July 1, 2019

Ms. Kirsten Wielobob
Deputy Commissioner for Services and Enforcement
Internal Revenue Service
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20055

RE: Proposed Rule Regarding "Investing in Opportunity Funds," REG-120186-18

Dear Ms. Wielobob:

The National Community Stabilization Trust (NCST) appreciates the opportunity to comment on the Internal Revenue Service's (IRS) notice of proposed rulemaking and partial withdrawal of a notice of proposed rulemaking regarding guidance under new section 1400Z-2 of the Internal Revenue Code.

NCST strongly believes in the importance of neighborhood stabilization. Our organization operates a community development program and technology platform to help financial institutions with foreclosed single-family homes find community-based housing developers to rehab those homes as affordable homeownership and rental opportunities. Over the past decade, our platform has resulted in more than 25,000 homes rehabbed for affordable homeownership and rental. We believe that, with appropriate oversight and targeting, Opportunity Zones can produce a positive impact in high-need areas.

Our comments today focus on the proposed changes to the "original use" requirement and the Qualified Opportunity Fund (QOF) reinvestment rule as they relate to the redevelopment of single-family homes by local community development organizations for affordable owner occupancy or rental.

1. "Original Use" requirement

To qualify for the tax credit, investments in tangible property (such as a single family homes) must satisfy either the "original use" requirement or "substantial improvement" requirement. The proposed rule would provide an exemption to the substantial improvement requirement for a building or other structure that has been vacant for at least five years prior to being purchased by a QOF or qualified opportunity zone business, instead evaluating investment in this property under the original use requirements. You have requested comment on this approach, including the length of the vacancy period and how such a standard might be administered and enforced.

While we strongly support the desire to avoid having speculators leave properties vacant deliberately in order to qualify for this exemption, we fear that the five year minimum may not be long enough to deter some bad actors, and that a five year requirement could exacerbate the vacancy and blight that already exist in some of these neighborhoods. Research has shown links between property vacancy and crime[1]

[1] "Foreclosure, vacancy and crime." Lin Cui, Randall Walsh. Journal of Urban Economics, Volume 87, May 2015.

and violence,[2] negative community health outcomes,[3] fire risk,[4] and neighborhood property values.[5] The longer a property sits vacant, the more likely it is to negatively impact its surrounding community in these ways. We recommend that the IRS consider a shorter timeframe than five years for vacant properties to qualify under the "original use" requirement. However, we recommend including other requirements to ensure that parties do not vacate properties for the purpose of qualifying. Other commenters have proposed a shorter time frame but a requirement that the property would have been vacant at the time the Opportunity Zones legislation passed. We fear that may be too narrow, as other properties may become vacant later. Rather, we suggest you include requirements related to when the property was acquired and the relationship between ownership upon vacancy and the proposed tax-credit use of the property.

We also recommend that the IRS provide a regulatory definition of "vacant" since the Census, USPS, and municipalities, among other entities, each define the term differently. As the GAO's Example Timeline of the Foreclosure Process and Potential Periods of Vacancy[6] (Figure 5) illustrates, there are varying points along the foreclosure process when a property could become vacant, which impacts its eligibility to meet the original use requirement. The National Mortgage Servicing Association also recognized this challenge in its 2017 proposal to standardize definitions related to vacant and abandoned properties.[7]

2. QOF Reinvestment Rule

Under the proposed regulations, "proceeds received by the QOF from the sale or disposition of…qualified opportunity zone business property…are treated as qualified opportunity zone property for purposes of the 90 percent investment requirement…so long as the QOF reinvests the proceeds received by the QOF from the distribution, sale or disposition of such property during the 12-month period beginning on the date of such distribution, sale or disposition. The one-year rule is intended to allow QOFs adequate time in which to reinvest proceeds from qualified opportunity zone property."

