

Testimony of David M. Dworkin
President and CEO of the National Housing Conference
Before the House Financial Services Committee
Subcommittee on Housing, Community Development and Insurance
“Review of the State of and Barriers to Minority Homeownership”

May 8, 2018

Thank you Chairman Clay, Ranking Member Duffy and distinguished members of the committee. My name is David Dworkin, and I am president and chief executive officer of the National Housing Conference, the nation’s oldest and broadest housing coalition. Founded in 1931, the National Housing Conference, or NHC, has advocated for affordable housing and community development for nine decades. Today, our over 200 members include every sector of the housing industry from housing developers, both for-profit and nonprofit, to state and local government agencies, lenders of all sizes, investors, builders, national associations and low-income housing advocates in every region of the country. No one sector makes up more than 20 percent of our membership.

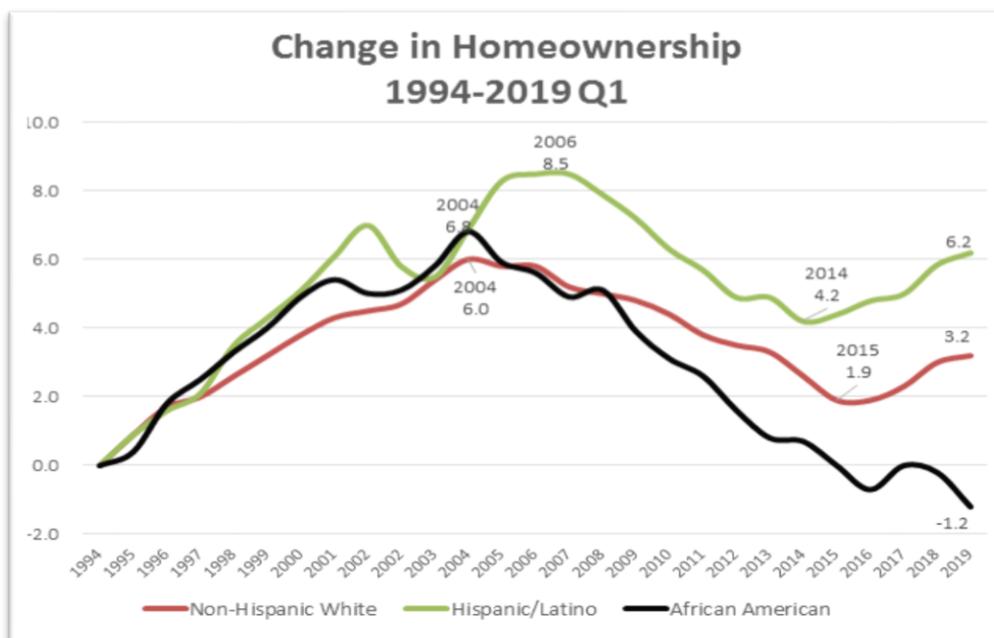
I have spent most of my adult life working for affordable housing, including running the Fannie Mae Partnership Office in Detroit, Michigan, where we focused on building a legacy of homeownership among the city’s predominantly Black and Latino residents. Those efforts were enormously successful, but were wiped out during the Great Recession as thousands of Detroiters and millions of Americans lost their homes due to predatory lending practices and a nationwide collapse of housing values. This impact was particularly devastating to Black homeowners, for reasons that I will explore in more detail.

I also spent six years in the Treasury Department, working on housing and community development issues, where I specialized in strategies to stabilize hardest hit communities and reform of our housing finance system. During my last year at Treasury, under the leadership of Secretary Steven Mnuchin, I worked exclusively on modernization of the Community Reinvestment Act, participating in over 80 meetings with a wide range of stakeholders from the nation’s largest banks to fair housing advocates from New York to California. Today, the National Housing Conference has convened leaders on affordable homeownership from across the country to address the unique and vexing issue of the Black homeownership gap, and to work with our members and stakeholders, including many of my colleagues here at this hearing, to develop actionable strategies to reverse the current trend and significantly improve and ultimately close the homeownership gap for all minority groups.

