



May 23, 2025

The Honorable Abigail Slater
Assistant Attorney General, Antitrust Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Assistant Attorney General Slater:

On behalf of the National Association of REALTORS® (NAR), we thank the Anticompetitive Regulations Task Force for the opportunity to provide comments on anticompetitive rules and regulations affecting housing.

The National Association of REALTORS® is America's largest trade association, including NAR's five commercial real estate institutes, its societies, and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,200 local associations or boards, as well as 54 state and territory associations of REALTORS®.

NAR represents a wide variety of housing industry professionals, including approximately 25,000 licensed and certified appraisers, committed to developing and preserving the nation's housing stock, along with its availability to the broadest range of potential homebuyers. REALTORS®, guided by a code of ethics and fair housing laws, are vital to thriving communities because they provide professional expertise to help consumers navigate the intricacies of real estate transactions.

NAR shares the Administration's and Task Force's concerns on housing supply and affordability. Homebuyers and homeowners are faced with one of the most challenging markets in decades. According to NAR research, this country lacks 4.7 million homes. NAR's recently released study on affordability and supply shows that middle-income buyers face the largest inventory shortage, with lower-income households continuing to be disproportionately priced out of the market.¹ Research also shows that first-time buyers represent the lowest proportion of buyers since NAR started collecting such data. Addressing housing affordability starts with adding to the nation's severely limited inventory. Eliminating or streamlining burdensome, anticompetitive regulations in the housing ecosystem, particularly at the local level with zoning and permitting, is key to supporting access to housing and homeownership. To the same end, NAR also strongly supports consumer protections in the homebuying process, including fair housing protections for all buyers.

NAR provides the following comments and recommendations with respect to rules and regulations that hinder competition by impeding access to homeownership and frustrating housing growth and affordability:

¹ [Housing Affordability and Supply May 2025 Report](#)

Federal Housing Administration (FHA)

NAR supports suspension of the FHA Anti-Flip Rule, which restricts the financing of a home with FHA insurance if the house was previously sold within the past 90 days. A few exceptions would allow for FHA financing within the 90-day window but rarely are those exceptions allowed. The rule also covers any home sold 91-180 days prior and is pending sale for double the original cost. Given the lack of housing supply, restrictions related to loan amounts and property requirements already limit the available homes that FHA buyers can purchase. Suspending the FHA anti-flip rule will increase the pool of homes available to FHA buyers and improve their chances of becoming homeowners. While NAR does recognize certain concerns with protecting the FHA borrower and the finances of FHA as it relates to flipped properties, given the extraordinary situation of the current market, FHA should consider suspending the rule and allowing for more flexibility in order to increase the supply of housing available to FHA buyers.

NAR strongly supports loosening FHA's condominium rules to ensure that more homeowners can sell their units and homebuyers have more opportunities to buy affordable properties. Condominiums remain the most affordable homeownership option for many first-time buyers, small families, single people, and older Americans. In 2019, HUD took steps to address some of these concerns by publishing rules that reduce owner-occupancy requirements for some properties, raise commercial space limits, extend approval time frames, re-instate single-unit approval, and reduce the burdens of the re-certification process. NAR recommends that FHA revisit the policies updated in 2019 to further expand the inventory available to buyers with government-insured mortgages.

Specifically, we ask FHA to:

- **Increase the allowable commercial space in condominiums.** Currently, FHA allows condominiums to have 35% commercial space. As buyers are looking to live in areas with various housing, retail, and transportation options, increasing the allowable commercial space would enable buyers to take advantage of properties in higher opportunity and densely populated areas.
- **Decrease Owner-Occupancy Requirements.** Condominiums often have a diverse population of occupants, from owners to long-, and short-term renters. The current 50% occupancy requirement places a high barrier on the type of occupancy FHA-approved condominiums can have, which restricts the number of units and buildings available to FHA buyers. Rather than specific occupancy requirements, FHA should consider the financial solvency of the condominium as the determining factor for what constitutes approval.
- **Increase Single Investor Ownership.** For properties with less than 20 units, a single investor can only own one unit for the building to be approved by FHA. For buildings with more than 20 units, single investors can only own up to 10% of individual units. As investors have entered the residential marketplace at faster rates, the number of condominiums available to FHA buyers has decreased because of this restriction.

