



**REMARKS OF
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**PRESENTED AT THE
NATIONAL SETTLEMENT SERVICES SUMMIT
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[as prepared for delivery]**

Thank you Syndie for that generous and very kind introduction.
Thank you all very much.

I am very pleased to be here today in Cleveland with so many of our country's leaders in the title insurance and settlement services industries. I am also pleased to be here with so many mortgage bankers, lenders and realtors.

Before I begin I want to thank all of you who are here today. You all have been key partners with HUD in helping so many of your fellow Americans realize the American Dream - homeownership. You have helped contribute to the greatest housing boom since World War II.

All of you have my personal thanks, the thanks of HUD Secretary Alphonso Jackson and the thanks of the man I ultimately report to, President George W. Bush.

For millions of our citizens, the American Dream starts with owning a home. Home ownership gives people a sense of pride and independence and confidence in the future. We are working our way to an ownership society in this country, where more Americans than ever will be able to open up the door where they live and say, welcome to my house, welcome to my piece of property.

I'm happy to be back in the State of Ohio, though this is my first trip to Cleveland. Cleveland, the city founded by General Moses Cleaveland in 1796, is known for many things. I know a bunch of you spent some time at the Rock and Roll Hall of Fame last night so you probably already know that Cleveland was where the phrase "Rock n Roll" was coined by the DJ Alan Freed in 1952. Cleveland is also known for having given birth to LifeSavers candy, the electric streetlight, the golf ball, the indoor shopping mall, the automatic windshield wiper, the padded bicycle seat, Superman, John D. Rockefeller, Phil Donahue, Halle Berry, Bob Hope, Don King, Paul Newman, George Steinbrenner, Cy Young, Jesse Owens, Don Shula, Arsenio Hall and James Garfield, our 20th U.S. President. In addition, Cleveland was the first major city to elect an African-American mayor when Carl Stokes was elected in 1967.

As General Counsel of HUD, I am very focused on the enforcement of our nation's fair housing and related civil rights laws. So I am proud to be in the city that is home to the first college to admit students regardless of race, sex, creed or color – Oberlin College.

Not to diminish all of these notable achievements, but there is another Cleveland first that is very significant to all of us. In 1933, due to the leadership of Ernest Bohn, a Cleveland Councilman and a pioneer in the development of public housing, the nation's first public housing authority was chartered here in Cleveland. There are now over 3,000 public housing authorities. Mr. Bohn wanted to establish public housing as a replacement for the tumbledown shanties where low-income families lived. His vision was to replace the broken down "fire traps" with safe, decent and affordable housing where families could get a start in life and then move to home ownership. Ground was broken at Olde Cedar in the Central neighborhood before any other public housing development in the country. Residents first occupied Olde Cedar in 1937. The creation of the Cleveland Metropolitan Housing Authority was a turning point in our nation's housing history.

The Ohio Housing Authority Law written by Mr. Bohn was the first public housing law in the nation and the model for other states. All but two states now have laws modeled on the Ohio law. Mr. Bohn would later help Senator Robert Wagner of New York write the Public Housing Act, which was finally enacted in 1937, defeating one of the most powerful lobbies in the history of lawmaking.

Cleveland is also a city that takes homeownership seriously. Approximately 62% of the population of Cleveland owns their own

homes and more than 50% of minorities are homeowners. Those are great statistics, but we should strive to continue to increase them.

So I say thank you to Lee Kaplan and his colleagues at October Research. Thank you for organizing this wonderful conference and thank you for holding it in Cleveland.

I did not come here alone. I brought with me a great team of dedicated public servants. I'm traveling today with George Weidenfeller, HUD's long-time Deputy General Counsel and a man who has committed his entire professional career to helping his fellow citizens realize the American dream of homeownership and to enhancing access for all Americans to affordable housing free from discrimination. George is a great American and a truly dedicated public servant. I have also brought with me Courtney Minor, HUD's Regional Counsel, who is based in Chicago and oversees HUD's legal issues in Cleveland and most of the mid-western states. In addition, Doug Shelby, HUD's Cleveland Field Office Director, is with us. I appreciate them being here today.

I'd also like to acknowledge Phil Schulman, who was on a panel here yesterday. In a past life, Phil served as an Assistant General Counsel at HUD and served his nation admirably. Now he's a partner at Kirkpatrick and Lockhart making just a little bit more than he did working for the government. Phil - your former colleagues say only good things about you and I appreciate you being here today to share with others your vast expertise.

