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REGULATORY REFORM, OR IT'S TIME TO ADJUST THE CLOCK

I'm very happy to join you at your Annual Convention. While I have attended the North Carolina State Association meeting several times, this is my first time at the national meeting. It is very impressive. I can see why the Carolina builders make the pilgrimage each year. You have not only built America's housing; you have built a great organization with a very competent professional staff in Washington. Someone said recently that the TV ad should say: "When the Homebuilders speak, people listen."

I can see why.

A clockmaker friend of mine, who also practices philosophy, ONCE assured me that governments, like clocks, need adjusting every so often. "The political pendulum swings too far one way after a while," he told me. And he concluded saying: "It's as certain as the weather and taxes that if it's made by man, it's going to need adjusting."

Governments are clearly man-made. But while I'm suggesting that our political life is due for an adjustment, I certainly don't mean to give my distinguished Republican colleague any hopes for 1980. I definitely don't see the political pendulum swinging his party back into power.

What I'm talking about is the regulatory boom that occurred during the 1970's. During the decade that just ended, government regulation became big business. In Washington, where it is seen most clearly, the expansion of regulation spawned the EPA, the Consumer Product Safety Commission, OSHA, the National Transportation Safety Board, the Drug Enforcement Agency, the Federal Election Commission, and the Council on Wage and Price Stability, among others you're all too familiar with. In all, some 20 federal regulatory agencies were established in the 1970's, joining more than 30 others which were already in the business, in one way or another.

We all had a part in fostering this boom, even though some of us would like to deny it. There are few of us who haven't complained at some time or another about a faulty or unsafe product, a questionable or unfair practice. And who of us hasn't exclaimed: "Somebody ought to do something about it."

Well, government did. Our local, state and federal governments responded to the widespread citizen demands of the seventies for better information, for more fairness, and for greater protection of health and safety.

The business of regulation boomed not only in Washington but in the 50 states and in thousands of local communities. I'm not sure who was busier, city councils and mayors, state legislators and governors, or the President, his departments, the federal independent agencies, or the Congress. I don't know how many ordinances or acts were passed, how many regulations were promulgated, or how many agencies were created throughout the nation to enforce greater protections -- but I'm sure this convention hall wouldn't hold all of them.

Well, the 1970's are over, and it seems very clear now that, as my clockmaker said, it's time to adjust the clock. I say that because I've been receiving a message -- at home in North Carolina, at the office in Washington, and in other parts of the country I've been visiting. It's a message I'm hearing from big as well as small businessmen, from employees as well as employers, from Homebuilders as well as others who produce the goods and services that provide us with the high standard of living we enjoy.

The message is simple: "There's too much government regulation. It's costing too much."

I'm convinced we've got to take action now to reduce the cost of regulation that has brought such widespread complaint.

But, in saying this, I am not suggesting that the regulatory boom of the 70's should be followed by a regulatory bust in the 80's. You know, as well as I, that we still need government to assure competition in markets where monopolies would otherwise thrive, and to insure that things we value, which may not be adequately accounted for by normal market forces, will be preserved. There are both good economic and valid social reasons for government regulation.

There are some product markets, like railroads and telephones, which are "natural" monopolies: a single firm, through its ability to cut prices as it expands, could, because of the nature of these industries, drive its competitors out of business. Such a firm will, as a monopolist, maximize its profits by restricting output and raising prices. Regulation is clearly needed to protect the general interest in such a case. Extraction of natural resources, as we are seeing today with OPEC, is also an activity that often warrants government regulation to control monopolistic tendencies. Certain other industries we know are subject to destructive price wars that deny consumers any lasting benefit. And there are some instances where markets fail to be competitive because consumers do not receive enough information to support real competition. In such instances we have required that products be labeled, or that minimum safety standards be satisfied.

There are other cases where government intervention has been approved because health and safety, and even economic prosperity, are threatened. These are cases where the true costs of production or consumption are not fully assessed by normal market forces. Neither the manufacturer, nor the automobile driver who pollutes the air necessarily pays the full bill for pollution costs. Others often end up having to pay that bill, sometimes through ill health. In some instances, regulations are warranted because they substantially reduce risks that are borne by others: construction standards, for example, have clearly reduced the risk of injury we all take. Bank regulation also has been accepted as necessary in order to reduce the losses individuals bear when there are financial panics. There are, in addition, other values, not easily quantified, that we preserve through government regulation.