NCST enthusiastically commends Treasury for its work to ensure that for-sale housing development can quality as an Opportunity Zone program. Homeownership continues to be strongly associated with financial stability and building wealth,[8] and differences in homeownership levels among racial and ethnic

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[2] "Vacant Properties and Violence in Neighborhoods." Charles C. Branas, David Rubin, Wensheng Guo. ISRN Public Health, September 2013.
[3] "The Geography of Vacant Housing and Neighborhood Health Disparities After the U.S. Foreclosure Crisis." Kyungsoon Wang, Dan Immergluck. Cityscape, Volume 20 No. 2, 2018.
[4] "Proximity to vacant buildings is associated with increased fire risk in Baltimore, Maryland, homes." SE Schachterle, D Bishai, W Shields, et al. Injury Prevention Volume 18, 2012.
[5] "The Impact of Abandoned Properties on Nearby Property Values." Hye-Sung Han. Housing Policy Debate, Volume 24, 2014.
[6] "Vacant Properties: Growing Number Increases Communities' Costs and Challenges." United States Government Accountability Office Report GAO-12-34. November 2011.
[7] "Protecting Consumers and Communities: Proposal for standardization of key definitions, guidance, and best practices for the preservation and maintenance of vacant & abandoned residential properties." National Mortgage Servicing Association, June 2017.
[8] "Is Homeownership Still an Effective Means of Building Wealth for Low-Income and Minority Households? (Was it Ever?)" Christopher E. Herbert, Daniel T. McCue, Rocio Sanchez-Moyano. Harvard University, Joint Center for Housing Studies, HTBL-06, September 2013.

groups have been linked to the racial wealth gap[9]. It also has positive associations with health, community, and education outcomes.[10] However, owning a home has become more challenging in recent years as affordability has declined across the country. One reason for the lack of affordability is a lack of inventory, as fewer homes are being built, and single-family homes are often snapped up by cash investors who hold them as long-term rentals. Structuring the regulations so that Opportunity Zones incentives can be applied toward homeownership will help community-based developers access well priced capital to rehab distressed properties into affordable single-family homes. While other safeguards are still necessary to ensure that homeownership opportunities developed through Opportunity Zones are affordable to the current residents of the neighborhood, we strongly support this overall provision.

Additionally, based on NCST's experience with typical acquisition timeframes, we believe that 12 months is a reasonable timeframe for reinvesting the proceeds from selling a previously distressed home that has been rehabilitated. While it was unclear whether the statute and initial set of proposed regulations would enable QOFs to support single family development due to the incentives for holding business property for 7-10 years, we believe that this clarification will make it more feasible for mission-oriented developers, like our partner organizations, to rehab and resell or responsibly rent single family homes under the Opportunity Zones initiative.

3. Use of the term "land banking"

We recommend that you do not use the term "land banking" to describe "the holding of land for investment" in a way that "does not give rise to a trade or business and such land could not be qualified opportunity zone business property" (84 Fed. Reg. 18652, 18655). As the Center for Community Progress has noted: "Land banking is the process or policy by which local governments acquire surplus properties and convert them to productive use or hold them for long-term strategic purposes. Land banks are public authorities or special purpose not-for-profit corporations that specialize in land banking activities."[11] In short, the term has an existing definition and explicit public purpose different from the investment profit connotation in this proposal. We suggest referring instead to "warehousing" or "holding" of land to avoid confusion with land banking by public purpose entities.

Thank you again for the opportunity to provide feedback. We also wish to testify at the July 9th public hearing regarding the potential of Opportunity Zones to support the rehabilitation of vacant or abandoned single family homes in distressed neighborhoods

Sincerely,

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[9] "A closer look at the fifteen-year drop in black homeownership." Laurie Goodman, Alanna McCargo, Jun Zhu. https://www.urban.org/urban-wire/closer-look-fifteen-year-drop-black-homeownership
[10] "Beneficial impacts of homeownership: A research summary." Habitat for Humanity, 2016. http://www.habitatbuilds.com/wp-content/uploads/2016/04/Benefits-of-Homeownership-Research-Summary.pdf
[11] "Land Banks and Land Banking." Frank Alexander. Center for Community Progress, June 2011. http://action.communityprogress.net/p/salsa/web/common/public/signup?signup_page_KEY=7641