes from Matthew Desmond, the author of the book "Evicted".

He scribbled that in the front cover of my copy of the book. And it tells you really all you need to know about housing.

Where you live determines where your kids go to school, how far you have to go to get to work, and what kinds of jobs you can get. It determines where you do your grocery shopping, and whether your kids are exposed to hazardous lead or mold.

And we saw over the past year that our housing certainly affects our health.

That's only going to be even more true in an era of a changing climate. The location and quality of our housing can determine how resilient or vulnerable we are to natural disasters.

And that is why this hearing is long overdue. For the past 6 years, we've had hearings on the GSEs and the effects of housing on Wall Street, but ignored how our entire housing system is working for homeowners looking to buy a lower cost home, seniors on a fixed income, and renters working a minimum wage job.

We'll have lots of discussions about the GSEs and their role in our housing finance system. I've put forward a set of principles on the role the GSEs should plan in our housing market. But that's not what today's hearing is about.

It's been nearly nine years since this Committee held a hearing on the state of all housing in America—and that's what we're here to discuss today.

When we held that hearing in 2012, we were still trying to clean up the mess Wall Street and predatory lenders had made.

We might expect things to get better as we moved out of that recession. As Wall Street reminds us daily, the stock market is up, and interest rates have been near record lows.

And for many Americans, things have gotten better. Home prices have increased, giving many homeowners a valuable asset and the ability to finance home repairs and send their kids to college.

But this doesn't tell the whole story.

People's paychecks have not kept up with the cost of living—particularly the cost of rent.

The typical nursing assistant or janitor or retail worker—the very people we've called essential during this pandemic—isn't paid enough to afford a two-bedroom apartment anywhere in the country.

Even before the pandemic, nearly 11 million renters—that's one-in-four renters—were paying more than half their income for housing.

For more than half of Black and Latino renters, there is little left over each month for food and medication, let alone saving for a rainy day.

When a hard day's work doesn't even pay your bills, saving for a down payment just isn't a reality.

And it's not just renters.

Today, more than one-in-five homeowners are still paying more than one-third of their income for housing. The number of lower income homeowners has continued to shrink. And most concerning of all, perhaps—the Black home ownership rate is as low as it was when housing discrimination was legal.

Former HUD Secretary Romney—the father of our colleague, Senator Mitt Romney—tried to fully implement the Fair Housing Act when it first passed to combat systemic discrimination in our housing markets.

But he was sidelined by the Nixon Administration and its Southern strategy, and the law has never been fully enforced, making it harder to ensure equal access to housing.

And while we're the wealthiest country in the world, we have more than half a million people—including more than 100,000 children—without a place to stay on a given night.

And behind every one of these numbers is a family with a story.

Last year, before the pandemic began, I asked Ohioans to tell me their housing stories.

Stories flooded in. I heard from seniors who just weren't sure how they could stay in their home on a fixed income.

I heard from people in their 40s and 50s who, in their entire adult life, had never been paid enough to make rent without working multiple jobs.

I heard from parents who would love to own a home for their children, but knew they would never be able to beat out an investor looking to buy the same property for cash.

This is what families were facing a year ago. The pandemic only made it worse.

An estimated 10 million renters were behind on rent at the beginning of January. If they were paying more than half their income on rent before the pandemic started, it's tough to see how they could ever hope to catch up.

As some homeowners are bombarded with ads to refinance at the lowest rates on record, the homeowners who need help the most don't have those same opportunities.

Meanwhile, millions of homeowners are behind on their payments or facing foreclosure. Homeowners of color are more likely to have fallen behind because of the pandemic.

The American Rescue Plan will help. It will get shots in arms to get the virus under control and speed additional help to renters, homeowners, and people experiencing homelessness

But the Rescue Plan was just that—a rescue, to mobilize all our resources to get us through an emergency. Returning to the same broken system, where hard work wasn't paying off for too many workers, isn't good enough.

We have an opportunity on this Committee to make people's lives better through better housing policy—to expand access to affordable rentals, to make it easier to purchase a home, and to put trades people to work building housing and making it safer and more resilient.

Fundamentally, we all pretty much want the same thing—a place that's safe, in a community we care about, where we can get to work and our kids have a good school, with room for our family—whether that's three kids, or an aging parent, or a beloved pet.

You should get to define what home looks like for you. And you should be able to find it and afford it without crippling stress every single month. That is our charge on this committee—to make it so for everyone.

Thank you.

PREPARED STATEMENT OF CHRISTOPHER HERBERT

MANAGING DIRECTOR, HARVARD JOINT CENTER FOR HOUSING STUDIES

MARCH 16, 2021

Chairman Brown, Ranking Member Toomey, Members of the Committee: Thank you for inviting me to testify at this hearing.

I am the Managing Director of the Joint Center for Housing Studies of Harvard University and a Lecturer in the Department of Urban Planning and Design at Harvard's Graduate School of Design. I am also a member of the Board of Directors of Freddie Mac. Through its research, education, and public outreach programs, the Joint Center for Housing Studies' mission is to advance understanding of housing issues and to help leaders in government, business, and the civic sectors make decisions that effectively address the needs of cities and communities. For more than three decades we have published the annual report The State of the Nation's Housing and I am very pleased to have the opportunity to share the work of our Center with the Committee today.

Introduction

The tumultuous events of the past year have both illuminated and exacerbated our Nation's many housing challenges. The economic and health impacts of the COVID pandemic have put tens of millions of Americans who were already struggling to pay for their housing at risk of eviction and foreclosure. The national reckoning with our long history of racial injustice has rightly put a spotlight on glaring racial disparities in access to decent, affordable housing in thriving communities. And the devastating impact of climate change on housing security has been evident in a series of damaging hurricanes in the Gulf Coast, in wildfires in the West, and in the recent frigid weather in the South that left thousands without electricity, heat, or water for many days.

At the same time, the pandemic has also highlighted the important role that housing plays as a key driver of the overall economy. Housing expenditures typically account for nearly a sixth of economic activity. But over the last few months, strong activity in the housing market, including strong existing home sales, high levels of new construction, and a thriving remodeling market, have been a bright spot in an otherwise very troubled economy. Thus, public support for the housing sector is not only critical to improving the well-being of families and individuals but also has important benefits for the broader economy.

In my testimony today I'll highlight five key housing challenges we face as a country that in my view call for more concerted public, private and nonprofit efforts to address.

Millions of Renters Face Severely Housing Cost Burdens

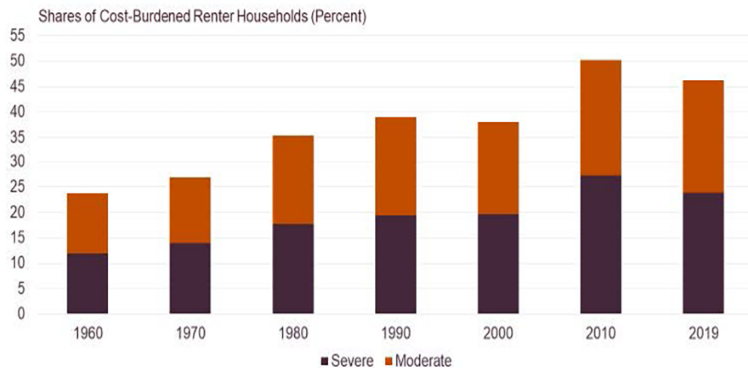
As a rule of thumb, housing is considered unaffordable when a family spends more than 30 percent of its income for shelter. By this metric, the share of renters paying an excessive amount of income on housing, which has been rising steadily for decades, has greatly increased since the start of this century (Figure 1). In 1960 only 24 percent of renters exceeded this affordability standard. But at last count in 2019, the share was almost twice as high at 46 percent. Indeed, this metric is so commonly exceeded that we now also track the share of households with severe housing cost burdens-spending more than 50 percent of income on housing—and this share alone is now 24 percent. Overall, more than 20.4 million renters are housing cost burdened, including nearly 10.5 million who are severely burdened, a number that has remained stubbornly high since peaking in 2014.

While the incidence of renter cost burdens does vary across markets, there are no areas of the country that are immune to this challenge. The issue is most severe in Florida, Hawaii, California, and Nevada where more than half of renters spend over 30 percent of their income for housing. But even in the states with the lowest rates-states in the Upper Midwest and Appalachia-nearly four out of ten renters are cost burdened.[1] Cost burdens are somewhat lower in non-metropolitan areas as housing costs tend to be lower, but again even in these areas 38 percent of renters are cost burdened.

Notably, since the start of the 2000s renter affordability challenges have been moving up the income spectrum. The largest increases in the share cost burdened since 2001 has been among those earning $25,000–$49,999, up 13 percentage points over this period (Figure 2). Still, the problem is most concentrated and severe among lowest-income renters with more than 80 percent of those earning under $25,000 cost burdened, including 62 percent who are severely cost burdened. Indeed, roughly two-thirds of all severely burdened renters are in this lowest-income group.

[1] Joint Center for Housing Studies. "The State of the Nation's Housing 2020". Harvard University, 2020. Available at: *https://www.jchs.harvard.edu/state-nations-housing-2020.*

Figure 1: Rental Housing Affordability Has Been Deteriorating for Decades, But Got Much Worse After 2000



Notes: Moderate (severe) burdens are defined as housing costs of 30-50% (more than 50%) of household income. Households with zero or negative income are assumed to be severely burdened, while renters not paying cash rent are assumed to be unburdened.
Sources: JCHS tabulations of US Census Bureau, Decennial Census and American Community Surveys.

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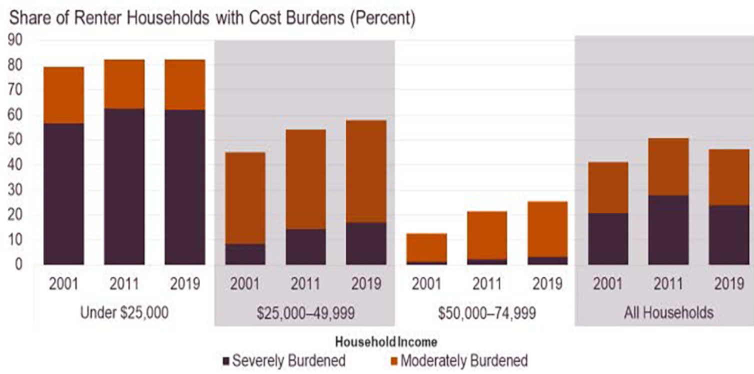
Figure 2: Renter Cost Burden Rates Have Been Moving Up the Income Scale Even as Overall All Rates Fell



Notes: Incomes are adjusted for inflation using the CPI-U for All Items. Moderately (severely) cost-burdened households pay 31–49% (50% or more) of income for housing. Households with zero or negative income are assumed to have severe burdens, while households paying no cash rent are assumed to be without burdens.
Source: JCHS tabulations of US Census Bureau, American Community Survey 1-Year Estimates.

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The consequences of these severe cost burdens are many and significant. Perhaps most importantly, the burdens lead to housing instability as renters are one hardship away from being unable to pay their rent. And since, as Princeton University Sociology Professor Matthew Desmond has noted, "the rent eats first" each month these families and individuals are forced to make difficult tradeoffs, spending far less on food, healthcare, and savings than those who are able to find affordable housing. [2] Desmond's work also highlights the profound impact that a lack of stable, affordable housing has on families, disrupting schooling and undermining the ability to maintain employment.

Conditions for low-income families with children and those headed by older adults are especially troubling. Among households with children under age 18 in the bottom expenditure quartile in the 2018 Consumer Expenditure Survey, those with severe cost burdens spent 93 percent less on healthcare (including insurance premiums and out-of-pocket expenses) and 37 percent less on food than unburdened households. Differences among households in the bottom expenditure quartile headed by those age 65 and over are similarly large. Older adults with severe cost burdens spent 50 percent less on healthcare and food than same-age households without burdens. [3]

The COVID pandemic has greatly exacerbated these existing challenges, as the loss of income during the pandemic has fallen most severely on low-income renters and people of color who were already struggling to pay rent each month. Phase 3 of the Census Bureau's Household Pulse Survey, conducted since November, finds that while 17 percent of all renter households report being behind on their rent, these shares are much higher for those earning under $25,000 (24 percent) and for Black (27 percent) and Hispanic (21 percent) renters (Figure 3).

For these lowest-income households, the private market is simply unable to supply housing that is within their financial reach. Consider that at an annual income of $15,000—what someone earns working full-time at the Federal minimum wage-rents would have to be $375 a month to be affordable under the 30 percent standard. Even at $25,000, rents would have to be $625 a month to be affordable. These levels are well below what a typical home rents for even in the lowest-cost areas of the country. Rental subsidies are needed to fill the gap between what these families can afford and these market rents, but, because such aid is limited, only 29 percent of those earning less than 50 percent of area median income, and therefore eligible for most federal assistance programs, are able to secure this assistance. [4] Given the profound impact that stable, affordable housing has for those able to secure it, there is a compelling need for expanded efforts to provide the rental assistance that millions of households direly need.

Constrictions on the Supply of New Housing Contribute to Affordability Challenges

One important factor behind the deterioration in affordability is that the supply of new housing has barely kept pace with household growth, putting upward pressure on rents and home prices. Since the 1970s the addition of new homes through construction has typically exceeded household growth by about 20 percent, enough to accommodate not only new households but also to replace of older homes and meet the demand for second homes (Figure 4). But for much of the last decade, new construction has barely kept pace with household growth, a streak that is unprecedented. Research from Freddie Mac examining new housing supply relative to growth in demand at the state level finds that 29 states have a housing deficit relative to what would be needed based on historic vacancy levels, totaling 3.3 million units. [5]

[2] Desmond, Matthew. *Evicted: Poverty and Profit in the American City*. Crown, 2016.

[3] Joint Center for Housing Studies of Harvard University. *The State of the Nation's Housing 2020*. Harvard University, 2020. Available at: *https://www.jchs.harvard.edu/state-nations-housing-2020.*

[4] Watson, Nicole Elsasser, Barry L. Steffen, Marge Martin, and David A. Vandenbroucke. *Worst Case Housing Needs: 2019 Report to Congress*. U.S. Department of Housing and Urban Development, June 2019. Available at *https://www.huduser.gov/portal/sites/default/files/pdf/worst-case-housing-needs-2020.pdf.*

[5] Freddie Mac, Economics and Research Group. "The Housing Supply Shortage: State of the States". *Economic and Housing Research Insight*, February 2020. Available at: *http://www.freddiemac.com/fmac-resources/research/pdf/202002-Insight-12.pdf.*

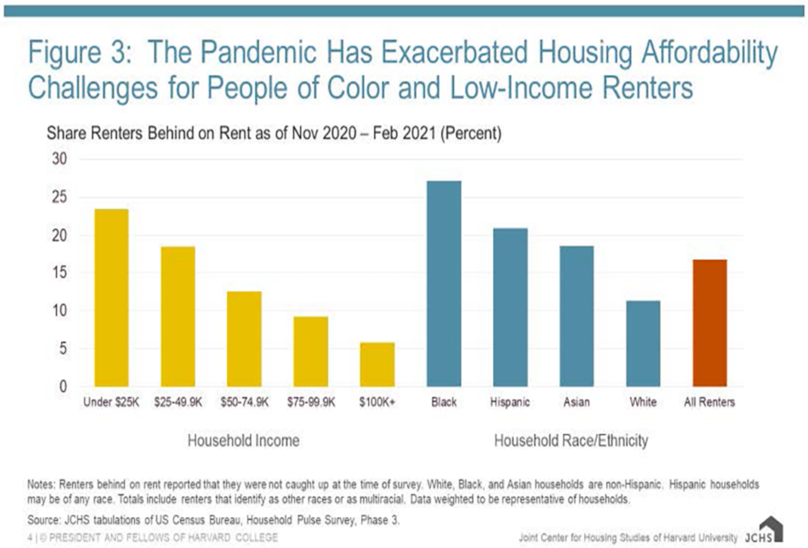
Figure 3: The Pandemic Has Exacerbated Housing Affordability Challenges for People of Color and Low-Income Renters
Share Renters Behind on Rent as of Nov 2020 – Feb 2021 (Percent)
30
25
20
15
10
5
0
Under $25K
$25-49.9K
$50-74.9K
$75-99.9K
$100K+
Black
Hispanic
Asian
White
All Renters
Household Income
Household Race/Ethnicity
Notes: Renters behind on rent reported that they were not caught up at the time of survey. White, Black, and Asian households are non-Hispanic. Hispanic households may be of any race. Totals include renters that identify as other races or as multiracial. Data weighted to be representative of households.
Source: JCHS tabulations of US Census Bureau, Household Pulse Survey, Phase 3.
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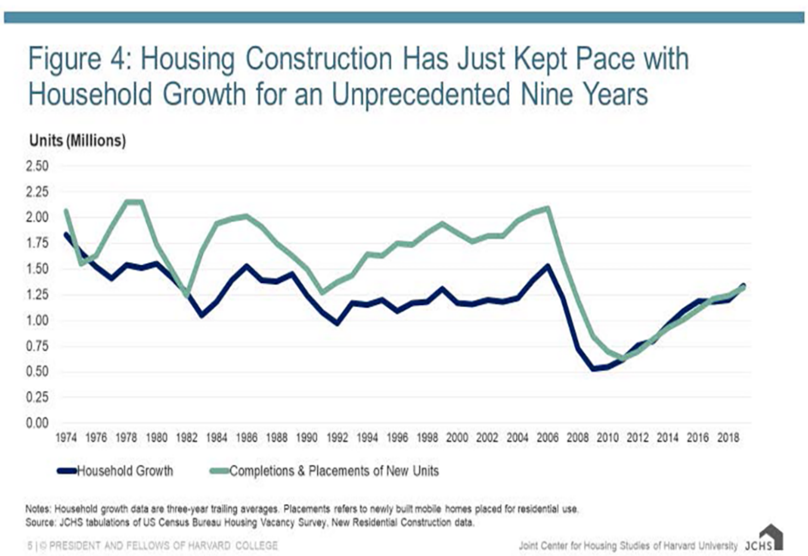
Figure 4: Housing Construction Has Just Kept Pace with Household Growth for an Unprecedented Nine Years
Units (Millions)
2.50
2.25
2.00
1.75
1.50
1.25
1.00
0.75
0.50
0.25
0.00
1974 1976 1978 1980 1982 1984 1986 1988 1990 1992 1994 1996 1998 2000 2002 2004 2006 2008 2010 2012 2014 2016 2018
Household Growth
Completions & Placements of New Units
Notes: Household growth data are three-year trailing averages. Placements refers to newly built mobile homes placed for residential use.
Source: JCHS tabulations of US Census Bureau Housing Vacancy Survey, New Residential Construction data.
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JCHS

Furthermore, much of the shortfall in supply has been among homes of modest size, which, over the last two decades, have declined sharply as a share of all new units. For example, the share of new single-family homes under 1,800 square feet has fallen sharply since the start of the 2000s, down from 37 percent in 1999 to just 21 percent by 2015 (although it has since inched up to 24 percent). Similarly, over the same period, multifamily housing has been increasingly concentrated in large structures, which have higher development costs, while so-called 'middle' housing types have dwindled.[6] In 1999 just over half of new multifamily housing consisted of small buildings with between 2 and 19 units while just 12 percent had 50 or more. By 2019 these shares had been reversed with a majority of new units in high-rise buildings.[7]

A number of factors are behind this trend, but regulatory barriers in the form of restrictive zoning and other land-use regulations that limit opportunities to produce housing at greater density, difficult approval processes, and high impact fees have been important contributors.[8] Of course, regulations also generate benefits in promoting the health and safety of individuals and communities and in promoting more efficient forms of urban development that must be balanced against any costs imposed. In a comprehensive review of the academic literature, Gyourko and Malloy (2014) conclude that regulations are found to reduce construction, raise prices, and promote sprawl, although they note it is difficult to gauge the benefits produced to estimate the net impact of regulation.[9] While specific estimates on prices vary widely, one in-depth review by Glaeser, Gyourko, and Saks (2006) estimates that the magnitude of the regulatory tax in the single-family market ranges from 0 percent in such unrestricted markets as Cincinnati and Houston, to as high as 20 percent in Boston, and 30 percent or more in California.[10]

Given the important contribution of supply-side constraints in producing our affordability challenge, there is a clear need for concerted efforts by the public, private and non-profit sectors to pursue both regulatory reform and more efficient means of production that will increase the supply of modest housing at lower cost. While land use regulation is a responsibility of state and local governments, the Federal Government has the ability to influence these policies through its own policies and funding requirements.

The Challenge of Attaining and Sustaining Home Ownership

While the housing boom and bust dramatically demonstrated the risk entailed in owning a home, there is nonetheless strong evidence that home ownership can provide substantial financial benefits while providing greater stability and control over one's home.[11] The financial benefits of home ownership by itself are quite significant. According to data from the 2019 Survey of Consumer Finance, housing equity continues to wealth, account for a large majority of total wealth for people of color and low-income households, while renters are found to have accumulated only a few thousand dollars (Figure 5). Perhaps not surprisingly given the many benefits of home ownership survey research also finds that young people of all races and ethnicities have a strong desire to eventually own a home, with more than 80 percent indicating they would like to own a home someday.[12]

But home ownership rates today remain well below historical benchmarks. Indeed, rates of homeowning among adults from their late 20s through their early 40s

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[6] Parolek, Daniel G. "Missing Middle Housing: Thinking Big and Building Small To Respond to Today's Housing Crisis". Island Press, 2020.

[7] U.S. Census Bureau, Survey of Construction, available at: *https://www.census.gov/construction/chars/*.

[8] Schuetz, Jenny. "Who's To Blame for High Housing Costs? It's More Complicated Than You Think". The Brookings Institution, January 17, 2020. Available at: *https://www.brookings.edu/research/whos-to-blame-for-high-housing-costs-its-more-complicated-than-you-think/*.

[9] Gyourko, Joseph, and Raven Molloy. "Regulation and Housing Supply". In *Handbook of Regional and Urban Economics, vol. 5, pp. 1289–1337. Elsevier, 2015.*

[10] Glaeser, Edward L., Joseph Gyourko, and Raven E. Saks. "Urban growth and housing supply." Journal of economic geography 6, no. 1 (2006): 71–89.

[11] See: Herbert, Christopher E., Daniel T. McCue, and Rocio Sanchez-Moyano. "Is Home Ownership Still an Eeffective Means of Building Wealth for Low-Income and Minority Households? (Was it ever?)" and Rohe, William M., and Mark Lindblad. "Reexamining the Social Benefits of Home Ownership After the Housing Crisis" both in in Belsky, Eric S., Christopher E. Herbert, and Jennifer H. Molinsky, eds. "Home Ownership Built to Last: Balancing Access, Affordability, and Risk After the Housing Crisis". Brookings Institution Press, 2014.

[12] Drew, Rachel Bogardus, and Christopher E. Herbert. "Post-Recession Drivers of Preferences for Home Ownership". Housing Policy Debate 23, no. 4 (2013): 666-687.

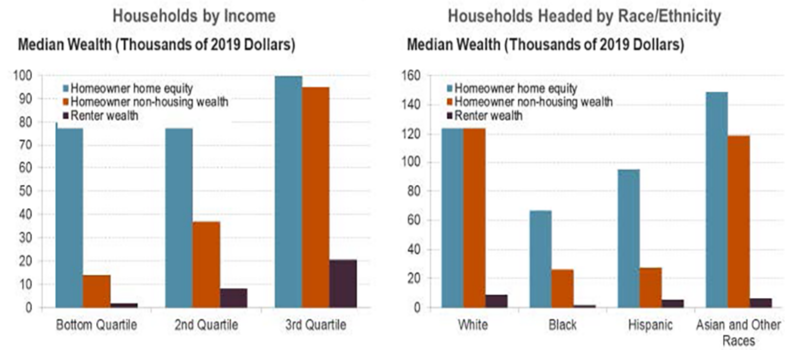
remain 3-5 percentage points below levels from the early 1990s, before the housing boom began.[13]

But even more concerning than the shortfall in homeowning among younger adults are enormous disparities in home ownership opportunities for people of color. As of 2019 home ownership rates for Black households trailed that of non-Hispanic white households by 31 percentage points, while the shortfall among Hispanic households was nearly as large at 26 percentage points (Figure 6). Indeed, the shortfall among Black households is larger today than it was in 1960, before the passage of the Fair Housing Act.[14]

[13] Joint Center for Housing Studies. "The State of the Nation's Housing 2018". Harvard University, 2018. Available at: *https://www.jchs.harvard.edu/state-nations-housing-2018.*

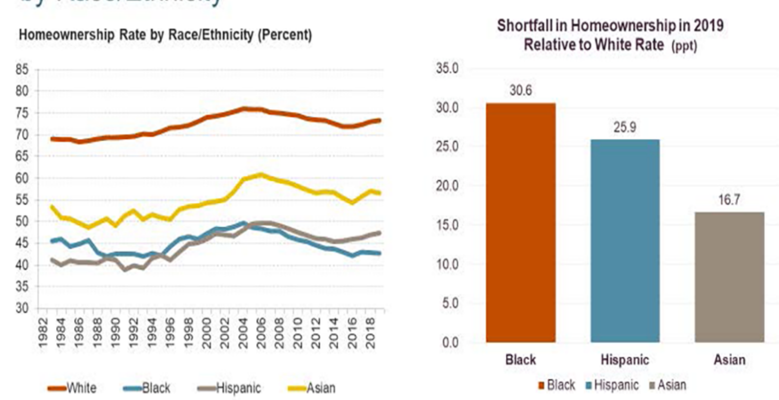
[14] See *https://www.urban.org/policy-centers/housing-finance-policy-center/projects/reducing-racial-home ownership-gap.*

Figure 5: Housing is the Primary Form of Wealth for Low Income Households and People of Color



Note: Medians are calculated separately and therefore do not sum to net wealth.
Source: JCHS tabulations of Federal Reserve, Surveys of Consumer Finances, 2019.

Figure 6: There Are Substantial Gaps in Homeownership Rates by Race/Ethnicity



Source: JCHS tabulations of US Census Bureau, Housing Vacancy Surveys.

There are a range of factors that contribute to these lower home ownership rates.[15] These differences in part reflect racial disparities in economic opportunity that result in lower incomes and weaker credit profiles. But even accounting for these disparities, an analysis by the Urban Institute finds that substantial numbers of young people of color have sufficient income and credit to be "mortgage ready" and could afford a median priced home in their market if they had the ability to make a 10 percent downpayment.[16]

One barrier facing these young would-be owners is a lack of accurate information about the homebuying process, particularly what is required to qualify for a mortgage. Research by Fannie Mae has found that renters overestimate how much savings is needed and how high credit scores need to be, and that people of color are more likely to lack accurate knowledge of the process.[17] Perhaps more important, however, is a lack of savings needed for downpayment and closing costs. Research has consistently found that cash grants have much greater potential for expanding access to home ownership than simply lowering downpayment requirements or interest rates.[18]

Expanding access to home ownership and closing these sizeable disparities by race and ethnicity will require a range of policy supports, including homebuyer education and counseling, access to safe, affordable credit, and financial supports to address the shortfall in needed savings. But as important as these approaches would be, it is equally important to ensure there are also supports to help sustain homeowners through inevitable challenges that arise in life. These supports include both counseling for distressed homeowners as well as financial supports to address changes in life circumstances. Approaches to financing homes that help build equity quickly would also expand the benefits of home ownership and expand the financial cushion available to weather future downturns.

Indeed, the COVID pandemic illustrates the importance of such efforts. As with renters, homeowners of color and low-income households are disproportionately likely to report being behind on their mortgage payments (Figure 7). While 7 percent of non-Hispanic white homeowners currently report being behind on their mortgage, the rates are more than twice as high among Black (17 percent) and Hispanic (16 percent) owners and three times higher among those earning under $25,000. While forbearance offered to government-backed loans is currently in place for 2.7 million homeowners, these mortgage payments are still going to be due eventually. Once forbearance ends, it remains to be seen whether these owners will be in a position not only to make up what they owe but also to resume making payments as large as those made before the pandemic hit.[19] With house prices rising sharply in many areas of the country, failing to retain ownership would represent a significant lost opportunity to both maintain their homes and accrue future wealth.

High Levels of Racial and Economic Segregation

The high degree of residential segregation that exists today is another area of important concern for housing policymakers. Among the many factors contributing to this pattern are discriminatory housing practices, the lack of affordable rental and home ownership options in many communities, and missed opportunities to affirmatively further racial integration. These patterns of segregation by race and ethnicity

[15] Goodman, Laurie, Alanna McCargo, Edward Golding, Bing Bai, Bhargavi Ganesh, and Sarah Strochak. "Barriers To Accessing Home Ownership: Down Payment, Credit, and Affordability". Urban Institute, November,2017. Available at *https://www.urban.org/research/publication/barriers-accessing-home-ownership.*

[16] Goodman, Laurie, Alanna McCargo, Edward Golding, Bing Bai, Bhargavi Ganesh, and Sarah Strochak. "Barriers To Accessing Home Ownership: Down Payment, Credit, and Affordability". Urban Institute, November, *https://www.urban.org/research/publication/barriers-accessing-home-ownership* (2017).

[17] Fannie Mae. "What Do Consumers Know About the Mortgage Qualification Criteria?" Washington, D.C.: Fannie Mae (2015). Available at: *https://www.fanniemae.com/sites/g/files/koqyhd191/files/migrated-files/resources/file/research/housingsurvey/pdf/consumer-study-121015.pdf.*

[18] Wilson, Ellen, and Robert R. Callis. "Who Could Afford To Buy a Home in 2009? Affordability of Buying a Home in the United States". Current Housing Reports. Washington, D.C.: U.S. Census Bureau. May (2013). Available at: *https://www.census.gov/content/dam/Census/library/publications/2013/demo/h121-13-02.pdf.* See also Herbert, Christopher E., Donald R. Haurin, Stuart S. Rosenthal, and Mark Duda. "Home Ownership Gaps Among Low-Income and Minority Households. U.S. Department of Housing and Urban Development, Office of Policy Development and Research, 2005. Available at: *https://www.huduser.gov/portal/publications/HOMEOWN/HGapsAmongLInMBnN.html.*

[19] Blackknight, Mortgage Monitoring Report January 2021. Available at *https://www.blackknightinc.com/black-knights-january-2021-mortgage-monitor/*.

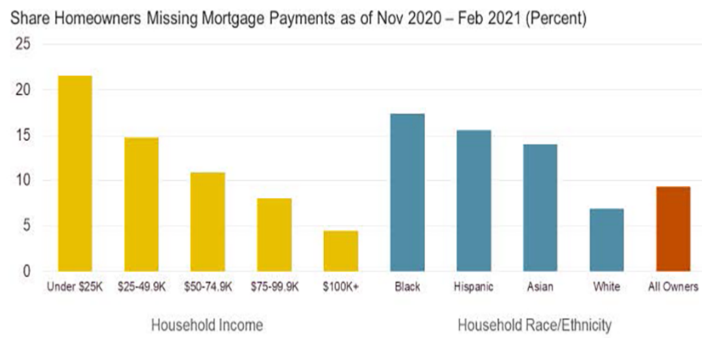
and by income segregation have critically important implications for who gets access to good quality public services, healthy environments and economic opportunities.

Segregation of the Black population is particularly high, although it has declined from extremely high levels in the years following the passage of the Fair Housing Act in 1968.[20] At last count (in the 2010 Census), the average level of segregation across U.S. metropolitan areas indicated that 59 percent of the Black population would have to move to have an even distribution across neighborhoods. However, in large metro areas in the Northeast and Midwest this metric remained near 80 percent, almost as high as levels prevailing decades earlier. People who are Hispanic or Asian are also highly segregated, with average measures indicating that 48 percent of Hispanics and 41 percent of Asians would have to move to achieve an even distribution of these populations across neighborhoods. The level of segregation for these both groups has also not improved over time, with levels close to what they were in 1980.

Meanwhile, segregation by income has actually increased over time. One clear metric of this trend is the share of families living in neighborhoods with median incomes above or below 80 percent or 125 percent of the area median income. In 1970 about two-thirds of families lived in middle-income neighborhoods with the remaining third split between lower-income and higher-income areas (Figure 8). By 2009, the share of households in middle-income neighborhoods had fallen to less than half, with nearly a third each living in lower- and higher-income areas. Clearly, American families have come to reside in areas that include concentrations of either low- or high-income households with a shrinking set of mixed-income communities.

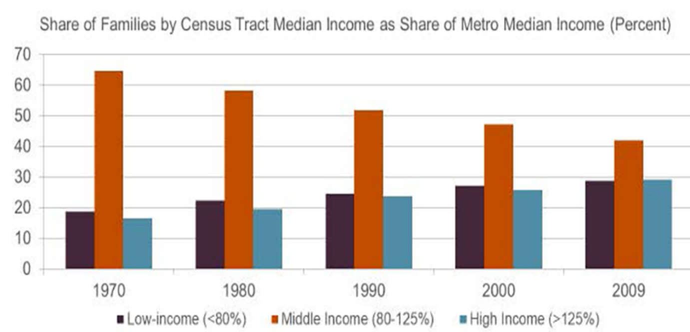
[20] Logan, John R., and Brian J. Stults. "The Persistence of Segregation in the Metropolis: New Findings From the 2010 Census". Census brief prepared for Project US2010 24 (2011). Available at: *https://s4.ad.brown.edu/Projects/Diversity/Data/Report/report2.pdf.*

Figure 7: People of Color and Low-Income Homeowners Have Been Hard Hit by the Pandemic



Notes: Homeowners behind on mortgage payments reported that they were not caught up at the time of survey. White, Black, and Asian households are non-Hispanic. Hispanic households may be of any race. Totals include owners that identify as other races or as multiracial. Data weighted to be representative of households.
Source: JCHS tabulations of US Census Bureau, Household Pulse Survey, Phase 3.

Figure 8: Income Segregation Among Families Has Increased Sharply Over Last Four Decades



Note: Includes 117 largest metro areas in 2007.
Source: Bischoff and Reardon, 2013.

Racial and income segregation intersect for people of color, resulting in very high exposure to concentrated poverty (Figure 9). Nearly two-thirds of the Black, Hispanic, and Native American populations living in poverty reside in communities with poverty rates above 20 percent, about twice the share of the non-Hispanic white population living in poverty. Large shares of relatively affluent households of color also live in these neighborhoods, including 39 percent of both Black and Native American households and 30 percent of Hispanic households.

Racial disparities in housing that result from this segregation are both a cause and a consequence of other social inequalities. Discriminatory practices have limited the opportunities for people of color to live in neighborhoods that offer good-quality schools and public services, while also increasing their exposure to crime and other environmental hazards. The nation's long history of housing and mortgage market discrimination has also prevented generations of Black and Hispanic households from buying homes and accruing wealth. The impact of this systemic inequality is evident in the lower incomes and wealth of today's households of color, a legacy that perpetuates their struggle to obtain decent, affordable housing in safe neighborhoods.

The significant consequences for life chances of growing up in areas of high poverty has been well documented in a series of research projects by Raj Chetty, Nathanial Hendren, and John Friedman.[21] Among the key conclusions of this work are that every year spent during childhood in highly impoverished neighborhoods lowers lifetime earnings. In addition, growing up in these areas also has deleterious effects on incarceration rates, college attendance rates, fertility rates, and marriage patterns. Given these profound impacts, efforts to ameliorate the degree of segregation and the stark differences in neighborhood conditions for people of color needs to be a high priority of US housing policy.

To promote greater opportunities for racial and economic integration, housing policy needs to be crafted to expand the supply of affordable housing options in a broader range of communities, to support efforts to affirmatively further fair housing, and to coordinate investments in housing with improvements in schools, public safety, and economic development to help revitalize disadvantaged communities.

The Need To Adapt Homes To Be More Resilient, Healthy, and Age Friendly

A final significant housing challenge for the country is to adapt the existing housing stock to be more resilient in the face of climate change, to provide healthier living environments, and to meet the needs of a rapidly aging society.

The impact of climate change on the housing stock is most evident in the growing number and severity of natural disasters (Figure 10). According to the National Oceanic and Atmospheric Administration, in 2020 the U.S. experienced 22 distinct billion-dollar disasters, with the cost of damages from these events totaling $95 billion, both of which are record highs for a single year.

[21] For a listing of related research see *https://opportunityinsights.org/neighborhoods/*.

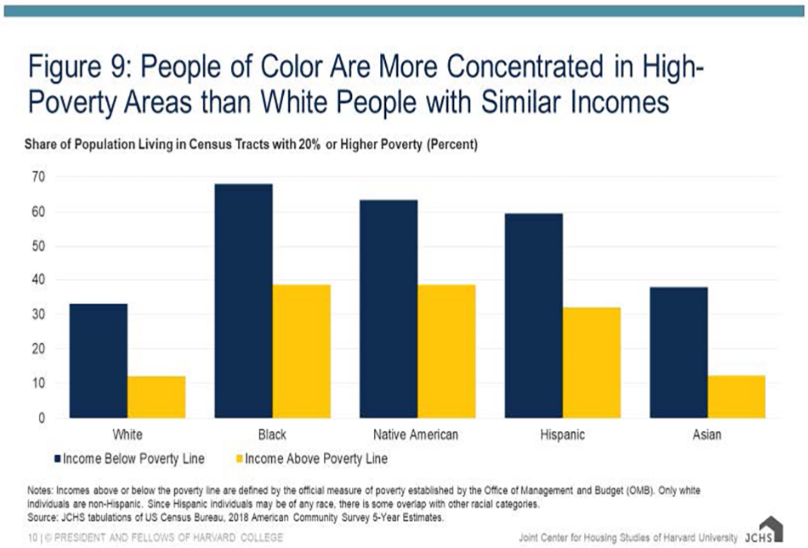


Figure 9: People of Color Are More Concentrated in High-Poverty Areas than White People with Similar Incomes
Share of Population Living in Census Tracts with 20% or Higher Poverty (Percent)
70
60
50
40
30
20
10
0
White
Black
Native American
Hispanic
Asian
Income Below Poverty Line
Income Above Poverty Line
Notes: Incomes above or below the poverty line are defined by the official measure of poverty established by the Office of Management and Budget (OMB). Only white individuals are non-Hispanic. Since Hispanic individuals may be of any race, there is some overlap with other racial categories.
Source: JCHS tabulations of US Census Bureau, 2018 American Community Survey 5-Year Estimates.
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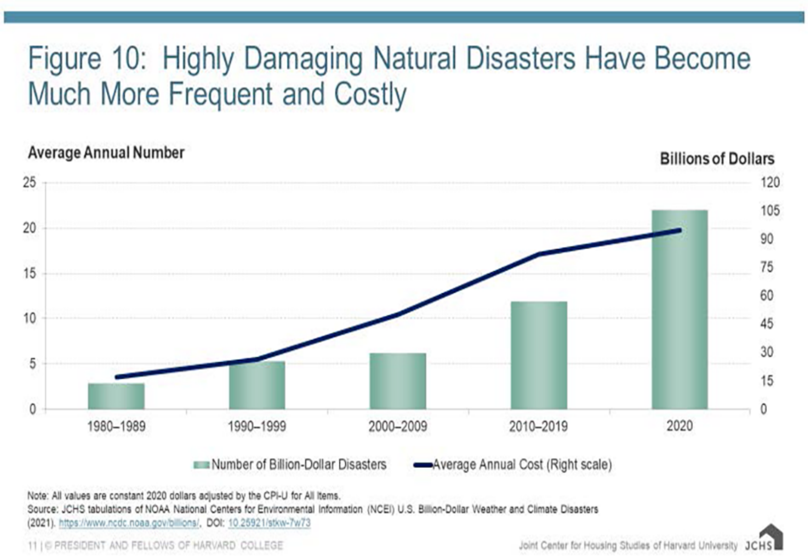
Figure 10: Highly Damaging Natural Disasters Have Become Much More Frequent and Costly
Average Annual Number
Billions of Dollars
25
20
15
10
5
0
120
105
90
75
60
45
30
15
0
1980–1989
1990–1999
2000–2009
2010–2019
2020
Number of Billion-Dollar Disasters
Average Annual Cost (Right scale)
Note: All values are constant 2020 dollars adjusted by the CPI-U for All Items.
Source: JCHS tabulations of NOAA National Centers for Environmental Information (NCEI) U.S. Billion-Dollar Weather and Climate Disasters (2021). https://www.ncdc.noaa.gov/billions/, DOI: 10.25921/stkw-7w73
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Disasters of this scale require massive recovery efforts, but such efforts often overlook the Nation's most vulnerable households, particularly renters. For example, a National Low Income Housing Coalition analysis of Superstorm Sandy's impact in three New Jersey counties found that there were large losses of low-cost rental units in two of the three counties and that many renters received no disaster assistance at all.[22] A 2010 Government Accountability Office report also showed that only 18 percent of damaged rental units received federal assistance after Hurricanes Katrina and Rita, compared with 62 percent of damaged homeowner units.[23]

Climate change has also added to the number of low-income households facing energy insecurity. When the pandemic forced families to spend more time at home, residential utility use went up-sometimes significantly. This was especially true during the record summer heat last year, when the need for air-conditioning was extreme. For lower-income households, this forced a tradeoff between paying higher utility bills or suffering the health risks of excessive heat.

Even before the pandemic, communities of color were especially at risk of energy insecurity. According to the most recent Residential Energy Consumption Survey, 54 percent of American Indian or Alaska Native, 52 percent of Black, and 45 percent of Hispanic households experienced some form of energy insecurity in 2015-about twice the 25 percent share of non-Hispanic white households.[24] More recent studies have also found that formerly-redlined neighborhoods in US cities experienced more extreme heat events than surrounding areas.

Low-income households and people of color are also much more likely to be exposed to unhealthy environments in the home due to living in older, poorly-maintained buildings that expose residents to hazards such as carbon monoxide, radon, lead, asbestos, and allergens.[25] Indeed, estimates by the American Public Health Association and the National Center for Healthy Housing find that in 2014 about a quarter of asthma cases were linked to the home environment, 21,000 lung cancer deaths were linked to radon in homes, and 24 million homes had lead-based paint hazards.[26]

Lastly, over the next two decades the number of adults in the US age 75 and older is expected to double from 14 to 28 million, which means older adults will account for one out of every five households.[27] At this stage of life the incidence of physical limitations on mobility begin to rise sharply, requiring accommodations in the home to allow individuals to age safely in their homes and communities. These accommodations include no-step entries, single-floor living, extra-wide doorways and halls, accessible electrical controls and switches, and lever-style door and faucet handles. However, the 2011 American Housing Survey reports that just 1 percent of US housing units have all five of these universal design features. And while nearly 90 percent of existing homes have at least one of these five features, only 57 percent have more than one.[28]

This multitude of deficiencies in the millions of units comprising the existing stock of housing point to the need for policies to support investments to make homes more resilient, healthy, and age-friendly, particular for renters and homeowners of modest means.

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[22] National Low-Income Housing Coalition. 2019. "Long-Term Recovery of Rental Housing: A Case Study of Highly Impacted Communities in New Jersey After Superstorm Sandy". National Low-Income Housing Coalition. December 2019. *https://nlihc.org/sites/default/files/Sandy-Rental-Recovery-Report.pdf.*

[23] Government Accountability Office. 2010. "Federal Assistance for Permanent Housing Primarily Benefited Homeowners; Opportunities Exist To Better Target Rental Housing Needs". GAO-10-17. *https://www.gao.gov/assets/310/300098.pdf.*

[24] Joint Center for Housing Studies. The State of the Nation's Housing 2020. Harvard University, 2020. Available at: *https://www.jchs.harvard.edu/state-nations-housing-2020.*

[25] For a review of literature on these hazards and risks faced by low-income households see *https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/quality-of-housing.*

[26] As reported in Bailey, Peggy. Housing and Health Partners Can Work Together to Close the Housing Affordability Gap. Center on Budget and Policy Priorities, 2020. Available at *https://www.cbpp.org/research/housing/housing-and-health-partners-can-work-together-to-close-the-housing-affordability.*

[27] Joint Center for Housing Studies. Housing America's Older Adults 2019. Harvard University, 2019. Available at *https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard-JCHS-Housing-Americas-Older-Adults-2019.pdf.*

[28] Joint Center for Housing Studies. Housing America's Older Adults 2014. Harvard University, 2014. Available at *https://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/jchs-housing-americas-older-adults-2014.pdf.*

Concluding Remarks

I realize that I have outlined a broad set of housing challenges that are perhaps daunting in their scope and scale. But as the title of this hearing indicates, having a good quality, affordable and secure home in aa thriving community is foundational for a healthy and productive life for every person in America. Addressing our country's housing challenges will take a substantial commitment from the public, private and nonprofit sectors. But this investment would pay dividends in improved quality of life for those who are unaffordably and inadequately housed. And it would pay dividends to society as well, in a more productive workforce, lower public spending for healthcare and other supports, and would enhance economic activity in the important housing sector.

Thank you for turning your attention to these critical issues and for your invitation to share this information with you today. I look forward to answering any questions you may have.

PREPARED STATEMENT OF DIANE YENTEL

PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL LOW INCOME HOUSING COALITION

MARCH 16, 2021

Testimony of Diane Yentel
President and CEO of the National Low Income Housing Coalition
Before the Senate Committee on Banking, Housing, and Urban Affairs
"Home = Life: State of Housing in America"
March 16, 2021

Chairman Brown, Ranking Member Toomey, and members of the Committee, thank you for the opportunity to testify before this committee on the state of housing in America.

The National Low Income Housing Coalition (NLIHC) is solely dedicated to ensuring the lowest-income and most marginalized people in our country have safe, accessible, and affordable homes. NLIHC's members include residents of public and assisted housing, people experiencing homelessness and other low-income people in need of affordable homes, housing providers, homeless services providers, fair housing organizations, state and local housing coalitions, public housing agencies, faith-based organizations, and concerned citizens. While our members include the spectrum of housing interests, we do not represent any segment of the housing field. Rather, NLIHC works on behalf of and with low-income people who receive or are in need of federal housing assistance, especially extremely low-income people and people who are homeless.

The COVID-19 pandemic and economic collapse of 2020 devastated millions of families; people with low incomes and people of color have been disproportionately impacted. As of early March 2021, more than 515,000 people have died from COVID-19, and the death toll will continue to climb.[1] Decades of structural racism in health, housing and other systems leave Black, Indigenous and People of Color (BIPOC) disproportionately likely to contract the virus, be hospitalized, and die during the pandemic.[2]

Racial disparities in housing contribute to these inequitable health outcomes. Black people, Native Americans, and Latinos are disproportionately likely to be renters, extremely low-income, and rent-burdened and to experience homelessness, and people of color in homes are more likely to live in overcrowded housing.[3,4,5] People experiencing homelessness, overcrowding, or housing instability are at greater risk of COVID-19 because transmission of the virus is more likely in congregate shelters and crowded homes, where people are unable to maintain safe social distancing.[6,7]

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[1] The COVID Tracking Project. 2021. Retrieved from: https://covidtracking.com/data
[2] Centers for Disease Control and Prevention (CDC). 2020. COVID-19 hospitalization and deaths by race/ethnicity. Updated March 12, 2021. Retrieved from: https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html
[3] National Alliance to End Homelessness. 2020. "Racial Inequities in Homelessness, by the Numbers." Retrieved from: https://endhomelessness.org/resource/racial-inequalities-homelessness-numbers/
[4] US Census Bureau. 2020. 2019 American Community Survey, 1-yr [data file]. Retrieved from: https://www.census.gov/programs-surveys/acs
[5] National Low Income Housing Coalition. 2021. *The Gap: A Shortage of Affordable Homes*. Washington, DC: Author. See: https://nlihc.org/gap
[6] Nande, A., et al. (2020). "The effect of eviction moratoria on the transmission of SARS-CoV-2." Working paper. Retrieved from: https://www.medrxiv.org/content/10.1101/2020.10.27.20220897v2
[7] Chapman, L. A. C., et al. (2020). Comparison of infection control strategies to reduce COVID-19 outbreaks in homeless shelters in the United States: A simulation study. MedRxiv working paper. Retrieved from: https://www.medrxiv.org/content/10.1101/2020.09.28.20203166v3

The pandemic makes clear that affordable homes are necessary for individual and public health, but renters have struggled to remain safely and stably housed throughout the pandemic. This housing instability is due in large part to the severe shortage of affordable and available homes for people with the lowest incomes even before the pandemic began. Many low-income renters struggled to pay rent before the COVID-19 crisis, and they are now in an even more perilous position due to loss of jobs and increased expenses from the pandemic.

NLIHC's annual report, *The Gap: A Shortage of Affordable Rental Homes*, documents the severe shortage of decent, accessible, and affordable homes for extremely low-income people. The annual report provides estimates of affordable housing needs for each state, the District of Columbia, and the largest metropolitan areas in the U.S. This research demonstrates the housing instability that existed before the pandemic and that contributed to the tremendous needs during the pandemic.