NAR supports reforms to FHA loan products in order to be used more effectively and efficiently for innovative housing construction, including modular and manufactured housing.

Finally, NAR encourages a thorough review of FHA rules and regulations in order to enhance FHA buyer competitiveness in the housing market. FHA buyers are not only faced with low inventory but are often disadvantaged and less competitive in the marketplace, especially when up against cash buyers or those with conventional financing. Sellers in many markets across the country are refusing to entertain offers from FHA borrowers, citing concerns with lower appraisals, inspection requirements, and slower closing timelines. FHA should consider programmatic changes that encourage flexibility while maintaining program integrity to increase competitiveness and access to homeownership.

U.S. Department of Housing and Urban Development (HUD) and U.S. Department of Agriculture (USDA) Energy Requirements

NAR supports reforms to HUD and USDA energy efficiency mandates for new construction. Currently, a HUD/USDA rule requires all HUD- and USDA-financed new single-family and multifamily construction to meet strict energy-efficiency building codes. While HUD and USDA are required to establish minimum energy standards by law, NAR urges against mandating specific energy-efficiency standards in building codes for new construction.

REALTORS® acknowledge the importance of safe, cost-effective building code standards but advocates for voluntary approaches and market-based solutions. NAR urges this Administration to address the housing supply challenges across the nation without imposing additional regulatory requirements that hinder the capacity for the creation of new housing and make housing more expensive for buyers.

Department of Veterans Affairs (VA)

NAR is a strong supporter of, and REALTORS® are a major participant in, the VA Home Loan Guaranty Program (VA LGY). The program, which has guaranteed more than 24 million loans to American veterans, with a total loan volume of over one trillion dollars, is a vital homeownership tool that provides veterans with a centralized, affordable, and accessible method of purchasing homes as a benefit for their service to our nation.

Currently, VA buyers using their home loan benefit are not prohibited from compensating their professional representative directly, but this change is only temporary. In situations where no offer of compensation is offered from a seller, VA buyers are immediately at a disadvantage, potentially forcing them to forego professional representation, lose property in an already limited inventory, choose a different loan product, or exit the market entirely. NAR encourages the VA to make these changes permanent and allow VA buyers the flexibility to compensate their real estate professionals directly and further enhance market competitiveness.

NAR supports efforts to align VA income qualification standards for accessory dwelling unit (ADU) rental income with the qualifications under FHA for veteran homeowners to finance and build ADUs, thereby increasing housing supply.

NAR also encourages a thorough review of VA LGY rules and regulations in order to enhance VA buyer competitiveness in the housing market. Today's veterans are less competitive and losing out on home sale purchases because sellers are hesitant to sell their homes to buyers using the VA LGY due to the strict conditions of these loans. For instance, there is a limit on fees that can be charged to the buyer using a VA Loan, like pest inspections or certifications, and VA loans also require more stringent home inspections. Sellers also cite concerns with

lower appraisals and slower closing timelines. VA should consider programmatic changes that encourage flexibility while maintaining program integrity in order to increase competitiveness and access to homeownership.

Environmental Protection Agency (EPA)

