



October 25, 2021

Office of the Director
Federal Housing Finance Agency
400 7th St., SW
10th Floor
Washington, DC 20219

RE: Request for Input — Equitable Housing Finance Plans

Dear Acting Director Thompson,

The Manufactured Housing Institute (MHI) is pleased to submit comments in response to the Federal Housing Finance Agency’s (FHFA) Request for Input on the Equitable Housing Finance Plans of Fannie Mae and Freddie Mac (the “Enterprises”). We commend the FHFA for its focus on this critical issue. The American Dream of homeownership remains a leading source of wealth accumulation. Addressing systemic barriers to minority homeownership is imperative and increasing the supply of quality affordable housing must be an integral part of the effort. With its construction quality and value, we encourage you to keep manufactured housing in mind as you consider strategies to support equitable housing.

Constructed according to a federal building standard that is administered by HUD to ensure quality and safety, manufactured homes are the most affordable homeownership option available. With the average cost of a new manufactured home being \$87,000, combined with record low mortgage rates, it is not uncommon for the purchase of a manufactured home to be less expensive than the option of renting. Further, unlike other affordable homeownership options, which are often aging housing stock in need of extensive improvements and rehabilitation, a family can attain homeownership in a brand-new home that has the latest innovations, energy efficient features, and modern floorplans and amenities.

To achieve racial equity, the Enterprises should take seriously their duty to support financing of manufactured housing. To this end, it is absolutely essential that the Enterprises’ Equitable Housing Finance plans include robust provisions to: (1) maximally support the provision of Enterprise mortgage credit for manufactured homes, (2) work to break down zoning and other regulatory barriers nationwide to the siting of manufactured homes, and (3) continue and expand the Enterprises’ leadership role in housing finance with respect to manufactured housing, in areas like proposed DOE energy standards. This comment letter explains in more detail how the Enterprises can accomplish this.

MHI and Manufactured Housing

MHI is the only national trade association that represents every segment of the factory-built housing industry. Our members include home builders, suppliers, retail sellers, lenders, installers, community owners, community operators, and others who serve the industry, as well as 48 affiliated state organizations. In 2020, our industry produced nearly 95,000 homes, accounting for approximately nine percent of new single-family home starts. These homes are produced by 33 U.S. corporations in 138 plants located across the country. MHI’s members are responsible for close to 85 percent of the manufactured homes produced each year.

Manufactured housing is the largest form of unsubsidized affordable housing in the U.S. and the only type of housing built to a federal construction and safety standard. It is also the only type of housing that Congress recognizes as having a vital role in meeting America’s housing needs as a significant source of

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affordable homeownership accessible to all Americans. Today, 22 million people live in manufactured housing.

Today's manufactured homes are nearly identical to traditional site-built homes. According to a 2020 HUD report, "Factory-built housing has undergone many physical changes that have made it more similar to, and in many ways indistinguishable from, conventional site-built housing. In terms of style and design, factory-built homes are growing in square footage, with larger double- or multi-section units now more common than smaller single-section homes. Further, because of technological innovations that integrate the chassis with the floor system, as well as the ease of transporting modules and construction materials used for assembly, two-story homes are now being built in climate-controlled facilities and then transferred to the site. Quality improvements in construction and installation practices have increased durability so that the life expectancy of factory-built housing increasingly is comparable to that of site-built or onsite housing."¹

Today's manufactured homes, which are built to the HUD Code, perform as well or better than site-built homes during a storm. The building materials used to construct a manufactured home are the same as those used in site building and manufactured homes are engineered for wind safety and energy efficiency, based on the region in which they are sold. In addition, the construction standards for manufactured housing across the country are subject to robust compliance and quality assurance regulations, sometimes more stringent than those for traditional site-built homes. Furthermore, federal regulations for manufactured homes require a design professional and quality assurance professional during construction to verify that the home is built correctly. Conventional residential construction is not subject to such a rigorous design and inspection system.

