Key NAHB Housing Issues

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1. With a new Congress in place, NAHB is actively engaged in the policy arena on Capitol Hill and at the White House. In a sign of our clout, NAHB was front and center at two recent congressional hearings – Chairman Alicia Huey told House lawmakers that the new waters of the U.S. rule is “fatally flawed” and Chief Economist Robert Dietz called on Senate lawmakers to enact policies to help builders boost output to ease the nation’s housing affordability crisis.

2. The federal government is making $1.2 billion available for state and local governments to adopt updated energy codes. NAHB is working with builders and HBAs to help them take steps now to

engage with their state and local jurisdictions to advocate for workable outcomes.

3. The Biden administration has established final regulations that will raise housing costs by dramatically expanding the definition of "waters of the U.S." (WOTUS) under the Clean Water Act. The new rule will take effect on March 20, 2023, but the U.S. Supreme Court is hearing a case (Sackett v. EPA) focusing on the legality of key aspects of the rule.

4. NAHB continues to make it a top priority to resolve building material supply chain disruptions that are raising construction costs. One bright spot is lumber. The price of framing lumber has fallen to about $425 per thousand board feet – close to pre-pandemic levels.

5. The White House has issued an executive action that it says will protect renters and promote renter affordability. While it does not include rent control measures, NAHB strongly believes this is the wrong strategy. The executive action centers on rental protections instead of market-based solutions that will truly ease the nation's housing and rental affordability crisis by spurring the production of badly needed affordable housing.

6. A turning point for housing lies ahead. Builder sentiment has posted two straight monthly gains and interest rates are expected to normalize later this year. Lower rates will increase housing affordability and housing demand.

7. The Department of Labor has issued a proposed rule changing its process for classifying workers as employees rather than as independent contractors under the Fair Labor Standards Act. NAHB submitted formal comments to DOL opposing the proposed rule, and we have joined a coalition of like-minded organizations seeking changes to the rule.

8. Housing market snapshot: Single-family and multifamily starts both posted a decline in January; new home sales moved higher; and existing home sales were down for the 12th straight month. Meanwhile, builder confidence in the single-family market posted its largest monthly gain in February since June 2013, excluding the period immediately after the onset of the pandemic. NAHB Chief Economist Robert Dietz provides a brief analysis of the housing market.

The Policy Front

- In a sign of NAHB's clout, the association was front and center at two congressional hearings at the start of the new Congress.

- NAHB Chairman Alicia Huey on Feb. 8 testified before House lawmakers on the Biden administration's new waters of the U.S. (WOTUS) rule, calling it "fatally flawed" and urging lawmakers to direct the EPA to implement a new durable and practical definition of WOTUS.

- The next day, Chief Economist Robert Dietz testified before the Senate Banking Committee on the barriers the industry faces to increase the production of quality, affordable housing.

- Dietz said that boosting housing production is the best way to ease the affordability crisis and called on Congress to pass legislation to alleviate supply-side bottlenecks, ease burdensome federal regulations and promote careers in the skilled trades. These legislative actions, he told lawmakers, would increase home construction, expand housing inventory and lower inflation.

- Our lobbyists continue to aggressively engage with the White House and Congress to enact solutions to resolve the housing affordability crisis.

- To move housing and the economy to higher ground, and to achieve a healthy supply-demand balance in the marketplace, NAHB is calling on the Biden administration and Congress to take the following actions:

1. **Ease supply chain bottlenecks** that will allow builders to increase production of badly needed affordable housing.

2. **Suspend tariffs on Canadian lumber imports into the U.S.** and move immediately to enter into negotiations with Canada on a new softwood lumber agreement.

3. **Replace the mortgage interest deduction with a tax credit** that is targeted to lower- and middle-income Americans.

4. **Improve and enhance the Low-Income Housing Tax Credit** to promote the construction of sorely needed rental apartments.

5. **Reassert oversight authority over rulemaking agencies** and ensure that efforts to further regulate the housing industry must be subject to greater public scrutiny and based on sound data.

6. **Maintain the use of voluntary consensus codes and standards** for the building industry.

7. **Promote and fund job training programs** to prepare individuals for careers in home building and pursue immigration policies that help fill labor gaps while protecting the nation's borders.

- Taking these pro-active steps will provide the right economic conditions for the housing sector to lead the economy forward and help ease a stubbornly elevated inflation rate that is causing economic hardship for millions of American households.

More Stringent Energy Codes Could be Coming

- Your state and local jurisdictions may soon seek to adopt more stringent energy codes.

- There are two reasons. First, the International Energy Conservation Code (IECC), which serves as the baseline code for many, is getting more stringent. Second, there is federal money available specifically for state and local governments to update their energy codes.

- Most notably, the Inflation Reduction Act that was signed into law last year provides $1 billion to support the efforts of state and local governments to adopt updated energy codes.

- And there are many relevant groups out there who are poised to help state and local governments get that money.

