

Knocking Down Barriers *to* Affordable Housing

HUD is waging an aggressive campaign against regulatory barriers that prevent the construction of more affordable housing. The agency is taking the battle to the local, state and federal levels in the hopes of making real headway.

BY ALLEN H. JONES

OUTGOING SECRETARY MEL MARTINEZ HAS MADE REGULATORY reform a top priority during his tenure as the nation's 12th Secretary of Housing and Urban Development (HUD). As county chairman in Orange County, Florida, Martinez saw firsthand the toll these barriers took on the production and supply of decent, affordable housing in his community. And as secretary of HUD, he has witnessed these same problems across America. ■ Acting HUD Secretary Alphonso Jackson is committed to this effort as well, working with states and local communities to break down regulatory barriers and to increase the supply of decent affordable housing. And we are seeing results. ■ In fiscal year 2002 alone, the Federal Housing Administration (FHA) insured more than 95,000 mortgages for newly built homes, a 39 percent increase over the previous year. And we are happy to say that the trend continued in fiscal year 2003, as we have seen an 11 percent increase (to more than 106,000 new mortgages) over the previous fiscal year. Further, the percentage of new-construction mortgages that FHA insures compared with all the home purchases it insures reached 17.7 percent in fiscal year 2003, compared with 9.4 percent in fiscal year 2001, before HUD changed its new-construction requirements. ■ Many industry leaders, including Debra W. Still, executive vice president of Pulte Mortgage LLC, Englewood, Colorado, have applauded these efforts at HUD:

“Our growth in first-time homebuyers is in large part attributable to HUD’s actions around reducing regulatory barriers to new production. When FHA did away with PUD [planned unit development] approvals and changed its policies to allow for inspections by local governments, this sped up the lending process and allowed for more new-construction houses to be eligible for FHA financing,” says Still.

“The recent elimination of the paper requirement for FHA mortgage insurance and the technology advances for automated underwriting make us bullish on continued growth in the first-time homebuyer market,” she adds.

At HUD, we believe that increasing the production and availability of affordable housing for all Americans is important to the national economy and to the economic prosperity of every family. Expanding the supply of affordable housing stands at the very core of our mission, and is a priority for President Bush and his administration.

However, we realize the affordability issue is complex and fraught with competing interests. A solution that works in one community will not necessarily make housing more affordable in *every* community. This is true because the problem is often rooted in decisions made on the local level. But the federal government can help—and our administration is taking action.

that present significant barriers to the production or rehabilitation of affordable housing. The goal: to determine the feasibility of removing barriers or reducing the burden imposed by the barriers and then encouraging their removal.

Regulations that add undue time and cost to housing production include out-of-date building codes; duplicative or time-consuming design review or approval processes; burdensome rehabilitation codes; restrictive or exclusionary zoning ordinances; unnecessary or excessive fees or taxes; extreme environmental restrictions and excessive or “gold-plated” land development standards.

While many of these regulations were well-intentioned or useful in their early implementation, they can become outdated or cause unintended harm to local communities. By helping local communities remove these regulatory barriers, HUD hopes to open the door to American families that want to buy or rent an affordable home in the community of their choice.

Obviously, removing barriers like these is key to meeting the housing needs of the nation’s families. Once the barriers have been dismantled, experts say that, on average, development costs could drop by up to 35 percent—which means that millions of Americans will be able to buy or rent housing that they cannot afford today. In a business as competitive as home-

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Steps already under way

To focus attention on the need for regulatory reform, Martinez launched the America’s Affordable Communities initiative—a departmentwide effort to help communities across America identify and overcome regulatory barriers that impede the availability of affordable housing. At HUD, we see overcoming barriers to housing affordability as a strategy intended to complement, *not* substitute for, our other efforts to boost the availability of affordable housing in this country. In fact, the removal of regulatory barriers is a necessary component of any national housing policy and an administration priority.

To lead the initiative, Martinez tapped A. Bryant Applegate, HUD senior counsel and a former city and county attorney with considerable experience on regulatory and zoning issues at the local level. Applegate, who reports directly to Jackson, has been charged with identifying key partners and constituencies, compiling a database of regulatory barriers and mapping out a strategy for helping communities reduce and eventually eliminate unnecessary barriers to housing.