Pre-pandemic, there was a shortage of nearly seven million affordable and available rental homes for America's lowest-income renters earning less than the federal poverty rate or 30% of their area median income (AMI). For every 10 of the lowest-income renters, there are fewer than four homes affordable and available to them. Without affordable options, nearly ten million very low-income households were severely housing cost-burdened pre-pandemic, spending more than half of their incomes on rent and utilities.

Paying over half of their limited incomes to keep a roof over their heads, these ten million renter households were one financial shock away from missing rent and facing eviction and, in worst cases, homelessness. The coronavirus and its economic fallout was that financial shock. Low-income renters lost jobs and wages and struggled more than ever to make ends meet.

A patchwork of federal, state, and local resources and protections, including a federal eviction moratorium implemented in September 2020 by the Centers for Disease Control (CDC), kept many renters stably housed during the pandemic – but millions of families struggled to pay the rent. The latest estimates indicate that at least 9 million renter households[8] owe up to $57 billion in rent and utility arrears[9] and remain at high-risk of losing their homes during the pandemic.

In response to the pandemic-related housing needs, Congress extended the CDC eviction moratorium through January 2021 (and President Biden further extended it through March) and provided a total of $47 billion for emergency rental assistance to assist low-income renters address rent and utility arrears. Congress also provided $5 billion for emergency housing vouchers, $5 billion in homelessness assistance, $5 billion for utility payments, and $9.96 billion for struggling homeowners.

These critically needed resources will go a long way to help renters remain in their homes and to keep people experiencing homelessness safe, healthy, and housed during COVID-19. Policymakers must now ensure these funds are quickly and equitably distributed to households

[8] Consumer Financial Protection Bureau. 2021. "Housing Insecurity and the COVID-19 Pandemic." Retrieved from: https://www.consumerfinance.gov/data-research/research-reports/housing-insecurity-and-the-covid-19-pandemic/
[9] Zandi, M., Parrott, J. (2021). "Averting an Eviction Crisis." Retrieved from: https://www.urban.org/research/publication/averting-eviction-crisis

with the greatest needs.[10] The Biden administration must also take immediate action to defend, extend, strengthen, and enforce the federal eviction moratorium, as nearly 2,300 organizations throughout the country are urging him to do, to keep renters in their homes while this historic allocation of emergency rental assistance is distributed.[11]

As the nation recovers from the pandemic, Congress must turn its attention to increasing investments in long-term solutions that address the underlying, structural reasons for our nation's housing crisis, and to advancing the policy and programmatic changes needed to ensure housing programs work for Black, Indigenous and People of Color. These solutions include:

1. Expanding rental assistance to make it universally available to all eligible households in need and improving the program to ensure it meets the needs of the lowest income and most marginalized people;

2. Increasing the supply of housing affordable to people with the lowest incomes through the preservation and construction of public housing and a major expansion of the national Housing Trust Fund;

3. Creating a permanent emergency rental assistance program to keep families stabilized during a crisis, whether that crisis be another pandemic, a natural disaster, or other financial crises; and

4. Lessening ongoing evictions and their long-term harm with robust renter protections.

In my testimony today, I will discuss the housing needs of the lowest-income people, the impact of the coronavirus pandemic, and opportunities for Congress to invest in long-term solutions.

Urgent Housing Needs During the Pandemic

The COVID-19 economic recession and its resulting job and wage losses magnified and accelerated the existing housing crisis. While the national unemployment rate peaked in April 2020 at 14.8%, some industries reached unemployment rates of almost 40%.[12] More than 20 million renters live in households that have suffered COVID-19-related job loss.[13] While the overall unemployment rate fell to 6.7% by the end of 2020, the Black and Latino unemployment rates were still considerably higher – 9.9% and 9.3%, respectively – and a Federal Reserve

[10] National Low Income Housing Coalition. 2021. Letter to US Department of Treasury. Retrieved from: https://nlihc.org/sites/default/files/NLIHC-Letter-on-FAQ_03052021.pdf
[11] National Low Income Housing Coalition. Letter on Extending CDC's Eviction Moratorium. Retrieved from: https://nlihc.org/sites/default/files/Recommended-Eviction-Moratorium-Letter-FINAL.pdf
[12] Congressional Research Service, 2021. *Unemployment Rates During the COVID-19 Pandemic: In Brief*. Retrieved from: https://fas.org/sgp/crs/misc/R46554.pdf
[13] Aspen Institute. 2020. "20 million renters are at risk of eviction." Retrieved at https://www.aspeninstitute.org/blog-posts/20-million-renters-are-at-risk-of-eviction/

analysis finds the unemployment rate for workers in the bottom wage quartile may have been higher than 20%.[14]

As a result, many low-income renters, who are disproportionately people of color, report being behind on rent and not confident about their ability to pay in the coming months. In January, 21% of renters reported being behind on rent payments. Among renters earning less than $25,000 per year, over 30% were behind. Renters of color are more likely to be struggling: 29% of Latino renters and 36% of Black renters were behind on rent, compared with 12% of white renters. Nearly one-third of all renters, and nearly half of the lowest-income renters, had no or only slight confidence they could pay next month's rent on time or had deferred payments. Among renters who had fallen behind on rent, over 47% expected an eviction in the next two months, even with eviction moratoriums still in place.[15]

NLIHC and our members and partners hear every day from people who are struggling to pay rent during the pandemic and who need emergency rental assistance. A woman named Stephanie lives with her daughter and infant granddaughter and is facing a "pay or quit" notice for the $7,355 she owes in back rent, late fees, and dispossessory charges. During the pandemic, Stephanie lost her job for several months before she regained employment. She attempted to make payment arrangements with her landlord and applied for rental assistance, but she is on the waiting list and her landlord is threatening to evict.

Tiffany, who lives in Lawrence, Kansas, reached out to NLIHC recently because she received a three-day notice of eviction. She is two months behind on her rent and told us that if she is evicted, she will become homeless and will likely stay in a homeless encampment.

Stacy, a 46-year-old woman living in Nevada, is homeless after her son lost his job and was not able to access unemployment benefits. Stacy contacted NLIHC to find more information about emergency resources to get her and family back into a home. She and her son paid a few months' rent on their credit card so, in addition to being homeless, they are in debt.

Renters experiencing cash shortages are increasingly relying on sources other than income to pay rent. Thirty percent of renters report using money from government aid or assistance to pay rent, and another 30% indicate that they have borrowed cash or obtained a loan to make rent payments.[16] Tenants are increasingly using credit cards to pay the rent, with a 43% increase in the first two quarters of 2020 as compared to the prior year.[17] There is evidence that families are shifting their dwindling budgets towards ensuring they pay rent at the expense of other needs.

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[14] Brainard, L. 2021. "Full Employment in the New Monetary Policy Framework." Inaugural Mike McCracken Lecture on Full Employment. Board of Governors of the Federal Reserve System. Retrieved from: https://www.federalreserve.gov/newsevents/speech/files/brainard20210113a.pdf

[15] US Census Bureau. 2021. Household Pulse Survey Data Table, January 6-January 18, 2021. Retrieved from: https://www.census.gov/programs-surveys/household-pulse-survey/data.html

[16] Born, M. 2020. "Rent Payments Increase Slightly in July, but Landlords and Tenants Continue to Struggle." Retrieved from: https://www.avail.co/blog/rent-payments-increase-slightly-in-july-but-landlords-and-tenants-continue-to-struggle

[17] Zego. 2020. "May Rent Payment Data Reveals April Trends Have Continued as a Result of COVID-19." Retrieved from: https://www.gozego.com/articles/may-rent-payment-data-reveals-april-trends-have-continued-as-a-result-of-covid-19/

Food pantry requests have increased by as much as 2000% in some states,[18] with nearly 30 million Americans reporting they do not have enough food.[19]

A patchwork of federal, state and local resources and protections have kept many struggling renters in their homes and helped to avoid an unprecedented eviction crisis that could have resulted in an estimated 30-40 million people losing their homes by the end of 2020.[20] In addition to resources for housing and homelessness provided in the CARES Act, a federal eviction moratorium issued by the Centers for Disease Control and Prevention (CDC) in September 2020, provided vital protections to tens of millions of renters at risk of eviction for nonpayment of rent during the pandemic. Some state and local eviction moratoriums provided additional protections for some renters.

Citing the historic threat to public health created by the pandemic, the CDC declared that an eviction moratorium would help ensure that people can practice social distancing and comply with stay-at-home orders. The CDC's eviction moratorium order cites the increased risk of spreading coronavirus when people are evicted from their homes or experience homelessness. Research conducted on the efficacy of state, local, and federal eviction moratoriums provide further evidence that such moratoriums are effective at both reducing eviction filings[21] and reducing COVID-19 transmission and fatalities. Nationally, researchers found that expired eviction moratoriums led to an additional 433,700 COVID-19 cases and 10,700 associated deaths.[22]

While the steps taken by CDC are critically needed, they are not enough. In addition to further extending the moratorium, the Biden administration must also strengthen and enforce the order.[23] The existing order has significant flaws that undermine its public health benefits and prevent renters from making full use of the moratorium's protections.

Under the current order, renters are only protected if they know about the moratorium and take affirmative steps to be protected. As a result, some landlords evict before renters know about the moratorium protections or by finding reasons for eviction other than nonpayment of rent.[24] The Biden administration should ensure the moratorium provides automatic and universal

[18] Golla, B., Javed, I., & Kreuter, M. 2020. "Food Pantries: UPDATED." Health Communication Research Laboratory. Washington University in St. Louis. Retrieved from: https://hcrl.wustl.edu/items/food-pantries-updated/
[19] Andone, D. 2020. "Nearly 30 Million Americans Told the Census Bureau They Didn't Have Enough to Eat Last Week." CNN. Retrieved from: https://www.cnn.com/2020/07/31/us/food-insecurity-30-million-census-survey/index.html
[20] Benfer, E., et al. 2020. *The COVID-19 Eviction Crisis: An Estimated 30-40 Million People in America Are at Risk.* https://nlihc.org/sites/default/files/The_Eviction_Crisis_080720.pdf
[21] Hepburn, P. 2021. "Eviction Tracking System." National Call on Coronavirus, Disasters, Housing, and Homelessness. Retrieved from: https://nlihc.org/sites/default/files/COVID-19_National_Call_011921.pdf
[22] Leifheit, K., Linton, S., Raifman, J., Schwartz, G., and Benfer, E., Zimmerman, F., & Pollack, C., "Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality" (November 30, 2020). Available at SSRN: https://ssrn.com/abstract=3739576 or http://dx.doi.org/10.2139/ssrn.3739576
[23] National Low Income Housing Coalition, National Housing Law Project, & Eviction Lab. "Housing Priorities for the Biden-Harris Administration: A Memorandum to the Transition Team." Retrieved from: https://nlihc.org/sites/default/files/Eviction-TM_Biden.pdf
[24] Private Equity Stakeholder Project. 2020. "Eviction Filings by Private Equity Firms and Other Large Landlords Surge Despite the Eviction Moratorium." Retrieved from: https://pestakeholder.org/eviction-filings-by-private-equity-firms-and-other-large-landlords-surge-despite-cdc-eviction-moratorium/

protections to renters. The very least the federal government ought to do is ensure each of us that we will not lose our homes during a global pandemic.

There are far too many individuals who have been evicted from their homes, despite the federal eviction moratorium. At NLIHC, we hear every day about dozens of people desperate for help. For example, Katie and her family from Carroll County, Georgia, were not protected by the moratorium after she and her husband lost their jobs due to the pandemic. The judge wrongfully told them that the court did not have to honor the eviction moratorium and ordered the family to leave the property and pay back $5,000 in rent. A few days after their court date, she and her husband tested positive for COVID-19.[25]

In addition to extending and improving the moratorium, the federal government must enforce it. The CDC order imposes criminal penalties on landlords who violate it and states that "the U.S. Department of Justice (DOJ) may initiate court proceedings as appropriate seeking imposition of these criminal penalties." Despite this provision, the DOJ under President Trump did not enforce the order and did not provide any mechanism for renters to file complaints against landlords who violate it. As a result, landlords continue to wrongfully evict renters in violation of the moratorium.

Eviction risks lives, pushes families deeper into poverty, and threatens our already strained public health system. Following eviction, a person's likelihood of experiencing homelessness increases, mental and physical health is diminished, and the probability of obtaining employment declines.[26] Eviction is linked to numerous poor health outcomes,[27] including depression, suicide, and anxiety, among others. In addition, eviction is linked with respiratory disease,[28] which could increase the risk of complications if COVID-19 is contracted and has been shown to increase the risk of mortality from COVID-19.

Eviction makes it more expensive and more difficult for tenants to rent safe and decent housing, apply for credit, borrow money, or purchase a home. Housing instability caused by eviction is particularly harmful to children, who suffer in ways that impact their educational development and wellbeing for years. The public costs of eviction are far reaching.[29] Individuals experiencing displacement due to eviction are more likely to need emergency shelter and re-housing, use in-patient and emergency medical services, require child welfare services, and experience the criminal legal system, among other harms.

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[25] Stokes, S. 2021. "'The CDC as Far as I Know Has No Control Over Georgia Courts:' Judges Continue Evictions Despite Moratorium." Retrieved from: https://www.wabe.org/georgia-judges-still-grant-evictions-despite-moratorium/
[26] Collinson, R., and Reed, D. 2018. "The Effects of Evictions on Low-Income Households." Retrieved from: https://www.law.nyu.edu/sites/default/files/upload_documents/evictions_collinson_reed.pdf
[27] Taylor, L. 2018. "Housing and Health: An Overview of the Literature." Health Affairs Health Policy Brief. DOI: 10.1377/hpb20180313.396577. Retrieved from: https://www.healthaffairs.org/do/10.1377/hpb20180313.396577/full/
[28] Braveman, P., Dekker, M., Egerter, S., Sadegh-Nobari, T., & Pollack, C. 2011. "How Does Housing Affect Health?" Robert Wood Johnson Foundation. Retrieved from: https://www.rwjf.org/en/library/research/2011/05/housing-and-health.html
[29] *Cost of Eviction Summary Report for the United States*. 2020. Innovation for Justice Program, University of Arizona James E. Rogers School of Law. Retrieved from: https://arizona.app.box.com/s/0cgdsbf8zj7i9rakayy5ehag4n55txwp

But eviction moratoriums, on their own, are not enough. The moratoriums postpone but do not prevent evictions because the rent is still due, and renters have fallen behind. Latest estimates show that renters have accrued up to $57 billion in rent and utility arrears during the pandemic.[30] To address this urgent need, Congress has provided a combined $47 billion in emergency rental assistance to address arrears and some ongoing needs for housing assistance.

These critical funds will go a long way to addressing the urgent needs of renters. Congress and the Biden administration must ensure that the resources reach the lowest-income and most marginalized people who face the greatest threat of eviction. NLIHC is tracking,[31] analyzing,[32] and sharing best practices[33] for ensuring emergency rental assistance is distributed[34] to households most in need and is used to advance racial equity.[35] Federal policymakers should ensure program administrators set spending thresholds to provide sufficient funding for renters with the lowest incomes and other historically marginalized people, invest in outreach and targeting, simplify applications and documentation, monitor progress, and make mid-course corrections as needed.

Causes of the Nation's Housing Crisis

Even before the current COVID-19 pandemic, the country was in the grips of a pervasive affordable housing crisis, impacting rural, suburban and urban communities alike. While the crisis has many dimensions, a fundamental cause of housing instability is the mismatch between what people earn or otherwise have available to spend for their homes and housing costs. Rents have risen much faster than renters' incomes over the last two decades, and since 1960, renters' incomes have increased by only 5% while rents have risen 61%.[36]

The shortage of affordable homes is most severe for extremely low-income (ELI) households whose incomes are at or below the poverty guideline or 30% of their area's median income (AMI), whichever is higher. In Ohio, an ELI renter could be a family of four with two working parents who earn less than $22,100 annually combined, a low-income senior with an income of $15,500, or a single person with a disability relying on an annual income of just under $10,000 from Supplemental Security Income (SSI). In Pennsylvania, an ELI renter could be a family of

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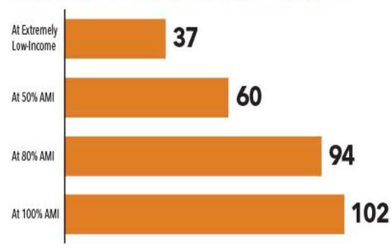
30 Zandi, M., & Parrott, J. (2021). "Averting an Eviction Crisis." Retrieved from: https://www.urban.org/research/publication/averting-eviction-crisis
31 National Low Income Housing Coalition. 2021. State and Local Rental Assistance. Retrieved from: https://nlihc.org/rental-assistance
32 National Low Income Housing Coalition, Housing Initiative at Penn, NYU Furman Center. 2021. COVID-19 Emergency Rental Assistance: Analysis of a National Survey of Programs. Retrieved at: https://nlihc.org/sites/default/files/HIP_NLIHC_Furman_Brief_FINAL.pdf
33 Aurand, A., et. al. 2021. Learning from Emergency Rental Assistance Programs: Lessons from Fifteen Case Studies. Retrieved from: https://nlihc.org/sites/default/files/ERA-Programs-Case-Study.pdf
34 National Low Income Housing Coalition. 2021. Letter to US Department of Treasury. Retrieved from: https://nlihc.org/sites/default/files/NLIHC-Letter-on-FAQ_03052021.pdf
35 Aurand, A., et. al. 2021. Advancing Racial Equity in Emergency Rental Assistance Programs. Retrieved from: https://furmancenter.org/files/Advancing_Racial_Equity_in_Emergency_Rental_Assistance_Programs_-_Final.pdf
36 Joint Center for Housing Studies of Harvard University. 2018. The State of the Nation's Housing. Cambridge, MA: Author.

four with two working parents earning less than $24,200 annually combined, a low-income senior with an income of no $17,000, or a couple with disabilities relying on an annual income of $14,100 from SSI.

NLIHC's *The Gap: A Shortage of Affordable Homes* report demonstrates the shortage of affordable and available homes for households at different income thresholds – those with incomes at 30% of AMI (ELI households), 50% of AMI, and 80% of AMI. Data from this year's *Gap* report shows only 7.4 million affordable rental homes exist for the nation's 10.8 million lowest-income renter households, assuming they spend no more than 30% of their incomes on housing costs.[37] However, only four million homes that rent at affordable prices for extremely low-income renters are available to them, leaving a shortage of 6.8 million affordable and available homes for renters with extremely low incomes. Put another way, only 37 rental homes are affordable and available for every 100 extremely low-income renter households (Figure 1).

FIGURE 1: AFFORDABLE AND AVAILABLE RENTAL HOMES PER 100 RENTER HOUSEHOLDS, 2019



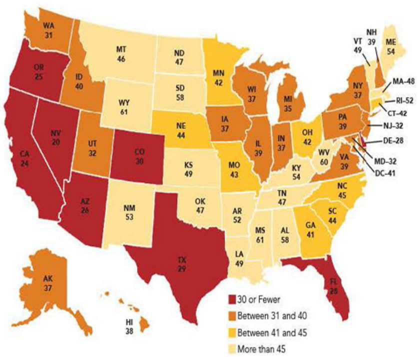
Source: NLIHC tabulations of 2019 ACS PUMS data. AMI = Area Median Income

The shortage of affordable and available homes for the lowest-income renters ranges from most severe to least severe, but there is no state or congressional district with enough homes for its lowest-income renters.[38] For example, in Chairman Brown's state of Ohio and Ranking Member Toomey's state of Pennsylvania, there are just 4 affordable homes available for every 10 of the lowest-income renter households.[39] Idaho is similarly situated, with only 4 available homes for every 10 of the lowest-income renters; and Nevada has the worst housing needs in the nation,

[37] According to HUD, households spending more than 30% of income for these housing costs are considered to be "cost-burdened." Households spending more than 50% are considered to be "severely cost-burdened."
[38] National Low Income Housing Coalition. 2021. *The Gap: A Shortage of Affordable Homes*. Washington, DC: Author. See: https://nlihc.org/gap
[39] National Low Income Housing Coalition. 2021. Congressional District Housing Profiles: Ohio and Pennsylvania. Washington, DC: Author.

with just 2 affordable homes available for every 10 of the lowest-income renter households (Figure 2).[40]

FIGURE 2: RENTAL HOMES AFFORDABLE AND AVAILABLE
PER 100 EXTREMELY LOW INCOME RENTER HOUSEHOLDS BY STATE

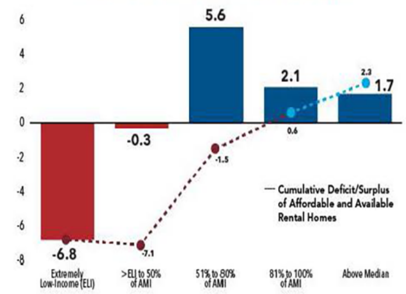


Note: Extremely low income (ELI) renter households have incomes at or below the poverty level or 30% of the area median income. Source: NLIHC tabulations of 2019 ACS PUMS Data.

Our research shows that the lack of homes affordable and available to households with incomes above 30% of AMI is driven by the insufficient number of homes for the lowest-income households. Figure 3 (next page) shows the incremental change in the shortage or surplus of rental homes available and affordable to households of different incomes.

[40] National Low Income Housing Coalition. 2021. Congressional District Housing Profiles: Idaho and Nevada. Washington, DC: Author.

FIGURE 3: INCREMENTAL CHANGE TO SURPLUS (DEFICIT) OF AFFORDABLE AND AVAILABLE RENTAL HOMES, 2019 (IN MILLIONS)



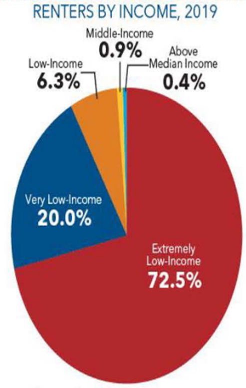
Source: NLIHC tabulations of 2019 ACS PUMS data.

The shortfall of almost 7 million homes available and affordable to ELI households accounts for virtually the entire shortage of affordable homes in the U.S. In areas where very low-income and low-income households have difficulty with housing affordability, it is principally due to extremely low-income households having to rent homes they cannot afford, spending over 50% of their limited income on housing and competing with higher-income families for that limited housing.

Because of the shortage of affordable and available homes, 10.4 million renter households are severely housing cost-burdened, paying more than half of their incomes towards housing. Of these severely housing cost-burdened households, nearly three-quarters have extremely low incomes.[41] Combined, extremely low-, very low- and low-income households account for nearly 99% of all severely cost-burdened renters (see Figure 4).

[41] National Low Income Housing Coalition. 2020. *The Gap: A Shortage of Affordable Homes*. Washington, DC: Author.

FIGURE 4: SEVERELY HOUSING COST-BURDENED RENTERS BY INCOME, 2019



Source: NLIHC tabulations of 2019 ACS

Decades of structural racism created tremendous racial disparities in housing and homelessness. Renters of color are much more likely to be housing cost-burdened: 52% of Latino renters and 54% of Black renters are cost-burdened, more than 10 percentage points higher than white renters.[42] Black Americans represent 13% of the general population but are 40% of people experiencing homelessness and more than 50% of homeless families with children.[43] The housing crisis and its disproportionate harm to low-income people of color deepened over the last several decades and contributed to the disproportionate impact of COVID-19 on communities of color.

Severe housing cost burdens can have negative consequences for families' physical and mental well-being. Severely housing cost-burdened families spend 74% less on healthcare and 35% less on food than similarly poor households who are not severely cost-burdened; and poor seniors who are severely cost-burdened spend 75% less on healthcare.[44] These households forgo healthy food or delay healthcare or medications to pay the rent. In the worst cases, they become homeless.

Housing cost burdens make it more difficult for extremely low-income households to accumulate emergency savings. Without emergency savings, unexpected costs (such as car repairs, medical bills, etc.) or loss of income (such as reduced work hours) can cause households to fall behind on rent and face eviction. Data from the 2017 American Housing Survey (AHS) show

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[42] Joint Center for Housing Studies of Harvard University. 2020. *The State of the Nation's Housing*. Retrieved at: https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2020_Report_Revised_120720.pdf

[43] National Alliance to End Homelessness. 2020. "Homelessness and Racial Disparities." Retrieved at: https://endhomelessness.org/homelessness-in-america/what-causes-homelessness/inequality/

[44] Joint Center for Housing Studies of Harvard University. 2019. *The State of the Nation's Housing*. Cambridge, MA: Author.

that households in poverty with severe housing cost burdens are more likely to fall behind on rent payments and be threatened with eviction than poor households that are not severely cost-burdened.

Housing instability causes significant disruptions in critical services and economic stability. The lack of stable housing can disrupt the care given to chronically ill individuals, interrupt student learning, and decrease academic achievement.[45] Housing instability can also undermine economic stability by disrupting employment. The likelihood of job loss increases for working low-wage renters who lose their homes (primarily through eviction),[46] indicating that affordable housing and housing subsidies are foundational to employment and economic security.

NLIHC's *Out of Reach: The High Cost of Housing* report estimates each locality's "housing wage," the hourly wage a full-time worker needs to earn to afford a modest apartment. In 2020, the national housing wage was $23.96 per hour for a two-bedroom apartment and $19.56/hour for a one-bedroom rental. The average minimum wage worker must work nearly 97 hours per week (more than two fulltime jobs) to afford a two-bedroom rental home or 79 hours per week (almost exactly two full-time jobs) to afford a one-bedroom rental home at the fair market rent. While the housing wage varies from state to state and county to county, in only 5% of all U.S. counties can a full-time minimum-wage worker afford a one-bedroom rental home at Fair Market Rent.

It is not just minimum wage workers for whom rents are out of reach: the average renter in the U.S. earns approximately $18.22 per hour, $5.74 per hour less than the national two-bedroom housing wage. In 49 states, the District of Columbia, and Puerto Rico, the average renter earns less than the average two-bedroom housing wage.[47]

This mismatch between wages and housing costs will continue. Twelve of the twenty largest occupations in the country, including home health aides, janitors, and food servers, provide a median wage lower than what is needed for a full-time worker to afford modest rental housing (see Figure 5).[48] With wages insufficient to pay for modest rental housing even when individuals work full-time year-round, a brief furlough or loss of hours, as we have seen over the past year, can create debts that renters can never repay.[49]

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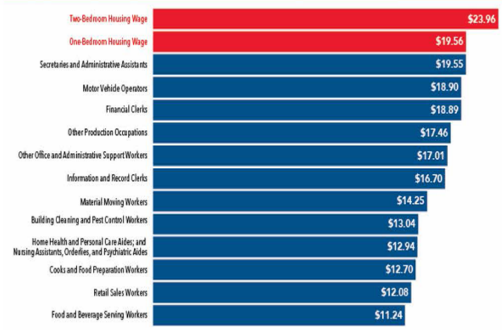
[45] Maqbool, N., Viveiros, J., & Ault, M. 2015. *The Impacts of Affordable Housing on Health*. Washington, DC: National Housing Conference; Brennan, M., Reed, P., & Sturtevant, L. 2014. *The Impacts of Affordable Housing on Education*. Washington, DC: National Housing Conference.
[46] Desmond, M. & Gershenson, C. 2016. *Housing and Employment Instability among the Working Poor*. Social Problems, 63(1): 46-67.
[47] National Low Income Housing Coalition. 2020. *Out of Reach: The High Cost of Housing* [data files]. See: https://nlihc.org/oor
[48] Ibid
[49] National Low Income Housing Coalition. 2020. *Out of Reach: The High Cost of Housing*. Washington, DC: Author

FIGURE 5: TWELVE OF THE TWENTY LARGEST OCCUPATIONS IN THE UNITED STATES PAY LESS THAN THE HOUSING WAGE



Source: Occupational wages from May 2019 Occupational Employment Statistics, BLS, adjusted to 2020 dollars. Housing wages based on HUD fair market rents.

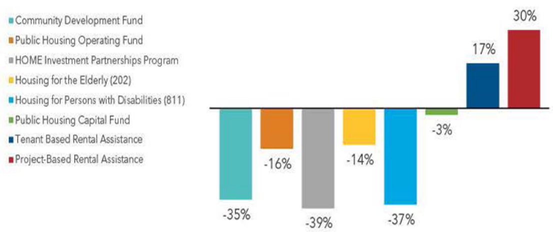
Declining Federal Resources

The shortage of rental homes affordable to the lowest-income people is caused by market failure and chronic underfunding of solutions. Without government intervention, decent and affordable homes cannot be reliably built, operated, and maintained at a price that the very lowest-income workers, seniors, or people with disabilities can afford. The private market cannot on its own solve this persistent market failure. Government intervention, in the form of subsidies, is necessary to fill the gap between what people can afford to pay and the costs of developing and operating rental homes. Congress has consistently underfunded housing subsidies such that just one in four households eligible for and in need of housing assistance receives any.[50]

HUD's budget has declined dramatically over the last ten years since the Budget Control Act (BCA) was enacted. Inflation-adjusted federal funding for public housing, housing for the elderly, housing for persons with disabilities, and other important programs has fallen precipitously since FY2010. Only funding for tenant-based and project-based rental assistance programs has modestly increased to keep up with the rising operating cost for previously authorized assistance (see Figure 6).

[50] Center on Budget and Policy Priorities. 2017. Three Out of Four Low-Income At-Risk Renters Do Not Receive Federal Rental Assistance. Retrieved at: https://www.cbpp.org/three-out-of-four-low-income-at-risk-renters-do-not-receive-federal-rental-assistance

FIGURE 6: CHANGES IN FUNDING LEVELS FOR KEY HUD PROGRAMS (FY10 TO FY21)



March 2021. Adjusted for inflation.

Solutions

To end homelessness and housing poverty once and for all, Congress must advance anti-racist policies and significantly expand investments in affordable housing for America's lowest-income and most marginalized households.

Advance Anti-Racist Policies

Congress must work to undo the systemic racism and discrimination that lies at the core of the disproportionate impact of America's housing and homelessness crisis on people of color. Segregated neighborhoods across America were engineered through intentional policy choices.[51] Federal leadership is necessary to undo the harms caused by these policies and continue advancing anti-racist policies to further racial equity.

There are several steps Congress can take now to advance anti-racist policies. Congress must provide robust resources to aggressively advance and enforce fair housing and civil rights laws, alongside significant investments in housing solutions. Congress should build the capacity of community-based organizations, especially those led by Black people, Native Americans, and Latinos. People exiting the criminal legal system must have access to housing assistance to help them avoid recidivism and homelessness. To better understand the current impact of federal housing and transportation policies, federal agencies should be required to report publicly on whether and how programs exacerbate, ignore, or ameliorate racial inequities, and legislative changes needed to ensure all programs ameliorate racial inequities.

Other necessary anti-racist housing policies are included in the solutions below.

Bridge the Gap Between Rents and Income

Rental assistance is a critical tool for helping vulnerable people afford decent, stable homes, and avoid homelessness, but 3 out of 4 households who qualify for rental assistance do not receive it because of chronic underfunding. Expanding rental assistance to meet the needs of all

[51] Rothstein, R. (2018). *The Color of Law*. Liveright Publishing Corporation.

housing cost-burdened households – a core tenant of President Biden's campaign [52] – is key to any successful strategy to solve the affordable housing crisis.

Housing Choice Vouchers (HCV) are a proven solution to homelessness and housing poverty. Vouchers help people with the lowest incomes afford housing in the private market by paying landlords the difference between what a household can afford to pay for rent and the rent itself, up to a reasonable amount. Housing vouchers are flexible — for instance, families may use them to rent homes that best meet their needs, including homes in areas with quality schools and greater access to jobs. Housing vouchers may also be tied to a specific housing development in a way that facilitates the development's financing and makes it easier for owners to provide health and other services some people need.

Congress should make housing vouchers universally available to those in need. As a first step, Congress should enact the "Family Stability and Voucher Opportunity Act," introduced by Senators Chris Van Hollen (D-MD) and Todd Young (R-IN). This bipartisan bill would create 500,000 new housing vouchers for families with young children and provide mobility counseling and case management to help families who choose to move to areas with better performing schools, less neighborhood violence, and lower poverty rates.[53]

While vouchers are the most common form of rental assistance, other promising policy innovations could be used to reach more families such as creating a new federal renters' tax credit. A variety of renters' tax credit proposals have been advanced, including some that would target aid to the nation's lowest-income and most marginalized households.[54]

To ensure greater racial equity, Congress must pair an expansion of rental assistance to legislation to bar discrimination based on source of income, sexual orientation, gender identity, and marital status.

Expand the Affordable Housing Stock

In markets where vacancies in existing buildings are scarce, supply-side approaches are essential to produce more affordable homes. To expand the affordable and accessible housing stock, Congress should significantly increase funding to the national Housing Trust Fund (HTF),

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[52] Biden/Harris Campaign. 2020. "The Biden Plan for Investing in Our Communities Through Housing." Retrieved from: https://joebiden.com/housing/

[53] Senator Chris Van Hollen. December 18, 2019. Press release: Van Hollen, Young introduce bipartisan bill to dramatically increase affordable housing vouchers. Retrieved at: https://www.vanhollen.senate.gov/news/press-releases/van-hollen-young-introduce-bipartisan-bill-to-dramatically-increase-affordable-housing-vouchers

[54] Galante, C. et al. (2016). "The FAIR Tax Credit: A Proposal for Federal Assistance in Rental Credit to Support Low Income Renters." Terner Center for Housing Innovation, UC Berkley, http://ternercenter.berkeley.edu/uploads/FAIR_Credit.pdf; Fischer, W. et al. (2017). "Renters' Credit Would Help Low-Wage Workers, Seniors, and People with Disabilities Afford Housing." Center on Budget and Policy Priorities, https://www.cbpp.org/research/housing/renterscredit-would-help-low-wage-workers-seniors-and-people-with-disabilities; Patenaude, P. et al. (2013). "Housing America's Future: New Directions for National Policy." Bipartisan Policy Center, https://bipartisanpolicy.org/wpcontent/uploads/sites/default/files/BPC_Housing%20Report_web_0.pdf.

a dedicated funding stream to efficiently build, rehabilitate, preserve, and operate rental housing for extremely low-income people.

Several Senate Banking and Housing Committee members have long championed the HTF, including Senator Jack Reed (D-RI), who led legislation to create the program as part of the Housing and Economic Recovery Act. Congress should enact Senator Elizabeth Warren's (D-MA) "Housing and Economic Mobility Act" to fully fund the HTF at $44.5 billion.[55]

Capital investments in the HTF can be used to assist states and cities with acquiring hotels and motels currently being funded by the Federal Emergency Management Agency (FEMA) to convert these and other commercial spaces into the permanent supportive housing needed ensure stable homes for individuals experiencing homelessness.

Congress must ensure that existing tools that produce affordable housing are targeted to those with the greatest needs. Congress should provide new incentives and resources for a significant share of Low Income Housing Tax Credit (LIHTC) units to be affordable to those with the lowest incomes and strategically located to foster economically and racially inclusive communities.

In addition, the federal government should incentivize or require state and local governments that receive federal transportation and infrastructure funding to reduce regulatory and zoning barriers that increase the cost of development and limit housing supply for all renters. The "Housing, Opportunity, Mobility and Equity Act," introduced by Senator Cory Booker (D-NJ) and Representative Jim Clyburn (D-SC) would require localities receiving Community Development Block Grants and Surface Transportation Block Grants to develop a strategy for inclusive zoning policies. House Financial Services Committee Chairwoman Maxine Waters (D-CA) and then-Senator Kamala Harris (D-CA) introduced the "Housing is Infrastructure Act" which, in addition to providing robust investments in public housing and the HTF, includes $10 billion to be spent in part on eliminating zoning and other requirements that limit affordable housing development.

All federal investments to increase the supply of affordable rental housing should require states and communities to affirmatively further fair housing. By fostering integration, Congress can make certain that renters have fair and affordable housing options in all communities. Congress should also ensure that localities prevent the displacement of low-income and marginalized renters during development to allow long-term residents to continue to remain in their communities.

[55] Senator Elizabeth Warren. March 13, 2019. Press release: Warren and colleagues reintroduce historic legislation to confront America's housing crisis. Retrieved at: https://www.warren.senate.gov/newsroom/press-releases/warren-and-colleagues-reintroduce-historic-legislation-to-confront-americas-housing-crisis

Preserve Affordable Housing

Congress must provide robust resources to preserve the existing affordable housing stock, including the roughly 900,000 public housing units that are currently home to over 2 million residents. Like other federal housing investments, public housing provides people with low-incomes with the affordable, stable homes they need.

Waiting lists for public housing are often closed or have years-long wait times.[56] In 2012, the last time national waiting list data was collected, there were approximately 1.64 million families waiting for public housing units with only 80% of housing agencies reporting. Many housing waiting lists have since closed altogether.

Congress has underfunded public housing for decades. More recently, between 2000 and 2016, funding for public housing repairs declined 53%, while funding for public housing operations met the need only three times.[57] Between 2010 and 2016 alone, Congress cut public housing funding by $1.6 billion. While Congress recently increased funding for public housing in fiscal years 2020 and 2021, overall funding for the program remains 13% lower than the FY10 funding level.

These decades of declining resources have threatened the quality and even the existence of public housing. With limited funding, many public housing agencies (PHAs) are unable to make needed repairs to preserve these homes. As a result, our country loses 10,000 to 15,000 public housing apartments each year to obsolescence or decay,[58] as other public housing units fall into deep disrepair. In 2010, the country's public housing had a $26 billion capital-needs backlog, which is estimated to grow by $3.4 billion each year. The funding needed to address capital repairs in public housing is estimated to exceed $70 billion today.[59]

Congress should enact Senator Warren's and Representative Nadia Velazquez's "Public Housing Emergency Response Act" to invest $70 billion to eliminate the public housing capital needs backlog to ensure public housing is safe, decent, and affordable for all current and future residents. This bill must be a top priority for Congress in any infrastructure package.

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56 Aurand, A. et al. (2016). *Housing Spotlight: The Long Wait for a Home.* National Low Income Housing Coalition. Retrieved from http://nlihc.org/article/housing-spotlight-volume-6-issue-1.

57 Rice, D. (2016). *Cuts in Federal Assistance Have Exacerbated Families' Struggles to Afford Housing*. Center on Budget and Policy Priorities. Retrieved from https://www.cbpp.org/research/housing/chart-book-cuts-in-federal-assistance-have-exacerbated-families-struggles-to .

58 National Low Income Housing Coalition. 2019. *Advocates Guide.* Washington, DC: Author. See: https://nlihc.org/sites/default/files/AG-2018/2018_Advocates-Guide.pdf

59 The "Transportation, Treasury, Housing and Urban Development, Judiciary, and Independent Agencies Appropriations Act of 2008" directed HUD to perform an updated Capital Needs Assessment for the public housing portfolio. (The previous assessment was conducted in 1998.) HUD selected Abt Associates to conduct the assessment, which was published as Capital Needs in the Public Housing Program (Contract # C-DEN-02277- TO001) on November 24, 2010. The assessment estimated total capital needs of the nation's public housing portfolio in 2010 to be $25,607,944,000. In addition, the assessment noted that "assuming that existing capital needs were completely addressed, each year approximately $3.4 billion would be required to address the ongoing accrual needs, or on average $3,155 per unit." Extrapolating the $3.4 billion in accrual needs each year from 2010 until 2019, the capital needs backlog is currently estimated to be $56.6 billion.

Create a Permanent Source of Emergency Rental Assistance

Congress should create a "National Housing Stabilization Fund" to provide emergency rental assistance to the lowest-income households to prevent housing instability and homelessness. Temporary assistance can stabilize households experiencing economic shocks *before* it causes instability and homelessness, which often require more prolonged, extensive and expensive housing assistance. Today, tens of millions of households are one financial setback (e.g., a broken-down car, an unexpected medical bill, job loss, etc.) away from major economic hardship that could quickly spiral out of control.

The bipartisan "Eviction Crisis Act" introduced by Senators Rob Portman (R-OH) and Michael Bennet (D-CO) and cosponsored by Senators Brown (D-OH) and Young (R-IN) would create an emergency stabilization fund to provide financial assistance to cover the gaps between income and rental costs during a financial crisis. The bill would also provide housing stability services, such as counselors and legal aid. When combined, short-term housing assistance and support services can significantly reduce evictions and homelessness, yet such aid is not available at the scale needed. A review of federal, state, and local programs that offer some form of emergency assistance and/or legal services show an uneven patchwork of support for vulnerable households.

Strengthen Renter Protections

Affordable, accessible housing and robust housing choice are the foundations upon which just and equitable communities are built. However, the power imbalance between renters and landlords put renters at greater risk of housing instability and homelessness.

Despite the broad and lasting consequences of evictions, only 10% of renters in eviction court receive legal representation, compared to 90% of landlords.[60] In many states, landlords can evict renters for no reason, and there are no federal protections against arbitrary, retaliatory, or discriminatory evictions or other abusive practices by some landlords. Discrimination by some landlords against renters prevents households from effectively using federal, state, or local rental assistance, and is often a pretext for illegal discrimination against renters of color, women, and people with disabilities. Some landlords evict survivors of domestic or intimate partner violence because of the actions of their abusers, or refuse to rent to survivors, putting them at greater risk of housing instability and homelessness.

Congress should enact legislation to better protect renters. Establishing a national right to counsel would help more renters stay in their homes and mitigate harm when eviction is unavoidable. Banning credit reporting agencies from including eviction-related information after three years would stop evictions from following families for years. Creating "just-cause" eviction protections would ensure greater housing stability, particularly for survivors of violence. Prohibiting discrimination against source of income would help renters more effectively use federal housing assistance and help prevent other unlawful forms of discrimination.

[60] Desmond, M. 2015. "Unaffordable America: Poverty, Housing, and Eviction." Institute for Research on Poverty. Retrieved from: https://www.irp.wisc.edu/publications/fastfocus/pdfs/FF22-2015.pdf

The Case for Increased Federal Investments in Affordable Homes

Investing in affordable housing solutions improves lives and saves the federal government money. Research clearly demonstrates that housing is inextricably linked to an array of positive outcomes in other sectors.

Education: Student achievement is maximized when students can go home to stable, affordable homes. Low-income children in affordable homes perform better on cognitive development tests than those in unaffordable homes.[61] Low-income students who are forced to change schools frequently because of unstable housing perform less well in school and are less likely to graduate,[62] and continual movement of children between schools disrupts learning for all students in the classroom because more time is required for review and catch-up work.[63] When affordable housing options are located in high-opportunity areas with low poverty and economically diverse schools, they can dramatically lift the academic performance of low-income students and narrow the achievement gap between them and their more affluent peers.[64] Across the country, low-income families are priced out of the strongest schools; housing near high-performing public schools costs 2.4 times more than housing near low-performing public schools.[65]

Health: Decent, stable, affordable homes are a major social determinant of health and are linked to better health outcomes throughout a person's lifespan. Children who experienced prenatal homelessness are 20% more likely to have been hospitalized since birth. Children who experienced post-natal homelessness are 22% more likely to have been hospitalized since birth.[66] In 2011, families living in unaffordable homes spent one-fifth as much on necessary

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[61] Newman, S. J. & C. S. Holupka. 2015. "Housing Affordability and Child Well-Being." Housing Policy Debate, 25(1), 116-151. Retrieved: https://www.tandfonline.com/doi/abs/10.1080/10511482.2014.899261

[62] Voight, A., Shinn, M., & Nation, M. 2012. *The Longitudinal Effects of Residential Mobility on the Academic Achievement of Urban Elementary and Middle School Students.* Educational Researcher, 41(9), 385-392. Retrieved from http://journals.sagepub.com/doi/pdf/10.3102/0013189X12442239; Cunningham, M., & MacDonald, G. 2012. *Housing as a Platform for Improving Education Outcomes among Low-Income Children.* Washington, DC: Urban Institute. Retrieved from: http://www.urban.org/sites/default/files/publication/25331/412554-Housing-as-aPlatform-for-Improving-Education-Outcomes-among-Low-Income-Children.PDF; Fischer, W. 2015. *Research Shows Housing Vouchers Reduce Hardship and Provide Platform for Long-Term Gains Among Children.* Washington, DC: Center on Budget and Policy Priorities. Retrieved from http://www.cbpp.org/sites/default/files/atoms/files/3-10-14hous.pdf

[63] Cunningham, M., & MacDonald, G. 2012. *Housing as a Platform for Improving Education Outcomes among Low Income Children.* Washington, DC: Urban Institute. Retrieved from https://www.urban.org/sites/default/files/publication/25331/412554-Housing-as-a-Platform-for-Improving-Education-Outcomes-among-Low-Income-Children.PDF

[64] Schwartz, H. 2010. *Housing Policy is School Policy.* Washington, DC: The Century Foundation. Retrieved from https://tcf.org/content/commentary/housing-policy-is-school-policy/.

[65] Rothwell, J. 2012. *Housing Costs, Zoning, and Access to High-Scoring Schools.* Washington DC: Brookings Metropolitan Policy Program. Retrieved: https://www.brookings.edu/wp-content/uploads/2016/06/0419_school_inequality_rothwell.pdf

[66] Sandel, M., et. al. 2016. *Housing as a Healthcare Investment.* National Housing Conference and Children's HealthWatch. Retrieved: https://www.opportunityhome.org/wp-content/uploads/2018/02/Housing-as-a-Health-Care-Investment.pdf

healthcare compared to those in affordable housing.[67] When people have access to good affordable housing, primary care visits increase by 20%, ER visits decrease by 18%, and total Medicaid expenditures decrease by 12%.[68] Children's HealthWatch estimates that the U.S. will spend $111 billion over the next ten years in avoidable healthcare costs because of housing instability.[69]

Racial Equity: Affordable homes located in economically diverse neighborhoods can help reduce residential segregation and concentrations of poverty. Today, one in four African American families and one in six Hispanic families live in neighborhoods of concentrated poverty, compared to only one in 13 white families. A recent study by the Urban Institute found that if Chicago reduced its residential segregation just to the national median, incomes for African Americans would rise by $2,982 per person per year, regional GDP would increase by $8 billion, the homicide rate would decrease by 30%, residential real estate values would increase by six billion dollars, and 83,000 more adults would complete bachelor's degrees.[70]

Economic Mobility: Affordable homes can also help children achieve the American dream by climbing the income ladder as adults. Economist Raj Chetty and his team looked at low-income children whose families used housing vouchers to access affordable homes located in neighborhoods with lower poverty. These children were much more likely to attend college, less likely to become single parents, and more likely to earn more as adults. In fact, younger poor children who moved to lower-poverty neighborhoods with a housing voucher earned an average of $302,000 more over their lifetimes compared to their peers in higher-poverty neighborhoods.[71] In 2015, the Children's Defense Fund modeled an expansion of the Housing Choice Voucher program and found that expanding these housing subsidies would reduce child poverty by 20.8% and lift 2.3 million children out of poverty. They found housing subsidies would have the greatest impact on alleviating child poverty compared to the nine other policy solutions they explored.[72]

Economic Productivity: Investments in affordable homes are a proven catalyst for economic growth, job creation, increased government revenue, and increased consumer spending. According to the National Association of Home Builders, building 100 affordable homes generates $11.7 million in local income, 161 local jobs, and $2.2 million in taxes and other revenues for local government. The high costs of housing are limiting opportunities for people to increase their earnings, which, in turn, slow GDP growth. Researchers estimate that GDP growth between 1964 and 2009 would have been 13.5% higher if families had better access to

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67 Joint Center for Housing Studies of Harvard University. 2013. *The State of the Nation's Housing*. Retrieved: http://www.jchs.harvard.edu/sites/default/files/son2013.pdf

68 Wright, B., et. al. 2016. *Health in Housing*. Center for Outcomes Research and Education. Retrieved: https://www.enterprisecommunity.org/download?fid=5703&nid=4247

69 Poblacion A, Bovell-Ammon A, Sheward R, Sandel M, Ettinger de Cuba S, Cutts D, Cook J. *Stable Homes Make Healthy Families*. Children's HealthWatch Policy Action Brief. August 2017. Available at: http://childrenshealthwatch.org/wp-content/uploads/CHW-Stable-Homes-2-pager-web.pdf

70 Pendall, R., Acs, G., & Trekson, M. 2017. *The Costs of Segregation*. Urban Institute and Metropolitan Planning Cancel. Retrieved: https://www.metroplanning.org/work/project/33

71 Chetty, R., Hendren, N., & Katz, L. 2015. *The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment*. Cambridge, MA: National Bureau of Economic Research. Retrieved from http://www.nber.org/mtopublic/final/MTO_IRS_2015.pdf.

72 Children's Defense Fund and Urban Institute. 2015. *Ending Child Poverty Now*. Retrieved from: https://www.childrensdefense.org/wp-content/uploads/2018/06/Ending-Child-Poverty-Now.pdf

affordable homes. This GDP increase would have meant a $1.7 trillion increase in income, or $8,775 in additional wages per worker.[73]

Food Security: When rent eats up an already limited paycheck, low-income families have fewer resources to buy adequate and nutritious food. Low-income families living in affordable homes experience greater food security and their children are 52% less likely to be seriously underweight compared to those who are cost-burdened by rent.[74]

Criminal Justice: Individuals transitioning out of the criminal justice system face many housing obstacles and are vulnerable to homelessness. They need good places to call home so they can reconnect with society and rebuild their lives. Formerly incarcerated individuals who find stable affordable housing are less likely to go back to jail than those who do not.[75]

Veterans: After serving our country bravely, veterans need access to decent, stable, affordable homes so they can thrive in the neighborhoods they swore to defend. Rental assistance for veterans has proven highly effective in dramatically reducing veteran homelessness, but there remains significant unmet need.[76]

The evidence is abundantly clear that being able to afford a decent home in a strong neighborhood is a prerequisite for opportunity in America. The promise of better health, increased economic opportunity, and quality education can be fulfilled only if our nation's families have safe, decent, accessible, affordable homes.