Manufactured homes also reduce energy costs for homeowners and improve the resiliency of homes. A HUD study found that, "The factory-built housing industry is constantly evolving to meet the changing needs of its customers. From disaster resilience technology that makes manufactured homes safer in the event of natural disasters to energy-efficient innovations that help reduce energy costs and environmental impacts to labor innovations that lower housing costs to make homeownership accessible to more people, the factory-built housing industry adapts rapidly to benefit individuals, families, and communities."²

Residents of manufactured homes pay significantly lower costs overall than those in site-built homes. A recent Fannie Mae study found, "The median all-in monthly housing cost of \$925 per month for manufactured homeowners was \$675 per month less than that paid by owners of site-built homes."³ That is a savings of 43 percent. According to a study about zoning barriers to manufactured housing, "when structure, transport, installation, land, and site development costs are included, one study found the total purchase price of a manufactured home might be as much as 75 percent less than the cost of a traditional home of comparable size and quality."⁴

As the nation continues to navigate an affordable housing shortage, exacerbated by the Coronavirus crisis, ensuring a robust manufactured housing market has never been more important. Studies have shown that COVID-19 has widened the income gap, magnifying the importance of manufactured housing as an affordable homeownership option, particularly for minority, underserved, and low-income borrowers. In addition, the demand for manufactured housing has increased dramatically as people are seeking a home of their own with a yard, no shared walls, no share ingress/egress to homes such as hallways and elevators, and no share HVAC systems.

Equitable Housing Finance Plans Must Include Manufactured Housing

¹ Evidence Matters: *Effects of Market Forces on the Adoption of Factory-Built Housing*, Department of Housing and Urban Development, Winter/Spring 2020, <https://www.huduser.gov/portal/periodicals/em/WinterSpring20/highlight2.html>.

² Id.

³ Multifamily Market Commentary, *Manufactured Housing Landscape 2020*, May 21, Fannie Mae, et al. "Manufactured Housing Landscape 2020." *Manufactured Housing Landscape 2020 | Fannie Mae Multifamily*, 21 May 2020, multifamily.fanniemae.com/news-insights/multifamily-market-commentary/manufactured-housing-landscape-2020.

⁴ *The Urban Lawyer: Zoning Barriers to Manufactured Housing*, Daniel R. Mandelker, Spring 2016, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2828268

(1) Maximally support the provision of Enterprise mortgage credit for manufactured homes.

The Enterprises currently have a direct responsibility to serve manufactured housing, though statutory Duty to Serve requirements. In 2008, Congress created Duty to Serve which mandates the Enterprises to facilitate a secondary market for mortgages on housing for very low-, low-, and moderate-income families in three underserved markets – one of which is manufactured housing. The primary reason Congress adopted a Duty to Serve requirement for manufactured housing was that Fannie Mae and Freddie Mac were able to meet their housing goals without supporting manufactured home loans. We are now in the fourth year of the Enterprises' Duty to Serve compliance and our conclusion is that neither their performance, nor their proposed Duty to Serve Plans for 2022 to 2024, are adequate to meet the conventional mortgage credit needs of manufactured housing.

MHI has concerns about the Enterprises' Duty to Serve Plans and performance with respect to the volume of manufactured home loan purchases. The proposed Fannie Mae and Freddie Mac Duty to Serve Plans propose real property manufactured home purchase targets for 2022 that are below last year's full year loan volume. We do not understand this proposed reduction. With respect to chattel loans, Fannie Mae and Freddie Mac failed to meet their commitments explicitly included in their 2018 to 2020 Duty to Serve Plans. We suspect that a contributing factor to this are continuing concerns by some that these loans are too "risky." However, according to data MHI commissioned on loan performance of manufactured home loans over the last few years, not only do chattel loans perform well in terms of delinquency and foreclosure rates, but in some metrics, they performed better than other real property loans.

MHI is appreciative that Fannie Mae and Freddie Mac have introduced new programs that provide conventional financing for manufactured homes that are titled as real estate and have certain site-built features. Qualifying home features for the Fannie Mae MH Advantage and the Freddie Mac CHOICEHome programs align closely with the industry's new CrossMod homes, and include higher roof pitches, permanent and lower profile foundations, energy efficient features, garages or carports, and porches. Even here, though, we believe that more can be done to support increased availability of these homes for homebuyers. MHI has asked the Enterprises to make it a priority that appraisers be more broadly made aware of the new CrossMod appraisal guidelines, emphasizing how they differ from guidelines for traditional manufactured homes.

