MHARR WASHINGTON UPDATE

The Manufactured Housing Association for Regulatory Reform is a Washington, DC based national trade association representing the views and interests of producers of manufactured housing

EXCLUSIVE REPORT AND ANALYSIS

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MHARR TARGETS IMPLEMENTATION OF 2000 LAW -- CONSUMER FINANCING

Since the November 8, 2016 presidential election, MHARR has been deluged with inquiries from industry members regarding the most effective path going forward for the HUD Code manufactured housing industry with the incoming Trump Administration and a federal regulatory agency under new and very different management, with Dr. Ben Carson as Secretary (see, article below). As is the case with every national election, the MHARR Board of Directors met shortly after the results of the presidential race were known, to develop, consider and begin the implementation of an aggressive strategy for engaging with the incoming Trump Administration and taking full advantage of the potentially significant opportunities that it offers at HUD (and elsewhere in the federal government).

This approach, formulated with extensive industry input – and particularly that of manufacturers -- includes and will focus (initially) on two fundamental elements: (1) the full and proper implementation of the Manufactured Housing Improvement Act of 2000; and (2) the availability of consumer financing for manufactured homebuyers, and particularly moderate and lower-income American families.

1. The Full and Proper Implementation of the 2000 Reform Law

   A. The full and proper implementation of all remaining elements of the 2000 reform law necessarily begins with the appointment of a non-career program Administrator as required by that law. The 2000 law is specific in designating the funding and appointment of a non-career manufactured housing program administrator as a "responsibility" of the HUD Secretary. Insofar as statutory "responsibilities" are mandatory, HUD's selection of a career administrator from outside of the agency is in violation of the law and, therefore, unacceptable. As Congress was aware, a fully-accountable non-career administrator with the clout and influence of an appointee is essential both to ensure the full and proper

implementation of all the other program reforms mandated by the 2000 law, and to end decades of needless and costly contractor "make-work" that has only intensified since the selection of the current Administrator.

B. With a responsive and accountable non-career program administrator in place, the program must then address multiple issues, including those arising from its failure to fully and properly implement the 2000 reform law, including, but not limited to:

- Major changes to the "on-site construction" rule to eliminate the costly, bureaucratic morass created by HUD and the current Administrator, and restore it to the streamlined alternative to AC construction that the Manufactured Housing Consensus Committee (MHCC) intended;
- Withdrawal of the baseless and costly "frost-free foundation" interpretive bulletin being proposed by HUD and the current Administrator;
- A specific retraction of HUD's power-grab – asserted in connection with the "frost-free foundation" issue – that it has the power and authority to force states with state-law installation programs to change their installation standards;
- The program of expanded in-plant enforcement unilaterally adopted by HUD in violation of the 2000 reform law;
- The abuse of the 156% increase in HUD label fee charges to fund more costly and intrusive contractor activities;
- Full implementation of the enhanced federal preemption of the 2000 reform law;
- Ensuring full and proper funding of State Administrative Agencies (SAAs), many of which are being starved of funding;
- Restoring collective industry representation on the MHCC, as well as properly-balanced representation, as required by the 2000 reform law; and
- HUD leadership in opposing and rejecting pending baseless and unnecessary regulation by other federal agencies including, specifically, the proposed U.S. Department of Energy (DOE) energy standards for manufactured homes.

C. Seeking and advancing the termination of the current monitoring contract and HUD's 40-year dependence on an entrenched, revenue-driven enforcement contractor, and the replacement of the current de facto sole-source program contracting system with one based on full and fair competition as required by both the 2000 reform law and federal contracting law. As an aside, MHARR research has shown that runaway funding produced by HUD's 156% label fee increase has been used to finance the explosive growth in contractor "make-work" activity generated under Subpart I and the Department's unilateral expansion of in-plant regulation (among other things). At the same time, states – which are an integral part of the federal-state partnership envisioned by Congress in both the 1974 and 2000 laws – have been required to assume new functions and costs without additional funding, as HUD

continues to drag its feet on the full implementation of a proposed funding "fix" more than a year later.

D. Elevating the status of the manufactured housing program within HUD. The 2000 reform law is very clear in directing HUD and the program to "facilitate the acceptance" of manufactured housing both within and outside the Department. Yet without the prominence and accountability of a non-career program administrator, manufactured housing remains, at best, an afterthought at HUD – ignored by the Department's most recent strategic plan – while the agency does nothing to prevent the discriminatory exclusion of manufactured housing from entire communities.