Conclusion

More than ever, bold policies are needed to ensure that people with the lowest income and the most marginalized people have stable, affordable homes.

NLIHC looks forward to working with Congress to advance anti-racist policies and achieve the large-scale, sustained investments and reforms necessary to ensure that all renters with the lowest incomes have an affordable place to call home.

Thank you for the opportunity to testify today. I look forward to your questions.

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[73] Moretti, E. & Hsieh, C. 2015. *Housing Constraints and Spatial Misallocation.* American Economic Journal: Macroeconomics. Retrieved: https://www.nber.org/system/files/working_papers/w21154/w21154.pdf

[74] Children's HealthWatch and Medical-Legal Partnership of Boston. 2009. *Rx for Hunger: Affordable Housing.* Retrieved from: https://www.issuelab.org/resources/5379/5379.pdf

[75] Fontaine, J. 2013. *The Role of Supportive Housing in Successful Reentry Outcomes for Disabled Prisoners.* Cityscape: A Journal of Policy Development and Research, 15(3). US Department of Housing and Urban Development. Retrieved from: https://www.huduser.gov/portal/periodicals/cityscpe/vol15num3/ch3.pdf

[76] Fischer, W. 2014. *Rental Assistance Helps More than 340,000 Veterans Afford Homes, But Large Unmet Need Remain.* Center on Budget and Policy Priorities. Retrieved: https://www.cbpp.org/research/rental-assistance-helps-more-than-340000-veterans-afford-homes-but-large-unmet-needs

PREPARED STATEMENT OF NIKITRA BAILEY

EXECUTIVE VICE PRESIDENT, CENTER FOR RESPONSIBLE LENDING

MARCH 16, 2021

I. Introduction

Good afternoon Chairman Brown, Ranking Member Toomey, and Members of the United States Senate Committee on Banking, Housing, and Urban Affairs. Thank you for the opportunity to testify in today's hearing on, "Home = Life: The State of Housing in America." I am an Executive Vice President of the Center for Responsible Lending (CRL), CRL is a nonprofit, non-partisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, one of the nation's largest nonprofit community development financial institutions. For 40 years, Self-Help has created asset-building opportunities for low-income individuals, rural communities, women, and families of color. In total, Self-Help has provided over $9 billion in financing to 172,000 homebuyers, small businesses, and nonprofit organizations and serves more than 160,000 mostly low-income families through 72 credit union branches in North Carolina, California, Florida, Illinois, South Carolina, Virginia, Washington, and Wisconsin.

My testimony today draws extensively from remarks delivered on March 10, 2021 to the United States House Financial Services Committee on "Justice for All: Achieving Racial Equity Through Fair Access to Housing and Financial Services.[1]" It will:

- Explain how historic and ongoing discrimination stifles economic growth.
- Provide an overview of the current state of the single-family market highlighting areas of concern.
- Illustrate how COVID-19 is devastating already economically vulnerable Black and brown communities and other low-wealth families.
- Advocate for a broad new public investment in housing, with significant funding and resources for homeownership opportunity for the hardest-hit families long denied access.

A. Homeownership is the Bedrock of the American Middle Class

When we think of the American Dream, many people think of owning a home: a safe, affordable, and decent place to raise a family. Beyond the physical dwelling, homeownership represents being part of thriving communities of neighbors with access to clean air, healthcare, good public schools, jobs, parks, and recreation. A place to put down roots, invest in your community, and provide stability for children to flourish. As the foundation of the American Dream, homeownership is also the primary way that most middle-class families build wealth and economic stability. Home equity accounts for 69% of American family wealth.[2] However, it accounts for only 30% of the net worth for wealthier households but constitutes 67% for middle-to- low-income households.[3] Home equity accounts for 53% of African

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[1] Justice for All: Achieving Racial Equity Through Fair Access to Housing and Financial Services, United States House Committee on Financial Services, 117th Cong. (March 10, 2021) (Testimony of Nikitra Bailey), available at https://financialservices.house.gov/uploadedfiles/testimony_of_nikitra_bailey_for_hfsc_hearing_3_10_21.pdf.

[2] James H. Carr, Michela Zonta, and Steven P. Hornburg, 2017 State of Housing in Black America, National Association of Real Estate Brokers, September 18, 2017, http://www.nareb.com/site-files/uploads/2017/09/SHIBA2017-final-for-web-0918.pdf.

[3] Brendan Greely, U.S. Homeowners Are Repeating Their Mistakes, Bloomberg, February 14, 2013, https://www.bloomberg.com/news/articles/2013-02-14/u-dot-s-dot-homeowners-are-repeating-their-mistakes.

American wealth as compared to 39% for whites.[4] For many low-to-moderate income (LMI) families and people of color in particular, a home represents the only asset that a family may ever own and the equity in their homes constitutes a larger share of personal wealth.

Widespread access to low-cost, fairly structured credit is critical for building family wealth, closing the racial wealth gap, and for sustaining the housing market overall. This in turn contributes significantly to our overall economy. Yet the opportunity to purchase, maintain and refinance a home still has not reached significant portions of low-to-moderate income families and people of color.

B. Homeownership Opportunity has not Equitably Included Black and Brown Families

As the cornerstone of opportunity in our nation, wide-spread homeownership was largely created by federal economic subsidies that primarily benefitted whites, while excluding Black, Hispanic, Asian American Pacific Islander, and Native communities. This has given many white Americans a crucial lever for amassing wealth that cushions families against economic setbacks and creates a nest egg for the next generation. This crucial lever has been unjustly and disproportionately denied to many Black and brown families, for whom a lack of intergenerational wealth forces each successive generation to start anew, without a firm foundation to build upon.

Although housing discrimination, including the ability to purchase a home, was made unlawful by the Civil Rights Act of 1866, these long-standing discriminatory policies produced segregated housing patterns across the nation and disinvestment from Black communities for over 102 years until the Fair Housing Act of 1968 provided meaningful enforcement and an affirmative obligation for the federal government to create inclusive communities. This legacy has limited access to traditional low-cost credit for Black families and other families of color, and unduly exposed them to exploitative predatory lending, such as land installment contracts or contracts for deeds that robbed families of the wealth building benefits of homeownership. For instance, in Chicago, Illinois, 85% of Black homebuyers purchased their homes "on contract" from white sellers in the mid-20th century.[5] Estimates show that these Black homebuyers had more than $500 million legally extorted from them from 1940-1970.[6] Hispanic families also have a history of being victimized by these practices.[7]

As a result of this troubled history of inequity and continuing discrimination, Black homeownership levels, the primary asset of Black families, is at levels similar to when the Fair Housing Act was passed in 1968.[8] In fact, the gap between white and Black homeownership rates today is the largest it has been

[4] Thomas Shapiro, Tatjana Meschede, and Sam Osoro, *The Roots of the Widening Racial Wealth Gap: Explaining the Black-White Economic Divide*, Institute on Assets and Social Policy, at 3 (February 2013), http://iasp.brandeis.edu/pdfs/Author/shapiro-thomas-m/racialwealthgapbrief.pdf.

[5] Megan Wright, *Installment Housing Contracts: Presumptively Unconscionable*, 18 Berkeley J. Afr.-Am. L. & Pol'y, at 5 (2016).

[6] Rebecca Burns, *The Infamous Practice of Contract Selling is Back in Chicago*, Reader News and Politics, March 2017, https://www.chicagoreader.com/chicago/contract-selling-redlining-housingdiscrimination/Content?oid=25705647.

[7] Ann Carpenter, Taz George, And Lisa Nelson, *The American Dream or Just an Illusion? Understanding Land Contract Trends in the Midwest Pre- and Post-Crisis*, Harvard Joint Center for Housing Studies, March 2019, https://www.jchs.harvard.edu/sites/default/files/harvard_jchs_housing_tenure_symposium_carpenter_george_nelson_0.pdf.

[8] Alanna McCargo and Jung Hyun Choi, *Closing the Gaps: Building Black Wealth Through Homeownership*, Figure 3, Urban Institute (November 2020), https://www.urban.org/sites/default/files/publication/103267/closing-the-

since 1890.[9] The homeownership rate for Black Americans is 42%, compared to white homeownership of 72.1%, and 48.1% for Latinos.[10] In large part because families of color were not afforded the opportunity to build wealth through federally supported investment in homeownership and were later devastated by the financial crisis, the median white family has 10 times the wealth of the median Black family and eight times the wealth of the median Latino family.[11] In fact, the racial wealth gap between Black and white families grew from about $100,000 in 1992 to $154,000 in 2016.[12] The median white family gained significantly more wealth, with the median increasing by $54,000, while median wealth for Black families did not grow in real terms over the same time period.[13] The racial wealth gap contributes to the fact that in the 46 largest housing markets in the country, a median income Black household could only afford 25% of homes on the market last year in comparison to the 57% that a median income white household could afford.[14] It will require focused and bold action to reverse these inequities. If current trends continue, it could take as long as 228 years for the average Black family to reach the level of wealth white families own today.[15] For the average Latino family, matching the wealth of white families could take 84 years.[16]

Historic and ongoing systemic racism has left families of color more vulnerable going into the 2008 housing crisis, and that crisis, and the inadequate response to it, left them even worse off. Black and Hispanic communities lost over $1 trillion during the Great Recession that was never regained because the help came too late and well after foreclosures unnecessarily devastated neighborhoods—needlessly pushing families from their communities, pulling children from their schools, and wiping out the lifetime of savings they needed to move on. The COVID-19 pandemic is likewise hitting these families the hardest again, and the response so far is not equitable or sufficient. But beyond the pandemic response, we must address the long-term structural flaws that produce and perpetuate this inequity.

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gaps-building-black-wealth-through-homeownership_0.pdf; *see also* Laurie Goodman, Jun Zhu, and Rolf Pendall, *Are Gains in Black Homeownership History?*, Urban Institute (February 14, 2017), https://www.urban.org/urban-wire/are-gains-black-homeownership-history.

[9] Adam Levitin, *How to Start Closing the Racial Wealth Gap*, The American Prospect (June 17, 2020), https://prospect.org/economy/how-to-start-closing-the-racial-wealth-gap/.

[10] Alanna McCargo and Jung Hyun Choi, *Closing the Gaps: Building Black Wealth Through Homeownership*, Figure 3, Urban Institute (November 2020), https://www.urban.org/sites/default/files/publication/103267/closing-the-gaps-building-black-wealth-through-homeownership_0.pdf.

[11] Asset Building Policy Network, *The Hispanic-White Wealth Gap Infographic* (September 2019), https://prosperitynow.org/sites/default/files/resources/ABPN_Hispanic_White_Racial%20Wealth%20Gap%20Infographic_Final.pdf; Nick Noel, Duwain Pinder, Shelley Stewart III, and Jason Wright, *The Economic Impact of Closing the Racial Wealth Gap*, McKinsey & Company (August 2019), at 5, Exhibit 1, https://www.mckinsey.com/industries/public-and-social-sector/our-insights/the-economic-impact-of-closing-theracial-wealth-gap.

[12] Nick Noel, Duwain Pinder, Shelley Stewart III, and Jason Wright, *The Economic Impact of Closing the Racial Wealth Gap*, McKinsey & Company, August 2019, at 5, Exhibit 1, https://www.mckinsey.com/industries/publicand-social-sector/our-insights/the-economic-impact-of-closing-the-racial-wealth-gap.

[13] *Id*.

[14] Paul Davidson, *Black Households Can Afford Just 25% of Homes For Sale*, USA Today, October 15, 2019, https://www.usatoday.com/story/money/2019/10/15/homes-sale-black-households-can-afford-just-25-percenthouses-market/3976383002.

[15] *See* Dedrick Asante-Muhammad, et al., The Road to Zero Wealth, at 15 (Sept. 2017), https://prosperitynow.org/files/PDFs/road_to_zero_wealth.pdf.

[16] *Id*.

COVID-19 has exacerbated economic inequality, leaving in its wake a "Tale of Two Americas": One where the haves, mostly wealthy and white, are equipped with the means to shelter in place throughout the global health pandemic, working from home, and actually growing their wealth due to roaring stock market surges, historically low mortgage rates, and increasing valuation of home properties. The have-nots, mostly low wage workers and people of color, could not shelter in place because of being relegated to jobs in the service sector as they became America's new essential workers. Nor could they afford to shelter in place because, while "essential," they have for too long been treated as expendable, paid wages inadequate to cover life's essentials, let alone allow sufficient savings. Facing heightened COVID-19 risk by going to work, many of these essential workers fell ill themselves or brought COVID-19 home to their loved ones. And still, these hardworking families faced massive reductions in working hours, wage cuts, unemployment, food pantry lines that cover entire city blocks and country roads, a growing bill for back rent with no idea how it will be repaid, and threats of eviction. In many of their formerly redlined neighborhoods, quality medical care is in too-short supply and toxins in the physical environment increase the risk of chronic disease, including COVID-19. Moreover, many of these families struggle more due to insufficient access to the cost-reducing mortgage refinances at historically low rates that would ease their financial burdens.

Over the course of one year, over 29 million people have been infected and more than 520,000 people have died in the United States, with Black and Hispanic communities being overwhelmingly devastated. Moreover, increasingly, as misperceptions about COVID continue to circulate and breed anti-Asian sentiments, too many Asian Americans live in constant terror as the result of an increase of hate crimes in their communities.

We can choose to stay the course and embark on a prolonged K-shaped recovery, or we can pivot toward a more inclusive America where all families have an opportunity to thrive. If we choose the latter, homeownership can be the fuel that ignites future economic growth and leads our nation to shared prosperity. This time though, we must ensure full access as discrimination, especially in housing, is a drag on the economy that hurts families and limits economic opportunity for all Americans. Recent reports show that addressing discrimination targeted at Black Americans alone can generate $1 trillion a year, billions for local jurisdictions, and thousands of jobs.[17]

II. Previous Federal Investments in Homeownership Significantly Contributed to Today's Wealth Disparities and Cemented Racial Wealth Gaps

A. Federal Policies Created Homeownership Inequity

1. Federally Sponsored Land Grants Excluded Families of Color

[17] Dana M. Peterson and Catherine L. Mann, *Closing the Racial Inequality Gaps: The Economic Cost of Black Inequality in the U.S.*, Citi Global Perspectives & Solutions (Sept. 2020), https://ir.citi.com/%2FPRxPvgNWu319AU1ajGf%2BsKbjJjBJSaTOSdw2DF4xynPwFB8a2jV1FaA3Idy7vY59bOtN2lxVQM%3D; Nick Noel, Duwain Pinder, Shelley Stewart III, and Jason Wright, *The Economic Impact of Closing the Racial Wealth Gap*, McKinsey & Company, at 6, Exhibit 2 (Aug. 2019), https://www.mckinsey.com/industries/publicandsocial-sector/our-insights/the-economic-impact-of-closing-the-racial-wealth-gap; Jeff Cox, *Morgan Stanley says Housing Discrimination Has Taken a Huge Toll on the Economy*, CNBC, November 13, 2020, https://www.cnbc.com/2020/11/13/morgan-stanley-says-housing-discrimination-has-taken-a-huge-toll-on-theeconomy.html.

Homeownership is the primary way that most middle-class families build wealth and economic stability. Yet, the ability to build wealth through homeownership has not been provided equitably throughout most of our country's history and discrimination remains a pervasive problem.[18] Our nation's painful history of forceful dispossession of land, slavery, racism, and discrimination are well documented. As these ills were targeted racially, rather than spread equally, so too have their accumulated impacts occurred in unequal, racially targeted ways. These unequal impacts must be taken into account in designing an effective and equitable way forward. Discriminatory federal policies are significant contributors to today's racial wealth inequity. Federal laws such as the Homestead Act of 1862 enacted during the Civil War to encourage western expansion promised 160 acres of public land to settlers. Twenty percent of the families that received Homestead Act land grants can trace their families' wealth to this single piece of legislation.[19] Most of these families were white Americans.

2. New Deal Exclusionary Policies and Practices Lock Black and Brown Families Out of the Mortgage Market

New Deal housing policies established redlining and explicitly discriminated against Black and brown families. At the same time, they created economic subsidies for white families that allowed them to enter homeownership and build financial security. These policies helped to expand the American middle class. These policies bestowed upon white families a crucial measure of financial stability and a cushion against economic setbacks that were denied to families of color. Policies and practices underlying these federal programs included denial of credit for qualified borrowers buying in predominantly Black neighborhoods, thereby depressing the value of homes in those neighborhoods. At the same time, the federal government subsidized mortgages for homes in predominantly white suburbia—where builders included requirements that no homes be sold to Black Americans. These policies granted whites the ability to build wealth through homeownership while denying equal opportunities for Black families and other families of color to build similar home equity over the same period.[20]

This explicit discrimination was not a small matter; it determined the distribution of a massive federal subsidy to spur homeownership. Homeownership, in turn, became the primary way most American families accumulate wealth. These explicitly discriminatory policies did not occur centuries in the past;

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[18] For a more robust discussion of how federal housing policies benefitted whites while disadvantaging African Americans and other people of color, see Ta-Nehisi Coates, *The Case for Reparations*, The Atlantic, June 2014, http://www.theatlantic.com/features/archive/2014/05/the-case-for-reparations/361631/; Bob Herbert, *Against All Odds: The Fight for the Black Middle Class*, Bob Herbert and Public Square Media, Inc (2016), http://www.pbs.org/wnet/chasing-the-dream/films/against-all-odds/; James Carr and Nandinee Kutty, *Segregation: The Rise Costs for America*, Routledge (2008); Ira Katznelson, *When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America*, W. W. Norton & Company (2005); Thomas M. Shapiro, *The Hidden Cost of Being African American: How Wealth Perpetuates Inequality*, Oxford University Press (2004); Melvin L. Oliver and Thomas M. Shapiro, *Black Wealth/White Wealth: A New Perspective on Racial Inequality*, Routledge (1997); Richard Rothstein: *The Color of Law: A Forgotten History of How Our Government Segregated America*, Liveright Publishing Corporation (2017).

[19] Dedrick Asante-Muhammad, et al., *The Road to Zero Wealth: How the Racial Wealth Divide Is Hallowing Out America's Middle Class*, at 15 (September 2017), https://prosperitynow.org/files/PDFs/road_to_zero_wealth.pdf.

[20] Terry Gross, A *'Forgotten History' of How the U.S. Government Segregated America*, NPR Fresh Air, May 3, 2017, www.npr.org/2017/05/03/526655831/a-forgotten-history-of-how-the-u-s-government-segregated-america.

they directly impacted the parents and grandparents of people in this room today. Perhaps some in this room experienced these impacts themselves.

These discriminatory policies were established in the housing finance system starting in 1933 with the underwriting guidelines of the Home Owners Loan Corporation (HOLC) that allowed redlining of African-American and other communities of color, denying them access to mainstream banking services.[21] In FHA's 1936 Underwriting Manual, a multitude of provisions indicated that "inharmonious" racial groups should not live in the same communities.[22] The manual also recommended that "natural and artificially-established barriers will prove effective in protecting a neighborhood and the locations within it from adverse influences."[23] In other words, barriers such as highways were deemed a beneficial way to separate Black and other families of color from white neighborhoods. Examples of the impact of this structural inequity include the reality that only 2% of FHA insured mortgage loans went to Black and other homebuyers of color during the first 35 years of the program due to redlining.[24] Further, the administration of the GI Bill loan programs enacted by Congress in 1944 continued this discrimination. In the state of Mississippi alone, just 2 out of 3,229 VA insured mortgages went to Black servicemembers seeking to finance a home, business, or farm in the first three years of the program.[25] Recent news reports show that racist language remains in the deeds of existing homeowners across the nation.[26]

Consequently, the suburbanization of America following the Great Depression financially benefited white Americans and excluded people of color. As a result of federal policies, whites amassed an economic advantage in the form of home equity over families of color that has been passed on to future generations through intergenerational wealth transfers. Today, disparities in homeownership are a key

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[21] For a more robust discussion of how federal housing policies benefitted whites while disadvantaging African Americans and other people of color, *see* Ta-Nehisi Coates, *The Case for Reparations*, The Atlantic, June 2014, http://www.theatlantic.com/features/archive/2014/05/the-case-for-reparations/361631/; Bob Herbert, *Against All Odds: The Fight for the Black Middle Class*, Bob Herbert and Public Square Media, Inc (2016), http://www.pbs.org/wnet/chasing-the-dream/films/against-all-odds/; James Carr and Nandinee Kutty, *Segregation: The Rise Costs for America*, Routledge (2008); Ira Katznelson, *When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America*, W. W. Norton & Company (2005); Thomas M. Shapiro, *The Hidden Cost of Being African American: How Wealth Perpetuates Inequality*, Oxford University Press (2004); Melvin L. Oliver and Thomas M. Shapiro, *Black Wealth/White Wealth: A New Perspective on Racial Inequality*, Routledge (1997); Richard Rothstein: *The Color of Law: A Forgotten History of How Our Government Segregated America*, Liveright Publishing Corporation (2017).

[22] Federal Housing Administration, Underwriting Manual, Excerpts (1936).

[23] *Id*.

[24] Dedrick Asante-Muhammad, et. al, *The Road to Zero Wealth: How the Racial Wealth Divide is Hallowing Out America's Middle Class*, at 15 (September 2017), https://prosperitynow.org/files/PDFs/road_to_zero_wealth.pdf.

[25] *Id*.

[26] Nick Watt and Jack Hannah, *Racist language is still woven into home deeds across America. Erasing it isn't easy, and some don't want to*, CNN, February 15, 2020, https://www.cnn.com/2020/02/15/us/racist-deeds-covenants/index.html; Clara Howell, *Removing racist language from Oregon property deeds not easy*, Portland Tribune, August 25, 2020, https://pamplinmedia.com/pt/9-news/477920-386292-removing-racist-language-from-oregon-property-deeds-not-easy; Justin Wm. Moyer, *Racist housing covenants haunt property records across the country. New laws make them easier to remove*, Washington Post, October 22, 2020, https://www.washingtonpost.com/local/racist-housing-covenants/2020/10/21/9d262738-0261-11eb-8879-7663b816bfa5_story.html; Camille Erickson Casper, *Bill would allow removal of racist language in real estate deeds*, Rocket Miner, March 3, 2021, https://www.wyomingnews.com/rocketminer/news/state/bill-would-allow-removal-of-racist-language-in-real-estate-deeds/article_7d5714c8-3c6d-59fe-a9ac-69fc84894ed0.html.

driver of the persistent racial wealth gap and home equity still plays a central role in shaping family wealth for the middle class. Moreover, the neighborhoods we live in largely determine the schools our children attend, our proximity to healthy food and well-paying jobs, and, in some cases, the quality of the very air we breathe. It is difficult to overstate the vast and on-going inequities that these discriminatory policies have created.

3. Subprime Lending's Abuses Cost Black and Latino Families More Than $1 trillion in Lost Wealth

Compounding the effects of the discriminatory polices described above, families of color were then devastated by the subprime lending boom in the early 2000s, in which lenders sold millions of families abusive loans that were not sustainable.[27] Leading up to the 2008 financial crisis, these dangerous niche products that lenders mass-marketed included interest-only loans, adjustable rate mortgage (ARM) loans that combined "teaser" rates with subsequent large jumps in payments, negative amortization loans, and loans made with limited or no documentation of the borrower's income or assets.[28] Studies have shown that these products in and of themselves caused about half of the increased risk in mortgage lending that led to the Great Recession.[29]

Center for Responsible Lending research demonstrated that Black and Latino families disproportionately received subprime loans at a greater rate than whites and that borrower ***credit*** characteristics did not explain the differences in lending.[30] About half of all mortgages made to Black and Latino families during the run-up to the crisis were subprime loans with patently unsustainable terms.[31] Indeed, much

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[27] The GSEs' affordable housing goals and loans counting for Community Reinvestment Act credit did not cause the crisis, although it is a much-repeated myth. As the Financial Crisis Inquiry Commission concluded, the affordable housing goals "only contributed marginally to Fannie's and Freddie's participation in [risky mortgages]." Financial Crisis Inquiry Commission, *Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States*, at xxvii (2010), https:// www.gpo.gov/fdsys/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf. Furthermore, "none of Fannie Mae's 2004 purchases of subprime or Alt-A securities were ever submitted to HUD to be counted toward the goals." *Id*. at 123. Additionally, the Federal Reserve Bank of St. Louis determined that there was "no evidence that the affordable housing goals of the CRA or of the GSEs affected" the volume, pricing, and performance of securitized subprime mortgages originated in the sample studied. Rubén Hernández-Murillo, Andra C. Ghent, and Michael T. Owyang, Federal Reserve Bank of St. Louis, *Did Affordable Housing Legislation Contribute to the Subprime Securities Boom?* (March 2012), https://research.stlouisfed.org/wp/more/2012-005.

[28] Financial Crisis Inquiry Commission, *The Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States*, at pp. 104-111 (2011), https://www.govinfo.gov/content/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf.

[29] Morris A. Davis, William D. Larson, Stephen D. Oliner, and Benjamin R. Smith, A *Quarter Century of Mortgage Risk*, FHFA Staff Working Paper 19-02, at 35, October 2019 (revised) January 2019 (original) (finding that "risky product features accounted for more than half of the rise in risk during the boom years", defining "risky product features" as those ineligible for QM status). For characteristics of subprime loans, *see* Testimony of Eric Stein before the U.S. Senate Committee on Banking, Housing and Urban Affairs, *Turmoil in the U.S. Credit Markets: The Genesis of the Current Economic Crisis*, Center for Responsible Lending (October 16, 2008) at pp. 11-14, 34-39, https://www.responsiblelending.org/sites/default/files/nodes/files/researchpublication/senate-testimony-10-16-08-hearing-stein-final.pdf.

[30] Debbie Gruenstein Bocian, Keith S. Ernst, and Wei Li Center, *Unfair Lending: The Effect of Race and Ethnicity on the Price of Subprime Mortgages*, Center for Responsible Lending (May 31, 2006), https://www.responsiblelending.org/mortgage-lending/research-analysis/rr011-Unfair_Lending-0506.pdf.

[31] Federal Reserve researchers, using data from 2004 through 2008, have reported that higher-rate conventional mortgages were disproportionately distributed to borrowers of color, including African American, Latino, American

evidence indicates that borrowers of color, including higher-income borrowers, were disproportionately steered into toxic mortgages ***despite qualifying for safer and more responsible loans with lower costs.***[32] Because of these lending practices, Black and Latino families lost over $1 trillion dollars in wealth during the crisis.[33] Further, Black homeownership has been the slowest to recover from the Great Recession. In fact, there would be 770,000 more Black homeowners if the homeownership rate recovered to its pre-crisis level in 2000.[34]

4. Post Great Recession Mortgage Lending Is Overly Restrictive and Limits Access for Black and Brown Families Today

In recent years rather than remediating the damage done by this history of discrimination against families of color, lenders' overcorrections to lending standards and more restrictive GSE credit policies have instead closed off lending options for these families. Data from the Home Mortgage Disclosure Act and the GSEs themselves continues to demonstrate low levels of conventional mortgage loans to Black and Latino families. For example, in 2019, 4.8% of Fannie Mae and 3.6% of Freddie Mac home purchase loans were from Black borrowers, and 4.1% and 3.7% of refinance loans.[35] Since the financial crisis, many lenders and the GSEs have limited lending and increased prices for borrowers with lower credit scores and/or lower down payments. Borrowers of color, low and moderate-income families, and first-time homebuyers tend to have both lower FICO scores and fewer resources to put towards a down payment due to lower levels of family wealth, which in turn is due in large part to generations of systemic discrimination, including by the federal government as discussed previously.

Discrimination in the mortgage market is also by no means a relic of the past and can manifest in multiple ways. For example, a recent Center for Investigative Reporting Reveal report analyzed 31 million mortgage records and found that, controlling for income and other available characteristics, in 61 U.S. metro areas African Americans and Latinos are more likely to be turned down for a loan than

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Indians, Alaskan Natives, Native Hawaiians, Pacific Islanders, and Hispanic borrowers. *See* R.B. Avery, K.P. Brevoort, and G.B. Canner, *Higher-Priced Home Lending and the 2005 HMDA Data*, Federal Reserve Bulletin (September 2006), http://www.federalreserve.gov/pubs/bulletin/2006/hmda/bull06hmda.pdf. For example, in 2006, among consumers who received conventional mortgages for single-family homes, roughly half of African American (53.7 percent) and Hispanic borrowers (46.5 percent) received a higher-rate mortgage compared to about one-fifth of non-Hispanic white borrowers (17.7 percent). According to the researchers, "[F]or higher priced conventional first-lien loans for an owner-occupied site-built home, the mean APR spreads were about 5 percentage points above the yields on comparable Treasury securities both for purchase loans and refinancings." R.B. Avery, K.P. Brevoort, and G.B. Canner, *The 2006 HMDA Data*, at A88, Federal Reserve Bulletin (December 2007), http://www.federalreserve.gov/pubs/bulletin/2007/pdf/hmda06final.pdf.

[32] Rick Brooks and Ruth Simon, *Subprime Debacle Traps Even Very Credit-Worthy*, Wall Street Journal (December 2007), https://www.wsj.com/articles/SB119662974358911035.

[33] Debbie Gruenstein Bocian, Peter Smith, and Wei Li, *Collateral Damage: The Spillover Costs of Foreclosures*, Center for Responsible Lending, at 2 (Oct. 24, 2012), https://www.responsiblelending.org/mortgagelending/research-analysis/collateral-damage.pdf.

[34] Alanna McCargo, Jung Hyun Choi, and Edward Golding, *Building Black Homeownership Bridges: A Five Point Framework for Reducing the Racial Homeownership Gap*, Urban Institute, at 1 (May 2019), https://www.urban.org/sites/default/files/publication/100204/building_black_ownership_bridges_1.pdf.

[35] FHFA Annual Housing Report at 11, Table 6 (October 2020), https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/Annual-Housing-Report-2020.pdf.

whites in conventional mortgage applications.[36] Furthermore, testing has repeatedly demonstrated housing discrimination. In 2019, Newsday published the results of a three-year undercover investigation which exposed widespread discriminatory home-selling practices by Long Island real estate agents.[37] Two similarly situated testers of different racial backgrounds independently approached the same agent to test whether they were treated differently based on their race. Black testers experienced disparate treatment 49% of the time, compared with 39% for Latino and 19% for Asian testers.[38] And in 8% of the tests, the agents accommodated white testers while imposing more stringent conditions on other testers.[39]

Black Americans also pay more to be homeowners. The overall differences in mortgage interest payments ($743 per year), mortgage insurance premiums ($550 per year), and property taxes ($390 per year) total $13,464 over the life of the loan, which amounts to $67,320 in lost retirement savings for Black homeowners.[40] Nearly a quarter of the disparity in homeownership costs for Black homeowners is due to local property tax assessments. A research study relying on a national data set found that Black homeowners bear a 13% higher property tax burden than white homeowners in the same jurisdiction; the study identified large tax assessment areas and an appeal process that tends to benefit white homeowners as the key factors resulting in higher relative property tax burden on Black homeowners.[41] Despite paying more, Black families realize less growth in home equity as homes in Black neighborhoods of similar quality and amenities as other neighborhoods are worth 23% less, $48,000 per home on average, amounting to $156 billion in cumulative losses.[42]

The future health of the housing market depends on closing these disparities. Demographic projections for the United States point to future increases in the population shares of people of color, making the need to serve these groups increasingly important for the health and future growth of the housing market. For example, over the past decade, Latinos have accounted for over 40% of all household formation growth and 58% of all population growth. Despite representing 18% of the population,

[36] Emmanuel Martinez and Aaron Glantz, *Kept Out: For People of Color, Banks Are Shutting the Door to Homeownership*, Center for Investigative Reporting (Feb. 15, 2018), https://revealnews.org/article/for-people-of-color-banks-are-shutting-the-door-to-homeownership/ (the study did not have available data on credit scores, but it controlled for nine economic and social factors, including an applicant's income, the amount of the loan, the ratio of the size of the loan to the applicant's income, type of lender, racial makeup and median income of the neighborhood where the applicant wanted to purchase the property).
[37] Ann Choi, Keith Herbert, Olivia Winslow, and Arthur Browne, *Long Island Divided*, Newsday (November 17, 2019), https://projects.newsday.com/long-island/real-estate-agents-investigation/.
[38] *Id.*
[39] *Id.*
[40] Michelle Aronowitz, Edward L. Golding, and Jung Hyun Choi, *The Unequal Costs of Black Homeownership*, MIT Golub Center for Finance and Policy (Oct. 1, 2020), http://gcfp.mit.edu/wpcontent/uploads/2020/10/Mortgage-Cost-for-Black-Homeowners-10.1.pdf.
[41] Carlos Avenancio-León and Howard Troup, *The Assessment Gap: Racial Inequalities in Property Taxation*, Washington Center for Equitable Growth (2020), https://equitablegrowth.org/working-papers/the-assessment-gap-racialinequalities-in-property-taxation/.
[42] Andre M. Perry, Jonathan Rothwell, and David Harshbarger, *The Devaluation of Assets in Black Neighborhoods*, Brookings (November 27, 2018), https://www.brookings.edu/research/devaluation-of-assets-in-black-neighborhoods/.

Latinos accounted for more than 60% of new homeowner gains over the past decade.[43] Further, a recent study shows that increasing homeownership to Black homeowners as well as addressing other structural discrimination has the potential to grow the economy by at least $1 trillion per year over the next five years.[44] Another study shows that addressing discrimination in mortgage lending targeted at Black Americans can create 4.9 million more households, 784,000 jobs, and $400 billion in tax revenue.[45]

According to a report by Demos, if homeownership rates were the same for whites and people of color, we would see a decrease in the racial wealth gap by 31% for Black Americans and 28% for Latinos.[46] More targeted aid is required to overcome discrimination in homeownership opportunity. As research from Freddie Mac and Urban Institute demonstrates, there are millions of mortgage-ready borrowers of color, based on borrowers' current credit scores and debt-to-income ratios, though not funds available for a down payment. In fact, there are 6.3 million mortgage ready Black and Latino millennials in the 31 largest metropolitan statistical areas.[47] Given that many of these borrowers do not have family wealth for a down payment because of the lack of intergenerational wealth, targeted down payment assistance will be critical to enable mortgage-ready borrowers of color to become homeowners.

III. The State of the Single-Family Mortgage Market

The value of the housing market is $33 trillion, which is comprised of $11.5 trillion of mortgage debt outstanding and roughly twice that amount, or $22 trillion, of home equity. These figures include mortgages from owner-occupants and investors. GSE and Ginnie Mae mortgage-backed securities (together called agency MBS) account for 64% of the total mortgage debt outstanding, portfolio first liens make up 30% and home equity loans 4%, and private-label securities (PLS) make up 4% of the total. Of agency MBS, 43% is Fannie Mae, 30% Freddie Mac, and 27% Ginnie Mae, composed largely of Federal Housing Administration (FHA) and Veterans Administration (VA) loans.

Among owner-occupied houses, from the depths of the Great Recession in 2009 until 2019, home equity has grown from 37% to 60% of the total housing value, which is currently $26 trillion. This equity is

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[43] Laura Kusisto and Ben Eisen, *Wave of Hispanic Buyers Shores Up U.S. Housing Market*, Wall Street Journal, July 15, 2019, https://www.wsj.com/articles/wave-of-hispanic-buyers-boosts-u-s-housing-market-11563183000.

[44] Citi, *Closing the Racial Inequality Gaps: The Economic Cost of Black Inequality in the U.S.* (Sept. 2020), https://ir.citi.com/%2FPRxPvgNWu319AU1ajGf%2BsKbjJjBJSaTOSdw2DF4xynPwFB8a2jV1FaA3Idy7vY59bOtN2lxVQM%3D.

[45] Jeff Cox, *Morgan Stanley says housing discrimination has taken a huge toll on the economy*, CNBC, November 13, 2020, https://www.cnbc.com/2020/11/13/morgan-stanley-says-housing-discrimination-has-taken-a-huge-toll-on-the-economy.html.

[46] Tanvi Misra, *Why America's Racial Wealth Gap is Really a Homeownership Gap*, Demos, March 12, 2015, http://www.demos.org/news/why-americas-racial-wealth-gap-really-homeownership-gap.

[47] Alanna McCargo, *America's Persistent Racial Homeownership Gaps*, Urban Institute, https://www.nar.realtor/sites/default/files/documents/policy-forum-2020-presentation-racial-homeownership-gaps-02-06-2020.pdf. *See also* National Association of Hispanic Real Estate Professionals, *2019 State of Hispanic Homeownership Report*, https://nahrep.org/downloads/2019-state-of-hispanic-homeownership-report.pdf; Alanna McCargo, Jung Hyun Choi, and Edward Golding, *Building Black Homeownership Bridges: A Five Point Framework for Reducing the Racial Homeownership Gap*, Urban Institute, at 8 (May 2019), https://www.urban.org/sites/default/files/publication/100204/building_black_ownership_bridges_1.pdf.

divided between owners who do not have a mortgage – now up to 37% of the total – and greater equity held by owners with a mortgage.[48]

As a result of the COVID-19 crisis, as occurred following the previous financial crisis, private sources of capital have retreated and the government has stepped in to fill the gap in the countercyclical manner the country requires. 2020 was a record year for mortgages, with $4 trillion originated during the year, and the GSE share was up significantly at 59%, compared to 43% in 2019. Portfolio originations were down to 22%, from 36% in 2019. The FHA/VA share was 18%, down one percentage point compared to 2019. The PLS share was just 0.9% in 2020, down from 1.9% in 2019 and from an astonishing 40% of the market in 2006, which fueled the boom that led to the financial crisis.[49]

Nonbanks, which cannot generally hold onto loans, now originate 75% of loans sold on the secondary market to GSEs and Ginnie Mae. Given the low interest rate environment, 70% of all GSE mortgages are refinances, as are half of Ginnie Mae loans.

A total of 30% of FHA loans serve Black (13%) and Hispanic (17%) borrowers. For GSE loans, the percentage is just 13%: 4% Black and 9% Hispanic. Single women made up 16% of total home purchases nationwide in the fourth quarter of 2020, single men 18%, and couples—two (or more) people buying a home together—49%.[50] In 2020, an all-time high of 83% of FHA purchase loans went to first-time homebuyers, while 50% of GSE purchase mortgages did.

The mortgage market is challenged today along two dimensions. First, credit is relatively tight. The median FICO score for purchasing a home is now 45 points higher than it was before the housing crash, up to 742 for purchase loans. Loan-to-value (LTV) ratios for purchase loans have remained relatively constant since 2009, with the median LTV at 95%, and debt-to-income ratios have come down slightly, with a median of 38%.

The Urban Institute has developed a Housing Credit Availability Index, which measures the degree of risk that lenders are taking from the mortgages they originate. That index shows that credit is significantly tighter than it was in the years prior to the housing bubble. Agency underwriting tightened through the first three quarters of 2020 due to the COVID-19 crisis, with credit overlays by lenders reducing mortgage availability for borrowers with credit characteristics that would have been approved in the past, and portfolio and PLS lending declined significantly. According to the Urban Institute, "[s]ignificant space remains to safely expand the credit box. If the current default risk was doubled across all channels, risk would still be well within the pre-crisis standard of 12.5% from 2001 to 2003 for the whole mortgage market."[51]

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[48] Michael Neal, *Mortgage Debt Has Peaked: Why Has the Share of Homeowners with a Mortgage Fallen to a 13-Year Low?*, Urban Institute (Aug. 20, 2019), https://www.urban.org/urban-wire/mortgage-debt-has-peaked-why-has-share-homeowners-mortgage-fallen-13-year-low.

[49] Information gathered from Urban Institute's Housing Finance Policy Center *Housing Finance at a Glance* (February 2021), https://www.urban.org/sites/default/files/publication/103746/housing-finance-at-a-glance-a-monthly-chartbook-february-2021_0.pdf.

[50] *See* Dana Anderson, *Single Women See Twice as Much Growth in Home Purchases as Single Men*, Redfin, March 3, 2021, https://www.redfin.com/news/single-women-home-purchases-increase-2020/. Purchases by institutions and NA made up the remainder.

[51] Urban Institute, Housing Finance Policy Center, *Housing Credit Availability Index, Q3 2020*, https://www.urban.org/policy-centers/housing-finance-policy-center/projects/housing-credit-availability-index.

Second, the supply of housing for purchase is also constrained. As a recent New York Times article asks, "Where Have all the Houses Gone?"[52] New construction of single-family homes has never recovered from the foreclosure crisis, and an estimated 1.5 million households have transitioned from owning their home to renting, increasingly to institutional single-family rental investors,[53] resulting in a serious housing shortage for owner-occupants.

At the same time, the supply of existing homes for purchase is far below historic norms, particularly in the lower-priced segment, as would-be-sellers have elected not to put their homes on the market during the pandemic.[54] According to Freddie Mac, coming into the COVID-19 crisis the country was 2.5 million houses short of what is needed,[55] and supply is now the lowest it has been in 20 years.[56] And demand for these existing homes is so high that the average residence is on the market for just three weeks.[57]

Constrained demand coupled with low supply has led to an acceleration of housing prices, which were up almost 11% in the fourth quarter of 2020 compared with a year earlier, an incredible 14% in January 2021 compared with January last year.[58] While the increased home equity is helpful for current homeowners who are able to hold onto their homes through current economic dislocations, it poses an increasingly prohibitive barrier for the two groups whose homeownership rates lag the national average, people of color and millennials, to buy their first home. Unable to climb the wealth-building ladder that homeownership provides,[59] Black, brown, and young Americans face a bleaker future than others do.

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[52] Emily Badger and Quoctrung Bui, *Where Have All the Houses Gone?*, New York Times, March 5, 2021, https://www.nytimes.com/2021/02/26/upshot/where-have-all-the-houses-gone.html.

[53] Andrea Eisfeldt and Andrew Demers, *Total Returns to Single Family Rentals*, National Bureau of Economic Research, Working Paper 21804 (Feb. 2021), https://www.nber.org/system/files/working_papers/w21804/w21804.pdf.

[54] Jung Hyun Choi, Josh Walsh, and Laurie Goodman, *Housing Supply Constraints From Before the Pandemic Will Worsen Inequality as We Start to Recover*, Urban Institute (May 27, 2020), https://www.urban.org/urban-wire/housing-supply-constraints-pandemic-will-worsen-inequality-we-start-recover.

[55] Freddie Mac, *The Housing Supply Shortage: State of the States* (Feb. 27, 2020), http://www.freddiemac.com/research/insight/20200227-the-housing-supply-shortage.page.

[56] MReport, *Housing Supply Falls to Lowest Level in Two Decades*, Jan. 29, 2020, https://themreport.com/daily-dose/01-29-2020/housing-supply-falls-to-lowest-level-in-two-decades.

[57] Katy O'Donnell, *Soaring Home Prices are Starting to Alarm Policymakers*, March 8, 2021, https://www.politico.com/states/california/story/2021/03/08/soaring-home-prices-are-starting-to-alarm-policymakers-1367423.

[58] FHFA, *U.S. House Price Index Report, 2020 Q4* (Feb. 23, 2021), https://www.fhfa.gov/AboutUs/Reports/Pages/US-House-Price-Index-Report-2020-Q4.aspx; Katy O'Donnell, *Soaring Home Prices are Starting to Alarm Policymakers*, March 8, 2021, https://www.politico.com/states/california/story/2021/03/08/soaring-home-prices-are-starting-to-alarm-policymakers-1367423.

[59] *See* Christopher Herbert, Daniel McCue, Rocio Sanchez-Moyano, *Update on Homeownership Wealth Trajectories Through the Housing Boom and Bust*, Working Paper: Joint Center for Housing Studies of Harvard University, at 6 (February 2016), http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/2013_wealth_update_mccue_02-18-16.pdf (stating that "[e]ven after the precipitous decline in home prices and the wave of foreclosures that began in 2007, homeownership continues to be associated with significant gains in household wealth at the median for families of all races/ethnicities and income levels. Households who are able to sustain homeownership over prolonged stand to gain much. Meanwhile, renters experienced little wealth accumulation over this period. And though homeownership is certainly not without risk, the typical renter household who transitioned into and then exited homeownership by 2013 was no worse off financially than the typical household who remained a renter over the whole period.").

The problem of scarce supply, and the local zoning restrictions that exacerbate the problem, is therefore an urgent racial equity issue for the country to address.[60]

IV. Discrimination in Homeownership Costs Families and the Economy: The Need to Fully Enforce Fair Lending Laws

The COVID-19 pandemic and economic crisis has laid bare and amplified systemic inequity in our nation. As the National Fair Housing Alliance aptly states in its most recent Fair Housing Trends Report:

> This report was not supposed to be about the COVID-19 pandemic. It was supposed to be about fair housing trends in 2019. However, how could we not address the COVID-19 crisis when it illuminated the great disparities at the heart of every fair housing trends report ever released by NFHA? The adverse COVID health outcomes for people of color, and especially for Black Americans, are a manifestation of segregation and absence of opportunity in neighborhoods of color. People of color live in communities with more concrete, toxic facilities, and pollution, but fewer fresh foods or health care facilities. The disparities in economic outcomes reflect the disparities in education and job opportunities linked to differences in school quality, transportation, and employment networks. People of color, especially Latinos, are overrepresented in service industry jobs, those hardest hit by the pandemic. The differences in long-term housing stability relate directly to centuries of differences in housing opportunities–people of color are predominantly renters, while White people are predominantly homeowners.

Additionally, research from NCRC demonstrates that there are statistically significant correlations between redlining and susceptibility to COVID-19.[61] Against this stark backdrop, the Trump administration destroyed critical fair housing protections that are absolutely essential to ensuring that all communities have an opportunity to thrive.

A. HUD's Disparate Impact and Affirmatively Furthering Fair Housing Rules Must be Restored

Disparate impact theory helps create accountability for entities that unjustifiably engage in practices that have a disproportionately harmful effect based on protected class. Furthermore, by focusing on the consequences of unfair credit practices, the disparate impact standard is frequently able to uncover discrimination that is intentional, but subtle or hidden. Equally important, disparate impact helps to eliminate practices that are neutral on their face but have an unjustified discriminatory effect. These practices often maintain the effects of prior intentional discrimination and systemic inequality. The Trump administration's replacement of HUD's 2013 disparate impact rule would make it virtually impossible to bring fair housing cases based on this theory, allowing unjustified policies to flourish.[62]

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[60] Michael Stegman, *Eliminating Exclusionary Land Use Regulations Should be the Civil Rights Issue of Our Time*, Joint Center for Housing Studies of Harvard University (Aug. 19, 2010), https://www.jchs.harvard.edu/research-areas/working-papers/eliminating-exclusionary-land-use-regulations-should-be-civil-rights.

[61] Jason Richardson, Bruce C. Mitchell, Helen C.S. Meier, Emily Lynch, and Jad Edlebi, *Redlining and Neighborhood Health*, NCRC, September 2020, https://ncrc.org/holc-health/.

[62] CRL Comment to HUD, Implementation of the Fair Housing Act's Disparate Impact Standard (Oct. 18, 2019), https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-sh-comment-disparateimpact-oct2019.pdf.

HUD's 2015 Affirmatively Furthering Fair Housing rule provided HUD program participants with a planning framework and data tools to enable them to take meaningful actions to overcome historic patterns of segregation and foster inclusive communities free from discrimination. The Trump administration's replacement rule removes all considerations of race and the impact of segregation on communities.

President Biden recently issued a Presidential Memorandum on "Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies."[63] The Memorandum directs HUD to reassess these rules. It is critical for the disparate impact and AFFH rules to be fully reinstated. Additionally, HUD, CFPB, and DOJ must revive their fair housing and fair lending enforcement efforts.

B. Mortgage Credit should be Helpful, not Harmful, to Borrowers

The Equal Credit Opportunity Act (ECOA) and Regulation B are essential for fair lending and aim to guarantee a financial marketplace that operates in an equitable and inclusive manner free of discrimination. Credit determinations impact every facet of American life from birth to death and must be conducted in a fair, non-discriminatory manner to ensure equal opportunity for all, especially those within protected classes long denied equal access.

Underserved borrowers and borrowers of color should be able to access sustainable and responsible loan options, not shunted into predatory products. Implicit in ECOA's purpose is an assumption that credit is helpful and not harmful, that it is productive for consumers rather than destructive, that it serves wealth building rather than deplete savings and extract wealth. When the law provides that lenders may affirmatively advertise to disadvantaged groups, or that lenders may not discriminate based on source of income, the law assumes that lenders are not targeting communities of color, or those reliant on minimal public benefits for their income, with toxic loans. Rather, ECOA assumes, as its legislative history reflects, "[c]redit should be granted on one basis alone—the ability of the borrower to repay."[64] As we saw during the subprime mortgage crisis, toxic products create immense harm to families and communities.