The HUD Office of General Counsel is a nationwide organization of close to 400 attorneys and 300 non-attorneys with headquarters in Washington, D.C., 10 regional offices and 40 field offices around the country – it is the largest legal office in the world dedicated to providing legal advice for affordable housing, home ownership and urban development programs. I am extremely honored to lead this organization as General Counsel and am very grateful to President Bush and Secretary Jackson for the trust and confidence they have placed in me in giving me the privilege of holding this position.

Not only am I privileged to work with a fantastic legal team at HUD, but I am also honored to work with very talented and experienced Assistant Secretaries who I am proud to call colleagues. In particular, I would like to pass on greetings from Assistant Secretary for Housing and the Federal Housing Commissioner, Brian Montgomery.

Commissioner Montgomery is doing a great job for America and is working very hard to modernize the FHA program, expand its market share, and put homeownership within reach of ever more Americans.

I'd also like to say a few words about Secretary Alphonso Jackson and Deputy Secretary Roy Bernardi. We are very fortunate to have at HUD's helm two leaders who understood public housing and the benefits of homeownership long before they came to HUD. As many of you know, Secretary Jackson is the first HUD Secretary to ever run a public housing authority. He managed the Housing Authorities in St. Louis, Washington, D.C. and Dallas and brings a unique

perspective to HUD. As many of you may also know, Deputy Secretary Bernardi is the former Mayor of Syracuse, New York where he worked tirelessly to make Syracuse a more vibrant urban center and to draw families back into that city through innovative home-ownership programs.

For each of us, the mission of HUD is a rather personal one. We have each seen the benefits of homeownership and the benefits of community. We are each committed to doing what we can to grow homeownership across our nation and to create an ownership society where as many people as possible can own their piece of the American Dream.

Among the many aspects of our freedom that folks around the world envy and covet is that we have the freedom to live where we want and own a stake in our society.

As Secretary Jackson and Deputy Secretary Bernardi continue to lead HUD in

- strengthening our nation's communities,
- promoting affordable housing,
- dismantling the barriers to home ownership,
- expanding homeownership opportunities for all Americans, particularly low and moderate-income families,
- meeting President Bush's goal of at least 5.5 million new minority homeowners before the end of the decade,

- ending chronic homelessness,
- vigorously enforcing fair housing, civil rights and anti-discrimination laws,
- and, of course, providing housing and other desperately-needed relief to the victims of Hurricanes Katrina, Rita and Wilma,

it is for me the honor of a lifetime to serve as HUD's General Counsel.

The position of General Counsel at HUD is a wonderful opportunity and a tremendous challenge, but it is a position I believe that I have been preparing for my whole life. I have spent the last two decades in the accounting and auditing business, the legal business and, most recently, the computer software business. Today, when folks ask me what I do for a living I tell them I am in the "hope business" because that is the "business" of HUD. Serving as the General Counsel of HUD has been the most rewarding position I have ever held – not rewarding financially but truly rewarding personally. To those whom much is given, much is expected and I want you all to expect a lot from me over the next thirty months or 1,000 days, whichever is longer.

As you probably know, President Bush has declared June to be National Homeownership Month. HUD has embarked on a month-long effort to build on President Bush's commitment to expand homeownership opportunities for all Americans. Secretary Jackson

and other HUD officials have been traveling around the country to meet with prospective homebuyers at homeownership fairs and other events and are spreading the message of the importance of homeownership – that it helps families build wealth, strengthens communities, and makes our nation stronger

When President Bush first declared June to be Homeownership Month, he had no idea that America was on the verge of its greatest housing boom since World War II. Yet last year, more homes were purchased than in any year before; prices for existing homes increased an average of 12%; and more than 75 million Americans can now call themselves homeowners.

This growth has led to historic levels of wealth creation. As men and women saw the value of their homes go up, they tapped into their equity to make home improvements, send their children to college, or make other big-ticket purchases.

Last year, Americans took a record \$244 billion out of the equity they had in their homes - that's an astonishing 72% increase over the previous year!

It's hard to overstate the impact of the housing boom on our economy. Home equity accounts for about one third of overall household wealth in this country. For minorities, the figure is closer to 60%. And as Americans drew on that wealth over the last three years, they've helped create more than five million new jobs.

But owning a home is about more than wealth. When a family owns its own home, their child's development is helped in measurable ways. Children of homeowners score an average 9% higher in math, and 7% higher in reading. The children of homeowners are 25% more likely to graduate high school - and more than *twice* as likely to graduate from college.

More Americans own their homes than ever before – the national homeownership rate is 68.5% and, I'm proud to say, HUD has played an important role in achieving a minority homeownership rate of more than 50%.