MHI has consistently called on FHFA to require the Enterprises to revise their 2022-2024 Plans to adequately meet their statutory Duty to Serve manufactured housing. However, regardless of the provisions included in the final Duty to Serve 2022-2024 Plans adopted by Fannie Mae and Freddie Mac, our experience to date with the Enterprises' actual performance compared to their Plans leads us to call for more stringent measures. In the absence of a transparent and stronger commitment to Enterprise purchase of manufactured home loans, we have asked FHFA to develop housing subgoals for manufactured housing. In addition to these measures, MHI supports the work of FHFA to require the Enterprises to focus on identifying and overcoming barriers to sustainable housing opportunities. We urge you to ensure manufactured housing is prioritized as a part of this effort.

(2) Work to break down zoning and other regulatory barriers nationwide to the siting of manufactured homes.

FHFA has stated that one of their goals with respect to Equitable Housing Finance Plans is the "identification and summary of barriers to sustainable housing opportunity either directly related to the Enterprises' actions or barriers in the housing market that can reasonably be influenced by the Enterprises' actions." Addressing systemic barriers to homeownership for minorities and underserved borrowers is imperative and increasing the supply of quality affordable housing must be an integral part of the effort.

Unfortunately, manufactured housing is often zoned out by discriminatory land use regulations at the state and local level. MHI has extensively documented the extent of such barriers in communities across the nation and has documented how agencies, particularly HUD, has the authority to take action to combat such barriers because it is a federal building code (See Appendix I).

Manufactured homes serve many housing needs in a wide range of communities, from rural areas where housing alternatives are few and construction labor is scarce or prohibitively expensive, to higher-cost metropolitan areas as in-fill applications. However, zoning and land planning ordinances have a profound impact on housing patterns. For example, restrictive local ordinances, which can include limitations or outright prohibitions against manufactured homes, are discriminatory barriers against affordable housing.

A 2018 study by the Urban Institute found that “zoning restrictions impede the use of manufactured homes as an affordable housing tool in urban and suburban areas and may help explain why a disproportionate amount of manufactured housing is in rural and unincorporated areas (49 percent of units are located outside a metropolitan statistical area, versus 22 percent of all single-family detached housing units).”⁵

Across the country, there are countless examples of state and local zoning, planning, and development restrictions that either severely limit or outright prohibit the placement of a manufactured home. These discriminatory practices include:

- A. Outright Bans** – Adoption of ordinances that eliminate or ban the placement of manufactured homes in cities, localities, or municipalities.
- B. Zoning Barriers** – Subsequent changes to zoning laws after developers have already purchased the land to prevent the development of manufactured home communities.
- C. Segregated Zoning** – Banning manufactured homes as a “permitted use” in residential zones and segregating them into one special overlay zone in one area of the community. These segregated areas are usually removed from essential community services (e.g., grocery stores, schools, churches, and civic centers) or manufactured homes are used as a buffer between other “more premium” residential zones and commercial or industrial zones.
- D. Lot Size Restrictions** – Requiring a lot or tract to include a minimum number of acres for placement of a manufactured home on private land.
- E. Valuation Requirements** – Setting an arbitrary and capricious retail or appraised value requirement that a manufactured home must meet before it can be sited in the city, locality, or municipality.
- F. Home Age Restrictions** – Prohibiting placement or movement of a manufactured home based exclusively on the home’s age, notwithstanding any other factor.

HUD has long recognized that local and state zoning issues purposely exclude manufactured homes. In 1997, under authority from the National Manufactured Housing Construction and Safety Standards Act, HUD issued its “Statement of Policy 1997-1 State and Local Zoning Determinations Involving HUD Code.” This policy statement summarizes HUD’s position concerning federal preemption and certain zoning and/or planning decisions made by state or local governments. In its statement, HUD clarifies, “if a locality is attempting to regulate and even exclude certain manufactured homes through zoning enforcement that is based solely on a construction and safety code different than that prescribed by the [National Manufactured Housing Construction and Safety Standards] Act, the locality is without authority to do so.” Following passage of the Manufactured Housing Improvement Act of 2000, HUD’s preemption authority was significantly strengthened. The law makes clear that HUD’s federal preemption authority for manufactured housing should be “broadly and liberally construed.” While the Manufactured Housing Improvement Act expanded HUD’s authority, HUD still has not updated its 1997 Policy Statement. Updating the statement would galvanize HUD’s pledge to facilitate the availability of affordable manufactured homes and to increase homeownership for all Americans.