So ECOA, especially as it affirmatively seeks to ensure that those who are underserved access low-cost, beneficial credit, must be grounded in a responsible, safe lending market. Fulfilling the purpose of ECOA requires regulators to vigorously supervise and enforce not just ECOA itself, but all statutes aimed at a fair credit market, including CFPB's authority to address unfair, deceptive and abusive practices. All lending should be based on the borrower's ability to repay – a longstanding banking principle and reflected in ECOA's legislative history forty-five years ago. Importantly, lending designed to be affordable aligns lender and borrower incentives so that lenders succeed only when borrowers do, and lenders need not engage in aggressive debt collection practices to support their business model.

C. CFPB, HUD, and DOJ should encourage Special Purpose Credit Programs (SPCPs)

[63] Memorandum on Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies (Jan. 26, 2021), https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-redressing-our-nations-and-the-federal-governments-history-of-discriminatory-housing-practices-and-policies/.

[64] 121 Cong. Rec. H964 (daily ed. Feb. 20, 1975) (statement of Rep. Annunzio).

Discrimination in the mortgage market remains, as detailed in section II, making a more active approach necessary. ECOA permits creditors to create special purpose credit programs to facilitate lending to underserved consumers with the protection that those lenders would not be held in violation of the nation's fair lending laws. We urge the banking regulatory agencies, CFPB, HUD, and DOJ to more broadly inform lenders of the potential to use special purpose credit programs (SPCPs) in order to facilitate extension of responsible credit favorably designed for underserved communities.[65]

CFPB should coordinate with HUD and DOJ to ensure lenders have confidence that SPCPs do not conflict with other civil rights laws; rather, they promote the purposes of those laws. To address potential regulatory uncertainty, we point to the recently published work of the NFHA and Relman Colfax PLLC.[66] This work explains how ECOA coexists within the regulatory framework with the Fair Housing Act and sections 1981 and 1982 of the Civil Rights Act of 1866.

At the same time, the federal agencies must emphasize that SPCPs are for responsibly designed programs. They are not a license to offer borrowers a slightly less predatory version of a predatory product, which is more likely to extract wealth than to promote financial stability.

D. HMDA is Critical to Shedding Light on Discrimination in the Mortgage Market

When it was enacted in 1975, the Home Mortgage Disclosure Act (HMDA) marked an important change in the way race and ethnicity were treated within consumer financial data. Instead of prohibiting banks and lenders from maintaining records around customer demographics, HMDA required the collection of race data in connection with mortgage lending. Beginning in 1989, HMDA began to require mortgage lenders to report the borrower race for each loan they made.[67] This approach to fighting financial discrimination represented a change in tactics from race-blindness to transparency, and has been instrumental ever since, in allowing elected officials, regulators, advocates, and the public to detect patterns of unfair lending.

Throughout the subprime mortgage crisis and Great Recession, HMDA data was key for demonstrating disparities and reforming practices in the mortgage market. Moreover, the Dodd-Frank Act and subsequent CFPB rulemaking required further transparency by requiring financial institutions to report additional data points, including borrower credit scores.[68]

In recent years, however, CFPB has weakened HMDA. CFPB finalized a rule that would increase the HMDA reporting threshold for mortgages, which means that some smaller lenders may not have to report at all.[69] CFPB also announced an advance notice of proposed rulemaking that would solicit feedback on the costs and benefits of collecting and reporting the additional data points in the 2015 HMDA rule.[70] Additionally, in 2019, CFPB announced it would no longer host or maintain the HMDA

[65] *See, e.g.*, Lisa Rice, President and CEO, *Using Special Purpose Credit Programs to Expand Equality*, Nov. 4, 2020, https://nationalfairhousing.org/using-spcps-blog/.
[66] Relman Colfax LLC and National Fair Housing Alliance, *Special Purpose Credit Programs: How a Powerful Tool for Addressing Lending Disparities Fits Within the Antidiscrimination Law Ecosystem* (Nov. 2020), https://nationalfairhousing.org/wp-content/uploads/2020/11/NFHA_Relman_SPCP_Article.pdf.
[67] History of HMDA (March 8, 2021), https://www.ffiec.gov/hmda/history2.htm.
[68] 80 Fed. Reg. 66127 (Oct. 28, 2015).
[69] 85 Fed. Reg. 28364 (May 12, 2020).
[70] *Id*.

Explorer, a vital and user-friendly tool to provide a clear view of the mortgage market and who it serves. It is essential that CFPB replace the data access tool and address the gap in accessibility that will have occurred between the release of the 2018 HMDA data and the launch of a replacement to HMDA Explorer.

We further urge CFPB to conduct research into the racial disparities in mortgage approvals and mortgage pricing, including controlling for FICO, which the CFPB's initial 2019 HMDA report failed to do. Only the Bureau can do this as FICO is not publicly released. We also urge CFPB to immediately cease work on the HMDA rules listed in the Unified Agenda which would narrow data collected under HMDA and codify the privacy policy into Regulation B; create a "trusted researcher" program to allow others to access the full set of HMDA data; and reinstate the requirement for lenders to submit quarterly data so CFPB can observe and report on trends in closer to real time.

E. The Community Reinvestment Act Should Incorporate Consideration of Race and Ethnicity to Address Lending and Investment Gaps

Although the Fair Housing Act made housing discrimination – including redlining in lending – unlawful, discrimination targeted at Black and brown families in the nation's lending markets persisted. Nearly a decade after the Fair Housing Act passed, Congress passed CRA to address the urgent credit needs of low- and moderate-income (LMI) communities. This was intended to include the credits needs of people of color. CRA was designed to open up access to credit for those to whom it had previously been denied and address systemic inequities in financial services. Congress recognized that many banks were serving the convenience and needs of some parts of their communities, but not others.

Indeed, racial equity is inextricable from CRA's history and purpose. We appreciate the Federal Reserve Board's recent request for input in its ANPR on how to better address "ongoing systemic inequity in credit access for minority individuals and communities."[71] Among other recommendations detailed in our comment letter, we urged the Board to explore and consider proposals which embed increasing access to credit to communities of color into the CRA exam and subtests. In other words, to take a race forward approach to create racial justice and equity.

The CRA statutory framework permits consideration of race. The statute includes references to race, including allowing investments in Minority Depository Institutions (MDIs) or low-income credit unions in minority communities to count for CRA credit. The statute further requires reporting to Congress comparing residential, small business, and commercial lending by banks in low-income, minority, and distressed neighborhoods to such lending in other neighborhoods.[72]

The law emphasizes banks meeting credit needs in all communities, but particularly underserved ones. Extensive data indicates that banks are not meeting the credit needs of Black and brown families.[73] To

[71] Federal Reserve Board Advance Notice of Proposed Rulemaking, Question 2.
[72] Pub. L. 102-550, Title IX, § 910 (Oct. 28, 1992).
[73] *See, e.g.*, Michelle Aronowitz, Edward L. Golding and Jung Hyun Choi, *The Unequal Costs of Black Homeownership*, MIT Golub Center for Finance and Policy (Oct. 1, 2020), http://gcfp.mit.edu/wpcontent/uploads/2020/10/Mortgage-Cost-for-Black-Homeowners-10.1.pdf; Jung Hyun Choi, Alanna McCargo, Michael Neal, Laurie Goodman and Caitlin Young, *Explaining the Black-White Homeownership Gap: A Closer Look at Disparities across Local Markets*, Urban Institute (November 2019), https://www.urban.org/sites/default/files/publication/101160/explaining_the_blackwhite_homeownership_gap_

ameliorate these gaps, CRA exams could include performance measures assessing responsible lending, investing, branching and services to people of color and communities of color. In addition, CRA exams could include racial and ethnic demographic data in performance context analysis and require banks to affirmatively include communities of color in their assessment areas. The banking agencies could consider ways to incentivize lenders to participate in Special Purpose Credit Programs targeted at underserved borrowers.[74] The banking agencies could also provide CRA consideration for lending and investing in census tracts that are majority people of color outside of assessment areas, just as the Board is considering for Federal Native Areas (such as Federally Designated Indian reservations) and other underserved areas. NCRC released an analysis exploring where and whether regulators could insert race into the CRA framework from a statutory and constitutional perspective.[75] These proposals should be given robust consideration.

V. Stopping Algorithmic Bias Can Prevent Future Lending Discrimination

Federal agencies should be vigilant about artificial intelligence and machine learning models and consider the ways in which they can create unjustified outcomes in credit decisions, sometimes without detection. The agencies should be careful not to put forth guidance that suggests support for innovative models and technology without an accompanying fair lending inquiry.

As research demonstrates, algorithms are not objective or free of potential bias.[76] They are only as good as the data that biased humans program into them. And even when the data itself is not biased, the interactions between the data may produce biased outcomes. Bias in the context of algorithmic analysis can create "outcomes which are systematically less favorable to individuals within a particular group and where there is no relevant difference between groups that justifies such harms."[77] In 2018, the New York Times published a study finding artificial intelligence – in particular, facial recognition technology – was much less effective when the subject of the analysis was not a white male.[78] While the software was correct 99% of the time when the subject in the photo was a white man, when the subject was a darker skinned female, the software was wrong 35% of the time.[79] This is because the data set used in artificial intelligence is often reflective of those creating it, who are disproportionately white and male.[80] As Joy

2.pdf; Sarah Strochak, Caitlin Young and Alanna McCargo, *Mapping the Hispanic Homeownership Gap*, Urban Institute (August 2019), https://www.urban.org/urban-wire/mappinghispanic-homeownership-gap.

[74] 12 C.F.R. § 1002.8; National Fair Housing Alliance and Relman Colfax, PLLC, *Special Purpose Credit Programs: How a Powerful Tool for Addressing Lending Disparities Fits Within the Antidiscrimination Law Ecosystem* (Nov. 2020), https://nationalfairhousing.org/wp-content/uploads/2020/11/NFHA_Relman_SPCP_Article.pdf.

[75] Gerron Levi, *CRA & Race: The Federal Reserve's Proposal on the Community Reinvestment Act*, NCRC (Dec. 9, 2020), https://ncrc.org/the-federal-reserves-proposal-on-the-community-reinvestment-act-cra/.

[76] Claire Cain Miller, *Algorithms and Bias: Q. and A. With Cynthia Dwork*, NY Times, Aug. 10, 2015, https://www.nytimes.com/2015/08/11/upshot/algorithms-and-bias-q-and-a-with-cynthia-dwork.html.

[77] Nicol Turner Lee, Paul Resnick, and Genie Barton, *Algorithmic Bias Detection and Mitigation: Best Practices and Policies to Reduce Consumer Harms*, Brookings Institute, May 22, 2019, https://www.brookings.edu/research/algorithmic-bias-detection-and-mitigation-best-practices-and-policies-toreduce-consumer-harms/.

[78] Steve Lohr, *Facial Recognition Is Accurate, if You're a White Guy*, NY Times, February 9, 2018, https://www.nytimes.com/2018/02/09/technology/facial-recognition-race-artificial-intelligence.html.

[79] *Id.*

[80] *Id.*

Buolamwini, MIT professor, stated "[y]ou can't have ethical A.I. that's not inclusive" and "[w]hoever is creating the technology is setting the standards."[81] This is a fundamental issue with algorithms.

Furthermore, devising a model's intent is challenging and often impossible. The complex interactions that AI engages in to form a decision can be so opaque that they prevent any party from being able to devise the intent of the machine's creator.[82] When AI programs are black boxes, they are able to form predictions and decisions in the same way as humans, but they are not able to communicate their reasons for making these conclusions.[83] This situation has been analogized to a human attempting to communicate with another highly intelligent species, with both species able to reason and understand but not able to communicate with each other.[84] Scholars have stated that this difficulty in communication "means that little can be inferred about the intent or conduct of the humans that created or deployed the AI, since even they may not be able to foresee what solutions the AI will reach or what decisions it will make."[85] Indeed, a recent paper argues that artificial intelligence is inherently structured in a manner that makes "proxy discrimination" a likely possibility.[86] Consumers have no way of knowing what data is fed into the models, which factors the algorithm used in making the determination, whether there are proxies for protected classes, or whether the algorithm denied credit based on erroneous or biased data.

Artificial intelligence and algorithms have been exposed as problematic in various sectors, including employment and criminal justice.[87] Potential discrimination claims are shielded due to the black-box nature of algorithms plus the fact that companies claim the algorithm is a trade secret. This creates an insurmountable and unjust obstacle for disparate impact claimants. Federal Reserve Bank Governor Lael Brainard gives a disturbing example taken from a hiring firm's AI algorithm: "the AI developed a bias against female applicants, going so far as to exclude resumes of graduates from two women's colleges."[88] Brookings' Aaron Klein expanded on this example by stating "[o]ne can imagine a lender being aghast at finding out their AI was making credit decisions on a similar basis, simply rejecting everyone from a woman's college or a historically black college or university."[89]

Moreover, non-traditional variables increases the likelihood that conclusions will be biased as well as increase the likelihood that AI will draw a conclusion that there is causation where there is only

[81] *Id.*
[82] Yavar Bathaee, *The Artificial Intelligence Black Box and the Failure of Intent and Causation*, 31 Harv. J.L. & Tech. 890 (2018), at 892, 897, 907, https://jolt.law.harvard.edu/assets/articlePDFs/v31/The-ArtificialIntelligence-Black-Box-and-the-Failure-of-Intent-and-Causation-Yavar-Bathaee.pdf.
[83] *Id*. at 907.
[84] *Id*. at 893.
[85] *Id.*
[86] Anya Prince and Daniel B. Schwarcz, *Proxy Discrimination in the Age of Artificial Intelligence and Big Data*, Iowa Law Review (August 5, 2019), https://ssrn.com/abstract=3347959.
[87] *See, e.g.*, Ifeoma Ajunwa, Automated Employment Discrimination (March 15, 2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3437631; Andrew Guthrie Ferguson, *The Police Are Using Computer Algorithms to Tell If You're a Threat*, TIME Magazine, October 3, 2017, https://time.com/4966125/police-departments-algorithms-chicago/; Julia Angwin et. al., *Machine Bias*, Pro Publica, May 23, 2016, https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing.
[88] Aaron Klein, *Credit Denial in the Age of AI*, Brookings Institute, April 11, 2019, https://www.brookings.edu/research/credit-denial-in-the-age-of-ai/.
[89] *Id*.

correlation.[90] Nontraditional variables include data obtained from internet search histories, shopping patterns, social media activity, and various other consumer-related inputs.[91] This non-traditional information can be fed into machines, which can draw conclusions based on the patterns it observes in the dataset.[92] This is a major concern because financial technology companies are using nontraditional data more and more to make consumer credit decisions. As one article put it: "If there are data out there on you, there is probably a way to integrate it into a credit model. But just because there is a statistical relationship does not mean that it is predictive, or even that it is legally allowable to be incorporated into a credit decision."[93]

Rather than shield algorithms from examination, a recent research article urges us to create an "auditing imperative" for algorithmic systems.[94] It is critical that regulators do not permit algorithmic models to bypass fair lending scrutiny.

A. Credit Scoring is the original AI and Bakes in History of Discrimination

Today's credit score models "bake in" mortgage discrimination. Historic racial discrimination created pervasive and long-lasting consequences, including a dual credit market.[95] In the dual market, white and wealthier borrowers have access to mainstream credit while people of color and low-income families are limited to fringe financial services providers. Prior to the enactment of the nation's antidiscrimination laws, government and private industry explicitly penalized borrowers for their race and ethnicity by unfairly using those innate characteristics as a factor to assess risk. People of color and homes in neighborhoods that were predominantly communities of color were deemed as riskier simply because they were nonwhite. In fact, as the federal government subsidized the mass production of the suburbs, builders and restrictive covenants prohibited Black homebuyers and other people of color from purchases despite their ability to afford them.[96]

These policies created situations where many families and communities of color were excluded from mainstream affordable credit based on now-protected characteristics, including race and national origin. This exclusion had generational impacts that still contribute to a racial wealth gap today. Moreover, as credit scoring systems developed through the 1990s, they penalized borrowers who had anything other

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[90] White & Case, *Algorithms and Bias: What Lenders Need to Know*, January 20, 2017, https://www.whitecase.com/publications/insight/algorithms-and-bias-what-lenders-need-know. *See also* Ian Ayres, *Testing for Discrimination and the Problem of Included Variable Bias*, at 6 (2010), https://www.law.upenn.edu/live/files/1138-ayresincludedvariablebiaspdf.

[91] *Id.*

[92] *Id.*

[93] Aaron Klein, *Credit Denial*, Brookings Institute (April 11, 2019), https://www.brookings.edu/research/credit-denial-in-the-age-of-ai/.

[94] Ifeoma Ajunwa, *Automated Employment Discrimination* (March 15, 2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3437631.

[95] National Consumer Law Center, Past Imperfect: How Credit Scores and Other Analytics "Bake In" and Perpetuate Past Discrimination (May 2016), https://www.nclc.org/images/pdf/credit_discrimination/Past_Imperfect050616.pdf; Lisa Rice and Deidre Swesnick, *Discriminatory Effects of Credit Scoring on Communities of Color*, National Fair Housing Alliance (2012), https://nationalfairhousing.org/wp-content/uploads/2017/04/NFHA-creditscoring-paper-for-Suffolk-NCLC-symposium-submitted-to-Suffolk-Law.pdf.

[96] Tony Dokoupil, *White Americans Confront Legacy of Housing Discrimination*, CBS News, February 19, 2021 https://www.cbsnews.com/video/white-americans-confront-legacy-of-housing-discrimination/#x.

than mainstream credit. Because many of the factors that make up credit scoring systems rely on a dual credit market and its inherent racial discrimination, credit scoring contributes to the self-perpetuating cycle of restricted access to safe and affordable credit that has a dramatic disparate impact on communities of color.

Unfortunately, despite some improvements, current credit scoring models disadvantage borrowers of color and do not adequately serve today's credit market. These models disqualify many first-time homebuyers with thinner credit files – disproportionately people of color who are likely to constitute a significant share of future potential homeowners. The estimates vary, but the CFPB estimates that 26 million Americans are "credit invisible," meaning they have no file with the major credit bureaus, and 19 million are "non-scoreable" because their credit file is too thin or stale to generate a reliable score from the credit bureaus.[97] These consumers are disproportionately African American, Latino, low-income, or young adults. Expanding the use of alternative credit scoring models is a critical element to reverse declines in homeownership, particularly for low- and moderate-income communities and communities of color.

VI. Redlining Must be Factored into Climate Risk Assessments in Mortgage Lending and the Assessments Must Comply with Existing Fair Lending Standards

Climate change is already negatively impacting homeownership and estimates are that climate induced losses in the housing market can be as large as the subprime lending crisis. Recent major natural disasters caused by hurricanes and other violent weather since Katrina have devastated whole communities, including coastal regions. Reports show that 2019 saw $14 billion dollar in weather and climate disaster events, and that these disasters cost more than a record setting $525 billion dollars between 2015 and 2019.[98] According to an analysis of federal data, federal taxpayers hold greater than 60% of mortgages in homes in some areas outside of specially designated federal floodplain, which do not require flood insurance.[99] In these areas, redlining forced Black and brown families to live in the lowest lying areas that are more susceptible to climate induced impact. Moreover, inequitable distribution of natural disaster relief assistance has pushed families of color to abandon their properties in these areas.[100]

Lenders and insurance companies are already using predictive modeling to estimate the risk of climate on homes that they originate and insure, outpacing the GSEs in assessing for risk of climate in homebuying as their regulator, FHFA, just recently issued a request for public proposals to determine the impact of climate on homes outside of the floodplain.[101] The GSEs' broad public mission requires

[97] CFPB, *Data Point: Credit Invisibles* (May 2015), https://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf (figures are from 2010 Census).
[98] Dr. Lindsay Owens, *A policy agenda to Prepare for a Climate-Triggered Housing Crash*, The Great Democracy Initiative, July 2020, https://greatdemocracyinitiative.org/wp-content/uploads/2020/07/Climate-and-Housing-Report-Final-Copy.pdf.
[99] Zack Colman, *How Climate Change Could Spark the Next Home Mortgage Disaster*, Politico, November 29, 2020, https://www.politico.com/news/2020/11/30/climate-change-mortgage-housing-environment-433721.
[100] Gary Rivlin, *Why New Orleans's Black Residents Are Still Underwater After Katrina*, The New York Times Magazine, August 18, 2015, https://www.nytimes.com/2015/08/23/magazine/why-new-orleans-black-residents-are-still-under-water-after-katrina.html.
[101] *See* Colman, https://www.politico.com/news/2020/11/30/climate-change-mortgage-housing-environment-433721.

them to exchange national mortgage liquidity for the public benefits that the enterprises receive with borrowers across the country already implicitly subsidizing homes in flood prone regions to help keep mortgage credit affordable in those communities.

However, redlining complicates what creating racial equity in climate assessments means for communities of color that are already credit starved. Additionally, technology already allows lenders to steer away from homes in areas that project extreme climate impact creating the need for regulators or Congress to quickly act to ensure that this risk continues to be pooled to ensure an appropriate balance of mortgage credit availability in existing underserved communities or that displaced underserved homebuyers have access in the communities that they must relocate to.[102] Moreover, in writing the rules, data collection and transparency are essential elements of this process and must comply with existing fair lending laws as it is clear that bias in produces bias out in technological assessments of homeownership and lending variables.

VII. FHFA Must Strengthen the GSEs Affordable Housing Goals Which is Critical to Ensuring Access for LMI Families and Families of Color

FHFA must prioritize strengthening the GSEs' affordable housing goals as outlined in our comment submitted on February 28, 2021.[103] The GSEs have woefully unfulfilled their statutory obligations to ensure adequate support for Black, Latino, and other communities of color since the Great Recession. Therefore, FHFA must take swift and bold action now in creating affordable housing goals that can help return the GSEs to former periods when their activity was much stronger. A key goal of the affordable housing goals must be to help to build toward more racial equity in homeownership. The GSEs should focus explicitly on addressing racial homeownership gaps; marginal improvements are insufficient given the GSEs' charters that cite the GSEs' responsibility to underserved communities and borrowers of color, including to "minority census tracts."

VIII. COVID-19 Exacerbates the Tale of "Two Americas"

The COVID-19 crisis is having a disproportionate impact on families of color, by nearly every metric. Data has shown that the virus is infecting and killing people of color at a much higher rate.[104] People of color are overrepresented among essential workers who are generally not able to work from home and are more likely to encounter the virus.[105] From February to April 2020, the number of Black business owners dropped by 440,000 or 41%, compared to a 17% decline in white small business owners.[106] Families of color who are hardest hit by COVID-19 are the same families long denied equity in homeownership

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[102] *Id*.

[103] Comment from CRL to FHFA on Enterprise Affordable Housing Goals Advance Notice of Proposed Rulemaking (Feb. 28, 2021), https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-comment-fhfa-affordable-housing-goals-anpr-feb2021.pdf.

[104] Centers for Disease Control and Prevention, *COVID-19 Racial and Ethnic Health Disparities*, https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/index.html.

[105] Tiana N. Rogers, Charles R. Rogers, Elizabeth VanSant-Webb, Lily Y. Gu, Bin Yan, Fares Qeadan, *Racial Disparities in COVID-19 Mortality Among Essential Workers in the United States*, *World Medical & Health Policy*, 2020; DOI, 10.1002/wmh3.358.

[106] Robert W. Fairle, *The Impact of COVID-19 on Small Business Owners: Evidence of Early-Stage Losses From the April 2020 Current Population Survey*, National Bureau of Economic Research, Working Paper 27309 (June 2020), https://www.nber.org/papers/w27309.

opportunities.[107] Indeed, there are statistically significant correlations between redlining and susceptibility to COVID-19.[108] The same low-income neighborhoods of color that were intentionally cut off from lending and investment today suffer from reduced wealth, greater poverty, lower life expectancy, and higher incidence of chronic disease that are risk factors for poor outcomes from the coronavirus.[109]

According to the Bureau of Labor Statistics, while the unemployment rate of whites, which peaked at 14% in April, has dropped to 5.6%, the reported unemployment rate of Blacks stands at 9.9% and actually increased in February, even while the economy added over 350,000 new jobs. And a recent report from the Center for Economic and Policy Research demonstrates that BLS' surveys systematically understate the unemployment rate for Blacks relative to whites.[110]

Further, the unemployment rate captures only those who are still deemed to be within the labor force and thus misses the decline in workforce participation. That has been especially pronounced for Blacks women and Latinas: there are 9.9% fewer Black women and 8.6% fewer Latinas in the workforce today than at the start of the pandemic.

Not surprisingly given their employment situation, Black and brown families are struggling to make ends meet. The most recent Household Pulse Survey from the Bureau of the Census found that 44% of Blacks and 43% of Hispanics reported that they were finding it difficult to pay their usual household expenses, a rate more than 60% higher than for whites. Moreover, according to a CFPB report, as of December, almost one in five Black homeowners and one in seven Hispanic homeowners reported being behind on their mortgage compared to only one in twenty white homeowners.[111]

A. Forbearance and Mortgage Servicing Reforms are Critical to Preventing a Foreclosure Crisis

The CARES Act – coupled with actions taken by FHA, FHFA and the GSEs, as well as many private lenders – have provided a lifeline to many struggling homeowners. Under the CARES Act, those with a federally-backed mortgage suffering a COVID-19 related hardship were granted the right to obtain up to twelve months of forbearance on their mortgage payments. Many private lenders appear to have extended similar rights to borrowers whose mortgages are not federally backed. And in February both FHA and FHFA announced that they would allow those who have obtained forbearance to extend forbearance by

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[107] *See* Alan Gomez, et al, *'An Unbelievable Chain of Oppression': America's History of Racism Was a Preexisting Condition for COVID-19*, USA Today, Oct. 12, 2020, https://www.usatoday.com/in-depth/news/nation/2020/10/12/coronavirus-deaths-reveal-systemic-racism-united-states/5770952002/; Andre M. Perry, *Black Americans Were Forced Into 'Social Distancing' Long Before the Coronavirus*, The Brookings Institution (March 20, 2020), https://www.brookings.edu/blog/the-avenue/2020/03/20/black-americans-were-forced-into-social-distancing-long-before-the-coronavirus/.

[108] Jason Richardson, Bruce C. Mitchell, Helen C.S. Meier, Emily Lynch, Jad Edlebi, *Redlining and Neighborhood Health*, NCRC, September 2020, https://ncrc.org/holc-health/.

[109] *Id*.

[110] Yixia Cai and Dean Baker, *Masking Real Unemployment: The Overall and Racial Impact of Survey Non-Response on Measured Labor Market Outcomes*, Center for Economic and Policy Research (March 2021), https://www.ineteconomics.org/research/research-papers/masking-real-unemployment-the-overall-and-racial-impact-of-survey-non-response-on-measured-labor-market-outcomes.

[111] CFPB, *Housing Insecurity and the COVID-19 Pandemic* (March 2021), https://files.consumerfinance.gov/f/documents/cfpb_Housing_insecurity_and_the_COVID-19_pandemic.pdf.

up to six additional months and also announced that they would extend the CARES Act moratorium on foreclosures, which lasted only six months, through the end of June.

To date, 6.9 million borrowers – 13% of all borrowers – have obtained forbearance. Those in forbearance experienced significant drops in income; indeed, fully 85% received unemployment benefits. Over 60% of those who obtained forbearance have since exited forbearance, leaving 2.7 million borrowers in forbearance as of the end of January. Importantly, a much smaller share of FHA borrowers have been able to exit forbearance.

However, a significant number of borrowers are struggling with their mortgage obligations. There are approximately 500,000 borrowers who are now at least three months past due who are not in forbearance. Many of these borrowers never obtained forbearance in the first place; others exited forbearance but have been unable to resume making their regular payments. Indeed, of those who have exited forbearance, more than one in ten have fallen behind on their mortgages and for FHA borrowers the number is closer to one in five. Moreover, whereas those who were able to exit forbearance last summer have low levels of delinquencies, among those exiting more recently the subsequent delinquency rates have been two to three times higher.

For those still in forbearance, the most significant question is what happens to them once their forbearance period ends. Fortunately, the mortgage market is in a much better position than it was entering the last crisis. The government agencies, led by FHA, as well as FHFA and the GSEs, acted quickly to develop post-forbearance policies to help affected borrowers. As a result, mortgage servicers have much better tools than during the Great Recession to help borrowers struggling to repay.

For federally-backed mortgages, borrowers can exit forbearance and simply resume their regular monthly payments and then repay the arrearages -- that is, the amounts that they would have paid but for the forbearance – without interest, when they pay off the loan. And borrowers who are not able to resume their regular payments can receive a streamlined loan modification that reduces the monthly payments required. If the borrower needs more payment relief than the streamlined offer provides, they may be eligible for greater payment reduction if they provide income documentation.

In addition, servicer capacity is much greater than during the housing crisis, when few were set up to work with borrowers to obtain a modification. However, servicers may be sorely tested when forbearance comes to an end as upwards of two million borrowers may need assistance in a limited time frame, and execution by large organizations is always a challenge, particularly with something as complicated, and important, as a mortgage. Housing counselors have reported instances of borrowers not receiving correct information from servicers, and counselors' support will be essential.

Moreover, when forbearance ends there will be many borrowers – especially Black and brown families – who will need further relief if they are not to lose their homes. Even though many borrowers have equity in their houses today, positive equity alone does not prevent homeowners from losing their home to foreclosure; depending on the time period and associated home price appreciation, between 30% and 80% of foreclosed-upon homeowners had positive equity at the time of default.[112]

[112] David Low, *Mortgage Default with Positive Equity,* Working Paper (2018), Andrew F. Haughwout and Ebiere Okah, *Below the Line: Estimates of Negative Equity Among Nonprime Mortgage Borrowers,* Economic Policy Review, Vol. 15, No. 1, pp. 32-43 (2009), and Anthony Pennington-Cross, *Subprime and Prime Mortgages – Loss Distributions*, FHFA Staff Working Papers 03-01, Federal Housing Finance Agency (2003).

Foreclosure is costly to society and comes with significant negative after-effects for the household and their neighbors. The average foreclosure costs society between $51,000 (HUD) and $70,000 (U.S. Congress Joint Economic Committee) and is borne by the foreclosed-upon household, their neighbors, the lender, and local governments.[113] Foreclosed upon households are likely to move more frequently, less likely to own a home in the future, and some move to neighborhoods with lower incomes and school test scores and are more likely to get divorced.[114] Foreclosed-upon homeowners also suffer from negative physical health consequences resulting in increased incidences of unscheduled hospital visits[115] as well as a range of mental health issues, including depression, anxiety, alcohol use, and even suicide.[116] Unfortunately, foreclosure is also contagious. Studies show that foreclosure reduces the value of neighboring properties by nearly $15,000 and leads to an additional 0.5 foreclosures in the neighboring area.[117] Foreclosure alternatives (i.e. short sales and deed-in-lieu of foreclosure) and forced sales may be less costly to lenders, but the end result for the homeowner may be equally negative.

As a result, it is incumbent on policymakers at all levels to do everything in their power to reduce the number of needless foreclosures that occur. The following are our suggestions to accomplish this goal.

Congress

Congress should extend the protections that FHFA and FHA provide to private loans, which comprise about 30% of the mortgage market. While many servicers of private loans are voluntarily adopting GSE policies, and forbearance rates for private loans are higher than the market as a whole, some are not providing comparable assistance. In addition, the lack of standardization and specificity in forbearance and post-forbearance terms limits servicers in some cases from offering this relief.[118] Congress should not attempt to spell out these policies in detail in legislation since government policies change as policymakers adjust as circumstances do and in accord with lessons learned.

Therefore, Congress should simply require private loans to adopt the foreclosure moratorium and forbearance policies offered by one of the GSEs or FHA, as well to mirror the federally-backed loans in providing a post-forbearance solution that does not increase borrowers' monthly payments. In addition, Congress should provide servicers of private-label securities a safe harbor from investor lawsuits when they follow these provisions.

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[113] United States Department of Housing and Urban Development, *Economic Impact Analysis of the FHA Refinance Program for Borrowers in Negative Equity Positions* (2010) and U.S. Congress Joint Economic Committee, *Report of the Joint Economic Committee Congress of the United States on the 2007 Economic Report of the President Together With Minority Views*, U.S. Government Printing Office (2007).

[114] Rebecca Diamond, Adam Guren, and Rose Tan, *The Effects of Foreclosures on Homeowners, Tenants, and Landlords*, Working Paper (2020).

[115] Janet Currie and Erdal Tekin, *Is There a Link between Foreclosure and Health?*, American Economic Journal: Economic Policy, 7 (1): 63-94 (2015).

[116] Alexander C. Tsai, *Home Foreclosure, Health, and Mental Health: A Systematic Review of Individual, Aggregate, and Contextual Associations*, *PLoS ONE* 10(4): e0123182 (2015).

[117] Arpit Gupta, *Foreclosure Contagion and the Neighborhood Spillover Effects of Mortgage Defaults*, Journal of Finance 74, 2249–2301 (2019).

[118] Urban Institute, *Why It's Harder to Offer Mortgage Assistance to 3 Million Borrowers with Private Loans* (Aug. 13, 2020), https://www.urban.org/urban-wire/why-its-harder-offer-mortgage-assistance-3-million-borrowers-private-loans.

Additionally, the $10 billion dollar Homeowner Assistance Fund is a critical component of the American Rescue Plan bill. It will help protect struggling homeowners and communities by preventing avoidable foreclosures, evictions, and utility shut offs. The Fund would provide a flexible source of federal aid to housing finance agencies to help people who have experienced COVID-19 hardships maintain their housing payments so they can stay in their homes. A critical lesson of the Great Recession is that the communities most impacted need aggressive, targeted, early intervention. Once the Homeowner Assistance Fund is enacted, the Department of Treasury must ensure an equitable distribution of funding to ensure the families hardest hit by the COVID crisis – Black and brown families – are able to access relief.

Consumer Financial Protection Bureau

First, if Congress doesn't enact the 120-day foreclosure pause, CFPB should require it using its RESPA authority. Second, if Congress doesn't require private loans to follow federally-backed requirements after forbearance, CFPB should prohibit servicers from requiring borrowers to repay their arrearages from COVID-related forbearance without first evaluating the borrower for all loss mitigation options the borrower is eligible for. Third, CFPB should facilitate servicers offering streamlined payment reduction modifications to borrowers who indicate that they cannot afford their previous monthly payments, as it did with its interim final rule on deferrals and partial claims, with appropriate consumer protections. Fourth, CFPB should supervise servicer conduct when transitioning borrowers out of forbearance and take appropriate action against servicers who revert to previous bad practices. Fifth, CFPB should continue its good work providing information to borrowers to explain their options in dealing with COVID-19 hardships, and in particular it should provide outreach to borrowers who are delinquent but not in forbearance. Finally, CFPB should help servicers in conducting effective communications with their borrowers by establishing best practices for servicer communications, including websites and emails.

Federal Housing Finance Agency

The modification provided by the GSEs, called the Flex Mod, is commendable. It is streamlined for borrowers 90 days or more delinquent, which reduces frictions and increases take-up rates, and provides substantial payment relief for borrowers with loan-to-value (LTV) ratios above 80%. When the Flex Mod was developed, the expectation was that if there were another crisis, it would look like the last one and housing values would fall, which would push up borrowers' LTVs over 80% and most would get this payment relief. However, the current crisis is accompanied by continued rapid house price appreciation in many communities, and so roughly 75% of GSE borrowers exiting forbearance will have LTVs below 80%.[119] As a result, the only modification step these borrowers are eligible for under the Flex Mod is extension of the mortgage term to 40 years. The GSEs target 20% reduction in principal and interest (P&I) payments, which equates to about a 14% reduction in the overall monthly payment. After receiving the term extension, some borrowers below 80% LTV will receive this level of payment relief but some others will not, depending largely on how old the loan was. However, even if they receive this

[119] Black Knight (https://cdn.blackknightinc.com/wp-content/uploads/2020/10/BKI_MM_Aug2020_Report.pdf) indicates that 84% of homeowners with a GSE-backed mortgage have a current CLTV below 80%. After capitalizing arrearages, roughly 75% of homeowners with a GSE-backed mortgage have a current CLTV below 80%.

amount of payment relief, it will not be enough for many borrowers given the economic dislocations they face and they will lose their house to foreclosure, or in the best case, through a forced sale.

The GSEs should target a higher level of payment reduction with their Flex Mod, providing a 25% or 30% reduction in the P&I payments. For their below 80% LTV borrowers, the GSEs should reduce the interest rate as much as necessary to reach the target, although no lower than the market interest rate, or simply provide the market interest rate as they do with their above 80% LTV borrowers. The GSEs and wealthier borrowers benefit from current low mortgage rates, which is in significant part due to Federal Reserve purchases of their MBS, and these benefits should be shared with the GSEs' most distressed borrowers. The 20% P&I target for reductions should be compared with the FHA-HAMP target of a 20% reduction in the full monthly payment, which equates to a 31% reduction in P&I for the average borrower in forbearance with a Government-backed mortgage. Greater payment relief would also bring the Flex Mod payment reduction target closer to that offered by private modifications; those offered by Chase in the 2011-2014 period targeted a 30% P&I reduction.[120]

Second, the GSEs should provide streamlined refinances for low-wealth borrowers. A key aspect of the current market is that refinances are dominating. Total refinance lending came to a record-setting estimated $2.609 trillion last year and a whopping 144.1% increase from 2019.[121] Especially now, during the COVID-19 crisis and at a time of historic low interest rates, more borrowers should be able to benefit from the current refinance boom to save money on their mortgage payment. Unfortunately, these historically impactful refinances are not reaching lower-income, lower-wealth, or Black and Hispanic families adequately, particularly borrowers with smaller loan balances.[122] Refinance activity for higher FICO borrowers accelerated significantly in 2020, boosting the average FICO score for GSE refinances to 775, well above credit scores for communities of color due to less family wealth.[123]

At a time that the Federal Reserve is purchasing $40 billion in agency mortgage-backed securities per month to help reduce the cost of buying or refinancing a home and to stimulate the economy, FHFA and the GSEs should ensure rate term refinances are more available, not more costly, for lower-income, Black, or Hispanic families who would benefit greatly from the savings on their mortgage payment. We urge the GSEs to create a streamline refinance program to ensure that affordable refinances are more accessible to borrowers, particularly borrowers of color. By doing so, the GSEs would be taking a positive step toward helping the Federal Reserve undo the disproportionate benefits of monetary policy that accrue to the wealthy. Moreover, the GSEs should not charge any LLPAs on a streamline refinance, as LLPAs were already paid at purchase.

Federal Housing Administration

[120] Peter Ganong and Pascal Noel, *Liquidity Versus Wealth in Household Debt Obligations: Evidence from Housing Policy in the Great Recession*, American Economic Review, 110(10): 3100-3138 (2020).
[121] *See* Inside Mortgage Finance, *Refi Sector Closes Strong in 2020, Dwarfs Homebuying*, March 5, 2021.
[122] Sumit Agarwal, Souphala Chomsisengphet, Hua Kiefer, Leonard C. Kiefer, and Paolina C. Medina, *Inequality During the COVID-19 Pandemic: The Case of Savings from Mortgage Refinancing*, Working Paper (2020); Kristopher Gerardi, Paul Willen, and David Hao Zhang, *Mortgage Prepayment, Race, and Monetary Policy*, Working Paper 20-7. Boston: Federal Reserve Bank of Boston (2020).
[123] Urban Institute, Housing Finance At a Glance: A Monthly Chartbook (February 2021), at 17, 23, https://www.urban.org/sites/default/files/publication/103746/housing-finance-at-a-glance-a-monthly-chartbook-february-2021_0.pdf.

FHA acted quickly as the economic effects of the pandemic began to be felt to create its COVID-19 home retention options. Its waterfall of post-forbearance options is significantly more streamlined than FHA's standard waterfall, and therefore can accommodate the hundreds of thousands of FHA borrowers all needing assistance in a compressed time frame to help them remain in their homes. HUD should be commended for its swift and effective action. However, given the stakes involved for FHA borrowers, their families' futures, and the neighborhoods in which they live, it is worth continuing to evaluate the FHA COVID waterfall to determine whether further improvements could provide greater payment relief to borrowers and permit more to qualify for modifications, while taking into account any effects on the MMIF.

IX. Lenders Must Make Small Balance Mortgage Loans to Assist with Creating Affordable Homeownership Opportunities

Following the Great Recession, credit tightened making it nearly impossible for buyers who need small balance mortgage loans to be able to receive them. Rising home prices and lack of availability of small dollar mortgage loans have impacted entire cities that have not fully recovered from the housing crisis. Cities like Detroit are credit starved leaving families with only exploitative credit availability.[124] Federally-insured banks often cite a lack of profitability in their decision not to issue small balance mortgages while their investment arms benefit substantially from their vanishing presence in the single-family market.[125] In 2019, nearly 475,000 homes priced below $80,000 were sold, according to U.S. Census Bureau data with only 43% of those financed with a mortgage loan.[126] COVID-19 has worsened this reality as the focus of mortgage originations have shifted to the wealthiest borrowers leaving many credit worthy families with limited mortgage access, which has fallen disproportionately on families of color who typically rely on small balance mortgage loans to purchase a home.

Furthermore, FHA and the GSEs' bulk sales of distressed loan sales coupled with the lack of small balance mortgage lending is pulling modest and affordable homes off the market. These public interest entities accrued large numbers of loans facing foreclosure. Rather than selling them individually as a local bank would do, they auctioned them off in large pools. While this helped FHA and the GSEs increase their reserves and capital more quickly, hedge funds – the largest buyers of these pools – converted many of the ultimately foreclosed loans into rental properties. This reduced the supply of modest homes for purchase by individuals and altered the character of neighborhoods where the percentage of homeowners declined. The sale of these distressed pools has continued, and hedge funds have announced plans to expand their conversion programs.[127] This, along with other factors limiting

[124] Ben Eisen, *Dearth of Credit Starves Detroit's Housing Market*, Wall Street Journal, October 29, 2020, https://www.wsj.com/articles/a-broken-mortgage-market-strands-detroits-black-residents-11603984218.
[125] Inside Mortgage Finance, *A Stunning Year for Wholesale Lenders*, March 5, 2021.
[126] Clare Trapasso, *Lots of Homes Under $100K Are for Sale, but Most Buyers Can't Get One for This Reason*, National Association of Realtors, December 30, 2020, https://www.realtor.com/news/trends/small-dollar-mortgages-help-communities-of-color/.
[127] Julia Gordon, *The Dark Side of Single-Family Rental*, ShelterForce (July 30, 2018), https://shelterforce.org/2018/07/30/the-dark-side-of-single-family-rental/. Others have argued that these sales are beneficial in that the buyers have fewer restrictions on the loan modifications they can offer. Laurie Goodman and Dan Magder, *Selling HUD's Nonperforming Loans: A Win-Win for Borrowers, Investors and HUD*, Urban Institute (January 2016), https://www.urban.org/sites/default/files/publication/76626/2000568-Selling-HUD-s-Nonperforming-Loans-A-Win-Win-for-Borrowers-Investors-and-HUD.pdf. A better approach is reform of the HUD foreclosure process; substantial improvements have been implemented in the GSE process.

new starter home construction, including labor and materials shortages and increased costs of both, created a shortage of these starter homes and a substantial barrier to families trying to enter homeownership.[128] Instead of bulk sales to investors, more needs to be done with these properties to ensure that families can purchase them to help preserve access to homeownership in low-to-moderate income communities and communities of color as opposed to only providing rental as an option for hardworking families.

X. Manufactured Housing is a Critical Source of Affordable Housing, But Additional Consumer Protections are Needed

Manufactured homes are the largest source of unsubsidized, affordable housing in the United States, and have the potential to help address the nation's housing affordability crisis. For example, 49% of manufactured housing is affordable for households at or below 50% of AMI, compared to just 26% of all housing.[129] And there is evidence demonstrating that manufactured homes appreciate at levels similar to site-built homes.[130] Because they are less expensive to build, manufactured homes have the potential to greatly expand homeownership opportunities, especially for first-time homebuyers, lower-income households, and people of color.

However, manufactured housing presents distinct challenges. While a modern manufactured home is generally indistinguishable from a site-built home to many observers, a manufactured home is typically considered personal property – not real estate. The personal property designation affects potential and existing owners of manufactured homes in myriad ways. Homebuyers are relegated to high-cost "chattel" financing; there are limited options for financing personal property, resulting in higher-interest loans, shorter loan terms, and a smaller pool of lenders from which to choose.[131] Also, as documented in a series of articles published by the Seattle Times, the manufactured housing industry is dominated by affiliate and joint ownership arrangements between manufactured home dealers and financing shops.[132] Manufactured housing consumers who obtain loans from affiliated lenders pay much more than they would from banks and other lenders and often receive loans with unnecessary or deceptive add-ons. Homeowners do not possess the same consumer protections in the event of loan default or bankruptcy, and are sometimes prevented from working with real estate agents and appraisers due to state

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128 Michael Neal, *Residential Construction Down in June, Eye on Housing*, National Association of Homebuilders (July 18, 2018), http://eyeonhousing.org/2018/07/residential-construction-down-injune/?utm_campaign=EOE2018&_ga=2.126940237.1759872631.1535413976-631253769.1535413976.

129 American Community Survey 2017.

130 Laurie Goodman, Edward Golding, Bing Bai, and Sarah Strochak, *New Evidence Shows Manufactured Homes Appreciate as Well as Site-Built Homes*, Urban Institute (Sept. 13, 2018), https://www.urban.org/urban-wire/new-evidence-shows-manufactured-homes-appreciate-well-site-built-homes.

131 *See* Consumer Financial Protection Bureau, *Manufactured-housing Consumer Finance in the United States* (Sept. 2014), https://files.consumerfinance.gov/f/201409_cfpb_report_manufactured-housing.pdf (noting that about 68% of all manufactured housing purchase loans reported under HMDA in 2012 met the definition of a "higher-priced mortgage loan"; by comparison, only 3% of loans for site-built homes were HPMLs).

132 Mike Baker and Daniel Wagner, *Minorities Exploited by Warren Buffett's Mobile-home Empire*, The Seattle Times (updated Jan. 13, 2016), https://www.seattletimes.com/seattle-news/times-watchdog/minorities-exploited-by-warren-buffetts-mobile-home-empire-clayton-homes/.

restrictions regarding personal property.[133] Such factors make it challenging for potential and existing homeowners to obtain the maximum benefit from homeownership.