While we take pride in those numbers, we are not resting on our laurels. As Secretary Jackson often says when we achieve record numbers at HUD, "that's not good enough." Those numbers are not good enough. They're not good enough for me, for Secretary Jackson, or for President Bush. In June of 2002, President Bush challenged HUD, and the nation, to close the minority homeownership gap and to create 5.5 million new minority homeowners by 2010. We're well on our way. Since President Bush issued his challenge, the Census Bureau reports that 2.5 million minority families have taken out a mortgage on a new home.

HUD has already announced plans to reform our Federal Housing Administration, or FHA, to make it more flexible in providing mortgage

insurance and other loan services and to help underserved and minority homebuyers avoid high-cost or predatory loans.

The FHA Modernization Act of 2006 is currently working its way through Congress and people on both sides of the aisle are lining up to support it. As part of the Modernization Act, FHA is seeking to eliminate the complicated down payment calculation and the traditional cash investment that have long been the hallmark of FHA. By permitting borrowers to choose how much money to put down, many first-time homebuyers will be able to save their hard-earned cash to pay their mortgage, save for their children's education, and even purchase items to furnish their new homes.

Also, the Act proposes to give FHA the flexibility to base our insurance premiums on the risk of the borrower. This would allow us to reach hard-working, credit-worthy borrowers who are unable to qualify for prime financing. Although these FHA premiums would be slightly higher, they will be substantially lower and safer than the alternative - sub-prime financing. It would also allow us to charge lower-risk borrowers a substantially lower premium.

We're also looking to increase FHA's loan limits. In many areas of the country, and especially in California, buyers of new homes are unable to choose FHA financing because the existing FHA limits are lower than the cost of new construction. In other areas, FHA is simply priced out of the market. By instituting this crucial change,

there is no doubt that FHA can, once again, become a viable player in markets where, at present, we cannot compete.

Let me illustrate the impact some of these changes would have:

- reducing the minimum cash contribution for an FHA loan would allow 500,000 additional renters to become homeowners, 22% of whom would be African American or Hispanic.
- relaxing FHA credit standards for borrowers who could make a 10% cash down payment would help an additional 1.1 million renters become homeowners, 26% of whom would be African American or Hispanic.
- enacting our FHA modernization legislation would allow the number of FHA-insured mortgages to double in six years.

Let me also speak about some of the other initiatives of the Bush Administration to expand homeownership opportunities:

- The American Dream Down payment Initiative has made \$236 million available to more than 400 state and local governments across the country since 2003 and has helped 15,500 first-time homebuyers with down payment and closing costs.
- When it comes to housing counseling, this Administration understands that Americans need to understand the home buying process and their financial options. To that end, President Bush has significantly boosted funding for housing counseling and education. The President's Fiscal Year 2007 Budget provides \$45 million to help 600,000 homebuyers

receive counseling services. Last year alone, HUD-approved counseling agencies assisted 1.8 million Americans; and annual funding for housing education has increased more than six-fold since President Bush took office.

- HUD is also encouraging local housing agencies to use rental assistance vouchers to help more low-income and minority families climb the ladder of self-sufficiency through homeownership. This year, 8,000 families will participate in the Housing Choice Voucher Homeownership Program - quadrupling the number that participated last year.

The Bush Administration is committed to increasing homeownership in America - especially among minorities. Why? Because homeownership is the surest path to self-sufficiency. America is a stronger country every single time a family moves into a house of their own.

Of course, if we want to continue to grow homeownership, we need the economy to continue to stay strong. We have seen more than five million new jobs created over the last two and a half years. Unemployment is at its lowest level since the summer of 2001.

We passed the largest tax relief in a generation. And that tax relief has made a difference for a lot of you. Many of you are small businesses. Many of you are either sole proprietorships or subchapter S corporations, which means that you pay your taxes at

the individual income tax rate - just like a lot of other small businesses do.

And so when we passed tax relief by cutting rates on everybody who pays taxes, we helped small businesses like many of you. We understand the significant role small businesses play in growing our economy and expanding homeownership – from the contractor who builds the house, the settlement services folks, the mortgage broker, the realtor, and others. We helped you with resources to build or grow and expand and hire more workers. Tax relief left more money in the hands of American workers so that they could save, spend, invest and help drive this economy forward. Tax relief has helped many be able to put money down to buy a home.

We've made great progress, but much more has to be done.

To continue building an ownership society, we are committed to helping more Americans buy homes.

Reforming RESPA is another important tool for making homeownership more affordable and more accessible. Over the last three decades, the mortgage industry has experienced substantial and dynamic change, while HUD's disclosure requirements have remained essentially the same.