The homeownership rate for African-Americans in the first quarter of 2019 is 41.1 percent – the lowest in recent history, and notably lower than in 1968 when housing discrimination was still legal.¹ This is a national tragedy that all of us must address. It didn’t happen by accident. As you can see in the chart below, when we level set homeownership rates in 1994, we see a distinct

¹ “Housing Vacancies and Homeownership (CPS/HVS),” U.S. Census Bureau
<https://www.census.gov/housing/hvs/data/histtab16.xlsx>

difference in the experience of Black homeowners from other racial and ethnic groups. While Whites, Blacks and non-white Hispanics all rise in homeownership from 1994 to 2000, the Black homeownership rate plateaus early, remains relatively flat before plunging down a steeper slope than any other group. Most disturbing is that this collapse in Black homeownership never recovers. Why?



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The narrative that many of us had come to believe is that unqualified first-time homebuyers bought their first home with bad mortgages that they could not afford. While this certainly happened to many families, the fact is that most new African-American homeowners since 1994 achieved homeownership during the period before toxic mortgage products became most prevalent. The vast majority of them had good mortgages that were purchased by Fannie Mae or Freddie Mac, or insured by FHA. Unregulated mortgage brokers, many of whom lived in communities where they pushed these toxic mortgage products, routinely refinanced their customers into new loans before they reset, taking more equity out of the home with each turn.³ This incorrect narrative of the unqualified homebuyer conveniently placed significant blame on the consumers of all races and ethnicities.

The truth is that many more homeowners were victims of predatory cash-out refinances and millions of others who paid their mortgages for years, whether conventional, government or subprime, became collateral damage of the historic collapse of housing values during the Great Recession. When housing prices collapsed, and credit dried up, many of these families lost their homes. As one member of our Black Homeownership Working Group told me, “we did a good

² U.S. Census, National Housing Conference tabulations

³ “The Role of Mortgage Brokers in the Subprime Crisis,” by Antje Berndt, Burton Hollifield and Patrik Sandås. NBER, July 2010 <http://www.nber.org/papers/w16175>

job of teaching how to use homeownership to build wealth, but we never taught wealth management.” It’s an important point. Multi-generational homeowners had parents and grandparents, aunts and uncles, to advise them on getting a home and on refinancing. But first generation, first-time homebuyers often had no one when the predatory lender came calling.

One important factor in the devastating consequences of the financial crisis for Black homeowners was the role of cash-out refinancing, which reduced equity in the original prime loan and was then replaced with an unsustainable subprime loan. This was not the case in Texas, however, where cash-out refinancing was strictly limited by law. A study conducted by the Federal Reserve Bank of Dallas found that “at the peak of the housing crisis, the share of subprime mortgages underwater in Texas was 40 percentage points below the rest of the nation, with serious delinquencies among subprime borrowers about ten percentage points lower.”⁴

The root causes of the Black and minority homeownership gap are multifaceted, as are the solutions. While there is no silver bullet, NHC’s Black Homeownership Working Group has compiled various contributing factors to the gap and possible ways to address them. Below are discussions about some of the integral factors we are looking to address. It is likely that many African Americans who lost their homes were first refinanced into toxic mortgage products they could not maintain. The worsening recession leveraged these trends, and concentrations of foreclosures in poor, historically African-American neighborhoods drove up vacancy and blight, which further fed the cycle.⁵ Additional research on this is both necessary and ongoing. Our challenge today is how we reverse this trend, for all Americans, but particularly for those disproportionately impacted, and in the case of African-Americans, for those who continue to see homeownership rates fall.