Given FHFA’s partnership with HUD in developing this Equitable Housing Initiative, we urge FHFA to work with HUD to exercise its preemption authority when local construction regulations or zoning, planning, or development policies adversely affect the placement of manufactured housing. HUD has jurisdictional

⁵ Urban Institute; Goodman, Golding, McCargo, Ganeish, *Manufactured homes could ease the affordable housing crisis. So why are so few being made?*, January 29, 2018; <https://www.urban.org/urban-wire/manufactured-homes-could-ease-affordable-housing-crisis-so-why-are-so-few-being-made>

authority to move beyond case-by-case enforcement and it should renew its policy position opposing state and local regulatory schemes that are inconsistent with Congressional intent.

Unequal treatment of HUD Code manufactured homes persists in localities across the country where zoning restrictions that are applied to manufactured housing are not similarly applied to site-built homes. In a 2016 Law Review analysis of the zoning barriers to manufactured housing, the author found that HUD Code manufactured homes:

“...face insurmountable zoning barriers in many states. These barriers, such as the unequal treatment of manufactured housing, exclusions from residential zones, the exclusionary use of aesthetic standards, and the denial of conditional use approval, are not justified. Arguments that the negative impacts of manufactured housing justify discriminatory zoning treatment are no longer true or are illegitimate. Manufactured housing requires the same treatment that zoning ordinances give to traditional housing.”⁶

This exclusion through zoning prevents many lower income and minority families from obtaining an affordable home. Manufactured homes represent the most affordable form of homeownership. Even when homeowners rent their land in a manufactured home community, those rents are significantly less than those for traditional renters. The average site-rent increase in 2020 was approximately three and half percent — well below the five percent or greater average increase for apartment rents.

FHFA states the Equitable Housing Finance Plans will serve as a supplement to existing FHFA and Enterprise requirements, programs, and plans, and are designed to ensure a continued focus on housing equity. Therefore, it is imperative that FHFA, Fannie Mae and Freddie Mac examine these barriers and assist other agencies like HUD and work with other partners to address these barriers to affordable homeownership.

3) *Continue and expand the Enterprises' leadership role in housing finance with respect to manufactured housing, in areas like proposed DOE energy standards.*

The Enterprises' responsibility to serve our nation's real estate and housing markets should include leadership with other federal agencies. The Enterprises have been the source of a great deal of innovation and leadership in developing new products (such as CrossMod provisions), which help other federal agency mortgage programs (such as FHA), as well as the private lending market.

But the Enterprises (and FHFA) should also work across other federal agencies, to ensure federal rules and regulations do not result in worsening conditions for this affordable housing supply and in the process undermine FHFA's Equitable Housing Initiative. A good example of this kind of action is the Department of Energy's proposed rule for energy standards for manufactured housing. MHI's analysis shows the proposed rule will result in a substantial increase in construction costs and therefore manufactured home purchase prices. Even modest price increases caused by the new energy standards could jeopardize homeownership for millions of Americans at time when there is an affordable housing shortage in the country.

Such price increases will have a disproportionate impact on minority and other underserved borrowers and communities, that face the most significant burden in obtaining affordable homeownership. This would be antithetical to the objectives of this Equitable Housing Initiative and antithetical to the Administration's goal of achieving racial equity in homeownership.

Conclusion

⁶ The Urban Lawyer: *Zoning Barriers to Manufactured Housing*, Daniel R. Mandelker, Spring 2016, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2828268

In conclusion, Fannie Mae, and Freddie Mac have a great opportunity to advance homeownership through development and implementation of their Equitable Housing Plans. MHI looks forward to working with the Enterprises, with FHFA, and with other federal agencies to make this endeavor a success, by leveraging the full potential of manufactured housing to make homeownership a reality for countless Americans.

Sincerely,

A handwritten signature in black ink that reads "Lesli Gooch". The signature is written in a cursive, flowing style.

Lesli Gooch, Ph.D.
Chief Executive Officer

Appendix I

Examples of Land Use Planning Actions Adverse to Manufactured Housing

Outright Bans

Bryan, TX – In April 2019, the City of Bryan, TX, voted to eliminate the city’s MU-1 mixed-use residential district zone, which is the only zoning district in the city that allows manufactured homes on individual lots. According to news reports, the zoning change would affect roughly 2,600 parcels of land and 1,167 landowners, rendering 750 manufactured homes as nonconforming uses (and essentially stripping them of all value). Additional bans have occurred in Haughton, LA, Stillwater, NY and Huntsville, TX.