- This is happening now -- Kansas City recently approved new building standards to align with the 2021 IECC – and it won't end anytime soon.

- Every builder and HBA need to take steps now to be prepared.

- First, you need to understand where the pressure is coming from and develop an outreach and action plan. Next, you need to be prepared to participate with information, data and technical support to direct the efforts of your state and local jurisdictions and advocate for workable outcomes.

- The goal is for builders and HBAs to:

    1. Reach out to your state and legislators and try to convince them to NOT apply for the grants due to the significant construction cost impacts and negative impacts on housing affordability; and

    2. If your states still choose to apply for a grant, convince your legislators to apply for the Department of Energy's Resilient and Efficient Codes Implementation (RECI) funds and NOT the Inflation Reduction Act funds because the RECI funds provide states more flexibility regarding which updated energy codes they choose to adapt.

- NAHB is considering adding staff specifically to travel across the nation and help local HBAs to implement this strategy.

- NAHB's website includes many resources to assist HBAs, including updated Code Adoption Kits, which include information and justification for making code amendments, compliance options and construction cost impact studies.

- For more information, contact Neil Burning, NAHB's Vice President of Construction Codes and Standards, at nburning@nahb.org.

Final WOTUS Rule will Muddy the Waters

- In a blow to housing affordability and regulatory certainty for builders and other stakeholders, the Biden administration has established final regulations that will dramatically expand the definition of "waters of the United States" (WOTUS) under the Clean Water Act (CWA), as compared to the prior rule finalized during the Trump administration.

- The new regulation will go into effect on March 20, 2023. NAHB is seeking a meeting with the Environmental Protection Agency (EPA) and Army Corps of Engineers (Corps) to see how the agencies intend to implement the rule before it goes into effect.

- NAHB Chairman Alicia Huey also testified before Congress on this issue, calling the WOTUS rule "fatally flawed."

- Huey called on lawmakers to direct the federal agencies to implement a durable and practical definition of WOTUS that will truly protect our nation's water resources without infringing on states' rights and triggering additional expensive, time-consuming permitting and regulatory requirements.

- NAHB believes the decision by the EPA and Corps to finalize the WOTUS definition is counterproductive and shortsighted -- especially since the Supreme Court's upcoming ruling under Sackett v. EPA is squarely focused on the legality of the significant nexus test, which is a critical part of the final rule. The verdict could come anytime within the next few weeks or months.

- In practice, the significant nexus test has proven extremely difficult to apply consistently in the field, leaving developers and builders unable to discern for themselves which isolated wetlands, ephemeral streams, or even human-made drainage features, like roadside ditches, are federally jurisdictional under the CWA.

- The new WOTUS rule radically extends the areas in which home builders are required to get federal permits. This will result in continued regulatory barriers to affordable housing as single-family and multifamily developers struggle to find the developable land necessary to produce the new affordable housing units this nation desperately needs.

- In short, the rule will generate bureaucratic and project delays, and raise housing costs at a time when the nation is already experiencing a housing affordability crisis.

- The administration has already declared a housing affordability crisis.

- So our message to the administration is that if it is truly interested in knocking down barriers to affordable housing, it will direct the EPA and Corps to keep from implementing this rule until the Supreme Court issues its ruling in the Sackett case.

- More information and analysis can be found at nahb.org/WOTUS.

Building Material Supply Chain Disruptions

- Many builders continue to experience supply chain disruptions for electrical transformers, concrete, appliances, doors, windows and other building materials.

- NAHB remains actively engaged on this issue, and during the past few months we have held talks with the White House and Congress and testified on this topic on Capitol Hill.

- One bright spot is lumber. During the heart of the pandemic, a surge in demand insufficient lumber supply, combined with tariffs on Canadian lumber shipments into the United States, caused prices to soar as high as $1,500 per thousand board feet.

- As a result of the housing downturn, the price of framing lumber has fallen to about $425 per thousand board feet – close to pre-pandemic levels.

- And thanks to NAHB's tireless efforts on the tariff front, the Commerce Department moved in August to slash tariffs on Canadian lumber imports into the U.S. by more than half – from 17.99% to 8.59%.

- We are also closely monitoring calls from the U.S. Consumer Product Safety Commission to regulate indoor gas pollution from gas stoves.

- The agency even hinted it was considering a ban on gas stoves for new home construction but it pulled back from that position after receiving strong backlash from Republicans on Capitol Hill.

- NAHB is working with lawmakers on Capitol Hill and industry allies to assure this proposal does not gain any traction.

- And thanks to our efforts, we were able to get the Stove Act introduced in the House. The bill would prevent the administration from banning gas stoves and ranges.

- While we have seen progress, NAHB and our powerful grassroots continue to hammer home the message to Washington policymakers that much more needs to be done to fix broken supply chains and improve housing affordability in this high-inflation environment.

