



August 16, 2021

Dear Representative:

The undersigned national associations represent a broad coalition of housing providers that are committed to working together with policymakers and the Administration to address America's housing affordability crisis. We write today to urge Congress and the Administration to use the opportunity presented by infrastructure legislation to address many aspects of this crisis through impactful, common-sense initiatives. Increasing housing stability for millions of Americans is a worthwhile investment that serves the causes of equity, environmental resiliency, energy efficiency and rebuilding our nation's critical infrastructure.

This issue is not new. For decades, America has witnessed the escalating challenge created by demographic shifts, public policy decisions and economic factors culminating in the inability of families to rent, buy, or maintain stable, affordable and safe homes. Today, in more and more communities, many hard-working Americans are unable to purchase or rent homes due to skyrocketing costs driven by a lack of supply, barriers to development and regulatory burdens. Working families are increasingly spending more than 30 percent of their incomes on housing costs or are priced out of their communities altogether. This is not sustainable.

While we recognize that Congress will look to proposals to finance the cost of infrastructure legislation, we have reservations about revenue-raising proposals that would undermine housing production and preservation. Tax reforms should be undertaken with caution, with a focus foremost on supporting the nascent economic and jobs recovery and the capital investment that will drive our economic growth for years to come.

Several of the tax and other offset proposals under consideration would reduce real estate investment and inhibit the capital flows that are so critical to the development and preservation of critically needed housing. In so doing, they would make the production and development of housing more costly and further exacerbate our housing affordability challenges. These proposals include:

- limiting taxpayers' ability to defer gain that is reinvested in property of a like-kind.
- doubling the tax rate on long-term capital gains.
- taxing unrealized capital gains at death,
- taxing carried interest as ordinary income;
- increasing fees on Government Sponsored Enterprises to pay for non-housing-related policy purposes, and
- capping the 199a small business deduction utilized by so many "pass-through" entities that produce, manage, and finance affordable multifamily properties.

We urge Congress to reject these proposals that would only exacerbate housing affordability challenges.

The challenge we face is not cosmetic - it is structural and fundamental to the health of the nation. For example, the existing apartment stock is aging. Almost one-third (29 percent) of all apartment units in the U.S. today were built between 1960 and 1979; around half (47 percent) were built prior to 1980<sup>1</sup> To keep up with demand, our nation needs to build an average of 328,000 apartments every year through 2030<sup>2</sup>, to accommodate household growth and losses to the existing stock. We have achieved this goal just four times since 1989.<sup>3</sup>

The total U.S. housing stock was growing at an annual average rate of 1.7% from 1968 through 2000, slowing to a 1% annual average rate for the last two decades, with only an 0.7% rate in the last decade. By some estimates the housing underbuilding gap totals more than 5.5 million housing units accrued over the past 20 years. This rises to a 6.8-million-unit gap when one factors in units lost through demolition, disaster, or deterioration, and the projected housing need with demographic changes.<sup>4</sup>

This housing shortage has led to a marked increase in house prices in recent years. NAR's 2021 Snapshot of Race and Home Buying in America underscores the impact of the affordable housing crisis on communities of color. For example, the report finds that nationwide, 43% of Black Americans can afford to buy the typical home compared to 63% of white Americans. Since April 2020, Black Americans have accounted for only 5% of home purchasers<sup>5</sup>, while they comprise 13% of the general population<sup>6</sup>. Those who did purchase homes were also twice as likely as white Americans to be saddled also with student loan debt (43% to 21%).

Meanwhile, the COVID-19 pandemic has made the housing affordability crisis substantially worse and further exposed the necessity of immediate, direct action. Comprehensive COVID-19 relief legislation provided a life preserver for the countless Americans facing financial hardship and housing instability. However, once the COVID-19 health emergency is contained, the nation must turn to the task of rebuilding the economy and addressing America's housing affordability crisis.

We believe that forthcoming infrastructure legislation represents a critical opportunity to address the nation's growing housing demand and meet our housing affordability challenges. Infrastructure and housing are linked in significant ways. The development and rehabilitation of housing is directly dependent on the availability and condition of transportation and other infrastructure assets. For example, access to suitable transportation options, safe and reliable water and utility services and broadband are all vital to the livability and, importantly, to the affordability of housing.

A range of outdated, unnecessary and overly burdensome policies create significant barriers to addressing affordability. Even in communities that want and desperately need new housing, the numerous hurdles can hinder development, including excessive entitlement expenditures and environmental site assessments; restrictive zoning rules; impact fees; inclusionary zoning mandates or rent control; and onerous building code requirements. Research found that on average, regulations comprised 32 percent of total development costs.<sup>7</sup>

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<sup>1</sup> Apartments are defined as rented units in buildings with five units or more. 2019 American Community Survey 1-Year Estimates, US Census Bureau, "Tenure by Units in Structure by Age".

