

Tax Policy's Role in Increasing Affordable Housing Supply for Working Families
Senate Finance Committee
March 7, 2023

Opening Statements

Chairman Wyden (D-OR) opened his remarks emphasizing that affordable housing should be the next bipartisan initiative for Congress, and that the growing cost of rent unites Americans together. He pointed to growing rents in Portland, Charlotte, and Boise, and noted that the outlook for homebuyers does not look much better either. Wyden said that Black and Latino families are impacted the most in the housing market, and it's crucial to create more housing supply. He noted that Sen. Cantwell has long been a champion for LIHTC (Low Income Housing Tax Credit) and noted the reintroduction of NHIA (Neighborhood Homes Investment Act) yesterday. Wyden supported both bills and said that his legislation, the DASH (Decent, Affordable, Safe Housing for All) Act, is being introduced today. He believed that building more affordable housing today would also decrease the homelessness rate. Wyden mentioned the restrictive zoning laws that get in the way of building more housing and thought that there was room for bipartisan agreement here. He also mentioned his legislation, the Middle Income Housing Tax Credit (MIHTC).

Ranking Member Crapo (R-ID) appreciated Wyden's attention to supply side initiatives and agreed that this is an area of bipartisanship. He noted that the Inflation Reduction Act is projected to exacerbate inflation for renters and homeowners in the near term, and inflation in general is eating away any wage growth, making housing less affordable each year. He turned to LIHTC, saying that it is mainly bipartisan along with the NHIA. Crapo said that many Senators on the Committee are interested in addressing affordable housing. While targeted tax policies are important, he believes that we must also address the drivers of inflation. Crapo added that restrictive zoning laws often work against the goal of affordable housing and said that those states with the most restrictive laws usually have the biggest housing issues. He pointed to the success of Houston's reform to reduce lot sizes. Crapo said that there is no better cure to the housing sector than a healthy economy.

Sen. Cantwell (D-WA) welcomed Steve Walker as witness from Washington who has been working on affordable housing issues for 30 years. Cantwell said that the shortage of rental homes is extremely significant for low-income renters. She said that the Committee can ensure that people are living where the jobs are and ensure workplace housing.

Witness Testimony

Denise Scott, *President, Local Initiatives Support Corporation (LISC)*, discussed the urgent need to expand the affordable housing supply and said that LISC has offices in over 38 urban markets along with a rural program. She said that if there is one unifying truth it is that the lack

of housing supply is hurting the needs of low to middle-income families. Scott went on to use teachers, nurses, firefighters, as examples of Americans having trouble finding housing. She recommended that the Committee enhance the LIHTC and pass the NHIA. Scott believed that passing both the LIHTC and NHIA would reduce the sizable supply gap.

Steve Walker, *Executive Director, Washington State Housing Finance Commission*, stated that the number one challenge is the lack of decent, safe, and affordable housing that low-income families can afford. He said that families of color are being pushed further from their jobs and communities because they are looking for lower rent. Walker said that the apartments coming on to the market today are largely unaffordable and that the LIHTC is the only credit that allows developers to build affordable housing. Walker also discussed the Affordable Housing Credit Improvement Act as the most important thing a Senator can do to improve housing along with supporting complementary legislation.

Sharon Wilson Geno, *President, National Multifamily Housing Council*, testified on behalf of NHMC and NAA (National Apartment Association). She said that America is facing a housing affordability crisis and that we must begin addressing this issue today. Geno urged action on a variety of legislative proposals and said that the apartment industry stands ready to help but believed in a multifaceted approach. On the tax policy front, she urged passage of the Affordable Housing Credit Improvement Act and discussed middle income families that are increasingly cost burdened from rent and urged support for Chairman Wyden's Middle Income Housing Tax Credit. Geno said that while tax laws will help spur development, we also need to increase the supply of Section 8 Housing Vouchers. She noted that NIMBY-ism makes it difficult to develop at a local level and mentioned proposals that cut the regulatory tape that the Administration has encouraged.

Mark Calabria, *Senior Advisor, Cato Institute*, stated that too many working families face high housing costs and encouraged that any changes to the tax credits be coordinated with other housing agencies, especially Section 8. He urged cautiousness to add additional stimulus to the market and mentioned that labor, material, and land costs are the highest costs for housing. Calabria discussed converting federal land to housing and noted the impact this has had in Nevada. He recommended that the tax credit look like the HUD's Home Program. He also stated that we should ask how to get small properties into the market. He suggested that we allow the first \$500 in monthly rent tax free to directly benefit renters.