- NAHB is determined to keep the pressure on the Biden administration and Congress and is working 24-7 with all relevant stakeholders to ease supply chain bottlenecks that are affecting all our members across the nation.

White House Issues Rental Executive Action

- President Biden on Jan. 25 issued an executive action that the White House says is designed to protect renters and promote renter affordability.

- And while the measure fortunately does not include any rent control directive, NAHB strongly believes this executive action is the wrong strategy.

- It centers on rental protections instead of market-based solutions that will truly ease the nation’s housing and rental affordability crisis by spurring the production of badly needed affordable housing.

- For example, it calls on HUD to seek a new rule that would require public housing authorities and owners of project-based rental assistance properties to provide at least 30 days’ advanced notice before terminating a lease due to nonpayment of rent.

- The executive action also calls on the Federal Trade Commission and Consumer Financial Protection Bureau to seek information on unfair practices in rental housing.

- As part of this executive action, the White House also announced what it calls a “Blueprint for a Renters Bill of Rights.” While not binding, this seeks to offer enhanced protections for renters to make sure they are not evicted and also advocates for tenant organizing rights.

- The White House needs to take a different approach.

- Strengthening successful programs like the Low-Income Housing Tax Credit is the right way to proceed if we are to bring down rising home and rental prices.

- To increase housing supply and reduce affordability burdens, state and local governments can start by allowing for zoning to include more high-density housing, reducing regulations that stall building projects, encouraging public/private partnerships in development, and offering direct help to those that need it.

- These are the types of policies that will bring more affordable housing into the marketplace and ease rising housing costs.

- And that's the message we will continue to hammer home with the Biden administration, Congress and state and local governments across the nation.

Turning Point for Housing Lies Ahead

- With February marking the largest monthly increase for builder sentiment since June 2013, excluding the period immediately after the onset of the pandemic, the NAHB/Wells Fargo Housing Market Index (HMI) indicates that incremental gains for housing affordability have the ability to price-in buyers to the market.

- However, in a sign of ongoing weakness in the housing market, the latest HMI survey shows 57% of builders are using incentives to bolster sales, including providing mortgage rate buy-downs, paying points for buyers and offering price reductions.

- Meanwhile, single-family starts fell in January and 2022 registered a yearly decline for single-family production for the first time since 2011.

- This is largely due to the spike in mortgage rates last year. Rates increased from 3% at the start of 2022 to roughly 6.5% at the end of December, adding more than $800 to the cost of a typical mortgage.

- NAHB is forecasting a second consecutive yearly decline for single-family starts in 2023, brought on in large part by elevated mortgage rates and a host of supply-side constraints – building material supply chain bottlenecks, excessive regulations and a persistent lack of construction workers.

- However, as the Federal Reserve continues to fight inflation, forecasters expect the Fed to end its path of rate increases at the end of the first quarter.

- This should lead to sustainable declines for mortgage rates in the second half of 2023 and into 2024, enough to spur a rebound for single-family construction in the latter part of this year and into 2024.

Independent Contractor Status

- The Department of Labor has issued a proposed rule changing its process for classifying workers as employees rather than as independent contractors under the Fair Labor Standards Act.

- As part of this proposed rule, the Labor Department would formally rescind the NAHB-supported independent contractor rule currently in place.

- The current rule gives greater weight to two factors in determining whether a worker is an employee or independent contractor, even if other factors are relevant — the nature and degree of the worker's control over the work, and the worker's opportunity for profit or loss.

- NAHB submitted formal comments to DOL opposing the proposed rule, and we have joined a coalition of like-minded organizations seeking changes to the rule.

Housing Market Snapshot

Housing Starts (January 2023)
Total: 1.31 million↓ Single: 841,000↓ Multi: 468,000↓

Home Sales* (January 2023)
New: 670,000↑ Existing: 4.0 million↓

Median Home Prices (January 2023)
New: $427,500↑ Existing: SF: $363,100↑

*Seasonally Adjusted Annual Rate; Arrows indicate direction from previous month for starts and sales and year for prices.

NAHB/Wells Fargo Housing Market Index – The index, which measures builder confidence in the market for newly built single-family homes, rose seven points to 42 in February from a reading of 35 in January. This was the largest monthly increase for builder sentiment since June 2013, excluding the period immediately after the onset of the pandemic. Any number under 50 indicates that more builders view sales conditions as poor than good.

NAHB Chief Economist Robert Dietz's analysis: "Housing construction weakened in January as ongoing affordability conditions fueled by high mortgage rates and building material costs challenged the market. In the near-term, we expect ongoing volatility for mortgage rates and housing costs. The home building market should be able to achieve stability in the coming months, followed by a rebound back to trend home construction levels later in 2023 and the beginning of 2024. And while a recent two-month upturn in builder sentiment is a further sign that a turning point for single-family construction could take hold in the months ahead, policymakers need to fix the supply chain for building materials to ensure builders can add the additional inventory the housing market desperately needs."