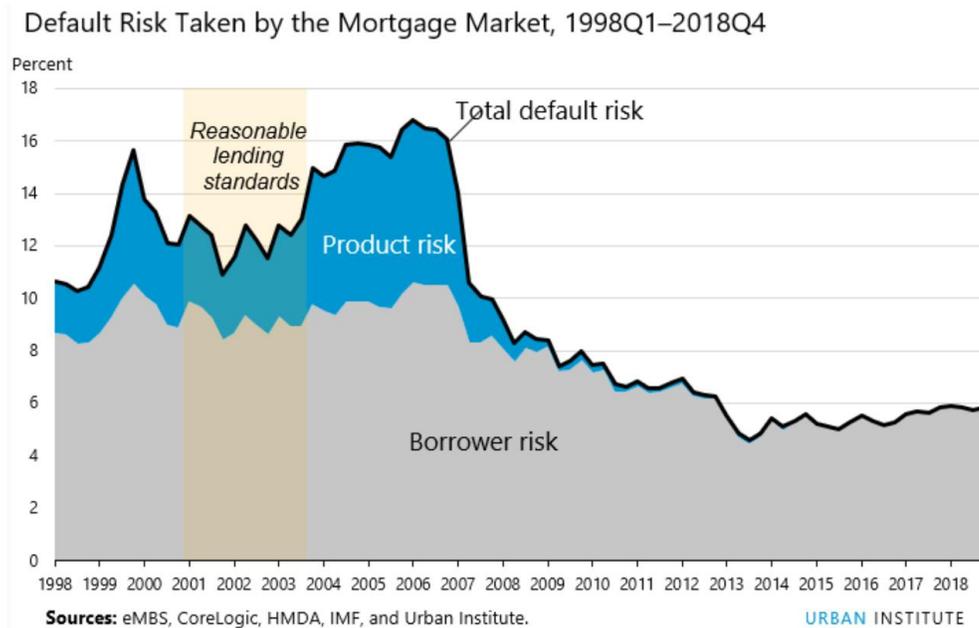
Our Working Group has begun to identify and explore a wide range of strategies to address this crisis in Black homeownership, including changes in mortgage underwriting, reducing the costs of originating and servicing lower dollar loans, improving FHA and conventional rehab loans, increasing production of affordable housing, changes in how we conduct homeownership counseling – both before and after purchase, modernizing our approach to marketing to underserved communities, and advancing housing finance reform so FHA, Fannie Mae and Freddie Mac can better serve communities of color, effectively leveraging private capital while protecting the taxpayer from future bailouts and protecting consumers from having their American Dream become a nightmare.

⁴ “Do Restrictions on Home Equity Extraction Contribute to Lower Mortgage Defaults? Evidence from a Policy Discontinuity at the Texas Border,” by Anil Kumar. Federal Reserve Bank of Dallas Research Department, January 2017
<https://www.dallasfed.org/careers/Student%20and%20Graduates/-/media/documents/research/papers/2014/wp1410.pdf>

⁵ “Foreclosures by Race and Ethnicity: The Demographics of a Crisis,” by Debbie Gruenstein Bocian, Wei Li, and Keith S. Ernst. Center for Responsible Lending, June 18, 2010
<https://www.responsiblelending.org/mortgage-lending/research-analysis/foreclosures-by-race-and-ethnicity.pdf>

I. Risk reduction and access to credit

Since the financial crisis, many lenders have taken steps to reduce their exposure to default risk. But we must ensure that the tighter lending standards that are in use now don't lock qualified Black would-be homeowners out of the market. The Urban Institute Housing Finance Policy Center's most recent Housing Credit Availability Index shows that mortgage credit availability is dramatically lower today than it was before the crisis, translating to much higher difficulty for would-be homebuyers to get a mortgage.⁶ Although we clearly don't want to return to the loose standards during the run up to the crash, there remains much room for the credit box to be safely expanded, opening up access to mortgages for more borrowers of color. We have successfully mitigated undue product risk, but the pendulum has swung too far when it comes to borrower risk.