Garrett Watson, *Senior Policy Analyst and Modeling Manager, Tax Foundation*, stated that we need more granular data on LIHTC to better understand development costs. He also noted that only one-third of LIHTC goes to low-income renters, with the rest being siphoned off by developers and financiers. He urged Congress to evaluate how much of the LIHTC goes to low

income households before expanding the program, and to also consider providing neutral cost recovery.

Member Questions

Chairman Wyden (D-OR) noted that some school districts had to buy housing to rent to employees because the housing situation is so dire. He followed up on a point Geno made gathering that the number of firefighters and middle-income people is increasing and stated that he hated the idea of pitting the needs of middle-income people against low-income people. He asked for an assessment of the missing middle. Geno said that we are seeing rents coming down but to his point, there is not enough housing at the low- and middle-income tiers. She said families are priced out of higher markets by the time they have the opportunity to save through subsidies. Geno added that this also happens to veterans and seniors so this group has no support and said that the Middle-Income Housing Tax Credit would really help these people. Wyden turned to Walker on the DASH Act which closes the right of first refusal loophole and asked how important that is. Walker replied that the right of first refusal is very important and saw some bad behavior in the statute and partnership agreements. Wyden said that he was also concerned about this with the trend of private equity firms acquiring housing.

Ranking Member Crapo (R-ID) asked Calabria how the state of the economy determines the opportunity to invest. Calabria clarified that when you are in a cycle, you usually do something different, but thought that we do need to be concerned about adding demand subsidies that run up prices. Crapo turned to Watson on the LIHTC and said that there are ways to improve its administration and oversight and asked for his recommendations. Watson replied that one major theme when looking at the credit's effectiveness is having a data baseline saying that we have a good database through HUD but thought adding more granular data would be an improvement. Crapo turned to Geno asking if she believed that addressing affordable housing supply means pro-growth tax policies and asked about any legislation that would successfully do that. Geno replied that the private market cannot afford to provide housing in the lowest and middle-income tiers and that the subsidies are very critical to offset development costs and make it affordable. Crapo asked if there are policies that could undercut this. Geno replied that anything that would adjust the tax rates will impact the LIHTC. Crapo asked about any helpful reforms to the LIHTC at the state level. Walker said that looking for opportunities to improve a 40-year program is important and touched on the student rule.

Sen. Stabenow (D-MI) discussed where we are going with remote work saying that we see different ways in which people want to work which creates challenges but also opportunities to convert office spaces into housing. She mentioned the Revitalizing Downtowns Act and touched on the feasibility of this in the NMHC report and asked about the challenges of doing this. Geno replied that the NMHC issued a case study report on different ways to develop office properties into multifamily housing and said that the challenges include zoning and ways the building is

constructed so the cost of conversion may be cost prohibitive which is why the legislation would be beneficial. Stabenow turned to Scott on the LIHTC and stated that it has produced over 4 million affordable units and asked her to talk about the connection between housing and jobs. Scott answered that stable housing provides families to achieve tenure in their current jobs and said that housing production also creates short term and long-term jobs. She said that both the family and economy benefit from housing development.

Sen. Grassley (R-IA) discussed the GAO report on oversight of the LIHTC and asked if Geno would support having HUD be an administrative partner to the LIHTC. Geno replied that there is not a centralized funnel for the federal government and suggested working with state agencies to ensure that data points are collected at the federal level. Grassley turned to Calabria on his concerns of the tax credit being too focused on large complexes in urban areas and asked how the tax credit could be improved to better help suburban and rural areas. Calabria replied that one option would set aside a certain number of units for smaller properties. Grassley discussed a cost recovery program and neutral cost recovery and asked Watson to expand on this. Watson replied that neutral cost recovery is crucial to protect depreciation from being eroded by inflation. Grassley said that Iowa has encouraged development in construction, while other areas have increased barriers to building homes, emphasizing the impact of local decisions and asked how Calabria thought that we should commend states making progress to its zoning laws and encouraged other states to follow the lead.

Sen. Johnson (R-WI) focused his questions on the fact that the market simply cannot supply low-cost housing and asked Calabria what government is doing that is making it impossible for the marketplace. Calabria shared his frustration saying that the market is not fulfilling the affordable housing needs is because we are not lifting barriers to let the market operate freely. Johnson asked how the government is driving up the cost. Calabria replied that we can see units in Texas that sell for \$200,000 that would go for a million dollars in California. Johnson asked what the benefit of a tax credit is if the same property has a massive regulatory burden, such as environmental regulation. He asked Watson specifically how much a unit receiving a \$40,000 LIHTC would actually benefit, given the regulatory burden. Watson replied that the credit essentially offsets the cost of regulatory costs, but it varies depending on location and the size of a tax credit. He thought that the zoning issue was really important too. Johnson thought that we are chasing our tail in circles, saying that the root causes are regulation, trade wars, and a worker shortage and too complicated of a tax code.