Although the classification of manufactured homes as real or personal property is a state decision, and should be addressed on the state-level, the federal government can also encourage states to provide equal rights and protections to owners of manufactured homes.[134] For example, regulatory requirements, such as FHFA's GSE Duty to Serve rule, could provide an incentive for states to improve conversion policy.[135]

Additionally, the majority of the nation's manufactured homes are in land-leased communities in which residents own or rent their homes and rent the land under their homes.[136] In these communities, residents pay lot fees or ground rent and additional fees for shared amenities, services, and utilities. Homes placed on leased land without strong protections against community closure and confiscatory rent increases do not benefit from the appreciation in the value of the land.[137] Homeowners may also be vulnerable to abuses by the community owner. For instance, homes may be uninhabitable if the community owner does not maintain the water, sewer, and electrical systems.[138] And confiscatory increases in the lot rent can make the home unaffordable.[139]

Another major issue is that private equity and other Wall Street investors are increasingly buying up manufactured home communities across the nation.[140] Investments in manufactured and mobile homes communities are among the most profitable in the real estate industry.[141] The new owners commonly increase lot rents dramatically to generate more revenue. And in almost every state, lot rents are unregulated, leaving homeowners subject to abuse.[142] Furthermore, while the rent increase is supposed to go toward improving the community, residents often report few significant changes.[143]

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[133] I'M HOME & National Consumer Law Center, *Titling Homes as Real Property* (Oct. 2015), https://prosperitynow.org/sites/default/files/resources/Updated_Titling_Brief_2015.pdf.
[134] *Id.*
[135] *Id. See also* 81 Fed. Reg. 96242 (Dec. 29, 2016) (Enterprise Duty to Serve Underserved Markets Final Rule).
[136] I'M HOME & National Consumer Law Center, *Manufactured Housing Resource Guide: First Steps Toward a Resident Purchase Opportunity* (Aug. 2011), https://prosperitynow.org/resources/first-steps-toward-resident-purchase-opportunity.
[137] I'M HOME & National Consumer Law Center, *Protecting Fundamental Freedoms in Manufactured Homes*, https://prosperitynow.org/sites/default/files/PDFs/Fundamental%20Freedoms%20Policy%20Brief.pdf.
[138] *Id.*
[139] *Id.*
[140] *See* Private Equity Stakeholder Project, MH Action, and Americans for Financial Reform Education Fund, *Private Equity Giants Converge on Manufactured Homes* (Feb. 2019), https://ourfinancialsecurity.org/wp-content/uploads/2019/02/Private-Equity-Giants-Converge-on-Manufactured-Homes-PESP-MHAction-AFR-021419.pdf; Doug Ryan, *How to Temper the Influence of Private Equity in Manufactured Housing*, ShelterForce, https://shelterforce.org/2019/08/02/how-to-temper-the-influence-of-private-equity-in-manufactured-housing/.
[141] Seeking Alpha, *Manufactured Housing REITs: Beat, Raise, Repeat* (July 29, 2019), https://seekingalpha.com/article/4278769-manufactured-housing-reits-beat-raise-repeat.
[142] Doug Ryan, *How to Temper the Influence of Private Equity in Manufactured Housing*, ShelterForce, https://shelterforce.org/2019/08/02/how-to-temper-the-influence-of-private-equity-in-manufactured-housing/.
[143] Private Equity Stakeholder Project, MH Action, and Americans for Financial Reform Education Fund, *Private Equity Giants Converge on Manufactured Homes* (Feb. 2019), https://ourfinancialsecurity.org/wp-content/uploads/2019/02/Private-Equity-Giants-Converge-on-Manufactured-Homes-PESP-MHAction-AFR-021419.pdf

For most residents, it is not feasible to move their homes: The structures cannot withstand the move, the costs of moving are too high, and finding a new spot is difficult.[144] Rather, residents are trapped between paying skyrocketing lot rent and abandoning their home. This arrangement makes manufactured home communities a steady source of revenue for investors, including during economic downturns, and makes residents vulnerable to exploitation.[145]

It is critical that homeowners in manufactured home communities are able to assert their rights and advocate on their own behalf. There must be strong protections against threats of eviction, termination of services, or retaliatory rent increases. In addition to creating tenants' associations, a more structural solution is to promote resident-owned cooperatives.[146]

XI. LEP Consumers Need Better Access to In-Language Services to Promote Their Participation in the Mortgage Market

Limited English proficient borrowers face many challenges that inhibit their ability to obtain and preserve homeownership. According to the 2017 American Community Survey, approximately 25.6 million individuals in the United States were considered limited English proficient (LEP), comprising nearly 9% of the total U.S. population. About 64% of the LEP population speaks Spanish, and over 83% of all LEP individuals speak one of the top eight languages: Spanish, Chinese, Vietnamese, Korean, Tagalog, Russian, Arabic, and Haitian Creole. Despite this sizable need and opportunity, the language needs of many current and potential homeowners are left unmet in the mortgage marketplace. LEP individuals need access to information in their preferred language before, during, and after a financial transaction. While marketing may occur in the person's preferred language, frequently the financial transaction documents and later contact is English-only.[147]

Moreover, LEP borrowers face immense challenges in obtaining information about available mortgage relief. LEP borrowers are more likely to face long hold times if they are attempting to speak with their servicer by phone with oral interpretation.[148] Many bilingual representatives lack sufficient information or training.[149] Phone calls through language translation lines take, on average, three times as long as other calls.[150] The alarming numbers of borrowers, including borrowers of color and LEP borrowers, who are not taking advantage of the forbearance options available to them calls for more aggressive outreach by federal government housing agencies. There should be ads in the top LEP languages to get the word out about the options available for mortgage borrowers and how borrowers can obtain them.

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[144] *Id.*
[145] *Id.*
[146] Steve Dubb, *Mobile Home Affordability Threatened by Private Equity*, Nonprofit Quarterly, June 24, 2019, https://nonprofitquarterly.org/preserving-mobile-home-affordability-through-cooperative-ownership/.
[147] *See* Consumer Coalition Comment Letter to CFPB, Request for Information on the Equal Credit Opportunity Act (Dec. 1, 2020), https://www.nclc.org/images/pdf/foreclosure_mortgage/LEP_ECOA_Comments_CFPB.pdf; Kleimann Communication Group, *Language Access for Limited English Proficiency Borrowers: Final Report* (April 2017), https://www.fhfa.gov/PolicyProgramsResearch/Policy/Documents/Borrower-Language-AccessFinalReport-June-2017.pdf.
[148] *Survey of Housing Counselors and Legal Service Advocates*, National Consumer Law Center (Oct. 2020).
[149] *Id.*
[150] Kleimann Communication Group, *Language Access for Limited English Proficiency Borrowers: Final Report*, at 23-24 (April 2017), https://www.fhfa.gov/PolicyProgramsResearch/Policy/Documents/Borrower-Language-AccessFinalReport-June-2017.pdf.

This campaign, which should coordinate with housing counseling, legal services and other community-based organizations that are trusted resources in local communities, should be multilingual and utilize multiple media channels.

Additionally, in order to expand access to homeownership for consumers with limited English proficiency, there must be a standardized method to identify their preferred language and have this information travel with their loan file to subsequent servicers. In particular, FHFA should restore the previously vetted language preference question, as well as a question regarding housing counseling, on the Uniform Residential Loan Application (URLA).

Furthermore, lenders and servicers should be required to provide in-language documents that have been translated and approved by the CFPB, FHFA, or another governmental agency. The CFPB should prioritize the translation of essential documents under its authority, including the Loan Estimate, Closing Disclosure, and Notice of the Right to Rescind, as well as key RESPA loss mitigation notices, including the early intervention notice, five-day notice after a loss mitigation application is received, and the evaluation notice. Many documents within the CFPB's purview contain critical information that should be made available in the top eight languages as soon as possible. Servicers should be required to use translated documents as they become available in other languages from the Bureau, FHFA, HUD or other governmental agencies.

For additional detail on the challenges LEP consumers face in the mortgage market, as well as proposed solutions, please see the consumer coalition letter to CFPB on the Equal Credit Opportunity Act Request for Information.[151]

XII. Appraisal Discrimination is a Systemic Issue

While numerous news stories have highlighted examples of racial bias in the appraisal process,[152] there is a growing body of research that demonstrates appraisal discrimination is a systemic issue.[153] Recent

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[151] Consumer Coalition Letter to CFPB, Request for Information on the Equal Credit Opportunity Act, https://www.nclc.org/images/pdf/rulemaking/CFPB-ECOA-RFI-Comment-Letter.pdf.

[152] Julian Glover, *Black California Couple Lowballed by $500K in Home Appraisal, Believe Race Was a Factor*, ABC 7 News, Feb. 12, 2021, https://abc7news.com/black-homeowner-problems-sf-bay-area-housing-discrimination-minority-homeownership-anti-black-policy/10331076/; Debra Kamin, *Black Homeowners Face Discrimination in Appraisals*, New York Times, Aug. 25, 2020, https://www.nytimes.com/2020/08/25/realestate/blacks-minorities-appraisals-discrimination.html; Troy McMullen, *For Black Homeowners, a Common Conundrum With Appraisals*, Washington Post, Jan. 21, 2021, https://www.washingtonpost.com/realestate/for-black-homeowners-a-common-conundrum-with-appraisals/2021/01/20/80fbfb50-543c-11eb-a817-e5e7f8a406d6_story.html; Russell Haythorn, *An Unconscious Bias? Biracial Denver Couple Says They Faced Discrimination on Home Appraisal*, The Denver Channel, Nov. 18, 2020, https://www.thedenverchannel.com/news/local-news/an-unconscious-bias-biracial-denver-couple-says-they-faced-discrimination-on-home-appraisal.

[153] Brentin Mock, *What It Will Take to Close the Race Gap in Home Appraisals*, Bloomberg CityLab, March 3, 2021, https://www.bloomberg.com/news/articles/2021-03-03/appraisers-acknowledge-bias-in-home-valuations; Andre Perry, Jonathan Rothwell, and David Harshbarger, *The Devaluation of Assets in Black Neighborhoods*, The Brookings Institution Metropolitan Policy Program (Nov. 2018), https://www.brookings.edu/research/devaluation-of-assets-in-black-neighborhoods/; Junia Howell and Elizabeth Korver-Glen, *Neighborhoods, Race, and the Twenty-first Century Housing Appraisal Industry*, 4 Sociology of Race and Ethnicity 473 (2018), https://journals.sagepub.com/doi/abs/10.1177/2332649218755178 (finding substantial differences in home values in communities of color even after controlling for home features, neighborhood amenities, socioeconomic status and consumer demand).

research has found that even after accounting for structural and neighborhood characteristics of homes, homes in Black neighbors were valued on average 23% less than they would have been if the residents of the neighborhood were mostly white.[154] This translates to owner-occupied homes in Black neighborhoods being undervalued by $48,000 per home on average, amounting to $156 billion in cumulative losses.[155] Moreover, a 2020 study found that neighborhood racial composition was an even stronger determinant of a home's appraised values in 2015 than it was in 1980.[156] In fact, the race appraisal gap has doubled since 1980.[157] Another 2020 study found that Automated Valuation Models (AVMs) in majority Black neighborhoods produced a larger percentage magnitude of inaccuracies, relative to the underlying sales price, than AVMs in majority-white neighborhoods.[158]

We must address discrimination in the valuation of homes in communities of color and owned by people of color. It is critical to consider all changes in the appraisal business model, including increased use of AVMs, with an equity lens. All processes must be judiciously examined for fair lending risk and should test outcomes for their effect and impact on people and communities of color. Additionally, there should be robust review of federal appraisal standards, including ethics standards, increased training on unconscious bias for appraisers, and expanded initiatives to bring more appraisers of color into the field. Moreover, the use of sales comparisons in a neighborhood carries the legacy of redlining into the present. It allows historically undervalued appraisals to influence current values. As the 2020 study stated, "Since no steps were taken to rectify the historic inequities, this approach has enabled such inequalities to persist."[159] The appraisal industry should continue to explore more equitable alternative methods. We concur with the recommendations of the National Fair Housing Alliance as outlined in their response to FHFA's recent RFI on appraisals.[160]

XIII. Additional FHA Reforms

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[154] Andre Perry, Jonathan Rothwell, and David Harshbarger, *The Devaluation of Assets in Black Neighborhoods*, The Brookings Institution Metropolitan Policy Program (Nov. 2018), https://www.brookings.edu/research/devaluation-of-assets-in-black-neighborhoods/.

[155] *Id.*

[156] Junia Howell and Elizabeth Korver-Glen, *The Increasing Effect of Neighborhood Racial Composition on Housing Values, 1980-2015*, Social Problems (2020), https://academic.oup.com/socpro/advance-article/doi/10.1093/socpro/spaa033/5900507.

[157] Brentin Mock, *A Neighborhood's Race Affects Home Values More Now Than in 1980*, Bloomberg CityLab (Sept. 21, 2020), https://www.bloomberg.com/news/articles/2020-09-21/race-gap-in-home-appraisals-has-doubled-since-1980.

[158] Michael Neal, Sara Strochak, Linna Zhu, and Caitlin Young, *How Automated Valuation Models Can Disproportionately Affect Majority-Black Neighborhoods*, Urban Institute (Dec. 2020), https://www.urban.org/sites/default/files/publication/103429/how-automated-valuation-models-can-disproportionately-affect-majority-black-neighborhoods_1.pdf.

[159] Junia Howell and Elizabeth Korver-Glen, *The Increasing Effect of Neighborhood Racial Composition on Housing Values, 1980-2015*, Social Problems (2020), https://academic.oup.com/socpro/advance-article/doi/10.1093/socpro/spaa033/5900507

[160] Comment letter from National Fair Housing Alliance to FHFA on Request for Information on Appraisal-Related Policies, Practices, and Processes (Feb. 26, 2021), https://www.fhfa.gov//AboutUs/Contact/Pages/input-submission-detail.aspx?RFIId=1320.

A. Technology Funding

CRL has consistently called for FHA to be adequately funded. FHA is the world's largest mortgage insurer, *providing over $1.3 trillion* in mortgage insurance for single family, multifamily, and healthcare loans, yet has historically operated on a shoestring budget with outdated technology. Under FHA's authorizing statute, all its revenue must go to the Mutual Mortgage Insurance Fund and is prohibited from being used for operations. As a result, FHA must compete with other HUD program offices to obtain IT funds. Paradoxically, FHA's business success has left it stretched to have enough resources to manage its loans and create robust quality control systems.

Fortunately, FHA is currently in year three of five of a massive overhaul of its technology systems. We urge continued effort to commit appropriations to this important endeavor.

B. False Claims Act Reform

FHA also recently reformed the way it exercises quality control and manages loan defects. There was a recognized need to clarify what types of errors can trigger liability under the False Claims Act. The statute imposes treble damages against anyone who submits a false claim to the government, including FHA insurance payments. Because these treble penalties can cost a far greater amount than the loan itself, this has the potential to decrease the appetite for making FHA insured loans that have only a modest risk of defaulting. Lender concern over False Claims Act liability drove lenders to impose credit overlays on FHA's standards, and contributed to many larger lenders withdrawing from FHA lending entirely. In 2019, FHA reformed its lender and loan-level certifications as well as created a Defect Taxonomy which categorizes loan defects of various severities with remedies.[161] These changes were intended to clarify lender liability for loan defects in the origination process and assuage lender concerns about False Claims Act liability for minor errors. In addition, on October 28, 2019, HUD and the Department of Justice entered into a memorandum of understanding regarding the use of the False Claims Act against participants in FHA single family mortgage insurance programs.[162] Given these changes, we expect that banks that previously exited the FHA program will consider offering FHA loans again.

C. Factoring Student Loan Debt into DTI

Student debt in this country has reached crisis levels and has negatively impacted the prospects of homeownership for an entire generation, particularly people of color.[163] To help address this, FHA should modify its policy on how it factors in student loan debt when calculating DTI. Currently, FHA presumes a monthly payment of 1% of the outstanding student loan balance if borrowers are actively participating in a repayment plan resulting in a monthly obligation that does not fully amortize the debt. Black and Latino borrowers are more likely to be enrolled in income-based repayment and more likely to have loans that are negatively amortizing. While Fannie Mae, Freddie Mac, the Department of Veterans

[161] FHA, Single Family Housing Loan Quality Assessment Methodology, Defect Taxonomy, https://www.hud.gov/sites/dfiles/SFH/documents/sfh_defect_taxonomy_v2_01_01_20.pdf.
[162] DOJ-HUD Interagency Memorandum of Understanding on the Application of the False Claims Act (Oct. 28, 2019).
[163] *See* discussion on pp. 9-14 in Testimony of Nikitra Bailey, House Financial Services Committee, *Justice for All: Achieving Racial Equity Through Fair Access to Housing and Financial Services* (March 10, 2021), https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-testimony-nikitra-bailey-hfsc-hearing-10mar2021.pdf.

Affairs (VA) and the Department of Agriculture (USDA) qualify borrowers using the actual monthly obligation or an alternative that is more closely aligned with a fully amortized payment calculation, FHA continues to assume a monthly payment of 1% of the outstanding balance – which is almost always larger than the actual payment being made by potential borrowers in both covered plans and fully amortized plans. This policy may be disqualifying creditworthy borrowers because of the inflated DTI ratios that it produces. As a result, many potential borrowers may have more limited financing options or may be unable to obtain mortgage credit entirely. While this fix is necessary, addressing the student debt crisis and increasing access to homeownership will require bold solutions, including broad-based debt cancellation.

D. Incentivize Housing Counseling

CRL supports the proposal that first-time homebuyers that complete a HUD-approved housing counseling program could receive a discount on the mortgage insurance premium. FHA has noted that first-time home buyers who partake in counseling experience a 30% reduction in default and serious delinquencies as compared to first-time buyers who do not partake in counseling.[164]

XIV. A Broad New Public Investment Can Cure Homeownership Inequity

According to the 2019 American Community Survey, homeownership among Black families is 30 percentage points below that of white families – a larger gap than existed in 1968 when the Fair Housing Act was passed. The disparity in homeownership rates is a large driver of the enormous racial wealth gap, with the median Black family having thirteen cents in net worth for every dollar of net worth held by the median white family.

A. Restorative Justice Housing Fund Through a Targeted Down Payment Assistance Program

For a Down Payment Assistance (DPA) program to reduce barriers to home ownership in a way that advances the Biden-Harris Administration's commitment to racial equity and puts the nation on a firm trajectory to closing the wealth and home ownership gaps between whites and people of color, we recommend the following:

1. Eligibility should be limited to first-generation homebuyers whose income is within 120% of the Area Median Income (AMI). This will create an eligible pool of 12.8 million families, 72% of whom will be families of color, including 42% Black families.
2. Half of the funds should be set aside for state Housing Finance Agencies that have adopted Affirmatively Furthering Fair Housing (AFFH) Plans, awarded based on the size of the renter population in each state. The other 50% should be awarded through a competitive bidding process run by the CDFI Fund to select Administrators committed to and capable of delivering funds to socially and economically disadvantaged individuals.
3. The DPA should be a minimum of $20,000 per applicant (could be increased for high-cost markets) to provide sufficient funds to make homeownership affordable.

[164] FHA, *Homeowners Armed With Knowledge (HAWK) for New Homebuyers*, 79 Fed. Reg. 27896 (May 15, 2014), https://www.federalregister.gov/documents/2014/05/15/2014-11152/federal-housing-administration-fha-homeowners-armed-with-knowledge-hawk-for-new-homebuyers.

In addition, strong reporting and evaluation requirements should be included to ensure transparency and efficacy.

Finally, the Departments of Justice and Housing and Urban Development should be directed to conduct a study to determine whether this program, in conjunction with any other extant efforts, will succeed in remedying the effects of past and present discrimination and closing the racial homeownership gap. If the study finds that more is needed, the Administrators shall be authorized to use race-conscious remedies to overcome discriminatory barriers to serving socially and economically disadvantaged people, using a rebuttable presumption that people of color are socially and economically disadvantaged.

See Appendix 1 for more detailed information on the proposal.

B. Administratively Reforming the GSEs Can Advance Affordable Housing

Conservatorship has created an historic opportunity for addressing the nation's affordable housing crisis and advancing racial equity in housing. As part of the assistance plan for the GSEs, the government received stock interests in the GSEs, now valued at $48 to $98 billion by the Congressional Budget Office.[165] The value of these assets comes from fees collected from GSE loans and that value should remain in the housing market to further affordable housing. In particular, the government's stock interests in the GSEs should be exchanged for a comparable commitment by the GSEs of additional affordable housing measures and a restorative justice housing program that provides targeted down payment and other assistance aimed at closing the racial homeownership gap.

A primary statutory purpose of the GSEs is to advance affordable housing. While the GSEs have maintained their affordable housing programs in recent years, conservatorship has constrained these activities. The GSEs have operated with limited capital at a time when the country needed substantially increased focus on and support of affordable housing from the GSEs.

Now they must greatly increase their work to meet the country's pressing affordable housing needs. The past year has also seen a national reckoning on the history and continuation of racial discrimination, exclusion, and segregation in our country. Systemic racial barriers exist in all facets of American life, including policing, healthcare, education, environmental, and housing. The housing market profoundly manifests these barriers as discussed throughout this testimony. For the GSEs, only a small percentage of their home purchase loans have gone to Black and Latino homebuyers in recent years, with less than 5% of their loans made to Black families in 2019.[166] The GSEs' charters include a duty to advance fair lending and equity, and much more has to be done by them to advance that national responsibility. The success of the GSEs in conservatorship – in which they have operated as de facto utilities and stabilized the housing market following the 2008 housing crash – establishes that utility oversight is the best structure for the GSEs going forward.

[165] Congressional Budget Office, *Effects of Recapitalizing Fannie Mae and Freddie Mac Through Administrative Actions* (August 2020), https://www.cbo.gov/system/files/2020-08/56496-GSE.pdf.
[166] *See* FHFA Annual Housing Report at 11, Table 6 (October 2020), https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/Annual-Housing-Report-2020.pdf (noting that in 2019, 4.8% of Fannie Mae and 3.6% of Freddie Mac loan purchases were from Black borrowers, and 12.1% and 9.4% were from Latino borrowers).

During the COVID public health and economic crisis, a utility structure has enabled the GSEs to provide critical relief to the housing market and the overall economy – assistance that was possible only due to the GSEs' special status, their substantial resources, and the enhanced oversight authority granted to FHFA under conservatorship. A utility structure should be implemented permanently in order to secure the GSEs as an emergency backstop during a crisis, enhance operation of the GSEs in regular times, and advance the GSEs' public mission.

Increased affordable housing support, racial equity programs and utility oversight should be solidified and formalized during conservatorship while the GSEs build up capital. It is critical for these reforms to be implemented before release of the GSEs occurs. While GSE reform can be implemented legislatively or by administrative action, enacting GSE legislation has proven difficult. Thus, continuing administrative reform is more likely. Central to the reform process is resolution of the GSEs' obligations for the aid it received following the 2008 crisis and the ongoing backup support the government will continue to provide in the future. Any amendments to the documents governing these issues will lock in the terms of the GSEs' operation and obligations going forward and will be difficult to change. Thus, bolstered affordable housing and racial equity measures and utility oversight must be baked into these steps.[167]

Conclusion

President Biden has called for acknowledgment and redress of the impacts of this long history of the nation's and the Federal Government's housing discrimination including the racial gap in homeownership. He stated in one of his early executive orders:

> Throughout much of the 20th century, the Federal Government systematically supported discrimination and exclusion in housing and mortgage lending. While many of the Federal Government's housing policies and programs expanded homeownership across the country, many knowingly excluded Black people and other persons of color and, promoted and reinforced housing segregation. Federal policies contributed to mortgage redlining and lending discrimination against persons of color.[168]

Now is the time for bold solutions that centers racial justice in homeownership opportunity. Doing so will allow all communities a chance to thrive.

Appendix 1

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[167] *See* Mike Calhoun, Lewis Ranieri, *The GSEs at the Crossroads*, Brookings Institution (February 2021), https://www.brookings.edu/wp-content/uploads/2021/02/20210219_CRM_CalhounRanieri_FINAL.pdf, for a fuller discussion on how to achieve the outlined goals.

[168] The White House, *Memorandum on Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies* (January 26, 2021), https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-redressing-our-nations-and-the-federal-governments-history-of-discriminatory-housing-practices-and-policies/.

First Generation Down Payment Assistance Program Proposal[169]

Homeownership is the primary way that most families build wealth and achieve economic stability. But buying a home is an expensive proposition, and the upfront costs stand as a significant impediment, especially for those who cannot fall back on their families for help with a down payment and closing costs. Accordingly, we welcome and applaud the efforts to develop a new DPA program to complement existing programs and put homeownership in reach of those currently excluded from the market.

For people of color, homeownership is especially elusive. For decades, federally-sanctioned discrimination in the housing finance system denied them access to homeownership opportunity on parity with whites as discussed in section I above. As a result of this and other forms of long-standing institutional discrimination, Black and Hispanic families have less wealth and lower homeownership rates, and thus less ability to provide financial assistance to their children. At the same time, broader societal discrimination, including in education and employment, have produced a massive income gap that makes it more difficult for Black and Hispanic families to accumulate sufficient savings. For these and other reasons, access to homeownership and its wealth-building benefits continue to be delayed or denied to far too many people of color and other low-wealth families, and the wealth gap continues to grow.

The numbers tell the story. The homeownership rate for Blacks under age 35 is below 20% – less than half the rate for whites. The gap closes some over the lifecycle, but even for those aged 35-54, the Black homeownership rate is just 50% compared to over 70% for whites.[170] Overall, the gap – more precisely, the chasm – today is even higher than it was in 1968 when the Fair Housing Act was enacted. Bringing the Black homeownership rate up to the level of whites would require increasing the number of Black homeowners by roughly five million, which would represent approximately a 66% increase.

Even more troubling, the Urban Institute projects that over the next twenty years all net new household growth will be from families of color, but that the homeownership rate, left unaddressed, will continue to fall for every age group.[171] Even more starkly, the same study projects that the Black homeownership rate will fall even further by 2040, with the decline particularly pronounced for households age 45-74. This is an economic disaster for the Black families who will be unable to achieve homeownership, but it is also a moral and economic problem for the country. The safety and soundness of the future mortgage market depends on there being consumers who can access safe and responsible loans. Acting now to increase homeownership among underserved communities is a cost-effective solution to strengthen the middle-class and grow the economy.[172]

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[169] The proposal is a joint project of the Center for Responsible Lending, National Fair Housing Alliance, and Self-Help. Appreciations to the Urban Institute Housing Finance Policy Center for its research and data analysis on this proposal.

[170] Bhutta *et al*, *Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances*

[171] Urban Institute, By 2040, the US Will Experience Modest Homeownership Declines. But for Black Households, the Impact Will Be Dramatic

[172] Nick Noel, Duwain Pinder, Shelley Stewart, and Jason Wright, The Economic Impact Of Closing The Racial Wealth Gap, McKinsey & Company (August 13, 2020); Dana M. Peterson and Catherin L. Mann, Closing The Racial Inequality Gaps: The Economic Cost of Black Inequality in the U.S., Citi GPS: Global Perspectives & Solutions (September 20, 2020); Jeff Cox, Morgan Stanley Says Housing Discrimination Has Taken A Huge Toll On The Economy, CNBC, November 13, 2020.

Further, even those Black families who eventually are able to assemble a down payment and money for closing costs are able to afford less home and must take out more debt at a higher cost than whites; that plus the delay in entering the market depresses Black families' ability to accumulate wealth through their investment.[173]

A robust and sustained federally-funded DPA program is a proven strategy that can begin to address these barriers and facilitate new homeownership. Although there undoubtedly are millions of young families for whom down payment assistance could accelerate their path to homeownership, given limited resources, it is essential that this program be targeted in a way that delivers on President Biden's promise to address the long-term discrimination and racial inequities that continue to plague our society, especially those rooted in exclusionary housing policies.[174] It is also critical that the program reaches potential homebuyers who bear the burdens of past discrimination and who may never be able to achieve the dream of homeownership without this assistance. The following proposal is recommended to target a DPA program to accomplish these objectives.

Part 1: Core Program Elements

The group most in need of DPA assistance are those who neither have the income to accumulate money for a down payment nor family resources to draw upon for these purposes but are able to afford the monthly payments for a mortgage. Accordingly, drawing on the approach in the educational arena in which there are special programs targeting first-generation college students, we recommend that the core program be limited to first-generation, first-time homebuyers within certain income limits. We would add to this a house price limit as an additional safeguard to assure the money is well targeted.

Eligibility Criteria

The following table summarizes the criteria that recipients of the DPA would have to meet. Appendix 1a has an analysis of the number and percent of eligible individuals based on these criteria.

Eligibility Criteria	
Borrower Status	First-Generation Homebuyer[175]
First Home Requirement	First-Time Homebuyer[176]

[173] Urban Institute, Three differences between black and white homeownership that add to the housing wealth gap

[174] See Executive Order 13985 Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. January 20, 2021. 86 FR 7009. See also Presidential Memorandum Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies. January 26, 2021. 86 FR 7487.

[175] We include within the category of "first generation homebuyer" those whose parents never owned a home, those whose parents owned a home but lost it to foreclosure, and those who grew up in foster care. Modeled on the first generation homebuyer assistance program of the Massachusetts Affordable Housing Alliance, borrowers would self-certify, as first generation college students currently do. In particular, at least one of the borrowers would certify to the best of their knowledge via affidavit that: (1) their parents never owned a home while the borrower was alive; (2) their parents owned a home while the borrower was alive but lost it through foreclosure, deed-in-lieu, or short sale; or (3) they were in foster care for some period of time as a minor. If the borrower is found to have provided false information, they must return the money (without criminal or civil penalties). Applicants may be required to provide their parents' full names and most recent address(es).

[176] All borrowers (and spouse of a borrower if not a co-borrower) must certify to being First Time Homebuyers. An individual is to be considered a first-time homebuyer who (1) is purchasing the security property; (2) will reside in the security property as a principal residence; and (3) had no ownership interest (sole or joint) in a residential

Borrower Household Income Limit	Borrower household shall earn less than 120% of the Household Area Median Income
Counseling	Pre-purchase counseling by HUD-approved agency required
Mortgage Features	Qualified Mortgages as defined after March 1, 2021

The rationale for targeting first-generation homebuyers is clear: those whose parents were the victims of exclusionary housing policies or otherwise unable to become homeowners are unlikely to have the benefit of intergenerational wealth and thus are most likely to be limited in their ability to purchase by the long-standing and massive racial wealth gap. Given that first-generation homebuyers almost certainly cannot turn to their parents for assistance with a home purchase and must rely on whatever savings they have been able to accumulate, we also recommend an income limit above the traditional line defining low-income families – 80% of Area Median Income (AMI) – in recognition of the fact that families with incomes above that level (which translates to roughly $62,000 on a national basis), but without the benefit of intergenerational wealth, face severe challenges in achieving homeownership.

Our recommended income limit of 120% of AMI (approximately $94,000 on a national basis) would create an eligible universe of 12.8 million first-generation homebuyer households nationwide. Importantly, although not surprisingly, precisely because it has been so difficult for Black and Hispanic families to obtain homes in the past and because of the large income gap between white families and families of color, the first generation homebuying population with incomes below 120% of the AMI is disproportionately comprised of people of color. Indeed, fully 66% of this population are Black (42%) or Hispanic (24%), although the percentage drops to 60% (32% Black, 27% Hispanic if we were to assume that those with incomes below 40% of AMI and younger than 25 or over age 54 as a practical matter are unlikely to participate in this first-time homebuyer program. See Appendix 1 for a detailed analysis of targeting First Generation, First Time Homebuyers.

Many programs aimed at first-time homebuyers provide eligibility for all low-income households, i.e. for all families with income up to 80% of AMI. We recognize that obtaining homeownership is a struggle for low-income families generally. However, we estimate that there would be 28.8 million eligible households if the DPA program were open to all such households, of whom roughly half have incomes above 40% of AMI. Among that group, further limited to the age range of 25 – 54, 45% would be white compared to just 23% Black and 23% Hispanic (with the rest falling in the "other" category). Moreover, with an eligible universe of 28.8 million families, the almost inevitable result would be that those best able to work the system would succeed in getting the available DPA dollars. Such a result would not begin to shrink disparities – and could even increase – the Black-white homeownership gap. See Appendix 1b for a detailed analysis of targeting Low-Income, First Time Homebuyers.

Focused Delivery Channel Criteria

Even with the eligibility limitations recommended above, the universe of eligible and likely participants, i.e. those meeting the eligibility criteria who are likely participants, with incomes above 40% of AMI and between the ages of 25 and 54, would be large (5.4 million). It would take over $100 billion dollars to

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property during the three-year period preceding the date of the purchase of the security property. In addition, an individual who is a displaced homemaker or single parent also will be considered a first-time homebuyer if he or she had no ownership interest in a principal residence (other than a joint ownership interest with a spouse) during the preceding three-year time period.

serve all those households. Although we believe that the size of the program should be commensurate to the need, we recognize that there likely will be substantially more eligible would-be buyers than funds available for DPA. For that reason, the channels through which DPA will be delivered are every bit as important as the eligibility criteria to assure that the program works as intended. Previous experience with homeownership assistance funds, specifically the Hardest Hit Fund, have demonstrated that without targeting, resources will not equitably reach Black and brown communities. Black and Hispanic communities lost $1 trillion in wealth during the Great Recession as much of the relief came too late and lacked the programmatic designs necessary to reach the needs of Black and Latino communities.[177]

Specifically, we recommend the following approach to allocating funds and to selecting recipient agencies to administer the funds. The DPA funds should be appropriated to the CDFI Fund for it to disburse as set forth below and subject to the requirement that the Treasury Department and CDFI Fund must explicitly acknowledge that the CDFI Fund is subject to the Fair Housing Act's Affirmatively Furthering Fair Housing mandate. The CDFI Fund would be responsible for disbursing 50% of the funds through a competitive grant process to "Targeted DPA Administrators" who would be organizations with the capabilities and commitments to administer funds to achieve the Program's overall objectives. The Targeted DPA Administrators would, in turn, provide DPA to eligible mortgage applicants sourced through retail and wholesale channels. Although CDFIs could apply for funding through this competitive process, they would be judged by the same criteria as all other bidders and would not be provided with any competitive advantage.

A Consumer Advisory Board will be established to advise and consult with the CDFI Fund in the exercise of its functions in administering the DPA and will help ensure compliance with the requirements laid out in the legislation establishing the DPA. The Consumer Advisory Board will be composed of experts in civil rights, fair housing, fair lending, consumer protection, housing counseling, consumer financial products or services; representatives of financial institutions that primarily serve underserved communities; representatives of communities that have been under-served by the financial services mainstream industry; and real estate housing professionals drawn from and serving underserved communities. Geographic diversity will be a criterion for selection, including allocating at least one seat for a community representative from the Deep South.

We recommend that the remaining 50% of the funds (plus any of the first 50% not delivered through the competitive process) be disbursed to state Housing Finance Agencies (HFAs) in accordance with a formula based on the number of renters in each state but with the requirement that to obtain a disbursement the HFA must meet certain criteria as set forth below.

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[177] Debbie Gruenstein Bocian, Peter Smith, and Wei Li, Collateral Damage: The Spillover Costs of Foreclosures, Center for Responsible Lending, at 2 (Oct. 24, 2012).

Channel Summary Table:

DPA Delivery Channel	Allocation	Notes
Targeted DPA Administrators	50%	Annual competitive process that awards allocations based on the criteria set forth below. If the selected Targeted DPA Administrators do not have sufficient capacity to deploy this 50%, remaining unallocated funds can be distributed via state HFAs.
State Housing Finance Agencies	50%	Allocation methodology to State HFAs based on number of renters in each state; requirement that to be eligible to receive funds HFAs (1) have an AFFH Plan and (2) have existing partnerships with federally-insured depositories, mortgage banks, non-profit loan funds, and/or mortgage brokers that serve underserved groups, nonprofit intermediaries, including local fair housing organizations and/or community development corporations.

Targeted DPA Administrators may include:[178]

- Federal Home Loan Banks;
- Community Development Financial Institutions;
- Community Development Credit Unions;
- Non-profit community lenders;
- Minority Depository Institutions; and
  Depository and non-depository mortgage lenders for use in conjunction with Special Purpose Credit programs.

Criteria used to select Targeted DPA Administrators in the competitive process described above should include:

- Strong track record of serving first-time Black, Hispanic, Asian American and Pacific Islander, and Native homebuyers and other underserved populations;
- Affirmative outreach plan to reach underserved populations, including existing and/or new partnerships with mortgage brokers that serve underserved communities;
- Partnerships with nonprofit intermediaries, including local fair housing organizations and community development corporations;
- Adoption of an Affirmatively Furthering Fair Housing Plan;
- Relationship with HUD-approved housing counseling agencies to prepare potential homebuyers; and
- Use of innovative products and programs that address barriers to attaining and sustaining homeownership.

[178] This section incorporates recommendations from the Black Homeownership Collaborative.

Amount of Assistance

In determining how much assistance should be available to eligible participants it is important to recognize the challenges first-generation homebuyers face in accumulating sufficient savings to purchase a home. We estimate that it would take nine years for a household earning the median income to save sufficient money to be able to make even a 3% down payment and cover the closing costs on a median-priced home.[179] The table below shows a simplified calculation of the minimum cash required to purchase the median home in 2020[180]:

Funds Needed	$	% of Home Price	Funds Required	$	% of Home Price
Median Home	$ 334,700	100.0%	Mortgage	$ 324,659	97.0%
Closing Costs	$ 10,041	3.0%	Borrower Cash	$ 29,201	8.7%
Moving Costs	$ 1,250	0.4%			
Reserves	$ 5,494	1.6%			
First Year Taxes	$ 2,375	0.7%			
Total Needed	$ 353,860	105.7%	Total Required	$ 353,860	105.7%

Given this reality, we recommend that the program provide a minimum of $20,000 of DPA to eligible families (could be adjusted up for high cost markets). That would significantly reduce the number of years of savings required to purchase their first home to three years. Further, for those able to accumulate some savings, a $20,000 DPA grant could be used to reduce the mortgage amount, which would make the housing payment more affordable for lower income families and help the family create wealth faster. A $20,000 DPA also would enable at least some families to preserve some of their own money for a critical reserve to maintain the home or manage through unforeseen life events.

Additional Requirements

Liquidity: The DPA program should include a requirement that the Government Sponsored Enterprises (Fannie Mae, Freddie Mac, and Federal Home Loan Banks) provide ongoing assistance and liquidity instruments to support this program.

Accountability and Transparency: Every administrator that receives funds under the DPA program, including each HFA recipient, should be required to report program results to the CDFI Fund in a timely manner in an electronically accessible format specified by the CDFI Fund and at intervals specified by the CDFI Fund but initially no less frequently than annually. The report should include applicant and loan-level data sufficient to assess the extent to which the program is adequately and safely closing homeownership and wealth gaps between and among racial and ethnic groups (including but not limited to applicant demographic information, application outcomes, terms of the DPA assistance), and property information (including geography, property value and type, and first mortgage type and investor). The loan-level data should be made publicly available by the CDFI Fund subject to modifications made by CDFI Fund to protect the privacy of borrowers in a manner consistent with the accountability purposes of this section.

Program Evaluation: The program should be evaluated 24 months after the initial disbursement of funds under this program. The CDFI Fund shall issue a report evaluating the program's effectiveness in achieving its objectives, including closing homeownership and wealth gaps between and among racial

[179] Calculations on file with Center for Responsible Lending; available on request.

[180] CNBC, Here's how much you will really need to buy your first home (Hint: It's more than you think)

and ethnic groups and enabling socially and economically disadvantaged households to become homeowners in a manner that is likely to enable them to sustainably remain homeowners and to build their family's assets. The program will be re-evaluated every 12 months after the initial 24-month initial evaluation.

Part 2: Program Element to Enhance Targeting

Within 60 days after enactment of the legislation, the Department of Housing and Urban Development and the Department of Justice should be required to jointly prepare and release a report analyzing the evidence of the existence and continuing effects of discrimination in the mortgage lending market that precludes certain classes of consumers from fairly obtaining credit. The report should also analyze evidence of structural or other barriers, such as policies, systems, technologies, practices, or other impediments that restrict the ability of socially and economically disadvantaged groups to fairly access mortgage credit.

The report must evaluate the extent to which there exists a significant gap in mortgage credit access for socially and economically disadvantaged groups, including Black, Hispanic, Native American, Asian American, and other groups. The analysis must also examine whether existing race-neutral lending programs, including the program established in Part 1 by this legislation, will be sufficient to cause a significant decline in the access gap such that the nation is put on a firm trajectory toward homeownership parity among advantaged and disadvantaged groups.

The purpose of this report shall be to determine whether adding the consideration of race to the DPA program, along with other modifications, are necessary to achieve the compelling governmental interest of eliminating the effects of past and present discrimination in the mortgage lending market so that all people, including underserved communities, have equal access.

In the event the Department of Housing and Urban Development and Department of Justice determine that the gap in access to mortgage credit is unlikely to be closed by the Core Program Elements as set forth in Part 1, Administrators shall establish programs—including a modification to the program in Part 1—that use race-conscious remedies to overcome discriminatory barriers to serving socially and economically disadvantaged people, using a rebuttable presumption that people of color are socially and economically disadvantaged.

Conclusion

Homeownership is the primary way that most Americans build wealth. Unfortunately, historic and ongoing discriminatory housing policies result in Black families and other people of color being excluded from having access to owning a home. As a result, persistent and growing racial wealth gaps continue with many hardworking families lacking the resources to save for a down payment to purchase their first home. A targeted down payment assistance program will serve as a critical first step in addressing these disparities, strengthening the wealth building capacity for millions while also growing the economy.

Appendix 1a: Targeting of First Generation, First Time Homebuyers with <120% AMI

Row	Description	White	Black	Latino	Other	Total	Black & Latino	Source
		By Race						
Total Households								
1	# of All Households (Millions)	84.9	17.1	17.7	8.9	128.5	34.7	Census Bureau [1]
2	% of Total Households	66%	13%	14%	7%	100%	27%	*% of Sum of Row 1*
Eligible Households								
3	% Renter Households	26%	56%	51%	42%	34%	53%	Census Bureau [2]
4	% of Renter Households at or Below 120% AMI	79%	87%	87%	78%	82%	87%	PSID [3]
5	% of All Above, First Generation Homebuyer	21%	65%	39%	27%	36%	57%	PSID [3]
6	% of Race Eligible	4%	32%	17%	9%	10%	24%	*Product of Rows 3-5*
7	# of Eligible Households (Millions)	3.6	5.4	3.0	0.8	12.8	8.4	*Row 1 x Row 6*
8	% of Total Eligible	28%	42%	24%	6%	100%	66%	*% of Sum of Row 7*
Likely Program Participants								
9	% of Race Eligible	4%	32%	17%	9%	10%	24%	*Row 6*
10	% of All above, Eligible, Income Above 40% AMI	61%	39%	66%	80%	50%	44%	PSID [3]
11	% of All above, Households Age 25 - 54	74%	83%	73%	83%	78%	78%	PSID [3]
12	% of Race Likely Program Participants	2.0%	10.2%	8.3%	5.8%	3.8%	9.2%	*Product of Rows 9-11*
13	# of Likely Program Participants (Millions)	1.7	1.7	1.5	0.5	5.4	3.2	*Row 12 x Row 1*
14	% of Total Likely Program Participants	31%	32%	27%	10%	100%	60%	*% of Sum of Row 13*

(1) Census Bureau "Historical Households Tables"; calculated using 2020 estimates for number of households by race from Table HH-7.

(2) From the "Quarterly Residential Vacancies and Homeownership, Fourth Quarter 2020" report published by the Census Bureau.

(3) Urban Institutue calculations using PSID data.

Appendix 1b: Tar**geting of First Time Homebuyers with <80% AMI**

Row	Description	White	Black	Latino	Other	Total	Black & Latino	Source
		By Race						
Total Households								
1	# of All Households (Millions)	84.9	17.1	17.7	8.9	128.5	34.7	Census Bureau [1]
2	% of Total Households	66%	13%	14%	7%	100%	27%	*% of Sum of Row 1*
Eligible Households								
3	% Renter Households	26%	56%	51%	42%	34%	53%	Census Bureau [2]
4	% of Renter Households at or Below 80% AMI	61%	76%	68%	56%	66%	73%	PSID [3]
5	% of Race Eligible	16%	42%	35%	24%	22%	39%	*Row 3 x Row 4*
6	# of Eligible Households (Millions)	13.3	7.2	6.2	2.1	28.8	13.4	*Row 1 x Row 5*
7	% of Total Eligible	46%	25%	21%	7%	100%	46%	*% of Sum of Row 6*
Likely Program Participants								
8	% of Race Eligible	16%	42%	35%	24%	22%	39%	*Row 5*
9	% of All above, Eligible, Income Above 40% AMI	50%	39%	50%	56%	47%	43%	PSID [3]
10	% of All above, Households Age 25 - 54	58%	68%	65%	61%	61%	66%	PSID [3]
11	% of Race Likely Program Participants	5%	11%	11%	8%	7%	11.3%	*Product of Rows 8-10*
12	# of Likely Program Participants	3.8	1.9	2.0	0.7	8.5	3.9	*Row 1 x Row 11*
13	% of Total Likely Program Participants	45%	23%	23%	9%	100%	46%	*% of Sum of Row 12*

(1) Census Bureau "Historical Households Tables"; calculated using 2020 estimates for number of households by race from Table HH-7.

(2) From the "Quarterly Residential Vacancies and Homeownership, Fourth Quarter 2020" report published by the Census Bureau.

(3) Urban Institute calculations using PSID data.

PREPARED STATEMENT OF EDWARD J. PINTO

DIRECTOR, HOUSING CENTER, RESIDENT FELLOW, AMERICAN ENTERPRISE INSTITUTE

MARCH 16, 2021

Hearing before Committee on Banking, Housing, and Urban Affairs
U.S. Senate

Submitted testimony by Edward J. Pinto, Director, Housing Center and resident fellow of the American Enterprise Institute.

Chairman Brown and Ranking Member Toomey, thank you for the opportunity to testify today.

This hearing could not be timelier, as today's environment presents many challenges:

- Burgeoning home purchase demand driven up by low interest rates and demographics.
- Home supply is at the lowest level on record, even lower for lower priced entry-level homes.
- The result is an overheated market with home prices up by 10-12% on a year-over-year basis, which is expected to last through the end of at least 2022.[1]
- A low-income housing policy that equates leverage and high default risk with affordability.
- For many of low-income buyers, homeownership has not been effective in building generational wealth.
- Since 2012 home prices have been increasingly unsupported by market fundamentals.
- Overly restrictive zoning and other land use regulations are largely responsible for the supply shortfall.
- Work from Home (WFH) households are taking advantage of the arbitrage opportunity presented by price distortions across geographies, largely created by zoning and land use restrictions.

Notwithstanding 70 years of federal efforts involving many trillions of dollars in program expenditures, tax benefits, and government guaranteed financing, neither the goal of making owner occupied and rental homes affordable for low income households nor the goal of achieving generational wealth for low-income homeowners have been met.

In 1921 the federal government began to implement zoning and land use policies designed to make it too expensive for racial and ethnic groups to buy homes or be able to afford to live in newly built homes and neighborhoods.

We are still living with zoning and land use policies developed and rigorously promoted by the federal government beginning in 1921. This effort was spearheaded by the U.S. Department of Commerce (hereafter "Commerce Department"), the Division of Building and Housing. The goal was to keep Blacks and immigrants from southern and central Europe in zoning districts segregated from whites. Zoning was used to create geographically separate districts where one-unit single-family detached housing was segregated from multifamily housing. Beginning in 1934 the newly formed Federal Housing Administration took over from the Commerce Department and went on to play a pivotal role in continuing the use of zoning to keep Blacks and immigrant groups in zoning districts segregated from whites. The lasting impact of the Commerce Department's and FHA's actions is clear. To this day the vast majority of residential land in major American cities is zoned exclusively for single-unit detached homes. These zoning and land use policies had at their core the driving up of the cost of building new

[1] Pulsenomics® conducts quarterly surveys of over 100 economists about future trends in home price appreciation. I have been the recipient of the Pulsenomics® Crystal Ball Award four times, including for each of the last 3 years.

homes in a determined and successful effort to price racial and ethnic groups out of newly built neighborhoods. These same policies were designed to keep multifamily housing in zones away from neighborhoods consisting of 1-unit, single-family detached structures.[2]

Given this history, it comes as no surprise that we have a broken housing ladder—the result of home prices rising much faster than incomes, which makes it harder and harder for aspiring homebuyers to climb onto the first rungs.

The Paradox of Accessible Lending:

When supply is constrained, credit easing and extremely low interest rates are capitalized into higher home prices making entry level homes less affordable.

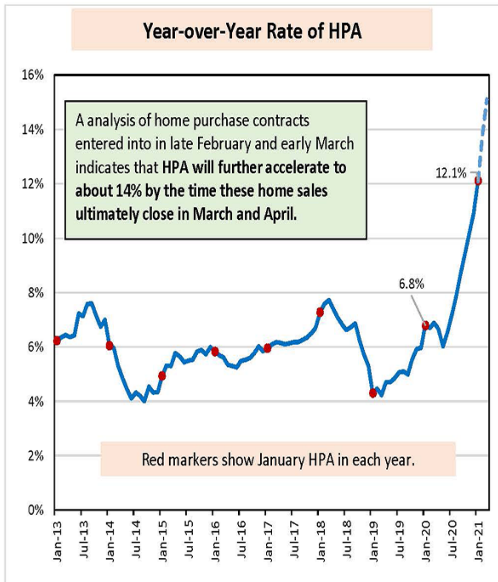
The above mentioned policies have:

- Subjected low-income (LI) homebuyers to higher leverage, looser lending standards, unsustainable price boosts, greater home price volatility, and unknowing land speculation. When combined with limited generational wealth-building opportunities, LI households are ill equipped to handle these risks.
- Constrained lower cost supply by making it illegal in most cities to build 2-, 3-, 4-unit, and single-family attached homes (Light Touch Density) in 1-unit single-family detached neighborhoods. Since 1940 this has prohibited the construction of an estimated 8 million such housing units. This has kept housing markets from responding to demand by adding new supply.

Today we have an overheated housing marketplace.

This is the result of extremely low interest rates combined with the tightest supply in history. As a result year-over-year home price appreciation (HPA) is galloping ahead at the rate of 10-12% per year. Home purchase contracts entered into in late February and early March indicate that HPA will further accelerate to 13-14% by the time these home sales ultimately close in March and April.