It seems clear to me that the regulatory boom OF THE 1970'S also has burdened us with heavy costs. While there are no really valid estimates, we're talking about hundreds of millions of dollars, at least. In too many instances, the cost of compliance appears to exceed the benefits, however one may assess them. Airline deregulation seems to show us the classic case of over-regulation. And it is contended that the trucking industry is another good example. Some might argue that Regulation Q also is an example -- but I don't think either you or I would let them win that argument.

The issue today is not regulation or no-regulation. It is, I believe, simply what kind of regulation? How much regulation? Our problem is not, simply, how much does it cost? But, instead, what is the cost of the regulation in relation to the benefit? Who pays and who receives?

I think we need to be asking: How well is the regulatory system working? Is there any better way to achieve what we want? And I'm convinced that these questions can be answered:

The regulatory system is not working well enough.

There must be a better way.

This is why I intend to support the best regulatory reform bill that will be reported by the Committees of the Senate now considering such legislation.

The need for regulatory reform is particularly urgent for the homebuilding industry. Alfred Kahn, Washington's expert on industry regulation, recently told a group of homebuilders: "I can think of no industry that is subject to a greater variety of regulations serving a greater variety of purposes, ... administered by a greater number of jurisdictions, and adding a greater amount to costs." His view, I'm sure, is not news to you.

You have, I know, been trying for some years to get your situation improved. It came sharply to my attention at a hearing called by the Committee on Small Business almost two years ago. At that hearing, we heard from three homebuilders who described how changes in government requirements were affecting the cost of the houses they were constructing. They told us some 40 different changes in regulations had boosted their costs. They told us about water and sewer costs they were now bearing; new requirements for streets and sidewalks; new requirements for drains and erosion control; new construction requirements; and new OSHA requirements on and off the construction site. As they listed the 40 changes and itemized the increase in cost attributable to each, we got a very clear idea of why housing costs are spiraling upward. These new regulations added between $4,000 and $7,000 to the price of a house that was expected to sell for under $40,000. The builders told us that while some of the new requirements were, in their view, unnecessary, others, like increased insulation, were not only important, but were long-term bargains for homebuyers. They pointed out that a major part of the increased house cost was a result of community requirements that certain development costs be "front-ended". And they noted that this front-ending of costs which formerly were paid after the owner had purchased and occupied the house, rather than in the purchase price, could price many first-time homebuyers out of the market.

They wondered whether some of these standards could be reduced and whether it was fair to load all of the costs on to the purchase price, when these costs could be paid at a later date through the tax system.

I'm sure that many local governments would have problems with such proposals. This issue is not a simple one. It involves questions about how high community development standards should be, and how the costs for facilities will be allocated and paid for. It also, more broadly, involves the question of how we will provide decent housing for a growing population.

I'm inclined to agree that development standards should not be set at levels substantially exceeding what is necessary for health, safety and general welfare. They definitely should not be adopted in order to exclude newcomers. Communities should, I believe, in our democratic society, consider the issues of land availability and the cost of housing when they are making decisions about zoning and subdivision regulations.

The Small Business Committee hearing was only one of a number of investigations of government requirements and housing costs and government regulations in recent years. The subject was discussed at conferences convened by your organization, by the Federal Home Loan Bank Board of San Franciso, and by the Department of Housing and Urban Development. These investigations helped to identify the major types of government regulation, and the most important forces affecting housing costs. They made clearer to me that the major influences affecting housing costs are national in scope, and primarily the responsibility of the federal government. I am, of course, thinking about inflation and monetary policies. The critical government regulations affecting housing costs, such as no-growth policies, land development regulations and construction requirements are, on the other hand, local government matters.

I am, as you may know, a strong advocate of state and local authority. As a lawyer, I still read the Constitution line by line, rather than looking between the lines. I still believe in the residual authority of the states. And I am convinced that local communities can generally see the local public good easier than it can be discerned from Washington.

Accordingly, I intend to view regulatory reform for the housing industry chiefly as a state and local issue. I think that the proposals made by Vondal Gravlee and Herman Smith at the White House Conference on Housing Costs last week make good sense. Local Task Forces can help to pressure local authorities to take a new look at their regulatory procedures and standards. A "one-stop" review and approval center could do a lot to reduce the costs of delays. Of course, not all delay is wasteful: I've learned that through working in the legislative process. It often takes time to check the facts and requirements and to iron out differences of opinion. That's what governmental reviews are for. It seems to me, though, that, for the great majority of development decisions, a one-stop center could provide a system of processing that efficiently reaches decisions after duly considering the relevant facts and requirements.