This agenda of advancing the full and proper implementation of all remaining reform elements of the 2000 law, can and should help to revive industry production levels and enable manufactured housing to more effectively compete with other segments of the housing industry, utilizing all of the market and regulatory advantages that Congress intended to make available to it. By contrast, calls for total "de-regulation" by some in the industry, are fundamentally misguided and reflect a profound lack of understanding of the law and the structure that Congress has established. The wisdom of that vision – which remains to be fully implemented – is reflected by the fact that HUD Code housing, even with a seriously flawed federal program, is still much more affordable and produced in much larger numbers than other types of factory-built housing that are fully regulated under state and local law.

2. The Availability of Consumer Financing – Including Securitized Chattel Financing

At a time when the industry is building its best homes, production levels continue to lag significantly behind historic norms, due not only to excessive regulatory and regulatory compliance costs, but also because of the ongoing lack of parity – and outright discrimination – against manufactured homes and manufactured homebuyers with respect to consumer financing of manufactured home purchases.

This absence of parity deprives the HUD Code industry – and its consumers, including credit-worthy moderate and lower-income purchasers -- the type of GSE-based market support that is routinely provided to other segments of the housing market and consumers of other types of homes. As with the HUD manufactured housing program and the regulation of the production process, this is yet another area where Congress has done its job, providing the industry and consumers with good laws designed to provide specific relief, but the affected agencies – including the GSEs, HUD and others – have failed to comply with Congress' express directives. Again, this failure involves two distinct elements: (A) the failure of the GSEs and the Federal Housing Finance Agency (FHFA) to fully and properly implement the "duty to serve underserved markets" (DTS); and (B) the maintenance of harsh and unnecessary limitations on manufactured home personal property loans insured by the Federal Housing Administration (FHA).

A. With regard to DTS, FHFA has failed to fulfill its own statutory duty and adopt a final DTS rule that would end and reverse years of discrimination against manufactured homebuyers by the two Government Sponsored Enterprises (GSEs). To date, two proposed

implementation rules floated by FHFA have excluded the securitization, on a going basis, of manufactured home chattel loans – comprising nearly 80% of all manufactured home chattel loans – as part of DTS, despite the fact that Congress specifically authorized the inclusion of manufactured home chattel loans for DTS credit in the Housing and Economic Recovery Act of 2008. This failure has allowed DTS to remain in limbo for years, while HUD Code consumers face baseless discrimination and the industry continues to suffer.

B. Similarly, while FHA-insured manufactured housing loans, and particularly Title I personal property (chattel) loans were once a significant component of the HUD Code market, their origination has fallen to negligible levels as industry production has simultaneously fallen far below historic norms. This continues due, in large part, to the highly restrictive "10-10" rule for approved originators developed and adopted by Ginnie Mae. While MHARR has long opposed this rule and its devastating impact on FHA participation in the manufactured housing consumer financing market, the rule – and FHA's virtual absence persist because of the failure of the only industry lenders with Title I performance information to provide that information to Ginnie Mae and, just as importantly, the failure of HUD leadership to intervene with these agencies – within the Department itself – to promote and demand fair and reasonable treatment for manufactured homebuyers.

MHARR has already taken steps to advance these fundamental priorities, and judging from the inquiries received from within the industry, it is apparent that the industry is ready to advance these matters as well with the incoming Trump Administration.

CARSON NOMINATION OFFERS OPPORTUNITY FOR MH

The December 5, 2016 nomination of Dr. Ben Carson to become the next Secretary of the Department of Housing and Urban Development (HUD), presents the manufactured housing industry and manufactured housing consumers with an opportunity –and challenge -- to reverse the current trajectory and dynamics of the federal manufactured housing program and seek the full and proper implementation of the Manufactured Housing Improvement Act of 2000, as well as consumer financing parity for HUD Code homes.

As part of a new Administration led by President-Elect Donald Trump, who has already promised to "eliminate all regulations that kill jobs" and "remove the bureaucrats that only know how to kill jobs and replace them with experts who know how to create jobs," Dr. Carson is expected by housing experts to, among other things, "shift ... toward creating more of a role for the private market in housing programs." If accurate, this would potentially represent a new and important opportunity for manufactured housing, which stands as the preeminent non-subsidized private-sector, free-market solution to the nation's housing needs, both in its traditional rural strongholds and in more urban environments where the need for safe, decent and affordable housing is perhaps the most acute.

MHARR has already communicated with the Secretary-designee to congratulate and welcome him, and will work vigorously to engage with Dr. Carson on all of the issues described above.