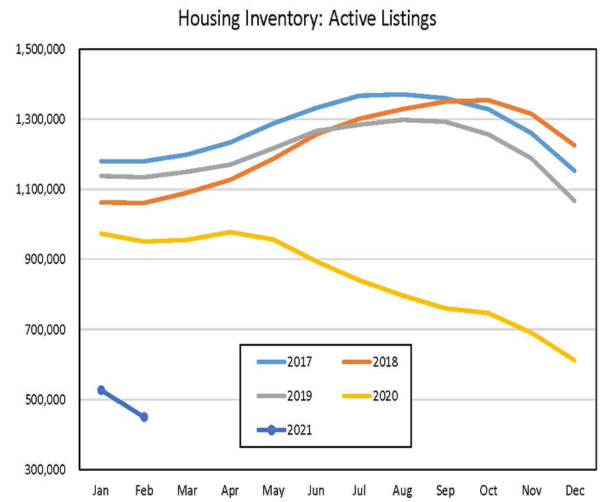
[2] A similar instance to zoning exists in the job market. In 1931 the Davis-Bacon Act was passed. It had as its purpose to keep Blacks from competing successfully for jobs that Whites wanted. The Davis-Bacon congressional debate was replete with references to "itinerant labor" or "cheap bootleg labor" or "labor lured from distant places" for "competition with white labor throughout the country." https://www.washingtonpost.com/archive/opinions/1995/02/05/davis-bacon-and-the-wages-of-racism/d63f9cc5-8c35-4033-b68a-992f015644e2/



Note: Data are for the entire country. Data for January 2020 are preliminary.
Source: AEI Housing Center, www.AEI.org/housing and Optimal Blue.

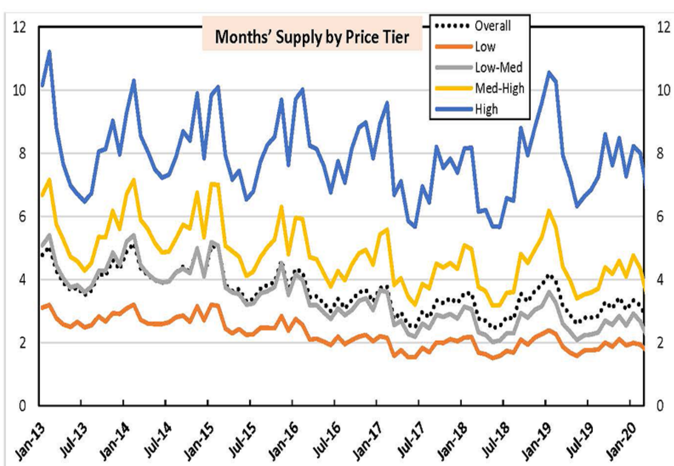
There is also an unprecedented lack of supply that is driving up home prices.

The ½ percentage point mortgage rate increase since the beginning of the year has only had a modest effect in slowing this unsustainable level of HPA. This is because supply has fallen dramatically in 2020 and continues to do so in 2021.



Source: Realtor.com and AEI Housing Center.

Starting with June 2020, months' supply levels started to drop sharply across all price tiers. Overall months' supply in December was at a rock bottom 2.0 months and, at 1.6 months for the low price tier.



Note: Months' supply measures how long it would take for the existing level of inventory to be sold off at the current sale's pace. While the listings data come from the MLS, the sales numbers come from the public records.
Source: Realtor.com, Zillow, and AEI Housing Center, www.AEI.org/housing.

For the foreseeable future, it will be difficult to replenish or add to supply because: (i) baby boomers are tending to stay put more, (ii) it takes time to acquire land, entitle, and complete new construction even in places like North Carolina and Texas, (iii) adding supply will face the usual difficulties in the Northeast and much of the West, and (iv) new construction supply has fallen from 5.0 months in January 2020 to 4.0 months (SA) in January 2021.

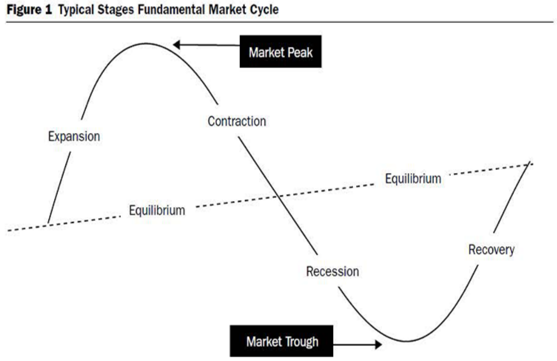
The market is far from equilibrium.

The Dictionary of Real Estate Appraisal, fifth edition, defines *market equilibrium* as:[3]

> The theoretical balance where demand and supply for a property, good, or service are equal. Over the long run, most markets move toward equilibrium, but a balance is seldom achieved for any period of time.

The real estate cycle is stylistically described as follows:

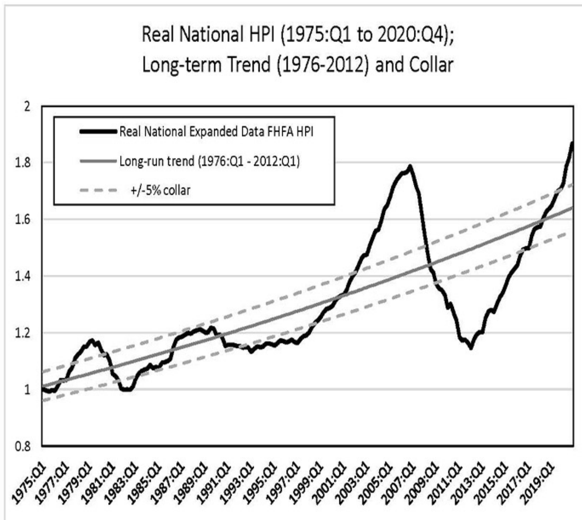
Figure 1 Typical Stages Fundamental Market Cycle



Source: Jorgensen and Fanning

[3] Jorgensen and Fanning, One Step Further—Implementing the Recommendations of Guide Note 12, The Appraisal Journal, Summer 2013

The Federal Housing Finance Agency has developed a measure of the current state of the housing market in terms of the long-term, real home price trend. As you can see, we are well above the long term trend.



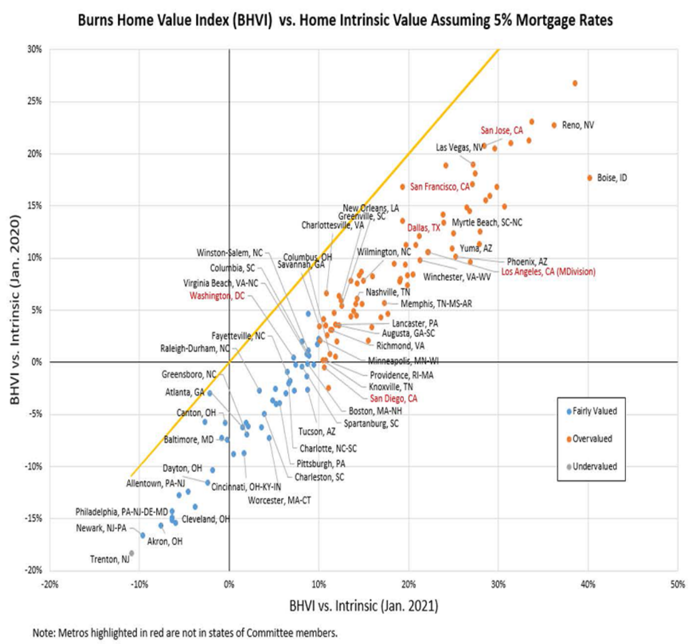
Source: FHFA and AEI Housing Center

According to the John Burns Intrinsic Home Value Index (BHVI), which assumes a mortgage rate of 5%, about 61% of the largest metros are overvalued and only one (Trenton, NJ) is undervalued. The metro with the highest overvaluation is Sacramento, CA. Compared to a year ago, the Intrinsic Home Value Index has worsened across all metros tracked. While rates have moved up by ½ percentage point since the beginning of the year to 3.25%, a rise in rates to 5% could leave many metros seriously overvalued.

To illustrate why this is a potential problem, consider the monthly principal and interest payment for these two examples:

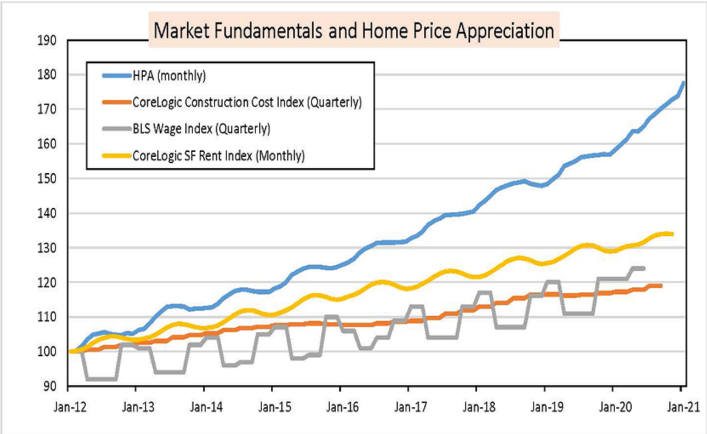
- $843 on a $250,000 home, with a $50,000 down payment and a $200,000 mortgage at a loan rate of 3%.
- $1557 on a $340,000 home with a $50,000 down payment and a $290,000 mortgage at a loan rate of 5% rate. This is an increase of 85% in the monthly payment. This assumes that by December 2022, home prices will be 35% higher than in December 2019.

The effect of a nearly doubled monthly payment would be to sharply reduce demand, which could quickly turn a roaring seller's market into a strong buyer's market. The resultant price declines would inflict the most harm on low-income and minority homeowners, as many are ill equipped to handle such price volatility.



Note: The BHVI shows current price versus intrinsic value assuming 5% mortgage rate and tracks 131 U.S. metros. Yellow line is a 45-degree line. Above the line indicates an improving index relative to a year ago, below indicates a worsening index compared to a year ago.
Source: John Burns Real Estate Consulting and AEI Housing Center, www.AEI.org/housing.

This conclusion is supported by a wide and now increasing deviation between HPA and the market fundamentals of construction costs, wages and rents. Since 2012, home prices have appreciated at about 2-3 times the rate of these market fundamentals. Since fundamentals tend to correlate to intrinsic value, this level of deviation is unsustainable over the long run. While it is unknowable how much higher prices will rise or when the cycle will turn, the longer home prices deviate from fundamentals, the more painful will be the eventual correction. One again, this will be most painful for low-income and minority homeowners.



Note: Data are for the entire country. HPA data for January 2021 are preliminary. Wage data come from the Quarterly Census of Employment Wages (QCEW).
Source: CoreLogic, BLS, and AEI Housing Center, www.AEI.org/housing.

Work from Home (WFH) Is Contributing to Demand Shifts and Soaring HPA

Helping fuel the HPA increase are Work from Home (WFH) households taking advantage of the arbitrage opportunity presented by price distortions across geographies. These distortions are largely due to overly restrictive zoning and other land use regulations which helped drive up home prices unevenly across the U.S. Take the examples of sample homes in San Francisco and San Jose vs. Sacramento and Phoenix (with photos below).

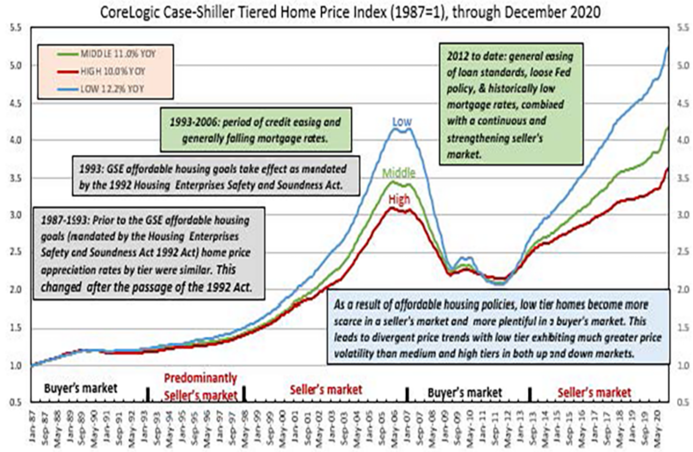
San Jose, CA	Sacramento, CA	Phoenix, AZ
		
Home cost: $602,000	**$430,000**	**$383,500**
Home size:		
4 bed, 2 bath, 1,392 sq. ft.	**4 bed, 3 bath, 2211 sq. ft.**	**5 bed, 3 bath, 2,527 sq. ft.**
Price per sq. ft.: $432	**$194**	**$152**

Spiraling home prices have been the consequence of ill-advised government policies and interventions.

First low-income (LI) homebuyers have been subjected to the inflationary effects of dangerous leverage and extremely low interest rates. This has been compounded by the federal government's racially based zoning and land use regime that was conceived and implemented 100 years ago. This regime continues in force today in thousands of state and local land use codes.

Since 1994 low tier home prices have risen 39% faster and had much greater price volatility than in high tier ones. Prior to 1994 the deviation in price trend by tier was much lower, as can be seen to the trend from 1987-1993. This has had a detrimental impact on many first-time or first generation home buyers who either need to take on more leverage to afford home ownership or are priced out of the market. Since 2007, this has resulted in millions of foreclosures.

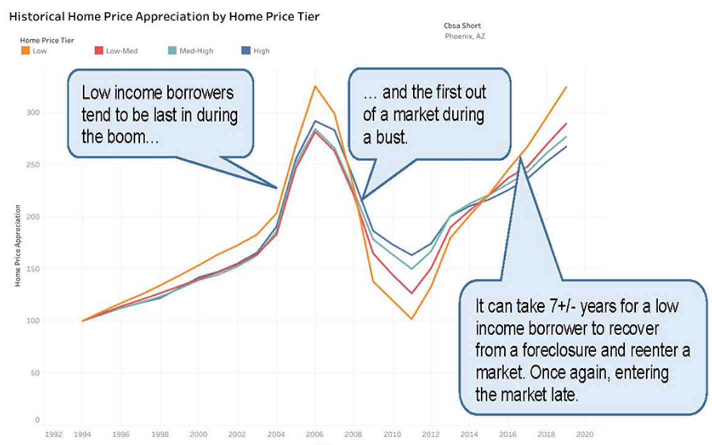
CoreLogic Case-Shiller Tiered Home Price Index (1987=1), through December 2020



Tiers price breakouts are calculated by breaking up all sales for each period, so that there are the same number of sales, after accounting for exclusions, in each of the 3 tiers. 16 metros are used to derive the Tiered HPI: Boston, NYC, Chicago, DC, Denver, Las Vegas, Los Angeles, San Diego, San Francisco, Miami, Atlanta, Minneapolis, Phoenix, Portland, Seattle, and Tampa, with only 8 metros included at beginning of series. This number grows until 1998, when all 16 metros are reported.
*A seller's market: an economic situation in which supply is limited and sellers can ask for high prices.
**A buyer's market: an economic situation in which supply is abundant and buyers can demand low prices.
Source: CoreLogic Case-Shiller (Data: Dec-20, Pub: Mar-21), compiled by AEI Housing Center (www.AEI.org/housing).

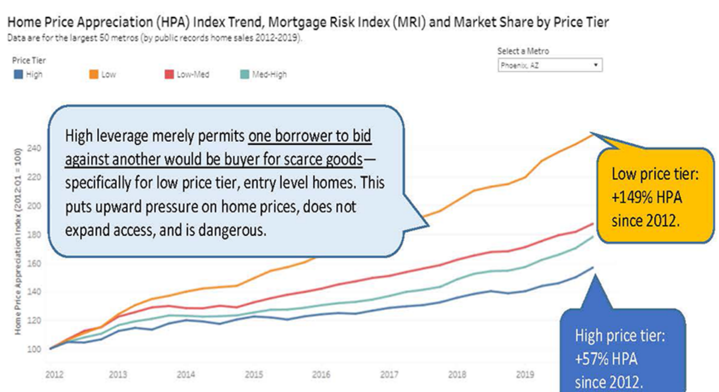
The next four graphics and one map pertain to Phoenix, AZ and demonstrate how the impact of high leverage operates to the detriment of low income homebuyers.

The first shows the extreme home price volatility (nominal dollars) homeowners with homes in the low price tier have experienced since 1994. An increase of 225%, followed by a decline of 70%, followed by an increase of 225%–all in a span of 26 years. Compounding this are multiple cash-out refinance booms that have occurred over this time period. Many low-income and minority borrowers are ill equipped to handle price volatility of this magnitude.



Source: AEI Housing Center

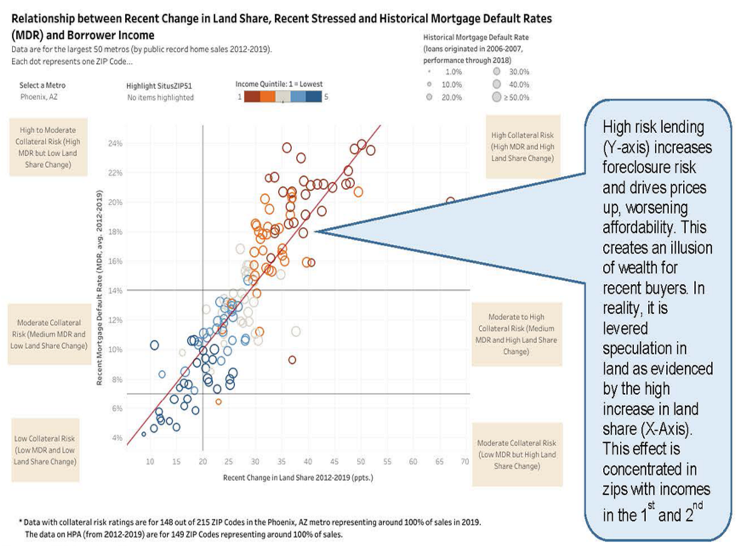
The next graphic demonstrates that the rate of home price appreciation in Phoenix directly correlates with leverage as measured by the Mortgage Risk Index (MRI). The low price tier has the highest MRI (inset box) and the highest HPA (line graph).



		Tier			
		Low	Low-Med	Med-High	High
Phoenix, AZ	Mortgage Risk Index	15.8%	15.0%	8.8%	3.1%
	Market Share	23.1%	27.2%	44.3%	5.4%

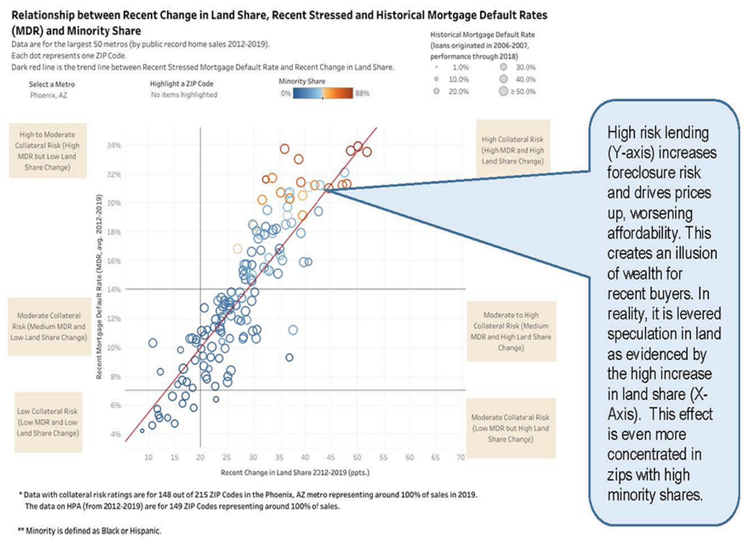
Source: AEI Housing Center

The next graphic demonstrates how high risk loans (y-axis) harm low-income buyers by worsening affordability and increasing foreclosure risk, while creating illusory wealth for recent buyers (x-axis). This illusion of wealth is due to the fact that almost all of the home price appreciation during a boom is the result of increasing land prices, which increases the share that land constitutes of overall value. Land is the volatile component of home value which consists of the structure and land. In short the structure tends to go up with inflation while outsized rates of home price appreciation are capitalized into land price. In the early graphic showing a price decline of 70%, it was the price of land that actually collapsed. Thus the low-income homeowners who purchased in the 2004-2007 were unknowingly speculating in land.



Source: AEI Housing Center

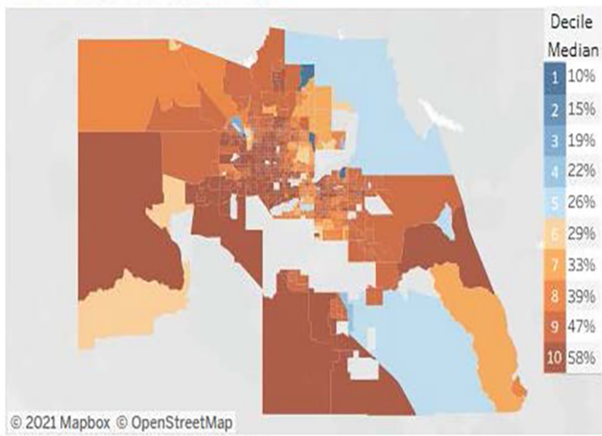
The next Phoenix graphic points out how home buyers of color are disproportionally harmed by worsening affordability, increased foreclosure risk, and the price volatility resulting from increasing land share. These homebuyers are unknowingly speculating in land, which means that they will be the first to lose their homes when the home price cycle turns. This outcome is a Fair Housing Act violation.



Source: AEI Housing Center

The map below for Phoenix shows the cumulative Mortgage Default Rate for loans originated in 2006-2007. In the run up to the Great Recession, credit easing in the form of high leverage and excessively low interest rates, both promoted by federal policies, led to excessively high foreclosure rates and the loss of equity and savings by a high proportion of low-income and minority households. The map color key shows that the preponderance of census tracts had median home loan default rates of 33% to 58%. This means that for every 100 home purchase loans originated in 2006-2007, 33 to 58 homeowners lost their home. Many of the most severely hit census tracts were filled with homes occupied by low-income and minority households.

Historical Mortgage Default Rate
(MDR, loans originated in 2006-2007, performance through 2018)
Coloring based on **National** Deciles

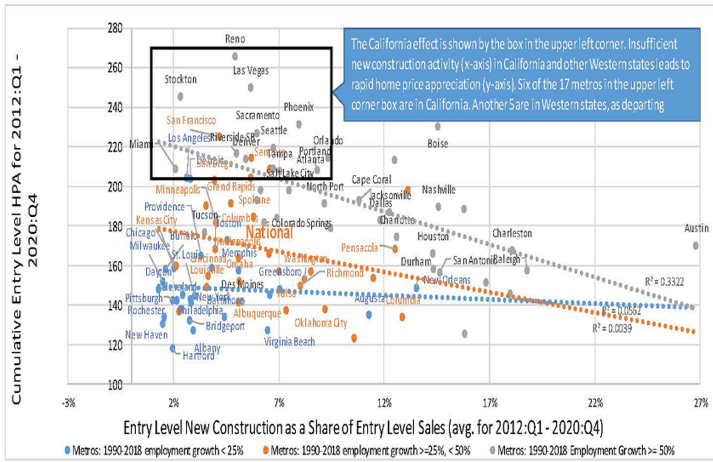


Note: The map is a census tract map of the Phoenix CBSA.
Source: AEI Housing Center

Measuring the impact that the level of new construction has on entry-level new supply and home prices.

As the scatter plot below demonstrates, there an inverse relationship between new construction's share of entry-level sales and entry-level home price appreciation. This inverse relationship is strongest for metros with well above average employment growth over 1990-2020 (the metros and dotted trend line colored black).

Cumulative Entry Level Home Price Appreciation, Entry Level New Construction Sales and Employment Growth

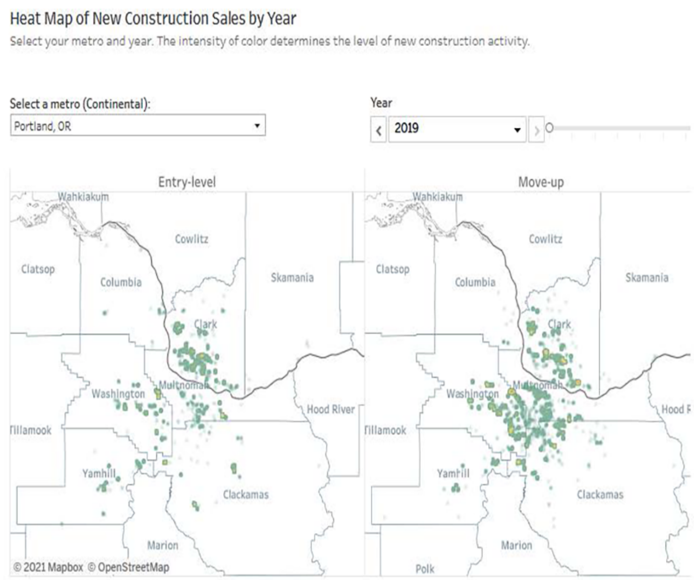


Source: BEA and AEI Housing Center

The legacy of errant federal zoning policies continue to impact housing supply in metros across the country.

The next series of maps will demonstrate this using the Portland and Seattle new construction markets.

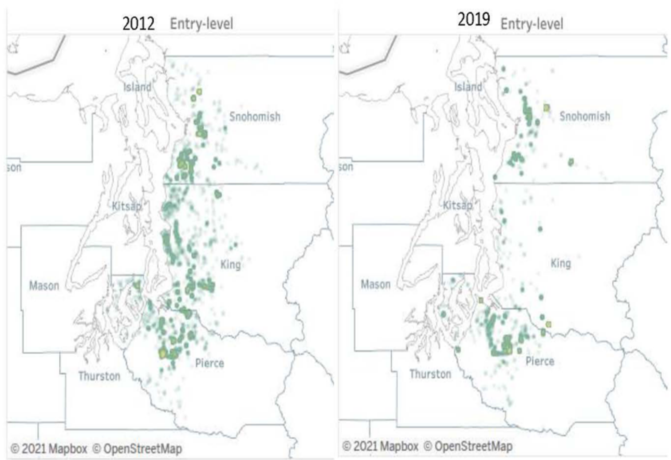
The Portland, OR metro area, which is split between Oregon and Washington, provides a great natural experiment. It is generally thought that new home construction is driven by the "5 Ls": Labor, Lot (prices), Laws on land use, Lumber (prices), and Lending for construction and development. The cost of labor and lumber are presumably the same on the Oregon and Washington side of the Portland metro, as is the availability of construction and development lending, in both states. Yet in the heat maps below showing new construction, one sees quite different results between the Oregon and Washington sides of the Portland metro. The Washington side has much more entry-level new construction than the Oregon side. This must be due to just 2 Ls: differing lot prices (land cost), along with differing land use laws, and how they are administered.



Source: AEI Housing Center

The Seattle metro provides another excellent example of how entry-level supply has been limited by zoning and land use requirements. The 2012 heat map shows that entry-level new construction was fairly evenly spread across the three counties that made up the Seattle metro area. Yet by 2019, entry-level new construction had virtually vanished from King County (down 77% from 2012 and home to Seattle city), and had declined much less in the counties of Snohomish (down 38% from 2012) and Pierce (down 14% from 2012).

Heat Map of Entry-Level New Construction Sales in the Seattle Metro: 2012 and 2019



Source: AEI Housing Center

We must not repeat the mistakes of the past, which have made housing less, not more affordable:

- Relaxing underwriting requirements in an overheated housing market (many times since 1954).
- Reducing FHA's mortgage insurance premiums in an overheated housing market (2015).[4]
- Providing first-time buyer down payment assistance in an overheated housing market (being discussed in 2020).
- Forgiving student loan debt during an overheated housing market would increase first time buyer buying power and increase demand, which would result in higher home prices (being discussed in 2020.
- There have been at least 42 major congressional enactments of Federal rental housing and community development programs from 1932 to 2008 (see Appendix A).[5] All promised to address pressing problems of the day.
    - Consider the Housing Act of 1949 which set a national housing goal to be realized as soon as feasible "of a decent home and suitable living environment for every American family" or the Housing and Urban Development Act of 1968 which called for "implementation of a 10-year plan for the elimination of all substandard housing."

We know why these mistakes and failures happen. Government involvement in lending sets in motion political pressures for increasingly risky lending, such as "affordable loans" to constituent groups. The

[4] Davis, Oliner, Peter, and Pinto, *The impact of federal housing policy on housing demand and homeownership: Evidence from a quasi-experiment,* http://www.aei.org/wp-content/uploads/2018/01/Oliner-homeownership-WP-Update.pdf?x91208
[5] Sources: Edson, Affordable Housing— An Intimate History, 2010 and the Congressional Research Service, A Chronology of Housing Legislation and Selected Executive Actions, 1892-2003, https://www.gpo.gov/fdsys/pkg/CPRT-108HPRT92629/html/CPRT-108HPRT92629.htm

liberalization of credit terms creates demand pressure which easily becomes capitalized into higher prices when undertaken in a market with constrained or inelastic supply. The actual beneficiaries of these price inflating policies tend to be existing homeowners, real estate brokers, builders, building labor, the suppliers of building materials, and speculators

Besides driving home prices higher, these policy choices would risk putting minority and first time home buyers in homes with high leverage and when they might not be quite ready. A dip in the market would wipe out both earned and paper equity and the possibility of creating generational wealth. It would also have a deleterious impact on credit scores, thereby delaying market reentry.

How to sustainably build generational wealth for low income households through home ownership?

This Committee is appropriately focused on policies that will foster generational wealth for the low-income and minority homebuyers. Further, awareness is growing that for many of these buyers, homeownership has not been effective in building generational wealth.

Considerations and steps that might be taken foster generational wealth for the low-income and minority homebuyers and add housing supply include:

- One should buy a home one can comfortably afford, with a 20-year term to minimize risk of default and pay off principal more rapidly.
- A shorter term loan builds generational wealth.
    - The earlier pay-off date provides access to additional cash flow to pay children's post-high school education, and fund retirement
- Any financial assistance provided should build wealth using a 20-year loan, not subsidize debt using a 30-year term loan.
    - The 20-year term reduces default incidence and limits the subsidy from being capitalized into higher prices.
    - Assistance should be narrowly targeted to lower income, first generation homebuyers, who as a group have historically had greater difficulty accumulating generational wealth.
    - Helps address the need to sustainably expand the credit box so as to grow home ownership opportunities, especially for minorities.
- Understand that the market distortions continue to emanate from the federal government's role in establishing a greatly flawed zoning and land use regime in 1921. This determined and successful effort was designed to drive up of the cost of building new homes so as to price racial and ethnic groups out of newly built neighborhoods. And these same policies were designed to keep multifamily housing in zones away from neighborhoods consisting of 1-unit, single-family detached structures.
- Understand that reversing the effects of these 100 years old policies will take decades. Here are sensible steps that state and local government should take include:
    - Increasing supply and reducing income stratification through the legalization of Light Touch Density, that is make 2, 3, and 4 unit and single-family attached housing legal in 1-unit single-family detached neighborhoods.
    - Allowing extra rooms in homes to be rented out.
    - Promoting walkable neighborhoods with a mix of residential and commercial properties.

- Increase the density allowed for single-family and multifamily zoning, including expanding by-right multifamily zoned areas.
- Allowing manufactured homes in areas zoned primarily for single-family residential homes.
- Allowing multifamily development in retail, office, and light manufacturing zones.
- Allowing single-room occupancy development wherever multifamily housing is allowed.
- Reducing minimum lot size.
- Reducing the number of buildings protected by historic preservation.
- Increasing the allowable floor area ratio in multifamily housing areas.
- Streamlining or shortening permitting processes and timelines, including through one-stop and parallel-process permitting.
- Eliminating or reducing off-street parking requirements.
- Reducing impact and utility investment fees.
- Allowing prefabricated construction.
- Reducing or eliminating minimum unit square footage requirements.
- Allowing the conversion of office units to apartments.
- Allowing the subdivision of single-family homes into duplexes.
- Allowing accessory dwelling units, including detached accessory dwelling units, on all lots with single-family homes.
- Legalizing home-based businesses.

Appendix A: Federal rental housing and community development programs enacted since 1932[6]

1932: Emergency Relief and Construction Act - the government's first major involvement in the housing field,

1933: National Industrial Recovery Act - Section 202 established the Public Works Administration, which was authorized to build or finance public housing,

1934: National Housing Act established the FHA (including Section 207 Multifamily Insurance)

1934: National Housing Act authorized National Mortgage Associations (pursuant to this authority, the Federal National Mortgage Association was chartered on February 10, 1938, as a subsidiary of the Reconstruction Finance Corporation),

1937: United States Housing Act established Public Housing Authority,

1942: Section 608 authorized FHA mortgage insurance for rental housing for war workers,

1949: Housing Act – set national housing goal--realization as soon as feasible of the goal of a decent home and suitable living environment for every American family,

1949: Housing Act – Title I authorized Slum Clearance and Urban Redevelopment, also authorized a major expansion of public housing program including a shift to a focus on high-rise buildings,

1949: Housing Act – added Section 515 authorizing rural housing assistance,

1950: Housing Act amended Section 213 expanding cooperative housing mortgage insurance program, 1954: Housing Act added Section 220 for the prevention and rehabilitation of slums

1954: Housing Act added Section 221 to provide FHA mortgage insurance for low-cost housing for families displaced as the result of governmental action,

1959: Housing Act added Section 202 authorizing direct Federal loans for elderly rental housing,

1965: Housing and Urban Development Act added Section 23, a new program of rent supplement payments,

1966: Demonstration Cities and Metropolitan Development Act authorized Model Cities Program,

1968: Housing and Urban Development Act added Section 236 a new program of rental housing assistance for lower-income families,

1968: Housing and Urban Development Act created GNMA and FNMA as separate entities,

1968: Housing and Urban Development Act created Title IV--the New Communities Act,

1968: Housing and Urban Development Act created Title V which authorized the Urban Renewal Neighborhood Development Program,

1968: Housing and Urban Development Act created Title XVI--Housing Goals and Housing Reports (implementation of a 10-year plan for the elimination of all substandard housing and the realization of the 1949 national housing goal),

1968: Housing and Urban Development Act added new rural housing interest- reduction programs,

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[6] Sources: Edson, Affordable Housing— An Intimate History, 2010 and the Congressional Research Service, A Chronology of Housing Legislation and Selected Executive Actions, 1892-2003, https://www.gpo.gov/fdsys/pkg/CPRT-108HPRT92629/html/CPRT-108HPRT92629.htm

1969: Tax Reform Act added favored tax treatment for affordable housing projects,

1970: Emergency Home Finance Act authorized creation of Federal Home Loan Mortgage Corporation, 1970: Housing and Urban Development Act authorized Experimental Housing Allowance,

1970: Housing and Urban Development Act authorized Prevention of Housing Abandonment Programs,

1974: Housing and Community Development Act authorized Section 8 new construction and existing programs,

1974: Housing and Community Development Act created Community Development Block Grant program

1977: Housing and Community Development Act created Urban Development Action Grant Program,

1977: Housing and Community Development Act created Community Reinvestment Act,

1978: Housing and Community Development Amendments authorized Housing Assistance Programs providing further assistance (now known as the ``Flexible Subsidy'' program) for financially-troubled rental projects assisted by Sections 221(d)(3) or Section 236 mortgage-interest reduction programs or Rent Supplement payments,

1980: Housing and Community Development Act added a new Section 14 to the United States Housing Act of 1937 to provide a Comprehensive Improvement Assistance Program for existing public housing, 1983: Housing and Urban-Rural Recovery Act authorized experimental rental assistance in the form of a voucher,

1983: Housing and Urban-Rural Recovery Act established Rental Housing Rehabilitation and Development Grant Program,

1983: Housing and Urban-Rural Recovery Act authorized Housing Development Action Grant Program,

1986: Tax Reform Act authorized the Low Income Housing Tax Credit Program,

1987: Stewart B. McKinney Homeless Assistance Act,

1987: Housing and Community Development Act included Emergency Low Income Preservation Act, 1989: Financial Institutions Reform, Recovery, and Enforcement Act authorized Federal Home Loan Bank System Community Investment and Affordable Housing Programs,

1990: Cranston-Gonzalez National Affordable Housing Act enacted HOME Investment Partnerships Act, 1992: Federal Housing Enterprises Financial Safety and Soundness Act established GSE Affordable Housing Goals,

1994: Riegle Community Development and Regulatory Improvement Act established the Community Development Financial Institutions Fund,

2008: Housing and Economic Recovery Act establishes the Housing Trust Fund.

2008: Housing and Economic Recovery Act establishes the Housing Trust Fund.

PREPARED STATEMENT OF EDWARD J. DEMARCO

PRESIDENT, HOUSING POLICY COUNCIL

MARCH 16, 2021

Chairman Brown, Ranking Member Toomey, and Members of the Committee: Thank you for inviting me to testify today. My name is Edward DeMarco, and I am the President of the Housing Policy Council (HPC), a trade association comprised of the nation's leading firms in housing finance and dedicated to advancing responsible and sustainable home ownership opportunities.

The past 12 months have placed extraordinary stress on families, our economy, and our society. Despite these stresses, the housing finance system generally, and mortgage servicers in particular, responded effectively to the needs of homeowners. Millions of homeowners whose income was disrupted by the pandemic received immediate payment relief through mortgage forbearance plans. Still, there are challenges and risks ahead.

One of the most pressing challenges is addressing the racial gap in home ownership, which we must do if we are to expand wealth-building opportunities for individuals and families of color. While this is a challenge and priority, it also is an opportunity. It is an opportunity for this Committee, the administration, consumer advocates, and the housing finance industry to think differently about the most effective ways to meet this challenge and promote sustainable home ownership for individuals and families who have the means to own a home but have been unable to realize that dream.

One key element in meeting this challenge extends beyond the scope of most federal programs designed to support home ownership: there simply is not enough housing to meet the needs of new homeowners. Fundamentally, we need to build more housing.

Beyond these new challenges that are top of mind today, we cannot lose sight of a huge challenge that has been with us for more than a dozen years now, one that I have testified on before this Committee numerous times, in multiple capacities: housing finance reform.

The rest of my written statement will elaborate on these points.

COVID–19 and the Single-Family Mortgage Market

A year ago, the mortgage servicing industry was working furiously to comprehend and respond to the unknown magnitude of economic disruption facing us due to the sudden business shutdowns. The whole country was trying to grasp what we might be facing. The uncertainty was enormous, and in some sectors of the economy, the job losses were massive and immediate.

More than half a million Americans have died from the virus and millions continue to face extraordinary hardship. Yet we can take heart in the efforts of so many Americans who responded admirably in the face of such adversity. We have seen medical advances at amazing speed, producing vaccines that point us to a brighter future. Many businesses have shifted to remote work and, as a result, many parts of the economy have rebounded remarkably, while other businesses and parts of the economy remain shuttered or operate at less than full capacity.

The industry that I represent, mortgage lenders and servicers, has worked diligently to meet this moment. Servicers quickly established processes to offer homeowners mortgage payment forbearance plans, while simultaneously converting their operations to accommodate their employees working from home. By mid-April, more than 2 million families had requested and received forbearance. By late May, that number peaked at nearly 5 million.[1] Homeowners have been able to request and receive mortgage payment forbearance simply by contacting their mortgage servicer and declaring a financial hardship due to the pandemic.

While forbearance plans were mandated by the CARES Act, mortgage forbearance was already part of the servicing toolkit and had been used previously by servicers in response to natural disasters. Having this toolkit in place allowed servicers to deploy forbearance assistance across the country at a previously unseen scale in a matter of days. Servicers also voluntarily provided the same support for mortgages held in bank portfolios and private label securities, not just on the government-backed loans required by the CARES Act. Mortgage insurers have worked with servicers to align operations and support forbearance and post-forbearance solutions.

[1] Andy Walden, Economist and Director of Market Research at Black Knight, Inc. March, 12, 2021 "Forbearances See Largest Weekly Decline Since Beginning of 2021". Washington, D.C.

The rapid roll-out of these plans is not just a success story for mortgage servicers, it reflects the incredible effort of many others as well. While not a comprehensive list, I particularly want to acknowledge the leadership and staff at the Federal Housing Administration (FHA), the Department of Veterans Affairs (VA), the US. Department of Agriculture's Rural Housing Service, Ginnie Mae, the Federal Housing Finance Agency (FHFA), Fannie Mae and Freddie Mac (the GSEs),[2] and the Consumer Financial Protection Bureau (CFPB) for responding quickly and appropriately to the challenges faced by consumers and mortgage servicers. Each of these government agencies and programs worked diligently with industry representatives and with each other to tailor responses to the needs of homeowners.

Homeowners have also been engaged and are working with their servicers. Since the peak in forbearance requests, more than half of homeowners have resumed making their payments or have paid off their mortgages. Today, about 2.6 million homeowners are still in forbearance, and most of those are coming up on the 1-year anniversary of being in forbearance.[3] Recently, FHFA and the Government-insured loan programs indicated that forbearance could be extended up to 6 more months, for a total of 18 months. HPC supports this action.

Despite this tremendous response by mortgage servicers and homeowners, much work remains. By this fall, as forbearance begins to wind down, homeowners will face choices to resume payments. The silver lining is that the situation is not as dire as the one we faced in the Great Recession. In most markets, house prices have increased and most homeowners in forbearance have at least 10 percent equity in their home. Mortgage servicers remain ready to use all of their resources to help each homeowner find the best available outcome for their circumstances.

I also hope the constructive engagement between industry and government agencies that developed in response to this crisis will continue. For example, many industry participants, including the Housing Policy Council, partnered last summer with housing and consumer advocates and the CFPB to launch an outreach campaign targeted at homeowners who had missed mortgage payments but were not in forbearance or were nearing the end of their forbearance period. This type of public/private partnership improves our collective ability to assist homeowners in need.

For the remainder of 2021, I expect COVID-related challenges to be the industry's number one priority. While some of the 2.6 million households in forbearance today are likely to return to work as public health and economic conditions improve, others may face a permanent job loss. Working with those borrowers will be job one.

Racial Ownership Gaps and Demographic Challenges

In 2020, the deaths of George Floyd, Breonna Taylor, Ahmaud Arbery and others opened a wider and more urgent demand to address racial disparities, including the racial home ownership gap. Unlike the pandemic, this gap did not appear overnight nor will it go away quickly. But there is broad consensus that we must grapple with it. We face other important challenges ahead as well; significant demographic changes require housing policy attention in the years ahead, such as senior housing, multi-generational housing, and the emergence of the enormous millennial generation into the housing market.[4]

Two years ago, I testified before this Committee[5] and set forth the Housing Policy Council's views on expanding opportunities for home ownership. Because I believe those views are still relevant today, I will repeat that testimony:

> The various housing finance reform proposals put forward over the last several years have all included a mechanism to generate funds to stimulate the production and preservation of affordable rental housing and to bolster targeted home ownership assistance programs. HPC supports this approach. Our members recognize that appropriations for housing programs

[2] For purposes of this testimony, the "GSEs" (Government-Sponsored Enterprises) or "Enterprises" refer to the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac).

[3] Walden, *Forbearances* See "Largest Weekly Decline".

[4] The Urban Institute's Housing Finance Policy Center has produced multiple research articles and blogs on these topics. For example, see "Future of Headship and home ownership", January 2021, which addresses all these issues: senior households, multi-generational living, changing demographics, and rising millennials. Other relevant work includes "By 2040, the U.S. Will Experience Modest home ownership Declines. But for Black Households, the Impact Will Be Dramatic, What Will It Take to Support 5.5 Million More Senior Renters by 2040", and "The Number of Hispanic Households Will Skyrocket by 2040. How Can the Housing Industry Support Their Needs?"

[5] Edward J. DeMarco, President, Housing Policy Council. March 26, 2019. Testimony before the Senate Committee on Banking, Housing, and Urban Affairs on Chairman's Housing Reform Outline. Washington, DC.

are not keeping pace with housing need in this country. Therefore, given the benefits derived from the government guarantee envisioned in housing finance reform, it is reasonable for legislation to establish an obligatory contribution of dollars through transaction fees to expand the supply of desperately-needed affordable housing.

HPC also supports funding for specialized home ownership programs. However, it is the preference of HPC members to direct new funds for home ownership assistance to programs that contribute directly to the households in need, reducing the barriers to entry and financial challenges that these individuals and families face. HPC would prefer that new funds not be used to simply subsidize higher-risk loans or to compensate the industry to make loans that may not perform using more lenient underwriting criteria.

We believe that funds used to address the areas of risk that drive the increased pricing, rather than subsidizing that pricing, would better serve the households in need. Examples of these types of programs are down payment assistance grants that enable households to enter home ownership with some amount of equity in the property; savings programs that offer matching funds to increase the down payment amount or, equally importantly, that create "rainy-day" reserves to address future needs; and dedicated accounts that could be tapped by homeowners in financial distress, to avoid missed payments and / or foreclosure. The application of dollars to these types of programs, as well as critical home ownership counseling and education services, would help families prepare for and sustain home ownership, improve access, address the real barriers, and create a true financial benefit and performance boost for low- and moderate-income (LMI) households.

Along these same lines, HPC recognizes that there may be interest by some in preserving the GSE Affordable Housing Goals and Duty-to-Serve activities. The intent of these programs is to ensure the secondary mortgage market makes credit available for more low- and moderate-income households, and targeted market segments (affordable housing preservation, rural markets, and manufactured housing) than the private sector may serve on its own without government support. However, HPC believes that it is worthwhile to assess and revisit the impact and outcomes of these programs and consider alternatives that better achieve the intended objectives. Rather than repeat the use of methods that have had, at best, mixed results, we should seek new types of measurable targets and financing goals to ensure that traditionally underserved segments are targeted for guarantor support. For example, there may be high-impact ways to use additional funding, modeled on the Federal Home Loan Bank System's Affordable Housing Program, which has effectively served communities nationwide for decades now.

More recently, HPC addressed the matter of affordable housing for low-and moderate-income families and families of color in a comment letter to the FHFA on the GSEs' affordable housing goals. In our comment letter,[6] HPC noted that there is limited evidence that the housing goals have expanded low-income home ownership.

The driving factor for why the GSE housing goals have been unable to move the needle on addressing these structural challenges is that the program subsidizes demand primarily through the cross-subsidization of mortgage rates rather than directly addressing the barriers many families face in attaining home ownership. To achieve the goals, the GSEs offer relaxed underwriting criteria and pricing benefits to some consumers who might not otherwise qualify for a mortgage. This subsidy is based on a borrower's credit risk, not race or income or wealth or financial readiness. It is poorly targeted, and it fails to address the barriers many Black, Latino, and low income/low-wealth families face in trying to attain home ownership, such as a lack of downpayment, financial education, or a rainy-day reserve.

Moreover, with an inelastic housing supply, continued subsidization of the mortgage rate has the counter-productive effect of boosting home prices. Simply put, making it less expensive to borrow money to purchase a commodity in short supply (houses) results in added demand, increasing the sales price. In effect, the subsidy built in to the GSE housing goals ends up going to the home seller, not the home buyer. This has the perverse effect of making housing less affordable, not more affordable.

[6] Edward J. DeMarco, President, Housing Policy Council. February 25, 2021, "Comments on Enterprise Housing Goals Advance Notice of Proposed Rulemaking."

In summary, before doubling down on past programs, we should consider whether such programs have actually helped close the racial gap in home ownership or otherwise enhanced the home ownership outcomes for lower- and moderate-income households. We also should be mindful that, with house prices soaring in the face of limited supply, subsidy programs that are not properly designed risk enriching current homeowners, not creating new homeowners.

Let me conclude this section with four final thoughts.

First, any discussion of broadening home ownership opportunities should include consideration of the FHA. FHA is the country's flagship program to support home ownership, but it is sorely in need of repair. While important improvements have been made in recent years, FHA servicing rules and practices remain a challenge and aligning FHA requirements with current market practices would be helpful. We look forward to working with Secretary Fudge on modernization and alignment initiatives to see them completed. We also hope to work with this Committee on how FHA can be a meaningful component of efforts to build wealth through home ownership. Likewise, Ginnie Mae needs to continue its modernization efforts.

Second, a critical factor to consider when pondering new approaches to expand home ownership opportunities is the changing characteristics of household income. In today's economy, household income has become more unpredictable and volatile.[7] We underwrite mortgage loans considering traditional wage income and assets to determine a borrower's ability to repay. However, income increasingly is subject to variability, in part due to more households relying on multiple part-time or seasonal jobs as the so-called gig economy expands. These changes may need to be considered in underwriting mortgages, especially for lower-income workers and certain minority communities. Consideration of these factors may help to create new pathways to home ownership.

Third, and related to the previous point, we should not measure success simply by observing positive changes in home ownership rates. Any such gains must be sustainable through the economic cycle. We currently are experiencing enormous house price growth, fueled largely by historically low interest rates and pandemic-related changes in demand for housing. We need to ensure we do not encourage marginal borrowers into highly leveraged mortgages on houses reflecting temporary house price gains. Otherwise, we may cause serious harm and set back the long-term efforts to close the racial gap in home ownership.

Lastly, we need a regulatory environment that accounts for these considerations. On that score, the CFPB's multi-year process to evaluate and update the Qualified Mortgage rule was a welcome development that should help to close the racial gap in home ownership by responsibly expanding access to credit. Thus, it was troubling to see the CFPB last month start to backtrack on the new rule just weeks after finalizing it.

Housing Supply: We Need To Build More Housing

The Chairman's letter of invitation asked me to report on conditions in the housing market affecting affordability and availability, and the challenges facing various households. The single biggest challenge is clear. We do not have enough houses.

Housing construction ground to a trickle with the Great Recession and its long aftermath. Meanwhile, a demographic wave was building that would increase demand for housing. Today, the greatest imbalance, and the greatest challenge, in housing is this supply-demand imbalance. A relatively fixed supply and growing demand, fueled by historically low interest rates, and a pandemic-driven change in the demand for housing, has made it even harder for individuals and families to break into the ranks of home ownership.

