



Manufactured Housing Association for Regulatory Reform

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VIA ELECTRONIC SUBMISSION

White House Council on Environmental Quality
Manufactured Housing Task Force
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Re: Manufactured Housing Task Force – Listening Session One Comments

Dear Sir or Madam:

The following comments are submitted on behalf of the Manufactured Housing Association for Regulatory Reform (MHARR). MHARR is a Washington, D.C.-based national trade organization representing the views and interests of producers of manufactured housing subject to federal regulation by the U.S. Department of Housing and Urban Development (HUD) pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (1974 Act) as amended by the Manufactured Housing Improvement Act of 2000 (2000 reform law) (42 U.S.C. 5401, *et seq.*), and the U.S. Department of Energy (DOE) pursuant to section 413 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17071). MHARR was founded in 1985. Its members include producers of manufactured housing located in all regions of the United States.

As a national representative of federally-regulated manufactured housing producers, MHARR has been invited to participate in forthcoming listening sessions being conducted by the federal Manufactured Housing Task Force (Task Force) established by the White House Council on Environmental Quality (CEQ). As enunciated in that invitation, the Task Force is currently slated to address, with both stakeholders and relevant federal agencies, four critical issue areas affecting both the manufactured housing market and the availability and utilization of manufactured housing as a source of inherently-affordable housing and homeownership for lower and moderate-income Americans. These matters include:

1. The state of manufactured housing finance options and opportunities to enhance the lending market;

2. Homebuyer counseling, consumer awareness and protections;
3. The role of state and local governments to enhance the availability of manufactured housing as an affordable housing option; and
4. The potential role for Community Development Finance Institutions, credit unions, and other mission-driven lenders to participate in the [manufactured housing] market.

At the outset, MHARR and its members wish to express their appreciation and gratitude to President Biden, Vice President Harris, CEQ and the Biden Administration more broadly, for their focus on – and commitment to – increasing the availability and utilization of inherently affordable, non-subsidized manufactured housing, and for ensuring the inclusion of MHARR, its members, and the smaller businesses which constitute the traditional core of the manufactured housing industry, in the important work of the CEQ Task Force.

Given the status of manufactured housing as the only segment of the housing industry to be regulated comprehensively at the federal level, the CEQ Task Force is uniquely positioned and has the unparalleled opportunity to both address and – more importantly – affirmatively rectify and remedy the matters assigned to it, involving baseless and discriminatory impediments, restrictions and limitations that have constrained and suppressed the manufactured housing market while, at the same time, needlessly excluding millions of Americans from the manifold benefits of homeownership. The one and only meaningful measure of success for the Task Force, accordingly, will not be in merely providing a forum for the discussion, debate and consideration of these issues, but in providing and ensuring concrete, productive solutions that will unleash the full economic vibrancy and potential of the industry to help solve the nation’s affordable housing crisis. Put differently, it is time for concrete action at the federal level to help manufactured housing help America, by reaching its full and unbounded potential as an affordable housing resource for millions of new homeowners.

MHARR, particularly over the past decade-plus, has written extensively about the regulatory and policy-based impediments that have needlessly restricted the growth and evolution of the mainstream manufactured housing market, while the nation’s housing deficit, reported by Freddie Mac at the end of 2020 to be approximately 3.8 million homes -- with an even more severe shortfall in the availability of affordable “starter homes” -- has only intensified.¹ While these obstacles are not the *only* impediments faced by the industry and by consumers of affordable manufactured housing, they are both economically significant and endemic as demonstrated by the findings of a May 2021 study by the Consumer Financial Protection Bureau (CFPB).² These key obstacles – all affecting and impacting the industry’s post-production sector – are:

1. The total absence of federal support for the manufactured home personal property (chattel) lending market, notwithstanding the “Duty to Serve” (DTS) directive of the Housing and Economic Recovery Act of 2008 (HERA), resulting in higher-than-market-competitive interest rates on the consumer loans which support nearly 80% of the manufactured housing market;

¹ See, Freddie Mac, “Perspectives Research: The Significant Shortage of Starter Homes,” S. Khater (April 15, 2021).