Applegate quickly assembled a team of senior staff from within HUD to meet weekly and identify ways to overcome unnecessary regulatory barriers. The team is reviewing federal, state and local regulations to identify those regulations

building, most, if not all, of this cost reduction will eventually be passed on to consumers in the form of lower home prices.

Funds for many HUD programs such as brownfields grants, homeless programs and others are administered through a competitive grant process in which a formal Notice of Funding Availability (NOFA) is issued requiring grant applications from potential awardees. To help ensure that all available measures are being taken to eliminate regulatory barriers, HUD has proposed to include in the NOFA process a series of questions to be answered by all applicants about what their respective jurisdictions are doing to address regulatory barriers. Additional rating points will be awarded to applicants where the locality in which the project is located has undertaken significant regulatory reform efforts. A *Federal Register* notice seeking public comment concerning this proposed Secretarial priority was published on Nov. 25, 2003.

Further, one of Applegate’s central themes in advancing the regulatory reform agenda at HUD is to lead by example and “practice what we preach.” With that in mind, Applegate, at the direction of Jackson, and his team have begun to review all new proposed HUD regulations with an eye toward the potential for unintended regulatory consequences.

As part of this effort, HUD has published an additional *Federal Register* notice this past November. It seeks comment

by Jan. 26, 2004, from HUD's partners and participants, as well as other interested members of the public, on HUD regulations that present barriers to the production and rehabilitation of affordable housing throughout America.

"We have to be willing to do what we ask others to do. Local officials expect nothing less from the federal government, and we will push to reduce regulatory barriers without apology," says Applegate.

Says 30-year HUD veteran David Engel, a senior member of the initiative team, "We are making great strides. The formation of this initiative team marks the first time that the federal government has truly taken action to knock down regulatory barriers to affordable housing. The progress we have made so far is remarkable, and sets a standard for success to come."

An interagency task force and NIMBY report

In addition to the development of the new team and the publishing of the two *Federal Register* notices, HUD is helping to lay the foundation for the creation of an interagency task force to look at the impact of regulatory barriers on housing. HUD and the initiative team also plan to release an update to the 1991 Kemp Commission report *Not in My Backyard—Removing Regulatory Barriers to Affordable Housing*. Other steps include plans to fund a number of studies on the impact

tion or rehabilitation. Barrier removal will not only make it easier to find and get approval for affordable housing sites, but it also will allow available grants to go further in meeting housing needs.

"For middle-income individuals such as teachers, firefighters, police officers, nurses, service-sector employees and others, barrier removal is a key component of meeting their housing needs," says Applegate. "The initiative team is bringing solutions and success stories to the attention of those working to help more Americans find affordable housing."

A tangible example of HUD's investment in this initiative is its Regulatory Barriers Clearinghouse (RBC), found online at www.huduser.org/rbc. The site is a Web-based forum launched by Martinez to offer states, local governments, builders and developers nationwide the ability to share ideas and solutions for overcoming state and local regulatory barriers.

A visitor to the site from California, for example, can learn about Maryland's "Live Near Your Work" program and how it is stimulating affordable homeownership in targeted communities. Services available on the RBC site include the following:

- An electronic newsletter that highlights successful barrier-removal strategies and policies, including a brief list of sources for further information;

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of excessive regulatory barriers on housing development and affordability; the intent to hold a major affordable-housing conference in the spring of 2004; and plans to convene a series of roundtables with key industry, nonprofit and community leaders.

And HUD is encouraging community leaders and other interested parties to conduct public forums where citizens can come together to discuss regulatory barriers and their impact on affordable housing. To help facilitate that process, the initiative team has prepared a brochure that describes the affordability challenge and the ways we can work together to overcome it. HUD will soon be sending copies of this brochure to every city, county and state government office around the nation, as well as sharing it with key groups and constituencies involved in the affordable-housing debate.

More than just aid

For many lower-income families and individuals, subsidies—whether vouchers, tax credits or HOME Program funds—are important tools for helping them regain stability and self-sufficiency. However, anyone who has built or tried to build housing recognizes the constraints that unnecessary and/or excessive barriers impose upon affordable housing construc-

- A searchable database of publications, local laws, regulations, policies and plans that identifies problem areas and offers possible solutions based on real-world experiences;

- A toll-free number staffed by housing professionals familiar with regulatory barrier issues and the clearinghouse collection; and

- A listserv to keep interested constituents informed.