This lack of supply is both a rental and an ownership challenge. The Housing Policy Council's focus is home ownership, but to assess the state of housing, it is important to understand the needs of both renters and homeowners. home ownership remains the most common avenue to wealth-building, particularly for low and moderate-income families, and most future homeowners will come from the ranks of renters, so both matter.[8] Other witnesses today will expand on the critical housing issues in the rental market.

As an economic principle, unmet demand should lead to higher prices and higher prices should induce more supply. However, building housing in most communities

[7] Seidman, Ellen, and Ratcliffe, Caroline. 2017 "Everyone Benefits When the Financial Sector Serves People With Volatile Income". Washington, DC: Urban Institute.

[8] A recent report published by the Harvard Joint Center for Housing Studies describes many of the supply issues in the apartment market and offers strategies that developers and builders could deploy. See Hannah Hoyt. 2020 "More for Less? An Inquiry Into Design and Construction Strategies for Addressing Multifamily Housing Costs". Cambridge, MA: Joint Center for Housing Studies of Harvard University.

requires navigating a labyrinth of approvals, restrictions, and building requirements. The combined effect of these requirements is that fewer houses are built and the ones that are built are higher cost properties.

The solution to this problem is simple, but politically complex. It primarily requires thousands of local jurisdictions to evaluate land use restrictions, zoning laws, building codes, and other requirements to ensure that home construction is encouraged, not discouraged. It also requires programs to address labor shortages, particularly in skilled positions such as carpenters, electricians, and plumbers.

Finally, the supply problem is not just an issue of new construction but also an issue of rehabilitating existing supply to extend its useful life. In many parts of the country, we have an aging housing stock, and some of those properties may not be up to modern health, safety, and energy efficiency standards. One way to increase housing supply is to think about preserving and modernizing existing housing stock as well as identifying other existing structures that could be repurposed for housing.

The GSE Conservatorships: Still a Story That Needs an Ending

More than 9 years ago, as Acting Director of the Federal Housing Finance Agency, I submitted a report to this Committee titled "A Strategic Plan for Enterprise Conservatorships: The Next Chapter in a Story That Needs an Ending".[9] Here we are, 9 years later and more than a dozen years since the GSEs failed and were placed in conservatorships, and that story still needs an ending. On behalf of the members of the Housing Policy Council, I make the same plea today I made all those years ago: the end of the story needs to be written by Congress.

My last testimony before this Committee focused almost entirely on this issue.[10] At that time, I testified on a thoughtful reform outline put forth by then-Chairman Crapo.

Today, I will reiterate a few key points: Ending the conservatorships requires permanent change to the inherently flawed structures that led to the conservatorships in the first place. While administrative progress is welcome and can help to set a prudential framework for the GSEs post-conservatorship, we will not achieve true reform without Congress. Only Congress can revise the statutory charters of the GSEs, address the need for an explicit federal guarantee on the mortgage securities issued by the GSEs, and address other problems embedded in the GSEs' charters.[11]

Principles for Housing Finance Reform

An appropriate starting point for discussing major legislation that will affect so many citizens and a large segment of the economy is to agree to a set of principles that can guide reform. The Housing Policy Council centers its reform views on the following principles:

1. Fix what is broken and preserve what works in support of consumers and the market.
2. The transition from the old system to the new one should avoid disrupting consumers and markets.
3. Private capital should bear all but catastrophic mortgage credit risk so that market discipline contains risk. The government should provide an explicit, full faith and credit guarantee on mortgage-backed securities but with a pre-set mechanism to ensure any catastrophic losses that call upon taxpayer support will be repaid fully.
4. The Government regulatory framework must be consistent and equitable across all participating companies and ensure that participants in the housing finance system operate in a safe and sound manner.

The Government-protected GSE duopoly should be replaced with a structure that serves consumers by promoting competition, affordability, transparency, innovation, market efficiency, and broad consumer access to a range of mortgage products.[12]

[9] Edward J. DeMarco, Acting Director, Federal Housing Finance Agency. February 21, 2012. "A Strategic Plan for Enterprise Conservatorships: The Next Chapter in a Story That Needs an Ending". Washington, DC.

[10] Edward J. DeMarco, President, Housing Policy Council. March 26, 2019. "Testimony before the Senate Committee on Banking, Housing, and Urban Affairs on Chairman's Housing Reform Outline". Washington, DC.

[11] For example, as HPC noted in a recent letter to FHFA, the current statutory construct for resolving a failure of a GSE would seriously disrupt the housing finance system. See, Edward J. DeMarco, President, Housing Policy Council. March 8, 2021 "Comments on Enterprise Resolution Planning."

[12] For a more in-depth discussions of these principles and of the key policy issues involved in housing finance reform, see Edward J. DeMarco, President, Housing Policy Council. June 29, 2017, "Testimony before Senate Committee on Banking, Housing, and Urban Affairs on Prin-

The good news is that these principles align well with those that underpin virtually all of the major reform proposals that Congress has debated over the past ten years. They also align with the reform principles introduced by Sen. Toomey yesterday. Much work has been done on this issue, including by members of this Committee, so there is much to build upon.

Consumers Would Benefit From Enhanced Market Competition

Key benefits of housing finance reform include greater market competition and greater reliance on private capital to manage mortgage credit risk. What do we lose when we lack competition in the secondary mortgage market? I believe we lose a lot—and our failure to appreciate what is lost keeps our housing finance system from realizing its potential to fully meet the needs of potential home buyers. [13]

Any list of the consequences of inhibiting a competitive housing finance system should start with these:

1. *Systemic Risk:* The absence of market competition concentrates risk among the few market participants, in this case, Fannie Mae and Freddie Mac. Systemic risk is exacerbated because this limited competition reduces attention to risk management.
2. *Monopoly pricing:* The absence of market competition means we get monopoly or oligopoly pricing, not a competitive market price. That means consumers may pay more than they need to and that at least some lenders may realize lower returns than if they had competitive bids for their loans.
3. *Limited innovation:* Absent the need to maintain an edge to stay ahead of the competition, the secondary market lacks incentive to continuously improve and the results include lack of innovation to serve emerging borrower needs and slow adoption of new technology to improve efficiency and customer experience and lower origination and servicing costs. Note that lower costs and more innovation will lead to more qualified borrowers.
4. *Misallocation of capital:* By regulating Fannie and Freddie to materially lower capital standards relative to the rest of the market, we misallocate capital both within the housing finance system and between housing finance and competing capital uses, including those that could lead to greater economic growth or more housing construction.
5. *Decreased access for small lenders:* It is common sense that if a market has only one or two buyers, rather than dozens of buyers, it will be harder for small producers to access those buyers. In the mortgage world, the largest loan originators are going to be able to sell their loans into the secondary market because the secondary market thrives on scale. With only two buyers, not even mandates on guarantee-fee equivalency can mask the inherent challenge smaller production shops have selling their mortgages. Yet, if the market were more competitive, with numerous outlets to sell mortgages, there would be greater demand for the loan production of smaller lenders.
6. *Decreased demand for affordable products:* Congress imposed housing goals on Fannie and Freddie to ensure that they paid enough attention to loans in those markets. This is the same phenomenon that affects smaller lenders. Increased competition in the secondary market would mean increased competition for affordable loans as well. Think about this: Would we have greater access to credit and lower credit prices if we had just two banks operating nationwide and no community or regional banks to compete with them?
7. *Policy distortions:* It would be hard to overstate the political influence over housing policy wielded by Fannie Mae and Freddie Mac before conservatorship and the challenge that created to achieving sound public policy and regulation. These GSEs distorted our politics as well as our markets and we must factor that into our calculus of their systemic risk.

Systemic Risk in Housing Finance is Growing not Shrinking

In 2008, FHFA, assisted by Congressionally authorized emergency funding, placed Fannie Mae and Freddie Mac into conservatorships because of the immediate and

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ciples of Housing Finance Reform." Washington, DC. and Edward J. DeMarco, President, Housing Policy Council. September 6, 2018. Testimony before the Housing Financial Services Committee on "A Failure to Act: How a Decade without GSE Reform Has Once Again Put Taxpayers at Risk." Washington, DC.

[13] For a more in-depth discussion of these issues, see Edward J. DeMarco, November 2019. Remarks to the Exchequer Club, "Remember Where They Were so You'll Understand Where We Are: The State of Housing Finance Reform", Washington, DC; November 20, 2019

profound systemic risk they posed to the financial system and to the U.S. housing market.[14]

In conservatorships, these companies have drawn more than $190 billion from the U.S. Treasury Department to cover losses. More than that, their very ability to operate is due to the direct and ongoing commitment of taxpayer support that Congress authorized Treasury to put in place at the start of the conservatorships. While in recent years FHFA and Treasury have allowed the two companies to begin retaining earnings to rebuild capital, the taxpayer has ceased receiving compensation for that support and instead has been receiving an increasing stack of IOUs in the form of an increased liquidation preference, to be satisfied whenever the conservatorships are finally resolved.

At the same time, the two companies loom over the housing finance system to an even greater degree than they did when they failed in 2008. FHFA has taken steps to establish a set of prudential standards for the Enterprises post-conservatorship, including a meaningful capital framework. It has also overseen the restructuring of the capital framework for mortgage insurance companies and the development of credit risk transfer structures, each of which has brought new and strengthened private capital support to this market.

Generally, these are positive and welcome steps. However, it is puzzling to HPC that the new FHFA capital rule gives limited benefit to the one reform in conservatorship that has reduced both taxpayer and systemic risk: credit risk transfer. In addition, while the pandemic's market disruptions last spring included a temporary shutdown of new credit risk transfer deals, Freddie Mac has returned to transferring risk into private markets, but Fannie Mae has not. The result is that Fannie Mae is reconcentrating mortgage credit risk on its own books, risk that is supported only by taxpayer-provided capital.

Members of the Committee, you can provide a permanent and reliable structure for the secondary mortgage market that reduces the systemic risk posed by the GSEs. Until then, consumers have fewer choices, racial ownership gaps are the same as they were decades ago, the mortgage market has less innovation than other markets, and taxpayers and the financial system are again put at risk of another housing collapse.

And lastly, in 2013, two Members of this Committee—Senators Corker and Warner—identified the basic policy compromise that remains the foundation for bipartisan reform. Restore reliance on meaningful private capital to bear mortgage credit risk, backstop the system with a federal guarantee to ensure deep liquidity in all markets, and assess the system both for that government backstop and to fund affordable housing needs, including actions that would address our supply problems. The 10 basis points affordable housing fee the Senators proposed almost a decade ago became part of virtually every housing finance reform bill that followed, Democrat and Republican. Over the past ten years, such a fee could have raised over $30 billion for affordable housing. Think of the opportunity cost of our failure to act. We still have significant taxpayer exposure and systemic risk, and we missed the opportunity to expand funding to support affordable housing and housing supply.

Thank you for inviting me today. As always, the members of the Housing Policy Council look forward to working with the members of this Committee to tackle the challenging issues I have just described. We can only get this done by working together.

[14] Secretary Henry M. Paulson, Jr. September 7, 2008. "Statement on Treasury and Federal Housing Finance Agency Action to Protect Financial Markets and Taxpayers." Washington, DC. and FHFA Director James B. Lockhart. September 7, 2008. "Remarks on Housing GSE Actions." Washington, DC.

RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN BROWN FROM CHRISTOPHER HERBERT

Q.1. *Addressing Neighborhood Segregation*—In your testimony, you highlight the ongoing segregation of housing by race and income in our neighborhoods and connnunities. What are your recommendations for how policymakers and communities can address this issue?

A.1. Broadly speaking, segregation by both race and income is the result of two factors: (1) a lack of housing options in many communities across a spectrum of price and type; and (2) barriers to occupying this housing by people of color due to discrimination in housing markets and a lack of efforts to affirmatively further integration.

The principal action needed to address the first barrier is for local communities to relax existing zoning, building codes and other regulations limiting residential construction to allow housing development as of right that includes more affordable types of housing including multifamily structures, townhomes, and single-family homes on small lots. Since land use is largely controlled by local governments, much of the onus is at this level of government to ensure that their regulations allow for a broad range of housing types in suitable locations. State governments have an important role to play, however, to provide mandates and incentives for local governments to adopt regulations that are more accommodative of affordable housing development. Similarly, the Federal Government can also introduce incentives to adopt regulations that promote housing development by making funding for housing, transportation or other related purpose contingent on meeting key metrics for development types that are allowed as of right. A simple example of the use of this type of incentive is how the National Minimum Age Drinking Act of 1984 reduced federal transportation funding by 10 percent unless states had a drinking age of 21, which proved quite effective at changing state law throughout the country.

Beyond changes to land use regulations, the Federal Government can also help spur greater racial and integration by including incentives in rental housing subsidy programs (most notably including the Housing Choice Voucher and Low Income Housing Tax Credit programs) to encourage the use of these subsidies in communities with relatively low availability of these subsidies at present, such as financial support for mobility programs for housing voucher holders and financial incentives for siting LIHTC developments in high opportunity communities.

Finally, policies that expand subsidies for first-generation homeowners would also expand access to communities where housing is predominantly owner occupied. Upfront assistance with downpayment and closing costs afford the greatest potential for expanding home ownership for historically disadvantage populations, which should be coupled with access to home ownership education and counseling and safe, affordable mortgage products.

To address the second barrier of discrimination and a lack of efforts to affirmatively further fair housing, the Federal Government should fully and aggressively ensure that the provisions of the Fair Housing Act are complied with and violators held accountable to root out discrimination in housing markets. There is also a compelling need to take steps to affirmatively further fair housing to ensure that all racial and ethnic groups are welcome in a broad range of communities. The steps taken to ensure a broad range of housing as of right in local communities and to incentivize the use of housing subsidies in these communities are key elements of such a strategy. But in addition, communities also need to adopt strategies to ensure that people of color are welcome and that affordable housing opportunities are made known and available to all racial and ethnic groups in the market area. HUD's recently reinstated affirmatively furthering fair housing requirements are an important tool in support of the analysis and planning needed to develop such strategies and so it is important that this regulation be fully supported and enforced.

Q.2. *Addressing Climate Change and Resilience through Housing*—How can housing investments in single-family and multifamily housing help address factors contributing to climate change and make housing and communities more resilient to natural and manmade disasters?

A.2. According to the U.S. Energy Information Administration, residential energy use accounts for 20 percent of greenhouse gas emissions in the U.S., with half of home energy consumption related just to heating and air conditioning.[1] [2] While stricter building codes are helping to improve energy efficiency in new housing, much of the opportunity to reduce residential emissions lies in greening the current stock.

Home improvements that reduce energy usage and decrease reliance on fossil fuels include adding insultation, improving air sealing with high-efficiency doors and windows, upgrading HVAC systems or replacing conventional systems with high-efficiency heat pumps, and replacing older appliances and lighting fixtures. In part because of energy-efficiency retrofits, homes built before 1960 used 14 percent less energy per square foot in 2015 than they did in 2009, and 1960s-vintage homes saw a 20 percent reduction in energy use over the same period.[3] Yet there is significant need for additional investments, with many older homes lacking adequate insulation or relying on inefficient heating and cooling systems. For example, as of 2015, 17 percent of single-family homes built before 1980 were reported to have 'poor insulation,' compared to just 1 percent built after 2009.

Moreover, changing technology is creating opportunities for greater improvements in energy efficiency, even in newer homes. Smart thermostats and other energy monitoring systems can reduce energy waste and lower utility bills. As of 2015 only 5 percent of new homes had smart thermostats or energy-saving tankless water heaters, highlighting the potential for retrofits in homes of

[1] 1 Goldstein, B., Gounaridis, D., and Newell, J.P., 2020. "The Carbon Footprint of Household Energy Use in the United States". Proceedings of the National Academy of Sciences, 117(32), pp.19122–19130. *https://www.pnas.org/content/117/32/19122#xref-ref-1-1*

[2] U.S. Energy Information Administration, "Use of Energy Explained: Energy Use in Homes". Updated August 4, 2002. *https://www.eia.gov/energyexplained/use-of-energy/homes.php*

[3] La Jeunesse, E. "U.S. Households Are Using Less Energy". Harvard Joint Center for Housing Studies, Housing Perspectives, July 11, 2018. *https://www.jchs.harvard.edu/blog/us-households-are-using-less-energy*

all ages.[4] There are also growing opportunities to reduce reliance on fossil fuels to power the home, such as through the use of solar panels. The Consolidated Appropriates Act of 2016 allows taxpayers to claim a credit of up to 30 percent of costs for photovoltaic and solar thermal technologies, while states and municipalities also provide incentives for renewable and energy efficient systems.

In addition to reducing housing's contribution to greenhouse gas emissions, investments are also needed to ensure that current housing is more resilient to extreme weather events including severe storms, floods, wildfires, and extreme heat. According to the National Oceanic and Atmospheric Administration, in 2020 the US experienced 22 distinct billion-dollar disasters, a record for a single year.[5] Retrofits to mitigate potential losses depend on the specific threat: increasing a home's resilience to flooding might require raising heating and cooling systems above potential flood levels, while those in fire-prone areas might install fire-resistant roofing and siding. These investments can also protect against climate-related threats to human health as well, particularly for lower-income people living in older and poorly-maintained homes.

Q.3. Can climate-friendly investments in housing construction and renovation open up new jobs and job training opportunities?

A.3. Climate-friendly home investments—for example those promoting greater energy efficiency—have proven to be an important source of job growth in the residential markets. Improved insulation, upgraded heating and cooling equipment, double or triple glazed windows, tankless hot water heaters, smart thermostats, and solar panels have all increased in popularity over the past decade. However, several of these efficiency enhancements still have significant growth potential. Fewer than 10 percent of all existing homes nationally have tankless on-demand water heaters, or smart thermostats, or solar panels. Saturation of these products is disappointingly low even for newly built homes. The specialized skills required to install many of these energy efficiency products could provide new employment opportunities in the home building and remodeling workforce that build the 1.5 million or so new homes each year and improve and repair the tens of millions of owner-occupied homes and rental units annually. At last count there were some 7.4 million workers in the construction trades, with only 9 percent having a college degree. Since 2018 there has been an average of nearly 300,000 job openings monthly for these jobs. Training for workers with less than a college education for these skilled trades, with a focus on energy efficient retrofits, would open up well-paying jobs for 100s of thousands of workers.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ MASTO FROM CHRISTOPHER HERBERT

Q.1. A recent report from the National Association of Realtors found that Black households are more than twice as likely as white ones to be rejected for mo1tgage loans. I am deeply concerned we

[4] *https://www.jchs.harvard.edu/blog/significant-improvements-in-energy-efficiency-characteristics-of-the-us-housing-stock*

[5] *https://www.ncdc.noaa.gov/billions/*

continue to see discrimination in mortgage lending against Black and Latino people.

What policies do you recommend we prioritize to ensure fair housing?

A.1. As I noted in my response to Senator Brown's question above, the starting point for ensuring fair housing is to fully enforce existing laws from the Fair Housing Act (FHA), including regulations requiring efforts to Affirmatively Further Fair Housing, as well as the Equal Credit Opportunity Act (ECOA) to ensure that mortgage lending is not discriminatory. With regard to the specific concern you note about high denial rates for Black mortgage applicants, in addition to enforcing both FHA and ECOA, there are also a variety of policies that could help ensure that Black mortgage applicants are more likely to be approved for loans, First, housing counseling can be of enormous value in helping prospective buyers to understand lending requirements and to take steps to build savings and repair credit that might otherwise be impediments for loan qualification. Public support for counseling efforts could be expanded to ensure that this assistance is widely available to historically disadvantaged borrowers, including Black, Hispanic and other people of color. Second, given that Black consumers have much lower traditional credit scores, the development and use of alternative means of evaluating credit that incorporate non-traditional information such as rent and utility payments, should be supported by public policy to expand access to credit.

Q.2. Home value appraisals are critical to ensuring that homeowners receive fair value for their property. Home appraisals also ensure homebuyers do not overpay.

How should we address the documented problem of bias in the appraisals?

A.2. To the extent that racial bias in the appraisal process arises from the bias on the part of appraisers, necessary responses should include efforts to increase the racial and ethnic diversity of appraisers and to provide training to address implicit biases. Steps should also be taken to eliminate overt sources of bias, such as the use of neighborhood race as a proxy for other measures of housing quality, which already would violate appraisal standards.[1] The use of automated valuation models have the potential to reduce bias due to human judgement, but themselves may suffer from inaccuracy due to heterogeneity of housing stock in majority Black neighborhoods, rapidly changing house prices, and a higher share of distressed property sales.[2] To realize the potential of these models to provide unbiased estimates of home values research is needed to evaluate the sources of bias in these models and to improve the inputs used to provide the estimates.

Q.3. Your research has found that on average, Black homebuyers pay a higher interest rate than that of white homebuyers. In fact,

[1] Howell, Junia, and Elizabeth Korver-Glenn. "Neighborhoods, Race, and the Twenty-First-Century Housing Appraisal Industry". *Sociology of Race and Ethnicity* 4, no. 4 (2018): 473–490.

[2] Neal, Michael, Sarah Strochak, Linna Zhu, and Caitlin Young. "How Automated Valuation Models Can Disproportionately Affect Majority-Black Neighborhoods". Washington, D.C.: The Urban Institute (December 2020). *https://www.urban.org/sites/default/files/publication/103429/how-automated-valuation-models-can-disproportionately-affect-majority-black-neighborhoods-1.pdf*

your research finds that high-income Black homeowners pay a higher interest rate than low-income white homeowners.

In my questions to you, you noted that your research on interest rates from homeowners relied primarily on data from the American Housing Survey. Does any of your research rely on data from the CFPB's HMDA database?

A.3. In the years since loan-level HMDA data was made available in the 1990s the Joint Center historically has employed the HMDA data for a wide variety of significant studies and have found these data to be of enormous value in understanding the state of mortgage lending in the US. We have not, however, had an opportunity to employ the HMDA database since responsibility for these data was transferred to the CFPB as our research agenda has focused more on other policy areas.

Q.4. If so, has the limitation of HMDA data for the vast majority of small banks and credit unions that make between 25-100 mortgage loans limited your ability to conduct research?

A.4. Since we have not undertaken research using these data in the last few years and so we have not confronted this issue.

Q.5. You also noted that HMDA data is critical for rural states, where homebuyers are primarily served by smaller lenders. Can you elaborate on the importance of HMDA data for more rural localities?

A.5. HMDA data are of enormous importance in understanding access to mortgage credit at both the individual borrower and neighborhood level. The fact that these data are readily available to researchers—unlike industry databases that are only available at high cost—supports analysis by a broad range of researchers. Over time the data has been of great importance in shedding light on issue of significant policy concern, including the differences in mortgage denials, the incidence of high cost lending, patterns of homebuying by race, ethnicity and income of both homebuyers and the communities where they are buying. However, a challenge in conducting research in rural areas is that common sources of credit are small local lenders who may not reach the minimum loan threshold that triggers a requirement of reporting loan activity (which was set at 25 closed-end loans until raised last July to 100). This higher reporting floor is estimated to have reduced the number of reporting lenders by 40 percent, drastically curtailing information available on lending in rural areas. This is on top of loss of 1200 lenders required to report when the threshold was set at 25 closed-end loans.[3] The loss of this information will mean there is little information about the extent or nature of lending in rural areas, providing little ability for policy makers, researchers or community advocates to assess whether a community's lending needs are being met or whether potentially harmful lending practices are proliferating.

Q.6. Could you explain the importance of the additional HMDA data that was instituted under Section 1094 of the Dodd–Frank

[3] Home Mortgage Disclosure (Regulation C); Final Rule; Consumer Financial Protection Bureau, 85 FR 92,28364 (May 12, 2020).

Wall Street Reform and Consumer Protection Act and how this data would assist regulators and outside observers?

A.6. The additional data required under Section 1094 provide much greater opportunity for regulators and researchers to assess a fuller range of factors that relate to both credit risk of borrowers and the characteristics of the loans applied for and originated. While HMDA data through the years has been of enormous value is analyzing mortgage market outcomes, the lack of these additional data elements made it impossible to fully assess market conditions and outcomes. These additional data elements are of foundational importance for regulators and researchers to more accurately assess market conditions and lender actions.

Q.7. Home prices in Las Vegas increased more than 11 percent in the past year. Nationwide, they have risen by nearly 11 percent.

What should we do to increase the supply of homes, especially those affordable to Millennials and Generation Z?

A.7. As I noted in my written testimony, the Joint Center and other researchers have documented a shortage of new construction relative to demand in the years following the Great Recession. The constraints contributing to this shortfall in supply include regulatory barriers that add to the time and complexity of approval processes (thus increasing costs), reduce the density of development (thus increasing land costs), and may add excessive fees that further add to costs. As described in my response to Senator Brown's question, the Federal Government should consider adopting financial incentives for local governments that reduce these regulatory barriers. A lack of construction labor has also impeded the expansion of the residential construction market and so support for development of this workforce would also help expand new housing supply. The cost of lumber and other inputs into the construction process have also risen sharply over the past year, and so efforts to expand these supply chains would also help to lower costs of new development.

Given the racial and ethnic diversity of both Millennials and Gen Z there is also a need to expand the supply of housing in communities of color where housing market conditions have been weak and current home values do not support either new construction or rehabilitation of existing homes. Subsidies targeted at both the rehabilitation of existing homes and new homes in these communities would both expand home ownership opportunities and serve to help revitalize communities that have suffered from a lack of public and private investment over many years.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARNOCK FROM CHRISTOPHER HERBERT

Q.1. *Renters and Borrowers Permanently Impacted Due to the Pandemic*—I want to highlight an important issue that's on the horizon, and that is borrowers and renters who have experienced permanent job displacement due to the pandemic and will remain in forbearance or unable to pay their rent for the foreseeable future. As many employment repm1s and economic data suggests, this labor market development has dispropm1ionately impacted minorities and people of color.

Can you talk about the importance of helping those who have lost their jobs permanently and how it has and will continue to impact their housing needs as a result of the pandemic? What additional relief or policy considerations should we be considering to help this segment of renters and borrowers?

A.1. As of April 2021, there were some 8 million fewer jobs than a year ago. While the economy is rebounding strongly from the worst effects of the pandemic, it is still likely that this jobs deficit will last for several years as the sectors of the economy hardest hit by the pandemic take time to recover. In addition to lingering job loss, the earnings power of many households will also be permanently disrupted by the pandemic, due to the loss of family members to COVID and to lingering disability associated with long-haul COVID symptoms.[1] The American Rescue Plan passed in March, in addition to the CARES Act and the COVID–19 Relief Act passed last year, have provided a robust and much needed safety net for those experiencing economic loss due to the pandemic. But for those experiencing long-term loss of income, longer-term supports will be needed. For renters, expanding funding the availability of rental assistance through the Housing Choice Voucher and Low-Income Housing Tax Credit programs are called for to meet this expanded need for these supports—not to mention that even before the pandemic only roughly one if four income eligible households received assistance.[2]

Many homeowners have been protected from foreclosure during the pandemic by forbearance extended to borrowers with federally backed loans, which accounts for roughly 70 percent of all outstanding loans. To date, the vast majority of borrowers exiting forbearance have been able to reinstate their loans with very few in extended periods of delinquency.[3] However, borrowers remaining in forbearance are those most likely to face extended loss of income and therefore the greatest difficulty in resuming mortgage payments. While today's widespread high rates of home price appreciation will provide many of these borrowers with home equity that would allow for home sales, such sales would mean forgoing any future benefits from home ownership. And many recent homebuyers who have experienced up to 18 months of missed mortgage, property tax and insurance payments will have accumulated substantial deficits that may not be covered by home equity. Meanwhile, there is nearly another third of borrowers who are not covered by forbearance mandates, importantly including manufactured homeowners financed through chattel loans.[4] The American Rescue Plan (ARP) appropriated $10 billion in funding to assist homeowners

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[1] "Researchers Are Closing in on Long COVID", *The Economist*, May 1, 2020.

[2] Watson, Nicole Elsasser, Barry Steffen, Marge L.Martin, David A.Vandenbroucke. "Worst Case Housing Needs: 2019 Report to Congress". U.S. Department of Housing and Urban Development, June 2020. *https://www.huduser.gov/portal/publications/worst-case-housing-needs-2020.html*

[3] "Mortgage Monitor Report: January 2021" Black Knight, January 2021. *https://cdn.blackknightinc.com/wp-content/uploads/2021/03/BKI-MM-Jan2021-Report.pdf*

[4] Choi, Jung Hyun and Laurie Goodman. "22 Million Renters and Owners of Manufactured Homes Are Mostly Left Out of Pandemic Assistance". Washington, D.C.: The Urban Institute, August 21, 2020. *https://www.urban.org/urban-wire/22-million-renters-and-owners-manufactured-homes-are-mostly-left-out-pandemic-assistance*

with financial hardship due to the pandemic to help them maintain home ownership and avoid foreclosure. These funds can be used to cover a wide range of costs to make up mortgage delinquency, utility or property tax payments, fees, counseling costs, etc. Importantly, these funds can also be used to reduce principal and reduce interest rates for those who cannot resume their former mortgage obligations. This portion of the ARP holds promise to help support homeowners facing long term financial losses from the pandemic, but it is not clear where the magnitude of funding will be sufficient for the need. With forbearance ending for millions of homeowners this summer and fall it will be important to monitor the demand for this support to see if additional funding will be needed to maintain home ownership for those impacted by the pandemic.

Q.2. *Promoting Minority home ownership*—As we recover from the pandemic, I also want to ensure that everyone, especially in our rural and minority communities, have fair and equal access to credit to help increase home ownership.

Ms. Nikitra Bailey, in response to the ongoing lack of participation among black and latino borrowers in the mortgage market, stated,

> Recent people-led protest[s] to address today's social injustices are rooted in our nation's discriminatory federal housing policies. These practices caused families of color to accumulate less wealth and be more susceptible to abusive subprime lending that cost Black and Latino families $1 trillion in wealth. Sadly, the current COVID–19 health crisis is devastating families of color at a disproportionately higher rate than whites. By not creating cost-efficient home ownership opportunities for creditworthy borrowers of color, we are denying millions of Americans the opportunity to accumulate wealth, suppressing economic growth, and widening the racial wealth gap. [5]

Can you discuss how critical it is to promote and increase minority home ownership as we recover from this pandemic?

A.2. As I described in my written testimony, there is very strong evidence that home ownership provides substantial financial benefits while providing greater stability and control over one's home. The financial benefits most obviously include the opportunity to create wealth over time and, as my testimony notes, home equity accounts for a large share of net worth among people of color. Research has also consistently found that racial disparities in home ownership account for a large share of racial disparities in household wealth. [6] In addition to wealth accumulation, home ownership also fixes the largest portion of the monthly housing costs and provides an important shield against rising house prices. Once the home is paid for, living free and clear of mortgage debt provides an important dividend for households. home ownership also provides

[5] CRL press release, Jun. 26, 2020, online: *https://www.responsiblelending.org/media/new-hmda-data-shows-mortgage-market-continues-exclude-black-and-latino-borrowers.*

[6] Shapiro, Thomas, Tatjana Meschede, and Sam Osoro. "The Roots of the Widening Racial Wealth Gap: Explaining the Black-White Economic Divide". Brandeis University, Institute on Assets and Social Policy, Research and Policy Brief, February 2013. *https://heller.brandeis.edu/iere/pdfs/racial-wealth-equity/racial-wealth-gap/roots-widening-racial-wealth-gap.pdf*

much greater security of tenure, allowing owners to stay in their homes and communities over time. The benefits of residential stability and the ability to be shielded from rising housing costs (while also benefiting from rising values) is of particular importance for people of color living in the many communities across the country experiencing gentrification over the past decades, putting many renters at risk of displacement from their homes and communities. For all of these reasons, expanding opportunities for people of color to own homes should be an important policy goal, particularly in light of the long history of discrimination in housing markets that have limited opportunities to own over time and produced the stark disparities in home ownership evident today more than 50 years after passage of the Fair Housing Act. [7]

The pandemic has also highlighted other benefits of home ownership. One is the much greater ability of the Federal Government to extend protections to individual homebuyers by virtue of the fact that some 70 percent of all mortgages are backed by the Government. The forbearance protections afforded homeowners have provided robust supports that have kept millions of homeowners stably housed and shielded from both the threat of foreclosure and in position to negotiate resolution of accrued deficits with loan servicers. In contrast, the government has struggled to develop effective means of extending support to renters without such direct connections. In addition, the additional indoor and outdoor space associated with home ownership has proven to be of enormous benefit during the pandemic as home has become the locus for work and study and the need to social distance has placed a premium on private space. Increasing access to home ownership for people of color would be another important extension of these benefits that has been denied for generations.

RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN BROWN FROM DIANE YENTEL

Q.1. *Eviction Crisis Act and Protections for Renters*—In your testimony, you mentioned the Eviction Crisis Act, which I introduced last Congress with Senators Bennet, Portman, and Young and NLIHC endorsed. In addition to providing an emergency housing assistance fund for rental aid and stability services, which you are recommending Congress expand into a permanent program, the bill contains a number of protections for renters and better tracking of eviction data.

Are there any other renter protections or policies that Congress should consider in order to reduce evictions?

A.1. The power imbalance between renters and landlords put renters at greater risk of housing instability and, in worst cases, homelessness. Despite the broad and lasting consequences of evictions, only 10 percent of renters in eviction court receive legal representation, compared to 90 percent of landlords. In many states, landlords can evict renters for no reason, and there are no federal protections

[7] Rothstein, Richard. "The Color of Law: A Forgotten History of How Our Government Segregated America". Liveright Publishing, 2017.

against arbitrary, retaliatory, or discriminatory evictions or other abusive practices by some landlords.

Congress should enact legislation to establish a national right to counsel, which would help ensure more renters stay in their homes and mitigate harm when eviction is unavoidable. Banning credit reporting agencies from including eviction-related information after three years would stop evictions from following families for years, and make it easier for them to find safe, quality housing in the future.

Creating "just cause" eviction protections would ensure greater housing stability, particularly for survivors of domestic violence, dating violence, sexual assault, or stalking, who in many states can be evicted for the behavior of their abusive partners. Additionally, banning the use of "one strike" or "no fault" eviction policies in federally assisted housing would help more people remain stably housed. Currently, providers of federally assisted housing may evict tenants for minor, one-time criminal activity or the criminal activity of a guest, even if the tenant was unaware of the activity taking place. Enacting these policies would help level the playing field between renters and landlords, reduce evictions and mitigate the long-term impact of evictions on families.

Other needed renter protections include:

- Prohibiting source of income discrimination to help ensure that landlords do not discriminate against renters with rental assistance or other sources of income.
- Expanding the Fair Housing Act to ban discrimination based on sexual orientation, gender identity, marital status, and source of income.
- Increasing unrestricted resources for legal services.
- Barring federally assisted landlords from screening out applicants or evicting tenants because of the actions of an abuser and from retaliating against a tenant for calling emergency assistance for help, and ensure survivors of domestic violence, dating violence, sexual assault, or stalking have access to safe, accessible homes and the ability to leave unsafe housing situations without risking possible homelessness.
- Providing housing resources to all income-eligible households, regardless of immigration status.
- Establishing anti-rent gouging protections for renters and require landlords to disclose any and all fees in advance of lease signing.
- Discouraging speculators from driving up housing costs.
- Regulating tenant and credit reporting agencies and banning them from including eviction-related information that did not result in a judgement against the renter, or that occurred during the pandemic, and all other eviction-related information after 3 years.
- Supporting tenant organizing.
- Establishing the right of tenants to renew leases and for first right of purchase.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ MASTO FROM DIANE YENTEL

Q.1. The American Rescue Plan included more than $60 billion to subsidize the rent for families who became ill or were laid off during the pandemic.

Some property owners will not accept vouchers—what needs to happen to make sure that those families are able to use their vouchers?

A.1. In order to ensure families are able to utilize housing choice vouchers and other forms of rental assistance, Congress must enact source of income discrimination protections. Currently, landlords in the private market can deny residence to potential tenants attempting to use a voucher to obtain housing. As a result, even after waiting months or years to obtain a voucher, families sometimes can't "lease up" within the required timeframe or can only find a landlord willing to rent to them in high-poverty neighborhoods with less access to higher performing schools and economic opportunities. Source of income discrimination protections would ensure tenants are able to use vouchers in the neighborhoods of their choice.

One option that may help avoid the problem of landlord participation is to provide rental assistance through a renters' tax credit. A tax credit could provide the similar assistance as a voucher, but it would be provided directly to the renter as a "hidden" subsidy. Congress recently enacted a major expansion of the child tax credit and allowed these resources to be provided on a monthly basis. This development could serve as a model for providing a monthly renters' tax credit.

Other reforms are also needed to ensure that families are better able to make use of their rental assistance, including using Small Area Fair Market Rents (SAFMRs) and recruiting landlord participation.

Q.2. Rents have risen quite high in parts of Nevada. What options does a tenant have when they find a home or apartment to rent but the rent is higher than the voucher provides?

A.2. Public Housing Agencies have the flexibility to set voucher payment standards, which establish the maximum amount of subsidy that the PHA will provide to cover the costs of rental housing. Typically, PHAs can fluctuate the payment standard from 90 to 110 percent of the Fair Market Rent (FMR), though PHAs can seek approval by HUD to increase the payment standard above that amount (between 110 and 120 percent). PHAs can establish a single set of payment standards for the entire jurisdiction or can use different sets of payment standards, reflecting cost differences in various communities.

Q.3. Can we provide more subsidy to families with children moving to amenity rich communities?

A.3. NLIHC supports the Family Stability and Opportunity Voucher Act, introduced by Senators Chris Van Hollen (D-MD) and Todd Young (R-IN) to provide 500,000 housing vouchers to families with young children. These resources would be paired with housing mobility counseling to give families greater choice about where they want to live.

Public Housing Agencies (PHAs) in metropolitan areas have the option of setting voucher payment standards based on Small Area Fair Market Rents (SAFMRs) in higher-rent zip codes within their jurisdiction. Rather than basing payment standards on Fair Market Rents, which often encompass large areas with variable rent costs, SAFMRs are based on rents in particular zip codes and more accurately reflect the cost of housing in high-cost areas. Using SAFMRs can expand access for low-income households to higher-opportunity areas and make the program more cost-effective.

Currently, PHAs in only 22 metropolitan areas are required to use SAFMRs. While other PHAs may also use SAFMRs, in order to improve voucher utilization, required use of SAFMRs should be expanded, but with certain protections. For example, areas with low vacancy rates should be excluded from required SAFMR participation. Another protection would require voucher households in low-rent neighborhoods whose voucher payment standard decreases due to SAFMR implementation to be held harmless so that their rent burden does not increase. This would also help prevent owners from leaving the voucher program.

Using SAFMRs and enacting source of income discrimination protections would help ensure families are able to use vouchers in more neighborhoods. Additionally, investing in the construction of deeply affordable, accessible housing in an equitable manner, and providing desperately needed resources to repair and expand the stock of public housing, would provide families with greater options when it comes to finding a safe, affordable place to live.

Making the expansion of the Child Tax Credit (CTC) and Earned Income Tax Credit (EITC) included in the American Rescue Plan permanent would help provide extra assistance to families with children, regardless of where they live.

Q.4. Do local governments or foundations have the resources to provide additional assistance?

A.4. While addressing the affordable housing crisis will require resources from multiple avenues, including local and state governments, the Federal Government is the only entity that can provide the resources at the scale necessary to ensure safe, accessible homes for people with the lowest incomes. Federal intervention to equitably increase the supply of deeply affordable, accessible housing, to bridge the gap between renters' incomes and the cost of rent, and to strengthen renter protections are needed to end homelessness and housing poverty.

Q.5. What options do the housing authorities have to work with HUD to ensure that Fair Market Rents are accurate?

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PHAs can challenge FMRs if they think they are too low, but the PHA must cover the cost to produce statistically valid local rent surveys covering their entire FMR-area. HUD's FMR is based on the American Community Survey, which may not accurately reflect rental costs in certain rapidly changing housing markets. Congress should consider providing federal resources for HUD to conduct or support local rent to help ensure accurate FMRs.

Q.6. Prior to the pandemic, only 1 in 4 eligible households could receive rental housing assistance. With these new investments, how many more do you think will be able to receive help paying the rent?

A.6. Most of the resources in the American Rescue Plan are intended to address the immediate, urgent needs of renters who are at risk of losing their homes during the pandemic. We continue to need investments to ensure long-term housing stability. Congress should include in any infrastructure plan its top priorities: an expansion of rental assistance to every eligible household, $70 billion to repair public housing, and $40 billion for the national Housing Trust Fund to build and preserve rental homes affordable to people with the greatest needs.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARNOCK FROM DIANE YENTEL

Q.1. Renters and Borrowers Permanently Impacted Due to the Pandemic—I want to highlight an important issue that's on the horizon, and that is borrowers and renters who have experienced permanent job displacement due to the pandemic and will remain in forbearance or unable to pay their rent for the foreseeable future. As many employment reports and economic data suggests, this labor market development has disproportionately impacted minorities and people of color.

Can you talk about the importance of helping those who have lost their jobs permanently and how it has and will continue to impact their housing needs as a result of the pandemic? What additional relief or policy considerations should we be considering to help this segment of renters and borrowers?

A.1. Renters with long-term job loss may need longer-term assistance to help cover the cost of rent. Rental assistance is a critical tool for helping people with low incomes afford decent, stable homes, and avoid homelessness, but 3 out of 4 households who qualify for rental assistance do not receive it because of chronic underfunding. Expanding rental assistance to meet the needs of all housing cost-burdened households with low incomes is key to any successful strategy to solve the affordable housing crisis and end housing instability. Moreover, we must invest in the national Housing Trust Fund to increase the supply of housing affordable to people with the lowest incomes.

Q.2. Promoting Minority Home Ownership—As we recover from the pandemic, I also want to ensure that everyone, especially in our rural and minority communities, have fair and equal access to credit to help increase home ownership.

Ms. Nikitra Bailey, in response to the ongoing lack of participation among black and latino borrowers in the mortgage market, stated,

> Recent people-led protest[s] to address today's social injustices are rooted in our nation's discriminatory federal housing policies. These practices caused families of color to accumulate less wealth and be more susceptible to abusive subprime lending that cost Black and Latino families $1 trillion in wealth. Sadly, the current COVID–19 health crisis is devastating families of color at a disproportionately higher rate than whites. By not creating cost-efficient home ownership opportunities for creditworthy borrowers of color, we are denying millions of Americans the opportunity to accumulate wealth, suppressing economic growth, and widening the racial wealth gap. [1]

Can you discuss how critical it is to promote and increase minority home ownership as we recover from this pandemic?

A.2. Home ownership can be an important wealth-building tool, one that the Federal Government purposefully excluded many Black families from for generations. As a result of this intentional and systemic racism, there is a tremendous generational wealth gap between white and Black households that have resulted in clear racial disparities in housing and homelessness today.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ MASTO FROM NIKITRA BAILEY

Q.1. A recent report from the National Association of Realtors found that Black households are more than twice as likely as white ones to be rejected for mortgage loans. I am deeply concerned we continue to see discrimination in mortgage lending against Black and Latino people.

[1] CRL press release, Jun. 26, 2020 online: *https://www.responsiblelending.org/media/new-hmda-data-shows-mortgage-market-continues-exclude-black-and-latino-borrowers.*

What policies do you recommend we prioritize to ensure fair housing?

A.1. Thank you for your question, Senator Cortez Masto. Sadly, our nation's fair housing laws have yet to be fully enforced. We are a long way from realizing the promise of the Fair Housing Act. The nation's first fair housing law, The Civil Rights Act of 1866, was passed during the Reconstruction period following the Civil War and outlawed discrimination in housing. The 1866 law went unenforced for 102 years before the passage of the Fair Housing Act of 1968 because it only provided a private right of action. The fact that only private plaintiffs could bring suit for discrimination limited the effectiveness of the legislation as the newly freed formerly enslaved Africans lacked the financial resources to hire an attorney. History teaches us that as the formerly enslaved Africans became citizens, most Black Americans never received the 40 acres of land promised by General Sherman's Special Field Order No. 15.

The climate in which the 1968 act became law must be noted. The Fair Housing Act (FHA) was swiftly passed by the Congress only after Dr. Martin Luther King, Jr. was assassinated in Memphis, TN.

Between 1866 and 1968, the Federal Government did not enforce the 1866 law's prohibition against housing discrimination. Therefore, Black Americans and other people of color were locked out of the Federal Government's New Deal subsidies that made home ownership more affordable and expanded the middle class. Due to federally sanctioned redlining at the time, most of the Federal Government's home ownership support was provided to white families. The Federal Government subsidized homes in predominately white suburbia-where builders included requirements that no homes be sold to Black Americans. In fact, only 2 percent of FHA insured mortgage loans went to Black and brown families in the program's first 35 years.[1] In the state of Mississippi alone, just 2 out of 3,229 VA insured mortgages went to Black servicemembers seeking to finance a home, business, or farm in the first 3 years of the program.[2]

These policies bestowed upon white families a crucial measure of financial stability and a cushion against economic setbacks that were denied to families of color. Policies and practices underlying these federal programs included denial of credit for qualified borrowers buying in predominantly Black neighborhoods, thereby depressing the value of homes in those neighborhoods.[3]

These policies are a significant contributor to today's racial wealth gaps where the median white family has ten times the wealth of the median Black family and eight times the wealth of the median Latino family.[4] In fact, the racial wealth gap between

[1] Dedrick Asante-Muhammad, et. al, The Road to Zero Wealth: How the Racial Wealth Divide is Hallowing Out America's Middle Class, at 15 (September 2017), *https://prosperitynow.org/files/PDFs/road-to-zero-wealth.pdf.*

[2] Id.

[3] Terry Gross, "A 'Forgotten History' of How the U.S. Government Segregated America", NPR Fresh Air, May 3, 2017, *www.npr.org/2017/05/03/526655831/a-forgotten-history-of-how-the-u-s-government-segregated-america.*

[4] Asset Building Policy Network, "The Hispanic–White Wealth Gap Infographic" (September 2019), *https://prosperitynow.org/sites/default/files/resources/ABPN-Hispanic-White-Racial%20Wealth%20Gap%20Infographic-Final.pdf*; Nick Noel, Duwain Pinder, Shelley Stewart

Continued

Black and white families grew from about $100,000 in 1992 to $154,000 in 2016.[5] The median white family gained significantly more wealth, with the median increasing by $54,000, while median wealth for Black families did not grow in real terms over the same time period.[6] The racial wealth gap contributes to the fact that in the 46 largest housing markets in the country, a median income Black household could only afford 25 percent of homes on the market last year in comparison to the 57 percent that a median income white household could afford.[7] It will require focused and bold action to reverse these inequities. If current trends continue, it could take as long as 228 years for the average Black family to reach the level of wealth white families own today.[8] For the average Latino family, matching the wealth of white families could take 84 years.[9] (Pages 3–8 of my written testimony offers greater details on these harms).

The genius of the Fair Housing Act is that it outlawed discrimination in housing and requires the Federal Government to affirmatively further fair housing, which means take steps to proactively create thriving inclusive communities.

Therefore, HUD's disparate impact and Affirmatively Furthering Fair Housing (AFFH) rules must be restored by the Biden Administration. Additionally, more must be done to promote the use of the Equal Credit Opportunity Act's (ECOA) special purpose credit programs provisions. These provisions allow lenders to create and design programs to reach borrowers that they currently underserve. Congress can inquire to see if lenders are creating these programs. Lenders should not push for safe harbors to create these programs as they are fully permissible under ECOA and Regulation B. Moreover, CFPB, HUD, and DOJ should encourage the use of special purpose credit programs.

Also, the Community Reinvestment Act (CRA) must be enforced with a focus on racial justice. We urge the Congress to require the Office of the Comptroller of the Currency, Federal Reserve Board, and

Federal Deposit Insurance Corporation to collect data comparing residential, small business, and commercial lending by banks in low-income, minority, and distressed neighborhoods to such lending in other neighborhoods.

Congress should also require the CFPB, HUD, FHFA, and DOJ to report on their efforts to ensure that algorithms are not discriminating, are being supervised for fair lending compliance, and proper enforcement is taken against entities using artificial intelligence/ machine learning model decisions that violate the FHA and ECOA.

III, and Jason Wright, "The Economic Impact of Closing the Racial Wealth Gap", McKinsey & Company (August 2019), at 5, Exhibit 1, *https://www.mckinsey.com/industries/public-and-social-sector/our-insights/the-economic-impact-of-closing-theracial-wealth-gap.*

[5] Nick Noel, Duwain Pinder, Shelley Stewart III, and Jason Wright, "The Economic Impact of Closing the Racial Wealth Gap", McKinsey & Company, August 2019, at 5, Exhibit 1, *https://www.mckinsey.com/industries/publicand-social-sector/our-insights/the-economic-impact-of-closing-the-racial-wealth-gap.*

[6] Id.