² See, Consumer Financial Protection Bureau, “Manufactured Housing Finance: New Insights from the Home Mortgage Disclosure Act Data,” (May 2021) (CFPB Report).

2. Discriminatory and exclusionary zoning which prevents the placement of affordable manufactured homes in many jurisdictions and communities, including areas where affordable housing is most critically needed; and
3. Impending federal energy standards, which are unnecessary and unnecessarily costly, and will needlessly exclude millions more Americans from the manufactured housing market.

Given the focus of the initial Task Force listening session on the availability of manufactured home purchase money financing and, more specifically, on the availability of personal property financing, MHARR will address that issue briefly in these comments. It will similarly address each of the foregoing critical issues in future submissions. MHARR would note, however, that it has previously provided more extensive comments and related documentation regarding the availability of manufactured home consumer financing to the Federal Housing Finance Agency (FHFA) and Congress. MHARR stands ready to provide those additional materials to the Task Force upon request and to provide such other and further documents and information as may be helpful to the Task Force and its important mission.

CEQ has indicated that the Task Force’s initial listening session will focus on “the current state of the chattel lending market, including options for enhancing ... affordability, consumer protections, and chattel lending market reforms...” This concentration on consumer financing, and personal property financing, in particular, is entirely appropriate and fully supported by MHARR. Data compiled by the U.S. Census Bureau shows that homes financed with personal property loans (i.e., loans secured by the home structure itself, exclusive of land) comprise nearly 80% of the total manufactured housing market. This figure, moreover, has remained essentially constant over at least the past decade. And, because such loans pertain only to the home structure itself, and are not used to finance acquisition of the land upon which the home is placed, personal property loans typically relate to purchases of the industry’s most affordable homes. Accordingly, the availability and affordability of manufactured home chattel loans is crucial to the success and growth of the industry and its ability to provide affordable homeownership for the largest possible cross-section of Americans.

Taking the same analysis one step further, the personal property loans which are used to finance purchases of the industry’s most affordable homes are also typically utilized by qualified but lower-income borrowers. Within this group of lower-income borrowers, CFPB found that “Hispanic, Black and African American, American Indian ... Alaska Native and elderly borrowers are more likely than other consumers to take out chattel loans.”³(Emphasis added). Consequently, the availability of personal property financing for potential manufactured home purchasers is not just a housing and economic fairness issue, but a racial equity issue as well, within the scope of President Biden’s January 26, 2021 “Memorandum on Redressing Our Nation’s and the Federal Government’s History of Discriminatory Housing Practices and Policies.”

In 2008, Congress acted to force the two Government Sponsored Enterprises (GSEs/Enterprises), Fannie Mae and Freddie Mac, to finally begin serving the mainstream manufactured housing market. The DTS mandate, included by Congress in landmark legislation designed to address and remedy the nation’s housing and mortgage credit crisis, directs Fannie

³ See, CFPB Report, supra at p. 5

Mae and Freddie Mac to finally begin serving three statutorily-designated historically underserved housing markets, including manufactured housing. Then-Financial Services Committee Chairman Barney Frank (D-MA), moreover, was careful to incorporate within the DTS mandate direct authorization for the support of manufactured home chattel loans.

In the 15 years that have passed since the adoption of the DTS mandate, however, not a single manufactured home personal property loan has been purchased or securitized by either Fannie Mae or Freddie Mac. The initial DTS plans submitted by the Enterprises to FHFA excluded any program for the support of such loans, as has every DTS plan revision submitted by Fannie Mae and Freddie Mac in the subsequent four years. Each such plan, though, was expressly approved by FHFA as supposedly being consistent with the DTS mandate. More recently, the second set of DTS plans submitted by Fannie Mae and Freddie Mac continued to exclude any type of support for manufactured housing personal property loans. While those second proposed plans have not been accepted by the Enterprises' federal regulator, FHFA, it is unclear whether FHFA will require or enforce the mandatory inclusion of manufactured home chattel loans in the Enterprises' final revised Second DTS plans.