Zoning Barriers

Coxsackie, NY – In 2005, UMH Properties (“UMH”) purchased 180 acres of land (and then an additional 70 acres), the majority of which is located in the Village of Coxsackie, NY (“Village”). At the time, the Village zoning laws allowed for the development of the 330 manufactured home community UMH proposed on the property. Despite the zoning law at the time of purchase, for the next fourteen years the Village set up various land planning roadblocks under the auspices of its zoning code to reject UMH’s project. In October 2018, UMH brought a disparate impact case against the Village for its rejection of affordable housing.

Segregated Zoning

St Tammany Parish, LA, and Aransas Pass, TX – Both cities placed zoning for land-lease communities in locations far away from essential services and as buffers to commercial zones.

City of Sandersville, GA – The city of Sandersville, GA, recently banned manufactured homes as a “Permitted Use” in several residential zones, segregating them into one special overlay zone in one area of the city.

Wisconsin Rapids, WI – Mobile homes are not allowed to be used as a permanent place of abode or as a permanent dwelling except within an approved mobile home park.

Meadville, PA – Manufactured homes are not permitted unless they are placed in a manufactured home community of which there is only one in the city.

Lot Size

Harrison County, KY – In 2018, this rural Kentucky county passed legislation requiring ten acres of land for placement of a manufactured home on private property.

Chandler, GA – Chandler, GA, requires five acres for placement of a manufactured home on private property.

Shelby County, IL – Shelby County, IL, requires a minimum of one acre for the placement of a manufactured home on private property.

Carroll County, GA – Carroll County, GA, requires a minimum of five acres for the placement of a manufactured home on private property.

Value

McCrory, AR – In 2017, the city of McCrory, AR, settled a lawsuit banning the placement of a manufactured home in its limits because the home was valued under an arbitrary and capricious amount (\$7,500) as dictated by city ordinance. Newark, AR, has a similar ordinance and is also facing litigation.

Age

Many local jurisdictions prohibit placement or movement of a home based upon its age:

- Jasper County, SC – twenty years
- Mohave County, AZ – seven years

Conditional Use

Pearl, MS, and Lodi, OH – Many cities, including Pearl, MS, and Lodi, OH, have taken administrative action (without a hearing or a vote) to treat the removal of a single home from a manufactured home community as a change in use, thus disqualifying the particular foundation for a replacement home.

Clayton County, GA – In parks and communities in Clayton County, GA, if a pad is empty and has not been utilized in six months, it is not permitted to place another home on the pad, either new or used.

Density/Setback

Harker Heights, TX – In Harker Heights, TX, building Code requires a twelve-foot-five-inch setback between homes, which was changed to 35 feet for manufactured homes.

Disparate Treatment

Georgetown, SC – Ignoring its own Comprehensive Plan, the city of Georgetown, SC, council rejected a petition from residents of the minority populated West End to allow residents to replace older existing manufactured homes with newer used models.

Flood Zone Manufactured Home (MH) Exemption

Florida and Mississippi – In an effort to achieve higher Community Rating System (CRS) numbers, thus lowering the premium for flood insurance, cities and counties on the Gulf Coast began removing the FEMA/MH height exemption. Under the former rule, manufactured homes located in Flood Zone A (100-year floodplain) must be elevated 36 feet on reinforced concrete piers. The change being made would require new manufactured homes to be elevated at the bottom of the frame to the Base Flood Elevation (BFE). In some cases, the new elevation could be six to eight feet higher.

Other

Green County, WI – In Green County, WI, the County Administrator determined that a HUD Code home must have a basement in order to be considered a dwelling under local law.

O'Fallon, IL – O'Fallon, IL, refused to recognize manufactured homes as dwellings.

Alvin, TX – Cities like Alvin, TX, have required incredibly expensive renovations for manufactured home communities, including concrete road construction, streetlights, and other pretextual requirements that are intentionally cost-prohibitive, forcing many communities to close. These requirements are targeted specifically at manufactured home communities and never similarly imposed on the cities' historical downtowns, site-built neighborhoods, or even aging site-built homes.