[7] Paul Davidson, "Black Households Can Afford Just 25% of Homes For Sale", *USA Today*, October 15, 2019, *https://www.usatoday.com/story/money/2019/10/15/homes-sale-black-households-can-afford-just-25-percent-houses-market/3976383002.*

[8] See Dedrick Asante-Muhammad, et al., "The Road to Zero Wealth", at 15 (Sept. 2017), *https://prosperitynow.org/files/PDFs/road—to—zero—wealth.pdf.*

[9] Id.

Finally, Congress should require the FHFA to ensure that the GSEs' broad public interest duties are met by requesting quarterly reports on their affordable housing goals. Both Fannie Mae and Freddie Mac are currently woefully under performing in ensuring adequate support for Black, Latino, and other communities of color in conventional lending since the Great Recession. The FHFA itself is making it more difficult for low-to-moderate income families to secure a loan backed by the enterprises, including loan refinances for families that are hardest-hit by COVID–19. Also, Congress must require FHFA to report on steps it is taking to ensure that redlining is factored into any climate risk assessments and that the assessments comply with existing fair lending laws.

Q.2. Home value appraisals are critical to ensuring that homeowners receive fair value for their prope1ty. Home appraisals also ensure homebuyers do not overpay.

How should we address the documented problem of bias in the appraisals?

A.2. Our Nation's fair housing/lending laws apply to appraisals, and Congress must urge regulators to ensure that they are being fully enforced.

While numerous news stories have highlighted examples of racial bias in the appraisal process, [10] there is a growing body of research that demonstrates appraisal discrimination is a systemic issue. [11] Recent research has found that even after accounting for structural and neighborhood characteristics of homes, homes in Black neighbors were valued on average 23 percent less than they would have been if the residents of the neighborhood were mostly white. [12] This translates to owner-occupied homes in Black neighborhoods being undervalued by $48,000 per home on average, amounting to $156 billion in cumulative losses. [13] Moreover, a 2020 study found that neighborhood racial composition was an even stronger determinant of a home's appraised values in 2015 than it was in 1980. [14] In fact, the race appraisal gap has doubled since 1980. [15] Another 2020 study found that Automated Valuation Models (AVMs) in majority Black neighborhoods produced a larger percentage magnitude of in-

[10] Julian Glover, "Black California Couple Lowballed by $500K in Home Appraisal, Believe Race Was a Factor", ABC 7 News, Feb. 12, 2021; Debra Kamin, "Black Homeowners Face Discrimination in Appraisals", *New York Times*, Aug. 25, 2020; Troy McMullen, "For Black Homeowners, a Common Conundrum With Appraisals", *Washington Post*, Jan. 21, 2021; Russell Haythorn, "An Unconscious Bias? Biracial Denver Couple Says They Faced Discrimination on Home Appraisal", The Denver Channel, Nov. 18, 2020.

[11] Brentin Mock, "What It Will Take To Close the Race Gap in Home Appraisals", Bloomberg CityLab, March 3, 2021; Andre Perry, Jonathan Rothwell, and David Harshbarger, "The Devaluation of Assets in Black Neighborhoods", The Brookings Institution Metropolitan Policy Program (Nov. 2018); Junia Howell and Elizabeth Korver-Glen, "Neighborhoods, Race, and the Twenty-first Century Housing Appraisal Industry", 4 *Sociology of Race and Ethnicity* 473 (2018), (finding substantial differences in home values in communities of color even after controlling for home features, neighborhood amenities, socioeconomic status and consumer demand).

[12] Andre Perry, Jonathan Rothwell, and David Harshbarger, "The Devaluation of Assets in Black Neighborhoods", The Brookings Institution Metropolitan Policy Program (Nov. 2018), *https://www.brookings.edu/research/devaluation-of-assets-in-black-neighborhoods/*.

[13] Id.

[14] Junia Howell and Elizabeth Korver-Glen, "The Increasing Effect of Neighborhood Racial Composition on Housing Values", 1980–2015, *Social Problems* (2020), *https://academic.oup.com/socpro/advance-article/doi/10.1093/socpro/spaa033/5900507.*

[15] Brentin Mock, "A Neighborhood's Race Affects Home Values More Now Than in 1980", Bloomberg CityLab (Sept. 21, 2020), *https://www.bloomberg.com/news/articles/2020-09-21/race-gap-in-home-appraisals-has-doubled-since-1980.*

accuracies, relative to the underlying sales price, than AVMs in majority-white neighborhoods.[16]

We must address discrimination in the valuation of homes in communities of color and owned by people of color. It is critical to consider all changes in the appraisal business model, including increased use of AVMs, with an equity lens. All processes must be judiciously examined for fair lending risk and should test outcomes for their effect and impact on people and communities of color. Additionally, there should be robust review of Federal appraisal standards, including ethics standards, increased training on unconscious bias for appraisers, and expanded initiatives to bring more appraisers of color into the field. Moreover, the use of sales comparisons in a neighborhood carries the legacy of redlining into the present. It allows historically undervalued appraisals to influence current values. As the 2020 study stated, "Since no steps were taken to rectify the historic inequities, this approach has enabled such inequalities to persist."[17] The appraisal industry should continue to explore more equitable alternative methods. We concur with the recommendations of the National Fair Housing Alliance as outlined in their response to FHFA's recent RFI on appraisals.[18]

Q.3. Can you elaborate on the importance of HMDA data to rooting out discrimination?

A.3. Yes, we cannot watch for discrimination that we cannot see. Enacted by Congress in 1975 to provide transparency in the mortgage market, the Home Mortgage Disclosure Act (HMDA) requires an annual public accounting of the nation's mortgage lending. Its data provides critical information for both the public and financial sectors by alerting the nation to trends on the groups of Americans that are receiving mortgage loans from financial institutions. One of the critical data points that HMDA requires is for lenders to report on the race and ethnicity of mortgage loan applicants. In recent years, however, Congress and CFPB have made legislative and regulatory changes to weaken HMDA reporting, resulting in decreased transparency. CFPB finalized a rule that would increase the HMDA reporting threshold for mortgages, which means that some smaller lenders may not have to report at all. CFPB also announced an advance notice of proposed rulemaking that would solicit feedback on the costs and benefits of collecting and reporting the additional data points in the 2015 HMDA rule. Additionally, in 2019, CFPB announced it would no longer host or maintain the HMDA Explorer, a vital and user-friendly tool to provide a clear view of the mortgage market and who it serves. It is essential that CFPB replace the data access tool and address the gap in accessibility that will have occurred between the release of the 2018 HMDA data and the launch of a replacement to HMDA Explorer.

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[16] Michael Neal, Sara Strochak, Linna Zhu, and Caitlin Young, "How Automated Valuation Models Can Disproportionately Affect Majority-Black Neighborhoods", Urban Institute (Dec. 2020), *https://www.urban.org/sites/default/files/publication/103429/how-automated-valuation-models-can-disproportionately-affect-majority-black-neighborhoods-1.pdf.*

[17] Junia Howell and Elizabeth Korver-Glen, "The Increasing Effect of Neighborhood Racial Composition on Housing Values, 1980-2015", *Social Problems* (2020), *https://academic.oup.com/socpro/advance-article/doi/10.1093/socpro/spaa033/5900507.*

[18] Comment letter from National Fair Housing Alliance to FHFA on Request for Information on Appraisal-Related Policies, Practices, and Processes (Feb. 26, 2021), *https://www.fhfa.gov//AboutUs/Contact/Pages/input-submission-detail.aspx?RFIId=1320.*

Thus, in its annual report to the Congress, CFPB should answer how it is proceeding with the above actions.

Q.4. You noted in your answers to my questions regarding the Home Mortgage Disclosure Act (HMDA) that the Consumer Financial Protection Bureau's HMDA rep01ts were critical to uncovering discrimination—What steps should the CFPB take to ensure HMDA data is accessible and available for outside observers to analyze the data and root out discrimination in mo1tgage lending?

A.4. The CFPB must also conduct research into the racial disparities in mortgage approvals and mortgage pricing, including controlling for FICO, which the CFPB's initial 2019 HMDA report failed to do. Only the Bureau can do this as FICO is not publicly released. We also urge CFPB to immediately cease work on the HMDA rules listed in the Unified Agenda which would narrow data collected under HMDA and codify the privacy policy into Regulation B; create a "trusted researcher" program to allow others to access the full set of HMDA data; and reinstate the requirement for lenders to submit quarterly data so CFPB can observe and report on trends in closer to real time.

Q.5. Could you explain the impo1tance of the additional HMDA data that was required under Section 1094 of the Dodd–Frank Wall Street Reform and Consumer Protection Act and how this data would assist regulators and outside observers?

A.5. The amendments made by the Dodd–Frank Act expanded the scope of information relating to mortgage loans that must be collected and maintained under HMDA. This includes information about credit score, the points and fees payable at origination, the difference between the annual percentage rate associated with the loan and the benchmark rate(s) for all loans, the term of any prepayment penalty, the value of any real property pledged or proposed to be pledged as collateral, the actual or proposed term in months of the mortgage loan, and the age of applicant(s).

The Bureau also has the authority to add other data requirements pursuant to the Bureau's discretionary authority to carry out the purposes of HMDA. These new data points shed additional light on mortgage lending patterns. The data help researchers, regulators, and advocates spot possible discrimination, including patterns of redlining and discriminatory loan denials.

Q.6. Can you elaborate on the importance of HMDA data for more rural localities?

A.6. Yes, HMDA's data collection informs us about which lenders are making loans in underserved rural localities. Further, rural communities also reflect the diversity of the nation and count families of color among residents. It is critically important that we understand if the mortgage credit needs of rural communities are being met. Many large lenders fail to provide access to small dollar mortgage loans while their investment arms benefit substantially from their vanishing presence in the single-family market. In 2019, nearly 475,000 homes priced below $80,000 were sold, according to U.S. Census Bureau data with only 43 percent of those financed with a mortgage loan. COVID–19 has worsened this reality as the focus of mortgage originations have shifted to the wealthiest borrowers leaving many credit worthy families with limited mortgage access, which has fallen disproportionately on families of color who typically rely on small balance mortgage loans to purchase a home.

Furthermore, FHA and the GSEs' bulk sales of distressed loan sales coupled with the lack of small balance mortgage lending is pulling modest and affordable homes off the market. These public interest entities accrued large numbers of loans facing foreclosure. Rather than selling them individually as a local bank would do, they auctioned them off in large pools. While this helped FHA and the GSEs increase their reserves and capital more quickly, hedge funds—the largest buyers of these pools—converted many of the ultimately foreclosed loans into rental properties. This reduced the supply of modest homes for purchase by individuals and altered the character of neighborhoods where the percentage of homeowners declined. The sale of these distressed pools has continued, and hedge funds have announced plans to expand their conversion programs. [19] This, along with other factors limiting new starter home construction, including labor and materials shortages and increased costs of both, created a shortage of these starter homes and a substantial barrier to families trying to enter home ownership. [20] Instead of bulk sales to investors, more needs to be done with these properties to ensure that families can purchase them to help preserve access to home ownership in low-to-moderate income communities and communities of color as opposed to only providing rental as an option for hardworking families.

Small dollar mortgages are essential in rural communities and Congress must require the banking regulators to ensure the availability of mortgage credit in these communities.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARNOCK FROM NIKITRA BAILEY

Q.1. *Renters and Borrowers Permanently Impacted Due to the Pandemic*—I want to highlight an important issue that's on the horizon, and that is bonowers and renters who have experienced pe1manentjob displacement due to the pandemic and will remain in forbearance or unable to pay their rent for the foreseeable future. As many employment rep01ts and economic data suggests, this labor market development has dispropo1tionately impacted minorities and people of color.

Can you talk about the importance of helping those who have lost their jobs permanently and how it has and will continue to impact their housing needs as a result of the pandemic? What additional relief or policy considerations should we be considering to help this segment of renters and borrowers?

A.1. Thank you for the question, Senator Warnock.

[19] Julia Gordon, "The Dark Side of Single-Family Rental", ShelterForce (July 30, 2018). Others have argued that these sales are beneficial in that the buyers have fewer restrictions on the loan modifications they can offer. Laurie Goodman and Dan Magder, "Selling HUD's Nonperforming Loans: A Win-Win for Borrowers", Investors and HUD, Urban Institute (January 2016). A better approach is reform of the HUD foreclosure process; substantial improvements have been implemented in the GSE process.

[20] Michael Neal, "Residential Construction Down in June, Eye on Housing", National Association of Homebuilders (July 18, 2018), *http://eyeonhousing.org/2018/07/residential-construction-down-injune/?utm-campaign=EOE2018&-ga=2.126940237.1759872631.1535413976-631253769.1535413976.*

The COVID–19 crisis is having a disproportionate impact on families of color, by nearly every metric. Data has shown that the virus is infecting and killing people of color at a much higher rate.[1] People of color are overrepresented among essential workers who are generally not able to work from home and are more likely to encounter the virus.[2] From February to April 2020, the number of Black business owners dropped by 440,000 or 41 percent, compared to a 17 percent decline in white small business owners.[3] Families of color who are hardest hit by COVID–19 are the same families long denied equity in home ownership opportunities.[4] Indeed, there are statistically significant correlations between redlining and susceptibility to COVID–19.[5] The same low-income neighborhoods of color that were intentionally cut off from lending and investment today suffer from reduced wealth, greater poverty, lower life expectancy, and higher incidence of chronic disease that are risk factors for poor outcomes from the coronavirus.[6]

According to the Bureau of Labor Statistics, while the unemployment rate of whites, which peaked at 14 percent in April, has dropped to 5.6 percent, the reported unemployment rate of Blacks stands at 9.9 percent and actually increased in February, even while the economy added over 350,000 new jobs. And a recent report from the Center for Economic and Policy Research demonstrates that BLS' surveys systematically understate the unemployment rate for Blacks relative to whites.[7]

Further, the unemployment rate captures only those who are still deemed to be within the labor force and thus misses the decline in workforce participation. That has been especially pronounced for Black women and Latinas: there are 9.9 percent fewer Black women and 8.6 percent fewer Latinas in the workforce today than at the start of the pandemic.

Not surprisingly given their employment situation, Black and brown families are struggling to make ends meet. The most recent Household Pulse Survey from the Bureau of the Census found that 44 percent of Blacks and 43 percent of Hispanics reported that they were finding it difficult to pay their usual household expenses, a rate more than 60 percent higher than for whites. Moreover, ac-

[1] Centers for Disease Control and Prevention, "COVID–19 Racial and Ethnic Health Disparities", *https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/index.html.*

[2] Tiana N. Rogers, Charles R. Rogers, Elizabeth VanSant-Webb, Lily Y. Gu, Bin Yan, Fares Qeadan, "Racial Disparities in COVID–19 Mortality Among Essential Workers in the United States", World Medical & Health Policy, 2020; DOI, 10.1002/wmh3.358.

[3] Robert W. Fairle, "The Impact of COVID–19 on Small Business Owners: Evidence of Early-Stage Losses From the April 2020 Current Population Survey", National Bureau of Economic Research, Working Paper 27309 (June 2020), *https://www.nber.org/papers/w27309.*

[4] See Alan Gomez, et al.,"'An Unbelievable Chain of Oppression': America's History of Racism Was a Preexisting Condition for COVID–19", *USA Today*, Oct. 12, 2020, *https://www.usatoday.com/in-depth/news/nation/2020/10/12/coronavirus-deaths-reveal-systemic-racism-united-states/5770952002/*; Andre M. Perry, "Black Americans Were Forced Into 'Social Distancing' Long Before the Coronavirus", The Brookings Institution (March 20, 2020), *https://www.brookings.edu/blog/the-avenue/2020/03/20/black-americans-were-forced-into-social-distancing-long-before-the-coronavirus/*.

[5] Jason Richardson, Bruce C. Mitchell, Helen C.S. Meier, Emily Lynch, Jad Edlebi, "Redlining and Neighborhood Health", NCRC, September 2020, *https://ncrc.org/holc-health/*.

[6] Id.

[7] Yixia Cai and Dean Baker, "Masking Real Unemployment: The Overall and Racial Impact of Survey Non-Response on Measured Labor Market Outcomes", Center for Economic and Policy Research (March 2021), *https://www.ineteconomics.org/research/research-papers/masking-real-unemployment-the-overall-and-racial-impact-of-survey-non-response-on-measured-labor-market-outcomes.*

cording to a CFPB report, as of December, almost one in five Black homeowners and one in seven Hispanic homeowners reported being behind on their mortgage compared to only one in twenty white homeowners.[8]

As the uneven recovery to the pandemic continues, it is essential that Black and brown families hardest-hit are able to maintain their homes, which are the primary source of wealth in our communities. Thank you to the Committee for your leadership in passing the Homeowners Assistance Fund (HAF) in the American Rescue Plan. The HAF provides $10 billion in relief for COVID–19's hardest-hit families who are struggling with mortgages, utilities, broadband, and taxes due to being negatively impacted by the pandemic. A key highlight of the legislation is the explicit direction for states to ensure that the relief is targeted to socially disadvantaged communities. Taking this action can help build toward a more equitable recovery. It is critical that racial equity remain at the core of all COVID relief efforts, including Treasury's implementation of the Homeowner Assistance Fund.

Q.2. *Promoting Minority Home Ownership*—As we recover from the pandemic, I also want to ensure that everyone, especially in our rural and minority communities, have fair and equal access to credit to help increase home ownership.

Ms. Nikitra Bailey, in response to the ongoing lack of paiticipation among black and latino borrowers in the mortgage market, you stated,

> Recent people-led protest[s] to address today's social injustices are rooted in our nation's discriminatory federal housing policies. These practices caused families of color to accumulate less wealth and be more susceptible to abusive subprime lending that cost Black and Latino families $1 trillion in wealth. Sadly, the cunent COVID–19 health crisis is devastating families of color at a disproportionately higher rate than whites. By not creating cost-efficient home ownership opportunities for creditworthy borrowers of color, we are denying millions of Americans the opportunity to accumulate wealth, suppressing economic growth, and widening the racial wealth gap.[9]

Can each of you discuss how critical it is to promote and increase minority home ownership as we recover from this pandemic?

A.2. As the foundation of the American Dream, home ownership is the primary way that most middle-class families build wealth and economic stability. Home equity accounts for 69 percent of American family wealth.[10] However, it accounts for only 30 percent of the net worth for wealthier households but constitutes 67 percent

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[8] CFPB, "Housing Insecurity and the COVID–19 Pandemic" (March 2021), *https://files.consumerfinance.gov/f/documents/cfpb-Housing-insecurity-and-the-COVID-19-pandemic.pdf.*

[9] CRL press release, Jun. 26, 2020, online: *https://www.responsiblelending.org/media/new-hmda-data-shows-mortgage-market-continues-exclude-black-and-latino-borrowers.*

[10] James H. Carr, Michela Zonta, and Steven P. Hornburg, "2017 State of Housing in Black America", National Association of Real Estate Brokers, September 18, 2017, *http://www.nareb.com/site-files/uploads/2017/09/SHIBA2017-final-for-web-0918.pdf.*

for middle-to-low-income households.[11] Home equity accounts for 53 percent of African American wealth as compared to 39 percent for whites.[12] For many low-to-moderate income (LMI) families and people of color in particular, a home represents the only asset that a family may ever own and the equity in their homes constitutes a larger share of personal wealth.

Widespread access to low-cost, fairly structured credit is critical for building family wealth, closing the racial wealth gap, and for sustaining the housing market overall. This in turn contributes significantly to our overall economy. Yet the opportunity to purchase, maintain and refinance a home still has not reached significant portions of low-to-moderate income families and people of color.

As the cornerstone of opportunity in our nation, wide-spread home ownership was largely created by federal economic subsidies that primarily benefitted whites, while excluding Black, Hispanic, Asian American Pacific Islander, and Native communities. This has given many white Americans a crucial lever for amassing wealth that cushions families against economic setbacks and creates a nest egg for the next generation. This crucial lever has been unjustly and disproportionately denied to many Black and brown families, for whom a lack of intergenerational wealth forces each successive generation to start anew, without a firm foundation to build upon.

Although housing discrimination, including the ability to purchase a home, was made unlawful by the Civil Rights Act of 1866, these long-standing discriminatory policies produced segregated housing patterns across the nation and disinvestment from Black communities for over 102 years until the Fair Housing Act of 1968 provided meaningful enforcement and an affirmative obligation for the Federal Government to create inclusive communities. This legacy has limited access to traditional low-cost credit for Black families and other families of color, and unduly exposed them to exploitative predatory lending, such as land installment contracts or contracts for deeds that robbed families of the wealth building benefits of home ownership. For instance, in Chicago, Illinois, 85 percent of Black homebuyers purchased their homes "on contract" from white sellers in the mid-20th century.[13] Estimates show that these Black homebuyers had more than $500 million legally extorted from them from 1940–1970.[14] Hispanic families also have a history of being victimized by these practices.[15]

As a result of this troubled history of inequity and continuing discrimination, Black home ownership levels, the primary asset of Black families, is at levels similar to when the Fair Housing Act

[11] Brendan Greely, "U.S. Homeowners Are Repeating Their Mistakes", Bloomberg, February 14, 2013, *https://www.bloomberg.com/news/articles/2013-02-14/u-dot-s-dot-homeowners-are-repeating-their-mistakes.*

[12] Thomas Shapiro, Tatjana Meschede, and Sam Osoro, "The Roots of the Widening Racial Wealth Gap: Explaining the Black–White Economic Divide", Institute on Assets and Social Policy, at 3 (February 2013), *http://iasp.brandeis.edu/pdfs/Author/shapiro-thomas-m/racialwealthgapbrief.pdf.*

[13] Megan Wright, "Installment Housing Contracts: Presumptively Unconscionable", 18 *Berkeley J. Afr.-Am. L. & Pol'y*, at 5 (2016).

[14] Rebecca Burns, "The Infamous Practice of Contract Selling Is Back in Chicago", *Reader News and Politics*, March 2017, *.https://www.chicagoreader.com/chicago/contract-selling-redlining-housingdiscrimination/Content?oid=25705647.*

[15] Ann Carpenter, Taz George, And Lisa Nelson, "The American Dream or Just an Illusion? Understanding Land Contract Trends in the Midwest Pre- and Post-Crisis", Harvard Joint Center for Housing Studies, March 2019, *https://www.jchs.harvard.edu/sites/default/files/harvard-jchs-housing-tenure-symposium-carpenter-george-nelson-0.pdf.*

was passed in 1968.[16] In fact, the gap between white and Black home ownership rates today is the largest it has been since 1890.[17] The home ownership rate for Black Americans is 42 percent, compared to white home ownership of 72.1 percent, and 48.1 percent for Latinos.[18] In large part because families of color were not afforded the opportunity to build wealth through federally supported investment in home ownership and were later devastated by the financial crisis, the median white family has 10 times the wealth of the median Black family and eight times the wealth of the median Latino family.[19] In fact, the racial wealth gap between Black and white families grew from about $100,000 in 1992 to $154,000 in 2016.[20] The median white family gained significantly more wealth, with the median increasing by $54,000, while median wealth for Black families did not grow in real terms over the same time period.[21] The racial wealth gap contributes to the fact that in the 46 largest housing markets in the country, a median income Black household could only afford 25 percent of homes on the market last year in comparison to the 57 percent that a median income white household could afford.[22] It will require focused and bold action to reverse these inequities. If current trends continue, it could take as long as 228 years for the average Black family to reach the level of wealth white families own today.[23] For the average Latino family, matching the wealth of white families could take 84 years.[24]

Historic and ongoing systemic racism has left families of color more vulnerable going into the 2008 housing crisis, and that crisis, and the inadequate response to it, left them even worse off. Black and Hispanic communities lost over $1 trillion during the Great Recession that was never regained because the help came too late and well after foreclosures unnecessarily devastated neighborhoods—needlessly pushing families from their communities, pulling children from their schools, and wiping out the lifetime of savings they needed to move on. The COVID–19 pandemic is likewise hitting these families the hardest again, and the response so far is not

[16] Alanna McCargo and Jung Hyun Choi, "Closing the Gaps: Building Black Wealth Through Home Ownership", Figure 3, Urban Institute (November 2020), *https://www.urban.org/sites/default/files/publication/103267/closing-the-gaps-building-black-wealth-through-home-ownership-0.pdf*; see also Laurie Goodman, Jun Zhu, and Rolf Pendall, "Are Gains in Black Home Ownership History?", Urban Institute (February 14, 2017), *https://www.urban.org/urban-wire/are-gains-black-home ownership-history*.

[17] Adam Levitin, "How To Start Closing the Racial Wealth Gap", "The American Prospect" (June 17, 2020), *https://prospect.org/economy/how-to-start-closing-the-racial-wealth-gap/*.

[18] Alanna McCargo and Jung Hyun Choi, "Closing the Gaps: Building Black Wealth Through Home Ownership", Figure 3, Urban Institute (November 2020), *https://www.urban.org/sites/default/files/publication/103267/closing-the-gaps-building-black-wealth-through-home-ownership-0.pdf*.

[19] Asset Building Policy Network, "The Hispanic-White Wealth Gap Infographic" (September 2019), *https://prosperitynow.org/sites/default/files/resources/ABPN—Hispanic—White—Racial%20Wealth%20Gap%20Infographic—Final.pdf*; Nick Noel, Duwain Pinder, Shelley Stewart III, and Jason Wright, "The Economic Impact of Closing the Racial Wealth Gap", McKinsey & Company (August 2019), at 5, Exhibit 1, *https://www.mckinsey.com/industries/public-and-social-sector/our-insights/the-economic-impact-of-closing-theracial-wealth-gap*.

[20] Nick Noel, Duwain Pinder, Shelley Stewart III, and Jason Wright, "The Economic Impact of Closing the Racial Wealth Gap", McKinsey & Company, August 2019, at 5, Exhibit 1, *https://www.mckinsey.com/industries/publicand-social-sector/our-insights/the-economic-impact-of-closing-the-racial-wealth-gap*.

[21] Id.

[22] Paul Davidson, "Black Households Can Afford Just 25% of Homes For Sale", *USA Today*, October 15, 2019, *https://www.usatoday.com/story/money/2019/10/15/homes-sale-black-households-can-afford-just-25-percent-houses-market/3976383002*.

[23] See Dedrick Asante-Muhammad, et al., "The Road to Zero Wealth", at 15 (Sept. 2017), *https://prosperitynow.org/files/PDFs/road-to-zero-wealth.pdf*.

[24] Id.

equitable or sufficient. But beyond the pandemic response, we must address the long-term structural flaws that produce and perpetuate this inequity.

COVID–19 has exacerbated economic inequality, leaving in its wake a "Tale of Two Americas": One where the haves, mostly wealthy and white, are equipped with the means to shelter in place throughout the global health pandemic, working from home, and actually growing their wealth due to roaring stock market surges, historically low mortgage rates, and increasing valuation of home properties. The have-nots, mostly low wage workers and people of color, could not shelter in place because of being relegated to jobs in the service sector as they became America's new essential workers. Nor could they afford to shelter in place because, while "essential," they have for too long been treated as expendable, paid wages inadequate to cover life's essentials, let alone allow sufficient savings. Facing heightened COVID–19 risk by going to work, many of these essential workers fell ill themselves or brought COVID–19 home to their loved ones. And still, these hardworking families faced massive reductions in working hours, wage cuts, unemployment, food pantry lines that cover entire city blocks and country roads, a growing bill for back rent with no idea how it will be repaid, and threats of eviction. In many of their formerly redlined neighborhoods, quality medical care is in too-short supply and toxins in the physical environment increase the risk of chronic disease, including COVID–19. Moreover, many of these families struggle more due to insufficient access to the cost-reducing mortgage refinances at historically low rates that would ease their financial burdens.

Over the course of one year, over 29 million people have been infected and more than 520,000 people have died in the United States, with Black and Hispanic communities being overwhelmingly devastated. Moreover, increasingly, as misperceptions about COVID continue to circulate and breed anti-Asian sentiments, too many Asian Americans live in constant terror as the result of an increase of hate crimes in their communities.

We can choose to stay the course and embark on a prolonged K-shaped recovery, or we can pivot toward a more inclusive America where all families have an opportunity to thrive. If we choose the latter, home ownership can be the fuel that ignites future economic growth and leads our nation to shared prosperity. This time though, we must ensure full access as discrimination, especially in housing, is a drag on the economy that hurts families and limits economic opportunity for all Americans. Recent reports show that addressing discrimination targeted at Black Americans alone can generate $1 trillion a year, billions for local jurisdictions, and thousands of jobs. [25]

These issues require a comprehensive and dedicated government response. One solution is more targeted aid to help overcome discrimination in home ownership opportunity. Saving for a down pay-

[25] Dana M. Peterson and Catherine L. Mann, "Closing the Racial Inequality Gaps: The Economic Cost of Black Inequality in the U.S.", Citi Global Perspectives & Solutions (Sept. 2020); Nick Noel, Duwain Pinder, Shelley Stewart III, and Jason Wright, "The Economic Impact of Closing the Racial Wealth Gap", McKinsey & Company, at 6, Exhibit 2 (Aug. 2019); Jeff Cox, "Morgan Stanley says Housing Discrimination Has Taken a Huge Toll on the Economy", CNBC, November 13, 2020.

ment is a significant barrier to home ownership that particularly hits communities of color.[26] As research from Freddie Mac and Urban Institute demonstrates, there are millions of mortgage-ready borrowers of color, based on borrowers' current credit scores and debt-to-income ratios, though not funds available for a down payment. In fact, there are 6.3 million mortgage ready Black and Latino millennials in the 31 largest metropolitan statistical areas.[27] Given that many of these borrowers do not have family wealth for a down payment because of the lack of intergenerational wealth, targeted down payment assistance will be critical to enable mortgage-ready borrowers of color to become homeowners.

Accordingly, drawing on the approach in the educational arena in which there are special programs targeting first-generation college students, we recommend that the core down payment assistance program be limited to first-generation, first-time homebuyers whose income is within 120 percent of the Area Median Income (AMI). We would add to this a house price limit as an additional safeguard to assure the money is well targeted.

Half of the funds should be set aside for state Housing Finance Agencies that have adopted Affirmatively Furthering Fair Housing (AFFH) Plans, awarded based on the size of the renter population in each state. The other 50 percent should be awarded through a competitive bidding process run by the CDFI Fund to select Administrators committed to and capable of delivering funds to socially and economically disadvantaged individuals. The DPA should be a minimum of $20,000 per applicant (could be increased for high-cost markets) to provide sufficient funds to make home ownership affordable. In addition, strong reporting and evaluation requirements should be included to ensure transparency and efficacy.

Finally, the Departments of Justice and Housing and Urban Development should be directed to conduct a study to determine whether this program, in conjunction with any other extant efforts, will succeed in remedying the effects of past and present discrimination and closing the racial home ownership gap. If the study finds that more is needed, the Administrators shall be authorized to use race-conscious remedies to overcome discriminatory barriers to serving socially and economically disadvantaged people, using a rebuttable presumption that people of color are socially and economically disadvantaged.

Additional details on the proposal may be found in Appendix 1 of our written testimony.

The challenges presented by student loan debt must also be addressed. Student debt in this country has reached crisis levels and has negatively impacted the prospects of home ownership for an entire generation, particularly people of color.[28] To help address

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[26] See Christelle Bamona, "Data Point: Hardship for Renters: Too Many Years To Save for Mortgage Down Payment and Closing Costs", Center for Responsible Lending (April 2021), *https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-mortgage-downpayment-7apr2021.pdf.*

[27] Alanna McCargo, "America's Persistent Racial Home Ownership Gaps", Urban Institute. See also National Association of Hispanic Real Estate Professionals, 2019 State of Hispanic Home Ownership Report; Alanna McCargo, Jung Hyun Choi, and Edward Golding, "Building Black Home Ownership Bridges: A Five Point Framework for Reducing the Racial Home Ownership Gap", Urban Institute, at 8 (May 2019).

[28] See discussion on pp. 9–14 in Testimony of Nikitra Bailey, House Financial Services Committee, "Justice for All: Achieving Racial Equity Through Fair Access to Housing and Financial

this, FHA should modify its policy on how it factors in student loan debt when calculating DTI. Currently, FHA presumes a monthly payment of 1 percent of the outstanding student loan balance if borrowers are actively participating in a repayment plan resulting in a monthly obligation that does not fully amortize the debt. Black and Latino borrowers are more likely to be enrolled in income-based repayment and more likely to have loans that are negatively amortizing. While Fannie Mae, Freddie Mac, the Department of Veterans Affairs (VA) and the Department of Agriculture (USDA) qualify borrowers using the actual monthly obligation or an alternative that is more closely aligned with a fully amortized payment calculation, FHA continues to assume a monthly payment of 1 percent of the outstanding balance—which is almost always larger than the actual payment being made by potential borrowers in both covered plans and fully amortized plans. This policy may be disqualifying creditworthy borrowers because of the inflated DTI ratios that it produces. As a result, many potential borrowers may have more limited financing options or may be unable to obtain mortgage credit entirely. While this fix is necessary, addressing the student debt crisis and increasing access to home ownership will require bold solutions, including broad-based debt cancellation.

Thanks to each of you for your participation in last week's hearing. I look forward to reviewing your responses.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ MASTO FROM EDWARD J. DEMARCO

Q.1. On page 5 of your prepared remarks you stated that "there is limited evidence that the housing goals [for Fannie Mae and Freddie Mac] have expanded low-income home ownership." One study on this topic found that "the goals increased the supply of mortgage credit available to low- and moderate-income households, after controlling for other mortgage market factors." [1]

What studies have you reviewed to support your statement?

A.1. My statement is based on data that is reflective of the market as it is today and is less influenced by studies conducted prior to the great financial crisis. Changes in market dynamics, including for example, the growth of government-backed mortgage programs, the increasing quality of mortgage products, as well as the rise of non-bank lenders create a housing finance environment that is not entirely analogous to the pre-financial crisis era. Examples of studies that support my statement include:

- Fannie Mae and Freddie Mac Annual Housing Activities Report and Annual Mortgage Report.
- Parrott, Stegman, Swagel, and Zandi, "Access and Affordability in the New Housing Finance System, Urban Institute," February 2018

Services" (March 10, 2021), *https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-testimony-nikitra-bailey-hfsc-hearing-10mar2021.pdf.*

[1] Brent W. Ambrose and Thomas G. Thibodeau, "Have the GSE affordable housing goals increased the supply of mortgage credit?" Regional Science and Urban Economics, Volume 34, Issue 3, May 2004.

- Levitin and Ratcliffe, “Rethinking Duty to Serve in Housing Finance,” Joint Center for Housing Studies at Harvard University, October 2013
- Korman, “Furthering Fair Housing, The Housing Finance System, and the Government Sponsored Enterprises,” Kirwan Institute for the Study of Race and Ethnicity, September 2010.

A common observation in these studies is the difficulty in measuring with certainty the impact of the housing goals in isolation. HPC’s recent comment letter to FHFA details in greater depth our rationale and conclusion and we offer that letter here for the record (attached below).

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February 25, 2021

Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
Eighth Floor, 400 Seventh Street, SW
Washington, DC 20219

RE: Comments/RIN 2590-AB12 Enterprise Housing Goals Advance Notice of Proposed Rulemaking

Dear Mr. Pollard:

The Housing Policy Council[1] (HPC) appreciates the opportunity to comment on the Federal Housing Finance Agency's (FHFA) advance notice of proposed rulemaking (the ANPR) on the Enterprise (GSE) housing goals.[2] HPC members, as strong advocates for access to sustainable and affordable home financing for low- and moderate- income borrowers, support an update to the existing regulations based on lessons learned in executing the Enterprise Housing Goals.

Specific Comments and Recommendations

FHFA Should Encourage Congress to Amend the Enterprise Housing Goals Legislation

In spite of the good intentions and positive expected outcomes that were promoted when the Affordable Housing Goals legislation was enacted in 1992, there is limited evidence that the Enterprise housing goals have helped to expand low-income homeownership. In fact, just this past January, President Biden signed an Executive Order that asserted that "throughout much of the 20th century, the Federal Government systematically supported discrimination and exclusion in housing and mortgage lending" and "*that the effects of these policy decisions continue to be felt today.*"[3] This is also seen in the well documented fact that only about 42

[1] The Housing Policy Council is a trade association comprised of the leading national mortgage lenders and servicers, mortgage and title insurers, and technology and data companies. HPC advocates for the mortgage and housing marketplace interests of its members in legislative, regulatory, and judicial forums. Our interest is in the safety and soundness of the housing finance system, the equitable and consistent regulatory treatment of all market participants, and the promotion of lending practices that create sustainable homeownership opportunities in support of vibrant communities and long-term wealth-building for families. For more information, visit www.housingpolicycouncil.org

[2] 85 Fed. Reg. 245 (December 21, 2020).

[3] Memorandum on Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies, January 26, 2021.

percent of Black households own a home compared with 72 percent for Whites, a gap that hasn't improved in nearly 50 years.[4]

Since it well understood that homeownership is a critical component of family wealth, particularly for low-income families and people of color, this has far reaching implications on the racial wealth gap.[5] Unfortunately, this persistent homeownership and household wealth differential has occurred in spite of the fact that the Enterprise housing goals have been in place for the last 28 years. Even more shocking is that even with the Enterprise housing goals in place, in 2019, just 3.87% of all of loans acquired by Fannie Mae, and 4.2% by Freddie Mac went to black borrowers.[6] It is hard to look at these numbers and say that current structure of the Enterprise housing goals has been sufficient, let alone successful.

The driving factor for why the Enterprise housing goals have been unable to move the needle on addressing these structural challenges is that the authorizing legislation itself is largely limited to encouraging support for affordable housing through mortgage production targets that are supported primarily through the cross-subsidization of mortgage rates. To achieve the goals, the Enterprises offer relaxed underwriting criteria and pricing benefits to some consumers who might not otherwise qualify for a mortgage. Practically speaking, the cross-subsidization model allows the GSEs to charge lower-risk borrowers a higher guarantee fee than needed to account for their risk, and higher-risk borrowers a lower guarantee fee than is necessary to account for their risk.

One significant problem with this approach is that, with an inelastic housing supply, continued subsidization of the mortgage rate has the counter-productive effect of boosting home prices. Simply put, making it less expensive to borrow money to purchase a commodity in short supply (houses) results in the added demand increasing the sales price. In effect, the subsidy ends up going to the home seller, not the home buyer. And that has the perverse effect of making housing less affordable, not more affordable.

Also, credit risk is not a precise or inherently good proxy for borrower income; as a result, cross-subsidization is also provided to borrowers who aren't low-and moderate income. Thus, under the current system low- and moderate-income borrowers with a strong credit history who put down 20% to buy a home are subsidizing higher-income borrowers with weaker credit that choose to put down a lower down payment. The Urban Institute has estimated that approximately 23% of those receiving a cross-subsidy under the current Enterprise housing goals system are not low or moderate-income households.[7] In fact, the ANPR itself identifies that for the Low-Income Area Home Purchase Goal, it is common for 40% of Enterprise housing goals qualifying loans to be made to borrowers who are not low-and moderate income

[4] https://www.census.gov/housing/hvs/files/currenthvspress.pdf
[5] Thomas Shapiro, The Roots of the Widening Racial Wealth Gap: Explaining the Black White Divide, available at http://iasp.brandeis.edu/pdfs/Author/shapiro-thomas-m/racialwealthgapbrief.pdf.
[6] Fannie Mae AHAR, Freddie Mac AHAR
[7] Access and Affordability in the New Housing Finance System, Urban Institute, February 2018

households.[8] Not only does this raise the questions identified in the ANPR about whether this fuels gentrification and displacement, it also raises the question of whether the goals are actually effectively serving low-and moderate-income borrowers.

The overall value of the cross-subsidization of mortgage rates to support the Enterprise housing goals is estimated to be $3.8 billion annually.[9] Instead of going towards cross-subsidization, this same amount of funding could be targeted directly to supporting low-and moderate-income borrowers, in the form of subsidies that explicitly provide financial assistance to the borrower and thus reduce the risk of the transaction. Examples of this form of direct financial support would include funds for a down payment and closing costs to boost the initial equity position of the borrower, buying down the rate and/or shortening the loan amortization period to enhance equity and wealth building, creating reserves after closing to provide adequate cash availability for possible future financial hardship, or other borrower-focused assistance. If Congress were to make this legislative fix to the Enterprise housing goals statute – to explicitly permit directed borrower support, perhaps using the same definitions of low-income borrowers as in the current rule – the result could be a more efficient, transparent, and accountable mechanism for supporting the affordable housing missions of the GSEs.

Additional Enhancements to the Enterprise Housing Goals Regulation and Process

Without legislative fixes, the ANPR reasonably asks how FHFA can ensure that loans receiving housing goals credit are sustainable. The simplest way to address this question is for FHFA to provide more transparency about the historical performance of qualifying loans. To that end, FHFA should supplement the Annual Housing Report and/or the Annual Report to Congress to include a section on the current and historical performance of loans that receive housing goals credit. Thus, for the 2021 annual report(s), FHFA should not only disclose the 2020 performance of loans counted towards the Enterprise housing goals, but also provide data for the full population of loans that have received housing goals credit. This simple transparency would allow stakeholders to compare the performance of loans across the overall GSE book of business, and to other similarly situated products like FHA, USDA, and VA mortgages.

Providing this data would not only help to inform future Enterprise housing goal rulemakings but could also highlight the need for further changes to underwriting policy or limits on risk-layering, as queried in the ANPR. If the data were to show that an inappropriate number of loans receiving goals credit are unsustainable for borrowers, then FHFA should consider excluding from goals-credit all loans with early payment defaults or loans that become seriously delinquent within the first year. If borrowers are getting into trouble early in their mortgage, this is a reasonable indicator that the loans were not sustainable for those borrowers, and thus the GSEs should not be rewarded for purchasing these loans. In other words, this change would produce an incentive for the GSEs to determine that the loans they purchase are sustainable.

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[8] 82968 Federal Register / Vol. 85, No. 245 / Monday, December 21, 2020

[9] Access and Affordability in the New Housing Finance System, Urban Institute, February 2018

Similarly, FHFA should use the Annual Housing Report and/or the Annual Report to Congress to publish information about the risk characteristics of loans receiving housing goals credit. The ANPR raises concerns about whether loans with excessive risk-layering should be excluded from receiving housing goals credit. For the public to fairly assess this, FHFA should publish information on the volume of loans with risk-layering that receive housing goals credit, the annual performance of these loans, and demographic information about these loans to analyze fair lending impacts. This level of information would help policy makers and other stakeholders identify elevated risk posed and determine if the level of risk raises safety and soundness concerns, whether the loans are actually helping to promote sustainable homeownership, and whether eliminating these loans might pose fair lending concerns.

The ANPR also asks what areas should count for credit under the low-income area goal (potentially including Opportunity Zones). HPC reiterates the point above, that no matter the area, loans made to low- and moderate-income borrowers should receive priority in housing goals credit and non-low-and moderate-income borrower lending should be capped at a reasonable percentage, allowing the Enterprises to effectively facilitate investment in communities, while not being overly reliant on loans from above average income borrowers to meet the low-income area goal. Such an approach would not only more effectively target the Enterprise provided cross-subsidy, but it would also limit the Enterprises' incentive to purchase loans that fuel gentrification and displacement concerns.

Lastly, HPC supports the GSE role in expanding access to homeownership for underserved groups, and thus calls on the GSEs to continue outreach and education efforts to serve these populations. Both GSEs go to great lengths to discuss special affordable housing partnerships in their Annual Housing Activities Report. However, currently neither the FHFA Annual Housing Report nor the Annual Report to Congress attempt to evaluate the efficacy of these partnership efforts in any way. Even if FHFA highlighted just a few of the successful GSE efforts, it would reinforce the importance of these activities for the Enterprises (potentially in a "noteworthy" section of the report(s)).

Conclusion

Thank you for your consideration of these recommendations. If you have any questions or would like to discuss these comments, please contact Meg Burns, EVP for the Housing Policy Council, at 202-589-1926.

Yours truly,

Edward J. DeMarco

Edward J. DeMarco
President
Housing Policy Council

Q.2. You further state on page 5 that the goals (or "subsidy" to use your term) are "based on a borrower's credit risk, not race or income (emphasis added) or wealth or financial readiness." There are eight goals for Fannie Mae and Freddie Mac, of which (1) three are for home purchase or refinance mmtgages for low-income or very low-income families, (2) three are for multifamily rental units affordable to these same families, and (3) two are for home purchase mortgages for families in low-income and high-minority census tracts. Thus six goals are based on borrower or renter income, and two are based on tract income and minority share of tract population. None of the goals are based on the creditworthiness of the borrower or renter.

In light of these considerations, what is the basis for your statement that the goals are not based on income or race?

A.2. I appreciate the opportunity to correct any misunderstanding regarding my comments on the effectiveness of the goals in reaching the traditionally underserved population.

The existing affordable housing goals are based on borrower/tenant income and serving minority communities but the method of achieving those goals is cross-subsidization, where borrowers with higher credit profiles subsidize lending to borrowers with lower credit profiles. That portion of my statement was not a comment on the definitions of GSE's goals themselves but rather an explanation for why the GSEs' goals have not been effective. As we all know, the racial home ownership gap today is higher than it was more than 50 years ago—an outcome that suggests that the current methods of narrowing that gap are flawed.

As an attempt to explain why the existing methods for addressing the racial home ownership gap may not be effective, I noted that the affordable housing goals are currently achieved by relaxing underwriting criteria and providing pricing benefits to borrowers who would not otherwise qualify for a mortgage. The goals are not achieved by directly addressing the barriers that stand in the way of home ownership for borrowers of particular income levels or racial/ethnic groups. That may be why the goals have not been effective; the ways of achieving the goals, cross-subsidization based on credit scores, is poorly targeted and fails to address the barriers many Black, Hispanic, and low income/low-wealth families face in trying to attain and maintain home ownership, such as a lack of downpayment, financial education, or a rainy-day fund.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SINEMA FROM EDWARD J. DEMARCO

Q.1. Home prices continue to rise at an alarming rate in certain markets. In Phoenix, for example, home prices rose by 14.4 percent last year. Is this type of increase sustainable, and does this phenomenon have the makings of an asset bubble? What are the consequences if such a bubble were to burst?

A.1. House prices have risen sharply in many communities across the country the past year as a result of supply/demand imbalance. One recent paper cites the primary causes of this imbalance, from least to most important, as being materials and labor, lending, and demographic changes.[1] In general terms, this is due to the combination of:

- the increase in building costs due to the disruption of global supply chains during the pandemic, along with greater trade restrictions on major U.S. trading partners.
- the struggle of the building industry to develop and maintain a consistent labor force, in part reflecting the difficulty that many of the trades face in attracting high school graduates into careers requiring specialized skills.
- historically low mortgage interest rates resulting from Federal Reserve policies,
- a change in demand for single-family housing resulting from both changes in housing preferences brought on by the pandemic and the millennial generation reaching prime homebuying age, and
- a 10-plus year slowdown in new home construction that has resulted in new supply not keeping pace with demographic changes.

While it may be premature to say this has created a housing bubble—lending standards have remained strong and demand still far outpaces supply—these sort of growth rates in house prices are not sustainable for a long period. For the housing market to remain healthy in the long-run, home price appreciation must be tied to increases in borrower income.

[1] Jim Parrott and Mark Zandi, "Overcoming the Nation's Daunting Housing Supply Shortage" Urban Institute, March 2021.

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

LETTER FROM CENTER FOR URBAN RENEWAL AND EDUCATION

CURE Center for Urban Renewal and Education

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March 16, 2021

The Honorable Pat Toomey
Ranking Member
Senate Committee on Banking, Housing, and Urban Affairs
Washington, DC 20510

Dear Senator Toomey:

I would like to share some perspectives with you regarding the Committee's March 16, 2021 hearing on "The State of Housing in America."

The Civil Rights Act and the Fair Housing Act have been critical in greatly reducing racial discrimination in America and providing more opportunities for blacks and other minority populations. The Fair Housing Act prevents discrimination in the sale, rental or financing of housing.

However, the trillions of dollars in "Great Society" and other government spending and social policies since the 1960s have produced much more questionable results. Government housing programs for the poor have largely failed to produce their intended outcomes.

If the Federal Government wants to help those with inadequate resources cover the cost of decent housing, giving them an unconditional voucher to use for private housing wherever they choose to live would be a much more effective and equitable policy. Such a policy would also give parents much better options in choosing where to send their children to school.

During the coronavirus pandemic, we have seen educational achievement gaps exacerbated by unwarranted school closures – especially in the distressed zip codes served by the 500 clergy the Center for Urban Renewal and Education (CURE) represents and the more than 500,000 precious people of their congregations. Some parents have understandably responded to these school closures by sending their children to private or charter schools, and by forming educational pods within their communities. This is much harder to do for low-income families, especially those headed by a single parent.

When government denies choices to low-income families, their children inevitably fall further behind. Rather than pursuing disruptive and divisive policies like those embodied in the Biden Administration's Affirmatively Furthering Fair Housing rule, we should ensure that low-income Americans have the opportunity to pursue housing arrangements of their choosing and that the interests of their children are given higher priority than the interests of teachers' unions.

Sincerely,

Star Parker

Star Parker
President
Center for Urban Renewal and Education