The Regulatory Barriers Clearinghouse online newsletter, titled *Breakthroughs*, shares successful local strategies for affordable housing. A recent edition of *Breakthroughs* features an article on considerations for density bonus ordinances. As state budgets continue to tighten and demand for federal affordable-housing resources increase, local governments with an interest in producing housing for low- and moderate-income residents have begun to explore regulatory incentives that encourage the private sector to play a greater role in the development process.

Many communities are contemplating the enactment of density bonus or inclusionary zoning ordinances. Density bonus ordinances permit developers to increase the number of units allowed on a piece of property if they agree to restrict the rents or sales prices on some of the units. Developers can use the additional cash flow from these bonus units to offset the reduced revenue from the affordable

units. The *Breakthroughs* article provides an overview of the density bonus concept that leverages actual submissions to the RBC, thus providing a real-time case study.

Informing communities and the American people

Another of the initiative team goals is to leverage the resources of HUD to educate the American people on the challenges this nation faces in ensuring an adequate supply of affordable housing. As elected officials and public servants, we need to work together with communitywide interests to demonstrate to the public the importance and benefits of affordable housing. One of our top priorities is to better define the problem and educate the American people on the challenges we face as a nation with regard to affordable housing.

To that end, HUD is helping communities understand the direct relationship between “NIMBY-ism” and high housing costs. HUD is working with state and local governments to identify duplicative, contradictory or burdensome regulations, and has budgeted \$1.5 million this year to conduct a number of research projects, including the development of a methodology for federal agencies to perform a “housing impact analysis” prior to the promulgation of any federal rules. This impact analysis will encourage federal agencies to consider fully the impact on housing affordability of any new

VHDA’s step in promoting Housing Virginia can be a catalyst for other states and local governments. HUD’s Regulatory Barriers Clearinghouse will serve as the vehicle for communicating this grass-roots methodical approach to the industry. HUD will also look for more examples like VHDA’s and promote them in an exchange of ideas in roundtable format at HUD in 2004. These forums will feature a rotating series of speakers including front-line mortgage bankers.

Mortgage bankers should get behind regulatory relief at the local level. With the refinance wave having passed, there is fertile ground waiting to be uncovered through the removal of unnecessary and costly regulatory barriers. As noted previously, industry experts estimate that regulatory barriers add up to 35 percent to the cost of new construction. If the industry can take HUD’s lead and vigorously pursue a reduction in these barriers that inflate the cost of housing, mortgage bankers will indeed find a new marketplace of first-time homebuyers.

Extending the American dream

Knocking down regulatory barriers and boosting the supply of affordable housing in America is the right thing to do. It is critical to our economy and the well-being of millions of families nationwide. Those of us at HUD are working hard to reduce regulatory barriers wherever they occur that prevent

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rule or regulation. Other research will include an examination of the effect of subdivision ordinances and plan reviews on housing affordability, explore alternatives to impact fees and develop new tools for fast-track processing and permitting for local governments. This research will be shared at industry conferences and posted on the Regulatory Barriers Clearinghouse site.

Fortunately, the industry is stepping up to the challenge. There are many efforts under way across the United States addressing affordable housing at the local level. One state housing finance agency, the Virginia Housing Development Authority (VHDA), recently announced the formation of Housing Virginia, a nonprofit organization that represents a diverse collaboration of housing organizations in Virginia that share a common desire to help educate Virginians about the benefits of affordable communities.

Housing Virginia represents Realtors, lenders, home builders and developers, nonprofits and state and local governments. The organization believes housing that is affordable to people at all income levels is the basic building block for individual growth, community revitalization and economic development. Collectively, Housing Virginia seeks to dispel misperceptions about affordable housing and educate the public about the benefits of affordable communities.

the approval, construction and availability of affordable housing. At the end of the day, we want to bring more homes within reach through regulatory reform.

A veteran of the first Bush administration and the author of the 1991 Kemp Commission report, FHA Commissioner John Weicher summed up the current opportunity: “By joining together to overcome the regulatory barriers to affordable housing, we can extend the American dream to millions of families in communities across the nation. Working with public officials at all levels, community leaders and others, we hope to more accurately identify the problems caused by these regulatory barriers and bring solutions and success stories to the attention of those working to help more Americans find a place to call home.”

The affordability issue is a challenge we face together. Solving it will demand the combined talents and resources of federal, state and local governments; the housing industry; the business sector; and the nonprofit community. It is important to our nation and to future generations of Americans that this challenge be met. MB

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