The greatest obstacles confronting potential homebuyers are the down payment and closing costs. Buying a home is too complicated,

confusing and costly. Each year consumers spend approximately \$55 billion on closing costs that they don't fully understand. For most other purchases that a consumer makes, the bottom line is clear and firm; why should it be any different when it comes to the largest transaction most people will ever make?

When RESPA was first enacted in 1974, it was meant to provide consumers with advance disclosures of settlement charges and to prohibit illegal kickbacks and excessive fees in the home-buying process. Nevertheless, consumers increasingly complain that when they go through the home-buying process, they don't understand the charges and often pay more than they thought they agreed to.

Last summer, Secretary Jackson announced RESPA's "Road to Reform." As Secretary Jackson has said, "we are more concerned with doing this right than doing it fast." I want to assure you that we heard the industry's comments – the good, the bad, and the ugly – at the roundtable discussions last summer. Those contributions made a significant difference. I'm confident it is helping us to draft a proposed rule that is much better than it would have been without the industry's help and input.

But let me be clear on where HUD stands in this process: we're still weighing our options. It's too early to share the substance of the new rule that's being drafted, but **there will be a new rule.**

Our goal should be clear. We believe that a simpler, more transparent and less expensive home-buying process will help even more families share in the American Dream.

I believe very strongly in transparency. While the withdrawal of the proposed RESPA rule in 2004 preceded my arrival at HUD, it is clear to me that in proposing the rule, we did not adequately embrace regulatory transparency. As long as I am General Counsel of HUD, we will not make that same mistake again. RESPA reform will not be achievable if we do not adequately embrace regulatory transparency and all the elements of regulatory transparency.

Secretary Jackson has already promised to be open and transparent in the process by which we develop a new RESPA rule and I want to reiterate that pledge here today. We have the best mortgage finance system on the planet and everyone – the title and settlement services and mortgage industries, among others, Congress, and consumers – need to have a voice in this if we’re going to make it work.

To quote Supreme Court Justice Louis Brandeis: “Sunlight is said to be the best of disinfectants; electric light is the best policeman.” In my opinion regulatory transparency, including a regulatory process with broad industry participation and input:

- Increases predictability,
- Fosters trust,
- Raises the confidence of those regulated,
- Promotes regulatory quality,

- Increases compliance,
- Supports accountability,
- And enables the regulated entities to have sufficient clarity to take action without fear of violating the law.

We need to accept that regulatory transparency is the key to developing more effective and efficient regulations and regulations of a higher quality. Believe it or not, agencies don't always have the answer. The people and entities that are regulated have an enormous capacity to identify, understand and express views on their obligations under the law and they should be listened to. Increased participation by folks with different experiences and the subsequent process of compromise by competing interests is the foundation of our successful and dynamic democracy.

So what are the key elements of regulatory transparency and why are they important?

First, the proposed regulation and the process by which it is developed, drafted, adopted and implemented must be accessible and visible. Regulated entities must have timely access to regulatory information. They should also have access prior to promulgation of final regulations and, where possible, in advance of the public comment period on the proposed regulations. What is of paramount importance is giving regulated entities ample time to analyze and digest rules put before them for comment. That also means that the agency must take public comments seriously and be held

accountable to ensure that valid concerns are addressed and don't disappear into a file somewhere. Regulated entities bring to the table real world experience in implementing regulations and we need to appreciate that experience.

Accessibility doesn't just cover the period before the regulations take effect. Regulations in effect, and any related supplementary guidance, must be readily accessible to the public and regulated entities so that they can, not only access the regulations they may be subject to, but can also analyze these regulations and suggest improvements to the agency.

Second, the proposed regulation must be intelligible. It must be clear and understandable enough so that those who have to deal with it on a daily basis, and who usually aren't lawyers, don't need to become lawyers to understand it. We must do our best to avoid ambiguity or confusion in our regulations. It must be easy to follow and presented logically. We need to avoid unintended discriminatory effects that can occur if the ability to understand and process the information is dependent on age and educational background.

Third, there must be a rationale behind the proposed regulation or change in regulation. By that I mean the agency must explain why the proposed regulation is needed and the purpose it will seek to serve. Was there a reason to change the rule in the first place? If so, what was it? And how will the new proposed rule help alleviate any existing problems?

This not only helps regulated entities understand the requirements they may be faced with, but it also allows the community and regulated entities to respond with their opinion on the necessity of the proposal and recommend alternatives. In addition, the agency should justify the cost of the regulation by performing analyses of major regulatory proposals to determine if the benefits will exceed the costs and whether these are alternatives that can achieve the same goal with less cost.