<sup>2</sup> Hoyt Advisory Services, "U.S. Apartment Demand –A Forward Look" (2017).

<sup>3</sup> US Census Bureau, New Residential Construction.

<sup>4</sup> Rosen Consulting Group, "Housing is Critical Infrastructure: Social and Economic Benefits of Building More Housing" (2021).

<sup>5</sup> National Association of Realtors, "Snapshot of Race and Home Buying in America" (2021).

<sup>6</sup> 2019 American Community Survey 1-Year Estimates, US Census Bureau, "Select Characteristics of the Total and Native Populations in the United States".

<sup>7</sup> National Association of Home Builders and National Multifamily Housing Council, "Regulation: Over 30 Percent of the Cost of a Multifamily Development" (2018).

At the Federal level, Congress, through the enacted stimulus bills, has already done much to preserve and increase funding for programs that address housing affordability in the subsidized context, including funding HOME, Section 8, FHA Multifamily and CDBG, but housing affordability is not just about federal subsidies for affordable housing. Many barriers and obstacles impact housing affordability by impeding the ability to build more housing at all, affordable or otherwise. These fall primarily within the purview of state and local governments<sup>3</sup>, but Congress can take steps to incentivize localities to reduce barriers, streamline and fast track the entitlement and approval process; provide density bonuses and other incentives for developers to include workforce units in their properties; enable “by-right” zoning and create more fully entitled parcels; defer taxes and other fees for a set period of time; lower construction costs by contributing underutilized buildings and raw land; create incentives to encourage higher density development near job and transportation hubs, and address NIMBYism as an obstacle to solving the affordable housing challenge. Adopting policies that encourage private sector investment in housing will go a long way in helping to close the affordability gap in America. These and other ideas are summarized in the attachment to this letter. We believe these are the types of proposals that should be included in a comprehensive infrastructure package and urge your consideration.

## **Conclusion**

Housing is an integral part of our nation’s infrastructure needs. We applaud the Biden Administration’s and Congressional efforts to explore this relationship and find solutions to the nation’s most significant housing challenges. Policymakers at every level of government have a role to play in removing obstacles to housing production and preservation and in addressing the housing affordability challenges that have faced this country for decades.

Across all markets, the supply of housing at a variety of price points will play a vital role in promoting economic growth, attracting, and retaining talent and encouraging household stability for all American families. Using a combination of incentive-based programs, streamlined regulatory burdens and innovative solutions, we stand ready to work with Congress and the Administration to address the housing affordability challenges faced by communities across the nation while making critical investments in infrastructure of all types.

Sincerely,

American Seniors Housing Association  
Building Owners and Managers Association  
Commercial Real Estate Finance Council  
Council for Affordable and Rural Housing  
Institute of Real Estate Management  
Leading Builders of America  
Manufactured Housing Institute  
Mortgage Bankers Association

National Apartment Association  
National Association of Home Builders  
National Association of REALTORS®  
National Association of Residential Property  
Managers  
National Leased Housing Association  
National Multifamily Housing Council  
The Real Estate Roundtable  
Up for Growth Action

cc: President Joe Biden

Attachment: Industry Proposals for Infrastructure Legislation

## **Attachment**

### Industry Proposals for Infrastructure Legislation

The infrastructure packages being considered by Congress provides a once in a generation opportunity to make bold investments in our nation's housing ecosystem and to tackle our nation's long-standing housing affordability and supply crises while leveraging and maintaining critical public-private partnerships. The real estate community believes the following policy initiatives should be seriously considered for inclusion in the infrastructure package:

- **Housing is Infrastructure Act:** Introduced by House Financial Services Committee Chairwoman Maxine Waters (D-CA), aims to make significant, needed investment of over \$600 billion in our nation's housing stock. The legislation includes provisions to substantially improve our nation's public housing, rightly incentivizes state and local governments to remove burdensome and discriminatory barriers to the development of housing and includes funding to significantly expand the Section 8 Housing Choice Voucher programs and makes critical investments in affordable housing production and preservation. The Housing is Infrastructure Act provides a needed, comprehensive response to the myriad housing challenges facing our country.
- **Yes In My Back Yard (YIMBY) Act:** Bipartisan legislation that would help eliminate discriminatory land use policies and remove barriers that depress production of housing in the United States. By requiring Community Development Block Grant (CDBG) recipients to report periodically on the extent to which they are removing discriminatory land use policies, and promoting inclusive and affordable housing, the YIMBY Act will increase transparency and encourage more thoughtful and inclusive development practices.
- **Eliminate Exclusionary Zoning and Harmful Land Use Policies:** For decades, exclusionary zoning laws – like minimum lot sizes, mandatory parking requirements, and prohibitions on multifamily and manufactured housing – have inflated housing and construction costs and locked families out of areas with more opportunities. President Biden is calling on Congress to enact an innovative, new competitive grant program that awards flexible and attractive funding to jurisdictions that take concrete steps to eliminate such needless barriers to producing affordable housing.
- **Better Planning and Land-Use for Accessible Neighborhoods Act (BETTER PLAN Act):** Introduced by Senator Cortez Masto (D-NV), the bill would encourage local planning organizations to better integrate housing, transportation, and economic development strategies.
- **Promote Affordable Housing Near Transit Act:** Introduced by Rep. Adam Smith (D-WA), the bill would permit transit agencies to convey land at zero cost to non-profit affordable housing developers or other eligible third-party entities, such as multifamily developers, to produce affordable and mixed-income housing.
- **Build More Housing Near Transit Act:** Bipartisan legislation introduced by Rep. Scott Peters (D-CA) and Rep. McMorris Rodgers (R-WA) that would better leverage federal transportation dollars to support housing development.
- **The Choice in Affordable Housing Act (S. 1820):** Introduced by Senator Chris Coons (D-DE) and Senator Kevin Cramer (R-ND) on May 20, this bill enjoys the backing from both housing advocates and housing providers, and would address many overlapping and redundant programmatic procedures that have deterred professional owners and operators from participating.

- **Housing Supply and Affordability Act:** Legislation introduced by Senator Amy Klobuchar (D-MN) in the Senate and Representatives Lisa Blunt Rochester (D-DE) and Jaime Herrera Beutler (R WA) in the House that would create a new Local Housing Policy Grant (LHPG) program at HUD to provide grants to local governments to support efforts to expand housing supply.

Finally, we encourage Congress to consider the following tax proposals that all have a significant influence on addressing housing affordability.

- **Low-Income Housing Tax Credit (LIHTC):** Expanding and enhancing the LIHTC will enable greater production of affordable housing. We support the Affordable Housing Credit Improvement Act of 2021 introduced under the leadership of Senators Cantwell (D-WA), Young (R-IN), Wyden (D-OR), and Portman (R-OH), and Reps. DelBene (D-WA), Walorski (R-IN), Beyer (D-VA), and Wenstrup (R-OH).
- **Enact the Middle-Income Housing Tax Credit (MIHTC) to Support Workforce Housing:** Housing affordability impacts the financial well-being of middle-income households in addition to low-income families. Congress should enact the *Middle-Income Housing Tax Credit Act of 2018* (S. 3365), which was introduced during the 115<sup>th</sup> Congress to address the shortage of workforce housing available to American households. Modeled on LIHTC, MIHTC takes over where LIHTC leaves off and is designed to benefit populations earning below 100 percent of area median income.
- **Enhance Opportunity Zones to Incentivize Rehabilitation of Housing Units:** While we expect the Opportunity Zones program to be beneficial in spurring the production of new multifamily housing, it could be improved to also incentivize the rehabilitation of existing multifamily units. Statutory modifications could be made to reduce the basis increase necessary to qualify a multifamily rehabilitation project for Opportunity Zone purposes.
- **Revitalizing Economies, Housing, and Businesses (REHAB) Act:** Introduced by Rep. Earl Blumenauer (D-OR) and Rep. Darren LaHood (R-IL) that creates an incentive that will encourage smart new growth around public transportation and attract new private investment to repair local infrastructure and promote greater affordability in high demand markets.

### **Support Affordable and Practical Energy Efficiency Policies**

As Congress considers legislation to promote resilience and reduce greenhouse gas emissions (GHG) across the economy, programs that address building energy performance are an essential element. Policymakers must avoid one-size-fits-all efficiency mandates that exacerbate the shortage of affordable housing. Instead, efficiency measures should be cost-effective, technically feasible and support industry-specific research, technology development and demonstrations programs.

- **Energy Efficient Qualified Improvement Property (E-QUIP) Act:** Introduced by Rep. Brad Schneider (D-IL) and Rep. Tom Rice (R-SC), this Act would spur the replacement of aging building components that most impact building energy consumption, including heating and cooling systems; lighting; and building envelope components like roofs and windows by permitting accelerated depreciation of certain qualifying assets.
- **Growing Renewable Energy and Efficiency Now (GREEN) Act:** Introduced by Rep. Mike Thompson (D-CA), this Act would extend the 45L tax credit for energy efficient new homes for five years. This credit provides an incentive to developers and home builders to build energy efficient homes or dwelling units.