Sen. Carper (D-DE) said that housing is a team sport and a shared responsibility among all the levels of government and the private sector. He said that Delaware has made a lot of progress in recent years to invest in affordable housing and was encouraged by the bipartisan support for housing. Carper turned to Geno and Scott asking about existing gaps in financing housing and asked what federal programs will provide the most bang for buck. Scott replied that in terms of

the gaps, the biggest gap is the inability to achieve affordability broadly and that the range of families experiencing affordability is growing so the housing programs that exist that provide credits and subsidies are necessary. In addition, she discussed the rising cost of construction and labor and that we need to find ways to increase the value of the credit to reach more households. Geno agreed with Scott saying that we need every tool in the toolbox and more of it and so the ability to have different tools and be flexible about local and state regulation need to be available.

Sen. Cardin (D-MD) said that the LIHTC is the greatest tool we have and still do not have enough of it. He said that we also need to preserve communities to maintain affordable housing which has been a challenge and said that the NHIA is aimed at dealing with this. He asked how an appraisal gap credit could help in maintaining the strength of communities. Scott replied that the cost to build far exceeds the value in the market in these neighborhoods, so the credit enables the rehab of hundreds of thousands of homes in urban and rural communities. She estimated that \$125 billion in development activity will help the local economy and believed the credit will generate tax revenue across the layers of government. Cardin turned to the wealth gap asking how homeownership impacts the gap. Scott replied that homeownership is the number one way to generate wealth and said that the tax credit aims at the census tracts and would attract families in these tracts to use this credit and buy a home. Cardin asked about the urgency to deal with these issues. Geno replied that it takes a long time to truly see the housing on the ground to serve Americans and so if we do not act quickly, we will continue to fall behind despite the population still growing.

Sen. Tillis (R-NC) thought that if we want a bipartisan outcome, we have to get to the point that there are regulations that need to be modernized and asked to what extent we need to balance the approach with tax incentives. Watson added that there is a major risk of solely relying on tax credits. Calabria discussed the environmental review process in California and said that we can debate the right amount of zoning but said that developers need to know that there is a light at the end of the tunnel. Tillis said that we should prioritize jurisdictions that are getting it right and noted that he is already seeing this with the CHIPS Act. He asked Watson to discuss the LIHTC and balancing urban and rural areas. Watson echoed the need to create incentives to create the LIHTC in smaller buildings and said that if we get more data, we may understand where the disparities lie further.

Sen. Hassan (D-NH) heard in her state about the burden of rising housing costs and ability to work where they want to live. She said that part of the reason for higher costs is lack of supply which is why the LIHTC is critical and asked how the states can use this to address workforce housing. Geno replied that the MIHTC is an important tool to address this and said that housing is not the only sector that has experienced incredible cost experiences like food and energy which we are seeing more in real time. She said the housing sector is more of a lagging indicator

saying that the COVID costs are just hitting housing right now. Hassan turned to rural housing and asked how to leverage the tax code to make housing more affordable in rural areas. Scott replied that we could provide a basis boost for housing programs in rural areas and align the income limit requirements for rural areas and provide a basis boost for native communities meaning that we should require states to provide a selection preference to boost housing projects for native communities. Hassan discussed additional support for families working to achieve homeownership and asked how mortgage insurance can make homeownership more accessible. Scott replied that homebuyers who cannot meet the 20% payment are required to purchase mortgage insurance, which prohibits their ability to buy a home. She supported funding to programs who can provide down payment assistance as well.

Sen. Young (R-IN) opened by saying that the hearing is timely and that he looks forward to working with the ranking member on these issues. He said that we are in the middle of a crisis right now regarding housing affordability challenges. He noted how this has been a market failure, which has been partially due to government failures or excesses. He pointed to his work with Sen. Cardin and mentioned the reintroduction of the Neighborhood Homes Investment Act (NHIA) and how it would address the value gap between the cost of renovating a house and the market price in low-income census tracts. He said the NHIA will not only increase access to affordable housing but also increase jobs and provide economic development. He added that wage revenues would be generated and that federal, state, and local tax revenues will eventuate if this bill is signed into law. Young then recognized the Terwilliger Center and said he would like to add a letter into the record. He did not ask the witnesses any questions.