Fourth, we must be consistent in how we apply the regulations. The regulations should be administered consistently in different parts of the country. The regulations should also be consistent across the government. In other words, the public and the industry should not be confronted with confusing or contradictory rules or be forced to violate one agency's policies in order to adhere to the requirements of another agency.

Fifth, we need to increase agency accountability for the issuance of regulations and guidance. We need to ensure that procedures are in place to clearly identify who is authorized to issue guidance on a particular issue where there may be ambiguity. Agency staff should not be engaged in ad-hoc decision making which can have the effect of ad-hoc rule-making. Procedures need to be in place to ensure that regulations and guidance are issued only by those authorized and are appropriately coordinated internally within the agency. We also need

to ensure that we avoid creating unwritten rules, policies and guidance.

Communication and feedback are obviously critical elements of the process and are achieved by consulting with the regulated entities from the very start of the process and even after a rule is issued.

What do I mean by communication and feedback? We must consult with our partners – particularly folks like all of you – to seek your input and guidance on issues and proposed regulations. You'd be surprised at the number of ways an agency can interact with non-agency actors to share ideas. For example: training and briefing sessions, roundtables (such as the ones we held last summer on RESPA), negotiated rulemaking, the formal comment process and period, advisory committees, informal and formal guidance, publication in the Federal Register, codification and indexes made available by major legal publications, and the electronic publication of regulations and guidance. Speaking as someone with a background in the technology industry, I am a firm believer that the Internet is an invaluable tool for fostering communication.

We also need better processes to institutionalize and publicize our guidance through *timely* and *active* disclosure. We need better processes for consultation with our private sector partners. We need better processes to promote predictability and reduce compliance friction.

In one of my past lives, I was a securities lawyer and practiced extensively before the Securities and Exchange Commission. During that time, if I had a client that wanted to proceed with a transaction, but it was unclear whether such a transaction was in compliance with the securities law because the law was ambiguous, I had the option as a securities lawyer of preparing a request for a no-action letter to the SEC. The no-action letter would explain to the SEC what my client was seeking to do, what the applicable law provided, what the SEC had said in previous no-action letters and why I thought the proposed transaction was in compliance with applicable law and regulations. The letter would seek the SEC's concurrence and their commitment not to recommend enforcement action against the client if the client proceeded with the transaction as described in the letter. It may also be the case that, during the course of preparing such a letter, I would discover that there were so many no-action letters almost exactly on point that I felt comfortable advising my client to proceed with the transaction without the need for a no-action letter. I ask you, why can't we have a similar process for RESPA reform? Certainly, if we had such a process, we would increase predictability, reduce compliance friction, and encourage more creativity to be applied to the home buying process.

There have been times in the past when people believed that HUD proposed regulations, such as RESPA reform, without sufficient input from the private sector and the entities we regulate. Fortunately, we heard those concerns and we learned lessons. I can pledge to you that I am committed, and I have made it a major mission in my office,

to implement reforms that will result in greater regulatory transparency and greater opportunities for those regulated to participate in the process by which we develop and promulgate regulations.

For those of you who are homeowners here, remember back when you bought your first home. Remember the HUD-1, closing costs, points, variable rates, ARMs, fixed rates, PMI, inspections, contingencies, and now escalation clauses...all of those new concepts thrown at you all at once when you were sitting there about to make the most important investment decision of your life to date. Intimidating and confusing, wasn't it? It probably still is, even for many of you who are now seasoned homebuyers. RESPA was enacted as a consumer protection measure, but consumers' lack of knowledge and understanding of the process leaves them intimidated and vulnerable.

We must always be looking for ways to reduce the anxiety that greets first-time homebuyers so they are not intimidated out of the home buying process and to protect them from financial harm, HUD must also look for ways to work closer with our private sector partners, like all of you, to make sure our regulations are understandable, workable and don't end up impeding our very important mission of promoting homeownership.

Again, as we move forward, I guarantee you that all parties will have a seat at the table. And the good news for your industry is, whatever

we do to make the closing process more transparent, will make it possible for more Americans to become homeowners.

This will be good for business, good for consumers, good for our nation, and will advance President Bush's goal of creating an ownership society.

Again, thank you to everyone who made this Summit possible and for allowing me to speak today. I hope I've shed some "sunlight" on a topic of interest to you.

Thank you all very much for what you're doing. Thank you for what you're doing to help us build an ownership society. Thank you for helping more Americans find dignity and independence in a home they call their own.

I say to you all, our partners, I look forward to working with you in the years ahead as we work together to build an ownership society where everyone has a stake in the success of America and everyone has a chance to realize the great promise of this country.

May God bless you, and may God continue to bless our great country.

Thank you all.