One factor that restricts access to credit for borrowers of color is a lower supply of FHA loans due to fears about liability under the False Claims Act, a civil-war era defense contracting law never intended for use in the financial markets. The FHA share of loans originated by Wells Fargo, Bank of America, and JPMorgan Chase plummeted between 2010 and 2016, from 43 percent to just 5 percent.⁷ This is in part due to the overly punitive use of the False Claims Act

⁶ "Housing Credit Availability Index," Urban Institute Housing Finance Policy Center, April 19, 2019 <https://www.urban.org/policy-centers/housing-finance-policy-center/projects/housing-credit-availability-index>

⁷ "The Decline in Lending to Lower-Income Borrowers by the Biggest Banks," by Neil Bhutta, Steven Laufer, and Daniel R. Ringo. Board of Governors of the Federal Reserve System, September 28, 2017 <https://www.federalreserve.gov/econres/notes/feds-notes/the-decline-in-lending-to-lower-income-borrowers-by-the-biggest-banks-20170928.htm>

against abuse among FHA lenders.⁸ The FHA must be given the resources it needs to implement a new taxonomy that assigns proportional punishments for bad actors.⁹ We are encouraged to see that HUD Secretary Ben Carson¹⁰ and FHA Commissioner Brian Montgomery¹¹ are taking the issue of False Claims Act overreach seriously. However, we must also be mindful of the fact that lenders are making a 30-year commitment and need to know that the rules won't change on current loans with a change in leadership. Otherwise, they will understandably underwrite for political and regulatory risk, rather than borrower risk. There are many effective ways for regulators to go after bad lenders without resorting to a law designed to punish defense contractors who sold lame mules and shoddy fabric to the Union Army.

Another important issue when it comes to access to credit is that the model for loan servicing that many lenders use is built around a flawed servicing model that pays too much for performing loans, and not enough or failed ones. Servicing costs for non-performing loans have skyrocketed in recent years.¹² As a result, lenders are increasingly hesitant to make loans with even a minimal chance of defaulting out of a fear of these costs, therefore applying credit overlays as a way to reduce lender risk.¹³ We must work with lenders to establish a compensation model that allows them to make loans to more borrowers without worrying about high servicing costs that can wipe out the profits of dozens of performing loans. Finding the right balance is as difficult as it is essential to getting our most experienced, well-regulated and well-capitalized lenders back in the game.

Loan-level price adjustments (LLPA) are another factor contributing to the difficulty of underserved applicants becoming homeowners. LLPAs are risk-based fees assessed through traits such as loan-to-value and credit score and are often paid in the form of higher mortgage rates. LLPAs were introduced in 2008 and helped Fannie and Freddie during the financial crisis when mortgage insurers were badly undercapitalized. Today, however, they act as a proverbial

⁸ "FHA commissioner: We're easing False Claims Act use to bring big banks back to FHA lending FHA wants the big banks to come back," by Ben Lane. Housing Wire, July 10, 2018 <https://www.housingwire.com/articles/46029-fha-commissioner-were-easing-false-claims-act-use-to-bring-big-banks-back-to-fha-lending>

⁹ "Lessons from the financial crisis: The central importance of a sustainable, affordable and inclusive housing market," by Michael Calhoun. Brookings Institution, September 5, 2018 <https://www.brookings.edu/research/lessons-from-the-financial-crisis-the-central-importance-of-a-sustainable-affordable-and-inclusive-housing-market/>

¹⁰ "Carson: Government considering ending use of False Claims Act against FHA lenders," by Ben Lane. Housing Wire, October 12, 2017 <https://www.housingwire.com/articles/41551-carson-government-considering-ending-use-of-false-claims-act-against-fha-lenders>

¹¹ "FHA commissioner: We're easing False Claims Act use to bring big banks back to FHA lending," by Ben Lane. Housing Wire, July 10, 2018 <https://www.housingwire.com/articles/46029-fha-commissioner-were-easing-false-claims-act-use-to-bring-big-banks-back-to-fha-lending>

¹² "MBA Chart of the Week: Servicing Costs Per Loan (Single-Family)--Performing v. Non-Performing, By Marina Walsh. Mortgage Bankers Association, July 25, 2017 [https://www.mba.org/servicing-newslink/2017/july/servicing-newslink-tuesday-7-25-17/news-and-trends/mba-chart-of-the-week-servicing-costs-per-loan-\(single-family\)-performing-v-non-performing](https://www.mba.org/servicing-newslink/2017/july/servicing-newslink-tuesday-7-25-17/news-and-trends/mba-chart-of-the-week-servicing-costs-per-loan-(single-family)-performing-v-non-performing)