Sen. Cantwell (D-WA) started by talking about workforce housing and said people are finding that it is better to build affordable housing than incur the cost of housing unhoused people. She noted how the LIHTC program has been effective in providing affordable housing in rural areas. Cantwell turned to the 12% bump in funding that Congress provided from 2018 to 2021 and the impact of no longer having that funding. Cantwell asked Walker to discuss these issues. Walker said they are trying to play catch up and are trying to fill gaps in many financing deals that can't get off the ground or get completed without additional funding and said that losing that 12% bump could not have happened at a worst time. On housing in rural areas, Walker said that rents are lower here and the cost of materials is not much different, which he says creates a challenge for developing in these communities. He continued that the credit program, especially the 9% program is key to addressing the affordability housing needs in rural areas. He added that they are facing the pressure of needing to produce new units and recapitalizing other units. Cantwell said it is a supply issue and asked what Congress should do. Calabria said there is an urban bias to the program and that he generally thinks there should be a rural set aside so rural areas are not neglected. Walker said they have underbuilt for decades and that it is a multifaceted challenge. Cantwell asked how much they have underbuilt. Walker said it is hard to gauge but that they are in a very deep hole. Cantwell wanted to get this number to magnify how large of an issue this is.

Sen. Warren (D-MA) said that for decades the country has underinvested in the housing supply, saying we are facing a shortage of nearly 7 million affordable homes. She said LIHTC is not perfect but that it helps drive the development of affordable homes. She turned to some tax policies making the problem worse and said that Wall Street money managers are buying up properties and getting tax breaks for it. She turned to Scott and asked if these investors encourage investment in supply and neighborhood quality. Scott said they are concerned about institutional investors in the housing market. She said that when investors buy these properties they often refinance them and are extracting money from the community rather than reinvesting it. She said that many people fall victim to eviction and the quality of maintenance goes down. She continued that investors also increase the rents of these properties, which decreases opportunity for first-time homebuyers. Warren said this is alarming, given that investors have brought so many properties around the country. She again noted how these investors are collecting record profits while being subsidized by tax breaks. She asked if they do not pay corporate income taxes if they meet certain conditions. Watson said this is typically correct. Warren turned to the 2017 TCJA and noted how it allows investors to deduct 20% of their past business income and asked if this was true. Watson said yes. Warren asked if the CARES Act allowed all business losses to be carried back for five years, asking if this was true. Watson said it was. Warren said this resulted in billions of dollars in tax benefits that went largely to the wealthiest in the country. She asked if real estate investors can avoid paying taxes on the profits on the sale of a property if they use them to buy another property (like-kind exchanges). Watson said this is true. Warren noted the billions in tax breaks this will provide investors. She continued that our tax policies reward giant real estate investors who raise fees, jack up rents, and evict families, adding that taxpayer money should go toward fixing the problem.

Sen. Brown (D-OH) discussed the difficulty of first-time homebuyers finding an affordable place to buy and asked how the NHIA would expand the supply of safe and affordable homes along with opening up homeownership opportunities for families. Scott replied that the credit enables us to build housing because we will be able to fill the gap between what it costs to build and what the home is actually valued at and in the communities, Brown is referring to, the value of the home is less than the cost of construction. She said that once we close that gap, we can build more homes over the next ten years. Scott said that the NHIA is targeted to census tracts that will assist many low-income families and minority families both in urban and rural communities. Brown turned to Walker and mentioned his Housing for Homeless Students Act that he introduced last Congress which would ensure that students and veterans who have experienced homelessness are eligible to reside in LIHTC funded affordable housing while pursuing education full time and said that currently, these students are not eligible for LIHTC housing. He asked what it would mean to these populations if they were eligible for housing through LIHTC and would streamline the student rule make LIHTC easier to use. Walker replied that the student rule is a concept of decades ago and thought both the credit program has, in his

experience, it can improve by opening up the housing we are creating for students whether they are homeless or students of families who have experienced homelessness or whether they are working families having to retool for industry changes. He said that we have learned as we have gone and said that Brown's legislation and the Credit Improvement Act includes some modifications to really reconcile the shortcomings of limiting access to the affordable housing we are creating for students. Brown wanted to follow up on Warren's comments saying that we are seeing what institutional investors are doing in Ohio and everywhere else saying that he receives complaints about these investors frequently. He asked how these investors are affecting renters who aspire to be homeowners. Scott replied that with single family homes, this housing is swept off of the market as a resource to first time homebuyers and first generation homebuyers and said that the prices if they are on the market for sale are at a much higher rate than the families can pay so we are losing inventory that is affordable and also having the negative impact of the inventory that stays as rental that is dilapidated or not kept up. She said that it is a problem that impacts many housing inventory layers.

