

DATE: March 14, 2021

TO: Political Subdivisions Committee

FROM: Joe Sheehan

RE: Testimony for HB 1222

Dear Mr. Chairman, Burkhard and members of the committee

I am testifying in favor of HB 1222 and the necessary changes this bill offers to protect North Dakota homeowners and property owners. I am a mortgage banker in ND. I have been originating mortgages for more than 20 years and I managed more than 1 billion dollars in mortgage origination in that time across the state.

Property ownership is the American dream. When citizens of North Dakota buy property to invest in a home and their future, it is with a good will understanding that the government within which they do that supports their effort to gain from a fair market. When a property is rezoned into a status of nonconforming, whether it is intentional or unintentional, this investment is automatically depreciated and threatened.

Value is a supply demand issue. Demand is what protects a property owner's investment. When a property is rezoned nonconforming and cannot be rebuilt to the original footprint, the demand for this property is demonstrably diminished as the property is no longer eligible for most home buyer financing. I have copied the section of the Fannie Mae and Freddie Mac guide that indicates this in my testimony.

### Is property that constitutes a legal, non-conforming use of the land allowed?

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Fannie Mae only purchases or securitizes mortgage loans on properties if the improvements constitute a legal conforming use of the land. However, Fannie Mae will purchase or securitize a mortgage for a property that constitutes a legal, non-conforming use of the land provided the use of the land and the appraisal analysis reflects any adverse effect that the non-conforming use has on the value and the marketability of the property. This requirement applies to all property types.

Fannie Mae will not purchase or securitize a mortgage secured by a property that is subject to certain land-use regulations, such as coastal tideland or wetland laws, that create setback lines or other provisions that prevent the reconstruction or maintenance of the property improvements if they are damaged or destroyed. The intent of these types of land-use regulations is to remove existing land uses and to stop land development, including the maintenance or construction of seawalls, within specific setback lines.

For information regarding accessory units that comply or do not comply with zoning, see [B4-1.3-05, Improvements Section of the Appraisal Report](#).

## II. Eligible zoning compliance

The Mortgaged Premises must conform to the jurisdiction's zoning and land use requirements. The zoning compliance must be either legal non-conforming or legal conforming; however, if a property has an accessory unit that does not comply with the jurisdiction's zoning and land use requirements (illegal zoning compliance), the Mortgaged Premises may be eligible if the requirements of Section 5601.12(e) are met. Mortgaged Premises that are located in jurisdictions with no zoning are acceptable.

For Mortgaged Premises with a land use that is legal non-conforming, the appraisal report must reflect any adverse effect the non-conforming use has on the opinion of market value.

A Mortgage is ineligible for sale to Freddie Mac if the Mortgage is secured by property that is subject to coastal tideland, wetland or setback laws and/or regulations that prevent the rebuilding or maintenance of the property improvements if they are damaged or destroyed.

A great majority of financing for homeowners is financed through these government agencies. When rezoning of a property makes the property ineligible for a majority of homebuyers it is cataclysmic to the value of the property. The only financing options available for these properties is in house bank financing with down payments of 20% or more. These loans are often offered with balloons or adjustable rates. This makes buying one of these properties a very unattractive prospect for homeowner's and investors.

As a mortgage loan officer, I ran into this problem repeatedly. This was predominant for customers seeking affordable housing in areas close to the downtown area in Bismarck. I sought out the help of City Councilwoman, Brenda Smith and with the help of Mr. Ziegler, the City Assessor, we were able to adopt a city ordinance to remedy this problem. This ordinance has been in place for a decade or more and I am not aware of any issues or problems that have been caused by homeowner's being protected from rezoning that diminishes their property value.

In Contrast, Mandan our sister city is experiencing new problems. For years, the City Assessor of Mandan, Mr. Barta, would reissue a "rebuild letter". This letter would state the entitlement of the property owner to rebuild the property to its original footprint. Since, Mr. Barta's retirement there has been either a change in policy or attitude at the city. I am aware of a closing that was delayed as of this past Friday, March 12<sup>th</sup> because it is a non-conforming property. Although, I appreciate Barta's long history of supporting property owners, it is unfathomable that one person's personal attitude should have so much control over the future value and fortune of property owners in a city. Property ownership and the return on the investment should be a good faith investment subject to market forces not the whimsical beliefs, attitudes, or personalities of the city government. This is a great example of why the State of ND needs to take action.

Whether the zoning impact is intentional or unintentional, homeowners should be protected from automatically losing value in their home. Homeowners should be protected from municipalities suffocating them out of their investment through a long-term consequence of reducing their properties

marketability so the properties can be gobbled up at reduced values. In the event cities will not offer this protection, it seems reasonable the state should stand up for the rights of homeowners and their hard invested dollars in the American Dream.

Sincerely

Joe Sheehan

Mortgage Loan Officer