¹³ "Servicing Costs and the Rise of the Squeaky-Clean Loan," by Laurie Goodman. Urban Institute, February 2016 <https://www.urban.org/sites/default/files/publication/77626/2000607-Servicing-Costs-and-the-Rise-of-the-Squeaky-Clean-Loan.pdf>

belt and suspenders approach. When combined with other credit overlays, it is no wonder that so many borrowers who would have qualified for a responsible loan in 2001 are unable to get one today.

II. Affordable housing supply

We face a crisis of affordable housing in America, and it is important that any efforts to address the racial homeownership gap not only address access to credit for borrowers of color but also access to affordable homes. A large part of the affordability crisis we face comes down to supply and demand: we are simply not building enough homes. In 2015, the overall gap between new housing units and new households was 430,000.¹⁴ According to one estimate, by 2030 we will need a total of over 18 million new housing units to meet America's housing needs.¹⁵ That translates to about 1.3 million new units per year, a total we have not hit since 2007.¹⁶ Building new affordable housing units requires government subsidies.

As Steven Lawson of the National Association of Home Builders testified before the full House Financial Services Committee, "It is financially infeasible to construct new affordable rental units without a subsidy."¹⁷ Financial Services Committee Chairwoman Maxine Waters' Housing is Infrastructure Act of 2019 is a good first step. The bill would invest \$92 billion in federal housing programs, including \$70 billion for the Public Housing Capital Fund, \$5 billion for disaster aid, and \$5 billion for the Housing Trust Fund.¹⁸ It would also allocate \$10 billion for a Community Development Block Grant program set-aside to incentivize states and cities to get rid of regulations that drive up the cost of housing construction. This would address another critical issue when it comes to affordable housing: local regulations that drive up the cost of construction.¹⁹

III. Housing finance reform

¹⁴ "Housing supply falls short of demand by 430,000 units," Laurie Goodman and Rolf Pendall. Urban Institute, June 20, 2016 <https://www.urban.org/urban-wire/housing-supply-falls-short-demand-430000-units>

¹⁵ "U.S. Apartment Demand – A Forward Look," National Multifamily Housing Council & National Apartment Association, May 2017 <https://www.naahq.org/sites/default/files/naa-documents/government-affairs/naa-nmhc-us-apartment-demand-a-forward-look-may-2017.pdf>

¹⁶ "New Privately Owned Housing Units Completed," U.S. Census Bureau <https://www.census.gov/construction/nrc/pdf/compann.pdf>

¹⁷ "Housing in America: Assessing the Infrastructure Needs of America's Housing Stock," House Financial Services Committee, April 30, 2019 <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=403645>

¹⁸ "Housing is Infrastructure Act of 2019," House Financial Services Committee <https://financialservices.house.gov/uploadedfiles/bills-116pih-housinginfrastructure.pdf>

¹⁹ "Regulation: Over 30 percent of the cost of a multifamily development" by Paul Emrath and Caitlin Walter. Housing Economics, June 12, 2018 <https://www.nahbclassic.org/generic.aspx?sectionID=734&genericContentID=262391&channelID=311&ga=2.117886025.1324576529.1556919678-231691428.1556919678>

The issue of housing finance reform, which was recently jumpstarted by the White House memo directing the Treasury and HUD to come up with a housing finance reform plan, is also a significant component of the minority homeownership gap. We must dispel the myth that Freddie Mac and Fannie Mae caused the financial crisis through their efforts to help underserved and minority homebuyers. In fact, the largest increase in African-American homeownership occurred between 1994 and 2001, when lenders across the country, encouraged by Fannie and Freddie, sought out African-American first-time homebuyers in record numbers. In the run-up to the crisis, the vast majority of subprime loans were originated by private lenders, not the GSEs.²⁰ Although the GSEs did not cause the foreclosure crisis which devastated so many Black homeowners, they certainly failed to prevent it and they should definitely be a significant part of the solution.