Reducing the cost of housing must be a high priority for both the homebuilding industry and for government. Development costs and delay costs can, and should be pared. But in doing this, we must, I believe, resist focusing soley on "initial cost". In viewing the cost of housing, we probably have not paid enough attention to the life-cycle costs of homebuilding. In assessing the costs of community facilities, we also probably have been somewhat remiss in looking at future operating and mainten-ance costs, and their relation to initial investment. We all know that we only get what we pay for, and we all are probably too prone to put off for tomorrow what we should do today.

At the federal level, there is still, very obviously, a need to prod HUD and Farmers Home and the Veterans Administration to improve their processing productivity. Particularly, at HUD, there is the need to reduce processing time. If there's one theme that runs through all the complaints about HUD, it is that HUD processing takes too much time -- and too much money out of a tight homebuilding budget. I'm sure that HUD knows that it has a lot of room to improve its processing efficiency.

There is, in addition, another role for HUD to play in reducing the impact of unnecessary regulation of housing costs. It can exert leadership in promoting regulatory reform. By developing and disseminating guidelines and model codes, it can, in conjunction with other federal agencies and support organizations like the National Institute of Building Sciences, encourage the adoption of reasonable, but efficient, rules and regulations by local governments. HUD's capacity for conducting research, together with the research talent available through the NAHB and other private groups, also could assist this effort. Finally, HUD's authority to privide technical assistance and training to local governments -- for example, in training local regulatory officials, could be well utilized.

There are some favorable signs of action by HUD and other federal agencies. HUD is permitting the delegation of application processing for several housing programs in some 13 states (including my own state of North Carolina) where local participants or standards meet HUD minimum requirements.

It reports that it has developed simpler processing procedures for rental housing projects, and has already experienced a dramatic increase in its processing productivity.

Farmers Home, also, has in recent months taken steps to reduce the time required for processing.

HUD also has moved to encourage reform of local area regulations by undertaking work to develop model rehabilitation guidelines. These guidelines would be made available to states and localities. The guidelines, which are presently out for general comment, could eliminate many local codes which presently inhibit needed rehabilitation activities in our older communities.

And the Council on Environmental Quality has, I understand, contracted with the Urban Land Institute to produce, in the very near future, two handbooks which have been designed specifically to guide subdivision developers through the environmental requirements of the NEPA.

There is, without any doubt, a lot that can be done, and done now, to improve our regulatory procedures and standards, at all levels of government.

Before closing, I'd like to suggest that, in focusing our attention on government regulations and housing costs, we do not lose sight of other, and in many cases, larger issues.

Complying with regulations involves cost. And any cost that does not yield equivalent benefit is wasteful. With housing prices soaring, any reduction of waste is a significant gain.

It seems to me, however, that we run a danger in getting lost in the regulatory maze if we don't keep it in perspective. And while I'm a true believer in a one-step-at-a-time approach, I also think we must continue to keep an eye on where we're heading.

My reading of HUD's Task Force Report on Housing Costs, GAO's report on why new house prices are so high, and other studies, indicates that housing regulations, while significant, are only a small part of the housing cost problem. Don't misunderstand me: housing regulations are important, and so is the need for housing regulation reform. HUD's Task Force Report says that regulation by all levels of government _is_ a major factor in increasing housing costs through both substantive requirements and processing delays. They also noted that resistance by some homebuilders to using less expensive methods and materials and the lack of strong incentives to build lower-cost houses also contribute to the high prices of housing.

Government regulation is only one of nine problem areas indentified in the Housing Cost Report. Of the nine problem areas identified, three -- national monetary policies, instability in money markets, and national tax policy -- are the heavy-weights that can affect housing production. While these are less susceptible to immediate influence than some of the other problem areas, they remain in my view, the key problems to be addressed.

I personally feel that NAHB was correct a few weeks back when you said: "There must be a better way to fight inflation than by raising mortgage interest rates and cutting housing production." Stabilizing mortgage credit at reasonable rates remains, I think, our basic problem. I hope, in the months ahead, that we can do something about that, in addition to adjusting the regulatory clock.