NAR supports efforts to enhance and reform EPA rules and regulations to reduce burdens on private property owners and increase the development of housing. The Clean Water Act gives the federal government authority to regulate "navigable waters," which has been broadly interpreted as "Waters of the United States" (WOTUS). This includes rivers, lakes, wetlands, and sometimes small streams and seasonal ponds — if they have a significant connection to navigable waters. However, the exact definition of WOTUS has been hotly debated, leading to legal uncertainty, political fights, and multiple Supreme Court cases. *Sackett v. EPA* reshaped the definition of "Waters of the United States" by limiting federal oversight to only those wetlands with a clear, continuous surface connection to larger, navigable bodies of water. This case changes how the Clean Water Act is enforced, limits the federal government's reach, and returns more power back to the states. From a policy perspective, *Sackett* limits the power of another regulation that could inhibit real estate development and construction. NAR supported the Supreme Court's decision to reject federal agency attempts to assert jurisdiction beyond navigable waters to all waters based on theories like the presence of migratory birds or groundwater. The EPA has already moved to develop a regulatory approach that will provide greater clarity and ensure current regulations conform to the provisions in *Sackett*. NAR supports using appropriate scientific criteria to identify regulated areas, keeping the focus on preserving high-value wetlands, requiring that local officials and affected property owners be notified about the presence of wetlands, and using wetlands mitigation banking. These changes will enable more economic and real estate development on land previously considered off-limits.

FEMA National Flood Insurance Program

NAR strongly supports removing federal regulatory barriers to foster a more robust private flood insurance market. Expanding competition will help close the flood insurance coverage gap, drive innovation, and reduce premium costs for consumers.

The National Flood Insurance Program (NFIP) is critical, providing \$1.3 trillion in coverage for 4.7 million policyholders across 23,000 communities nationwide. However, NFIP policies currently cover only about 4% of U.S. homeowners, despite expert estimates that at least 10 million additional homes face high flood risk. Many of these properties are not required to carry flood insurance due to limitations in FEMA's flood mapping technologies. Certain NFIP regulations can also hinder competition. If more consumers understood their flood risk and had access to competitive insurance options, demand would increase—ensuring more homeowners are protected from the most common and costly natural disaster in the United States.

Private flood insurers often offer broader coverage at lower prices than the NFIP in more competitive markets where flood risk is better understood. To increase competition and expand consumer choice, NAR recommends the following:

1. Continue Implementing Risk Rating 2.0: The private market cannot compete with steeply subsidized NFIP rates. NAR strongly supports NFIP's new risk rating methodology, which provides the most accurate, current, and property-specific full-risk pricing in the United States. Yet more than two-thirds of NFIP policyholders are not



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paying full-risk rates; they are on a congressionally mandated “glidepath” that could take decades to complete. This subsidization distorts the market and limits private sector participation, which currently accounts for only about 10% of all flood insurance policies nationwide.

2. Modernize FEMA's Flood Mapping Program: NAR supports more accurate, timely, and comprehensive flood mapping, enhanced by granular, property-specific, web-based risk assessments under the Future of Flood Risk Data Initiative. According to the Association of State Floodplain Managers, FEMA maps less than one-third of the country—mostly along major rivers and coastlines. Yet more than 40% of NFIP claims now come from inland areas and locations outside designated high-risk zones. FEMA's maps must be expanded nationwide and updated to reflect all sources of flood risk, including pluvial (rainfall-based) flooding. Without accurate data, consumers cannot properly assess their exposure or seek appropriate coverage, limiting demand for private flood insurance.

3. Strengthen Risk Mitigation & Grant Programs: NFIP provides flood insurance to communities that adopt and enforce floodplain building standards. However, many communities struggle to enforce these standards due to cost. Grants that help homeowners elevate, retrofit, or floodproof their homes reduce both the cost of compliance and the risk of flood damage. These improvements lower insurance costs, protect property owners, and make homes more attractive to private insurers—supporting long-term market sustainability.

4. Review the Write-Your-Own (WYO) Program: The WYO program currently limits participation to about 50 carriers that meet strict criteria, including being licensed property insurers with at least five years of experience. However, many private flood insurers are non-admitted carriers specializing in flood coverage and are not licensed to offer broader property insurance. NAR recommends that FEMA conduct a comprehensive review of the WYO program to evaluate whether its participation standards could be modernized to increase competition while maintaining strong consumer protections. High entry standards were originally necessary due to limited oversight tools. Still, today's technological advances—including AI and real-time data analytics—offer new ways to monitor insurer performance and ensure compliance. FEMA should explore whether these innovations can support a more inclusive WYO framework that welcomes qualified private insurers and expands consumer choice without compromising financial stability or accountability.