NHC believes that reform of America's mortgage finance system must include a limited, explicit and appropriately compensated government guarantee that encourages private capital participation to ensure reliable access to long-term fixed-rate mortgages and financing for multifamily housing nationwide, including a broad commitment to access and affordability through measurable and enforceable standards, a Duty to Serve requirement in the secondary mortgage market, and appropriate funding for the National Housing Trust Fund and the Capital Magnet Fund. Any housing finance reform proposal, whether administrative, legislative, or a combination of the two, must ensure access to affordable and sustainable mortgage credit to broadly serve homeownership-ready borrowers through a variety of public and private channels, including addressing the homeownership gap for communities of color and the impact of student loan debt on homeownership.

We must also sustain, strengthen and modernize FHA's capacity and flexibility to meet the nation's housing financing needs while protecting the taxpayer's investment. We cannot tolerate a segregated housing finance system that is separate and unequal. While it is important to look at housing finance reform holistically, including the roles of FHA, the U.S. Department of Veterans Affairs and the U.S. Department of Agriculture Rural Development. We must ensure that no one agency is tasked with the entirety of the federal government's affordability goals, and that they all continue to provide the vital services that they do to help low- and middle-income people achieve homeownership.

IV. Small-dollar loans

Expanding access to small-dollar loans is another area that has a disproportionate impact on Black homeownership, but also hurts all low- and moderate-income Americans in many urban areas as well as throughout rural America. Mortgage availability is limited for low-cost homes

²⁰ "Fannie and Freddie don't deserve blame for bubble" by Mark Zandi. The Washington Post, January 24, 2012 https://www.washingtonpost.com/realestate/fannie-and-freddie-dont-deserve-blame-for-bubble/2012/01/23/gIQAn3LZMQ_story.html?noredirect=on&utm_term=.03c5008842c0

due to incorrect assumption that small-dollar loans are riskier²¹ as well as the fact that origination and marketing costs are fixed while compensation models for real estate professionals and loan officers are based on sales price and loan size, respectively. This limited access to home mortgages exclude aspiring low- and moderate-income homebuyers who can neither afford a mortgage for a higher-cost home nor afford to purchase a low-cost home without a mortgage at all. The serious and persistent racial wealth gap in this country²² means that the lack of access to small-dollar mortgages and possible subsequent access to low-cost homes disproportionately impacts minority communities, keeping prospects of homeownership further out of reach.

V. Rehabilitation financing products

Another important means we can use to address the racial homeownership gap is streamlining and expanding access to rehabilitation financing products. There are various loan products available through which existing homes can be renovated. The Federal Housing Administration offers 203(k) Rehab Mortgage Insurance, which provides homebuyers and homeowners financing for the purchase or rehabilitation of a home, with the total property value still falling within the FHA mortgage limit. This may be a vital tool as many lower-cost homes are not in the condition needed to get approval for GSE- or FHA-backed loans. Prospective homebuyers interested in these homes are then forced to compete against cash investors. Lenders should look for ways to better provide the 203(k) loan product. Freddie Mac also offers a Renovation Mortgage and Fannie Mae has a HomeStyle Renovation mortgage. These products need to be reviewed for ease of use, consumer protection and then effectively marketed to communities that need them the most.

VI. CRA modernization

Finally, a critical component of closing the minority homeownership gap is successful modernization of the Community Reinvestment Act (CRA), which is currently underway. CRA is one of the most important tools that banks, communities and regulators have to increase lending and investment in underserved communities. But it has never achieved its full potential. We have an historic opportunity to invest in the people and places who need it most by making bank performance and government enforcement more transparent, predictable and ultimately more impactful.

