

DATE: January 28, 2021

TO: Political Subdivisions Committee

FROM: Joe Sheehan

RE: Testimony for HB 1222

Dear Mr. Chairman Dockter and members of the Committee

I am testifying in favor of HB 1222 and the necessary changes this bill offers to protect North Dakota home owners 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 live 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 home owners is financed through these government agencies. When rezoning of a property makes the property ineligible for a majority of home buyers 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 home owner's and investors.

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 won't 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.