Sen. Cortez Masto (D-NV) started with Walker and thanked him for supporting her legislation, the Affordable Housing Bond Enhancement Act, in his opening statement. She said that her legislation would expand the supply of affordable homes and improve access to homeownership for low- and moderate-income homebuyers and improve the mortgage revenue bonds programs among other things. Cortez Masto asked Walker how the legislation helps working families buy and sustain homeownership. Walker answered that today's marketplace emphasizes the importance of mortgage revenue bonds, mortgage credit certificates by being able to provide lower cost of borrowing and getting folks that would not otherwise have the access to achieve homeownership. He said that these tools are very valuable and thought that the legislation helps to enhance these tools. Secondly, Walker said that being able to improve homes and keeping people housed is an important component to the legislation as well so whether it is an elderly couple that needs to do some modifications to their existing home so they can age in place, again very important. Cortez Masto appreciated Wyden and Crapo having this hearing because there are a number of pieces of legislation that can help the housing market and was hopeful that we do have a group of bills being put forth that will make a difference. She turned to Calabria on her research on the FHLBs saying that the FHLBs have access to the type of financing that affordable housing developers need yet this trillion dollar system invested less than \$3 billion in these types of investments which is a fraction of the \$300 billion in advances. She thought that FHLBs advances could work very well with the LIHTC and said that right now FHFA is undertaking a review of these FHLBs and was curious of Calabria's thoughts on this. She also asked what Congress should do once the review is finalized. Calabria thought that the review was appropriate and said that it has been around 30 years since Congress has made any changes to the FHLB system so he thought that we will see a report in a couple of months. He suggested that the Banking Committee have some hearings on the FHLB system and look into it. Cortez Masto stated that in the west, a majority of the land is owned by the federal governments so the

local governments do not have the opportunity to provide the land at a cheaper rate to build affordable housing and so she said that there has to be a benefit to identify federal land in the west that can go for a cheaper rate to help develop this affordable housing.

Sen. Menendez (D-NJ) stated that allowing property taxes to be fully deducted has been a bedrock principle of our tax code and rewards states for improving the quality of life. He turned to state and local taxes (SALT) and asked if SALT was capped for corporations if this would increase the cost for tenants. Geno replied that it could saying that there are so many things that can be done at the state and local level. She said that we are seeing state and local taxes increase dramatically across the country which is an increasing problem that impedes multifamily development and said that the federal government can incentivize the state and local governments to provide tax abatement opportunities for multifamily development, particularly those who provide affordable units. Menendez said that what she described as a possibility is the unfortunate reality for middle class homeowners in New Jersey and other states. He said that the deduction could help provide stability and has encouraged homeownership and wealth for minority homeowners. Menendez said that the SALT deduction has provided relief for unjust tax assessments and said that he would revisit this issue until we get it right. He said that one of the greatest challenges in the housing market is that there are not enough affordable rental homes being built. According to Secretary Fudge, he said that there was a shortfall of 7 million homes for renters. Menendez said that part of this solution should come from our new investments while also making use of existing tools like the LIHTC which subsidizes the creation of 100,000 units of affordable housing a year. He thought that the LIHTC had the potential to do even more and asked what it would mean for the development of new multifamily buildings if Congress increased the LIHTC. Geno replied that current estimates are that it would increase the value of the tax credit to create almost 2 million new homes but emphasized that we have to start today. Menendez said that tax credits are vital in increasing the supply of affordable housing but said that developers first need financing to start construction to build homes so institutions like CDFIs are a critical element of the housing ecosystem. He asked Scott to talk about how CDFIs support the development of affordable housing. Scott replied that the most important thing that the CDFIs are doing is providing capital at the early stage of development when it is almost impossible to get pre-development funding to start a project. She added that CDFIs also fill gaps in the timeline saying that this preserves the integrity of the credit and will enter the tax credit deal before the credit flows which allows the deal to go forward. Scott said that CDFIs also lend to developers that may not secure conventional lending which is another source of opportunity. She thought that the CDFI world is providing a resource that has helped spur progress. Menendez asked if Scott agreed that expanded CDFI funding would help expand the building of affordable housing where it is needed the most. Scott replied yes.