²¹ “Small-Dollar Mortgages for Single-Family Residential Properties” by Alanna McCargo, Bing Bai, Taz George and Sarah Stochak. Urban Institute, April 2018 https://www.urban.org/research/publication/small-dollar-mortgages-single-family-residential-properties/view/full_report

²² “What Is Behind the Persistence of the Racial Wealth Gap?” by Dionissi Aliprantis and Daniel Carroll. Federal Reserve Bank of Cleveland, February 28, 2019 <https://www.clevelandfed.org/newsroom-and-events/publications/economic-commentary/2019-economic-commentaries/ec-201903-what-is-behind-the-persistence-of-the-racial-wealth-gap.aspx>

The three primary regulators of the CRA met in Washington last month to formally begin a process of preparing a Notice of Proposed Rulemaking (NPR). NHC's first principles on CRA modernization are simple. We believe that any new CRA regulatory regimen must:

1. Increase investment in communities that are currently underserved;
2. Benefit more low- and moderate-income (LMI) people, particularly people of color, who live in those communities;
3. Ensure that CRA lending and investment does not lead to displacement of the very people it is meant to help; and
4. Make both bank performance and government enforcement more transparent and predictable.

CRA was originally passed because passage of the Fair Housing Act nearly ten years earlier had failed to reverse the pernicious practice of redlining, which segregated neighborhoods by their racial composition. Maps were literally colored blue to represent 100 percent white residency and red to indicate "hazardous" levels of risk due to the presence of black residents. To avoid being labeled a "declining" neighborhood, one neighborhood in Detroit, just three miles from where I grew up, built an actual wall to separate black and white residents.²³ It's easy for some to dismiss these stories as ancient history, but just this year HUD filed charges against Facebook alleging that the internet advertising platform "unlawfully discriminates based on race, color, national origin, religion, familial status, sex, and disability by restricting who can view housing-related ads on Facebook's platforms and across the internet."²⁴

HUD has charged that Facebook uses its enormous database of user data to control who sees housing-related ads in their Facebook "feed." Facebook offered advertisers the ability to choose or exclude attributes like "foreigners," "Puerto Rico Islanders," or people interested in "accessibility," "Hijab Fashion," or "Hispanic Culture."²⁵ That's not all. Facebook also offers advertisers the ability to target customers using a tool called "Lookalike Audiences."²⁶ Even more shocking, Facebook refused to support advertising to diverse audiences. "Even if an advertiser tries to target an audience that broadly spans protected class groups, [Facebook's] ad delivery system will not show the ad to a diverse audience if the system considers users with particular characteristics most likely to engage with the ad," according to HUD.²⁷ Advertisers were invited to exclude areas by drawing a red line around them with their mouse. While times have changed, so has redlining. We have a lot of work to do.

²³ "In Detroit, A Colorful Mural Stands as a Reminder of the City's 'Segregation Wall'", by Elizabeth Baker and Matthew Schwartz, All Things Considered, National Public Radio. July 27, 2017.

<https://www.npr.org/2017/07/22/538760677/in-detroit-a-colorful-mural-stands-as-a-reminder-of-the-citys-segregation-wall>

²⁴ "Hud Charges Facebook With Housing Discrimination Over Company's Targeted Advertising Practices," Department of Housing and Urban Development, March 28, 2019

https://www.hud.gov/press/press_releases_media_advisories/HUD_No_19_035

²⁵ "Charge of Discrimination," Department of Housing and Urban Development, March 27, 2019

https://www.hud.gov/sites/dfiles/Main/documents/HUD_v_Facebook.pdf

²⁶ Ibid.

²⁷ Ibid.

The National Housing Conference has been defending the American Home since 1931. We have advocated for every major piece of housing legislation over the past 88 years, including the inclusion of public housing development in the New Deal's infrastructure program, the Public Works Administration through the National Industrial Recovery Act of 1933, and the National Housing Acts of 1937, 1949 and 1968. Today, NHC is convening our members to draft a National Housing Act for the 21st century that seeks to modernize our housing policy infrastructure for the future. We look forward to working with Members of Congress on both sides of the aisle to develop a truly bipartisan approach to our growing affordable housing crisis.

Thank you for convening this hearing on such a vital issue, and for the opportunity to submit testimony. The minority homeownership gap is a complex problem but demands our attention as we look towards creating a more equitable future. NHC stands ready to work with you to advance policies toward closing the racial homeownership gap.

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