5. Clarify Continuous Coverage Requirements: Many policyholders are reluctant to switch to private flood insurance because doing so will jeopardize their eligibility for NFIP subsidies. In reality, one-third of NFIP policyholders already pay full-risk rates and could obtain better coverage at lower cost in the private market. NFIP's continuous coverage requirement should be updated to recognize private policies, ensuring consumers can shop freely without penalty.

While the NFIP was once the sole flood insurance provider, a growing private market now exists. NFIP regulations should not hinder this growth. It should not matter whether flood insurance is provided on public or private paper—what matters is that consumers have a choice and can shop for the highest-quality, lowest-cost coverage to meet their flood protection needs.

Ensuring all high-risk homeowners have access to affordable, high-quality flood insurance will require a strong public-private partnership. NAR stands ready to work with the NFIP and the Task Force to remove unnecessary barriers and promote a vibrant, competitive flood insurance market that delivers choice, innovation, and affordability for consumers.

Additional Solutions to Increase Housing Supply

NAR strongly supports efforts that reduce barriers to housing development at the state and local levels, such as encouraging streamlined permitting, enabling by-right zoning, and eliminating exclusionary zoning practices that place artificial constraints on development and the ability to meet market demands. NAR recently collaborated with the National League of Cities and the American Planning Association to create a [Housing Supply Accelerator Playbook](#) that provides best practices for unleashing housing development at the local level. NAR supports efforts by the Administration to provide incentives for localities to adopt best practices such as those identified in the Playbook.

At the federal level, NAR recognizes that streamlining the National Environmental Policy Act (NEPA) review processes represents a critical opportunity to accelerate multifamily housing development while maintaining environmental protections. By reforming NEPA's lengthy and often duplicative review procedures, we can significantly reduce project timelines that currently delay housing construction by months or even years. These reforms would enable developers to bring new housing inventory to market more quickly, directly addressing the severe supply shortage that continues to drive affordability concerns across the country.

NAR also supports modernizing Davis-Bacon requirements to balance multifamily housing affordability needs while preserving fair compensation for workers. The current wage determination and compliance process create administrative complexities that particularly challenge smaller builders and affordable housing developers. By carefully streamlining administrative requirements while maintaining wage protections, we can help reduce unnecessary costs affecting housing production while supporting innovative building practices that can dramatically improve construction efficiency.

Additionally, reforming "Build America, Buy America" (BABA) requirements would address procurement challenges that delay projects and increase costs. A more flexible procurement framework would allow builders to source affordable materials while still supporting American manufacturing when feasible, reducing construction costs and completion timelines to help more Americans find affordable homes.

NAR supports the sale of underutilized federal lands suitable for residential development to increase the housing supply. Freeing up such land can help reduce land acquisition costs and increase access to more affordable housing. Further considerations should be made to preserve access to federal mortgage products, including those under FHA, VA, and USDA, for prospective buyers of housing on such land.

NAR opposes rent control policies that exacerbate housing shortages by reducing the number of units built and limiting the overall supply of rental housing in a community, leaving renters with fewer and more expensive housing options in their communities of choice. Rent control and rent stabilization policies also disproportionately benefit higher-income households, resulting in an inequitable distribution of benefits that harm renters in need.

Working Together

REALTORS® greatly appreciate the efforts of the Anticompetitive Task Force to address the housing supply crisis. NAR believes these recommendations, and proposed regulations that afford the public opportunity for comment, can lead to informed, impactful changes in the housing industry that will be durable and reduce industry uncertainty. As an engaged partner, we stand ready to assist the Task Force with these efforts and look forward to continued discussions and action on this matter. If you have questions, please contact Shannon McGahn, Executive Vice President and Chief Advocacy Officer (smcgahn@nar.realtor).

Sincerely,



Kevin Sears
President, National Association of REALTORS®