The failure by Fannie Mae and Freddie Mac to implement DTS – at all – with respect to the personal property loans which constitute the vast bulk of the manufactured home consumer lending market, has allowed a small number of lenders to dominate that market, as documented by CFPB.⁴ This, in turn, effectively forces manufactured housing consumers to pay significantly higher interest rates than would prevail in a fully competitive market with the benefit of market-significant DTS-based support from Fannie Mae and Freddie Mac. At the same time, these higher-than-necessary rates needlessly exclude lower-income borrowers from the manufactured housing market, suppressing the availability and utilization of affordable manufactured housing to the detriment of both the industry and American consumers of affordable housing. Meanwhile, with respect to realty-based manufactured home mortgages, both Fannie and Freddie have sought to manipulate DTS to mandate more costly home features that unnecessarily increase the purchase price of manufactured homes and again, needlessly exclude otherwise qualified, lower-income purchasers from the market, directly contrary to the purposes of DTS and the Charter obligations of the Enterprises.

Consequently, there has been -- and continues to be -- no DTS support for the nearly 80% of the mainstream manufactured housing consumer financing market comprised of personal property loans. This glaring failure on the part of Fannie Mae, Freddie Mac and their regulator, FHFA, to comply with and enforce directly applicable, mandatory law is both unconscionable and unacceptable, and continues to significantly harm lower and moderate-income Americans. The White House, accordingly, should ensure that FHFA takes immediate steps to fully enforce the DTS mandate with respect to manufactured housing and require Fannie Mae and Freddie Mac to immediately institute market-significant programs pursuant to DTS for the securitization and secondary market support of manufactured home personal property loans, as well as manufactured home real estate mortgages without costly and excessive mandates.

Quite simply, fifteen years of excuses and delays in the face of a direct and explicit congressional DTS mandate are indefensible and must come to an end.

⁴ See, CFPB Report, supra at p. 44.

Similarly, the role of the Federal Housing Administration (FHA) within the manufactured housing consumer financing market, must be restored. Historically, FHA-insured loans within the Title I manufactured housing program were a significant source of consumer access to the manufactured housing personal property market. With the adoption of the “10-10” rule by Ginnie Mae more than a decade ago, however, requiring approved Title I providers to have a minimum adjusted net worth of \$10 million and to maintain funds equal to ten percent of all manufactured housing mortgage-backed securities outstanding (along with other additional requirements), the pool of active and approved providers has shriveled to insignificance, as have the number of Title I originations. Thus, a once-important source of funding for manufactured home purchases on a nationwide basis, has virtually disappeared, arguably as a matter of fiat. Combined with the failure and refusal of Fannie Mae and Freddie Mac to implement DTS in any meaningful manner, particularly for manufactured housing chattel loans, this effectively means that lower and moderate-income Americans seeking access to affordable, modern manufactured housing, have been shut out of the market for both privately and federally-insured/secured home loans, with devastating results for both the industry and consumers.

Again, this more than decade-long failure must be corrected in order to assure the availability of the millions of inherently affordable manufactured homes that America needs.

MHARR again wishes to thank CEQ, the White House and President Biden for convening the Manufactured Housing Task Force and its listening sessions, and stands willing to work with all relevant federal entities to help enhance the supply, availability, and utilization of modern, affordable federally regulated manufactured housing, by and for all Americans.

Sincerely,

Mark Weiss
President and CEO

cc: Hon. Joseph R. Biden
Hon. Marcia Fudge
Hon. Jennifer Granholm
Hon. Sandra Thompson
Federal Manufactured Housing Task Force Members
HUD Code Manufactured Housing Industry Members