



**Testimony of Terri Ludwig
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Before the Joint Economic Committee**

**“The Promise of Opportunity Zones”
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Chairman Paulsen, Ranking Member Heinrich and members of the Joint Economic Committee, thank you for the opportunity to testify on the Opportunity Zones provision that was included in the Tax Cuts and Jobs Act of 2017.

I am Terri Ludwig, chief executive officer of Enterprise Community Partners (Enterprise). Enterprise is a proven and powerful nonprofit that improves communities and people’s lives by making well-designed homes affordable. For over 35 years, we have increased the impact of investment in affordable homes by engaging the right partners, directing private and public capital to the right places, and working with government leaders to offer nonpartisan advice and support. Nationwide, Enterprise has invested \$36 billion in equity, grants and loans to help build or preserve nearly 529,000 affordable homes in diverse, thriving communities in all 50 states. Last year we invested \$7.2 billion, resulting in the creation or preservation of more than 26,000 affordable homes, almost 35,000 workforce homes, and 35 million square feet of commercial space. I have spent the past 30 years working in financial services, real estate, social sector and entrepreneurial leadership. My career has focused on creating opportunity in lower-income areas: at Accion I led the then-largest U.S. microfinance program, which brought affordable small business loans to entrepreneurs, and I was president and CEO of Merrill Lynch’s community reinvestment business unit.

Enterprise builds much more than just housing. We build vibrant communities. We know that access to the social determinants of health can influence an individual’s trajectory in life, which is why our investment portfolio also includes health clinics, schools and access to healthy foods and public transportation. Together with safe, decent, affordable quality housing, these are the attributes of economic mobility and opportunity. We have touched millions of lives through our work – in urban, rural and all other types of communities – but there is more to be done. We know that the zip code in which a person lives can still affect the life they can have.

I am honored to share with the committee our thoughts on how the public policy goals that gave rise to the creation of Opportunity Zones – bolstering inclusive economic growth – can be realized. My testimony includes:

- An overview of the work we have been doing to ensure that Opportunity Zones are successfully utilized.
- Feedback from communities throughout the nation.
- Recommendations for implementation of Opportunity Zones.



Like a number of members of this committee, Enterprise supported the Investing in Opportunity Act (IIOA, S. 293), the bipartisan legislation that introduced the Opportunity Zones concept. We endorsed the bill because we recognized the tremendous need for additional investment in the communities we serve.

When IIOA was introduced in the 115th Congress, the original co-sponsors – Senators Tim Scott (R-SC) and Cory Booker (D-NJ) and Congressmen Pat Tiberi (R-OH) and Ron Kind (D-WI) – issued the following statement:ⁱ

"Too many American communities have been left behind by widening geographic disparities and increasingly uneven economic growth. We come from different parties and regions, but share the common conviction that all Americans should have access to economic opportunity regardless of their zip code. The Investing in Opportunity Act will unlock new private investment for communities where millions of Americans face the crisis of closing business, lack of access to capital, and declining entrepreneurship. American ingenuity has never failed us, and with this bill, we will dramatically expand the resources to restore economic opportunity, job growth, and prosperity for those who need it most."

In the Tax Cuts and Jobs Act, the Opportunity Zones tax incentive was designed to facilitate *"new channels for investment in small businesses, supporting entrepreneurs, developing blighted properties, investing in local infrastructure projects, and other activities to create new opportunities for local residents."* Its graduated tax benefit structure is designed to incent long-term private investment in designated distressed communities (Qualified Opportunity Zones) through newly authorized investment vehicles called Opportunity Funds. Opportunity Funds provide an alternative to assets subject to capital gains. If an investor reinvests unrealized capital gains into an Opportunity Fund, they are eligible to receive a tax deferral, reduction in tax liability, and a tax exemption based on the length of time invested in the Opportunity Fund. We are pleased to add this tax incentive to our toolkit of proven affordable housing and community development programs. According to the Economic Innovation Group, there is an estimated pool of \$6 trillion in unrealized capital gainsⁱⁱ, and given that the Opportunity Zones tax benefit is not capped, it has the potential to become the nation's largest tool for economic development.

In order to achieve the intent of IIOA – *"expand the resources to restore economic opportunity, job growth, and prosperity for those who need it most"* – it is critical that Opportunity Zones are implemented in a way that truly bolsters inclusive economic growth in urban and rural communities alike. A recent study by the Urban Institute, *"Inclusive Recovery in US Cities,"* found that, *"economically healthy cities tend to be more inclusive than distressed ones,"*ⁱⁱⁱ underpinning the importance of ensuring that current residents and businesses in Qualified Opportunity Zones are able to realize the benefit of Opportunity Fund investments. Housing affordability and job availability were among the indicators Urban Institute considered in its set of inclusion metrics. All types of communities, from urban to rural, need affordable housing and access to jobs that pay a living wage. Given how important these and other related issues are to inclusive growth, we believe that investments in Qualified Opportunity Zones can, when carefully implemented, provide sustained community benefits for existing residents and businesses.

Fostering Successful Utilization of Opportunity Zones

As a national leader in the field of affordable housing and community development finance, Enterprise knows well the value of public-private partnerships that encourage investment activity that would not occur without incentives, or seed funding from the government. We have deep



expertise in aggregating private capital and then deploying those funds in programs such as the Low-Income Housing Tax Credit^{iv} and New Markets Tax Credit^v. These two proven public-private partnerships exemplify how patient, long-term capital enables and encourages inclusive communities where housing is affordable across a broad income range and local businesses can expand their operations. Similarly, there is strong potential to utilize Opportunity Zones in a way that transforms communities and residents' lives when investments are aligned with local priorities and needs.

Since the passage of the Tax Cuts and Jobs Act at the end of 2017, we have been working with governors, mayors, investors, community-based organizations and others to gather and share data, disseminate critical information, identify emerging best practices and provide technical assistance on the implementation of Opportunity Zones. For example, we created free, customizable online maps to identify which Census tracts would be eligible for selection, overlaid with the availability of existing community development resources. Through the use of our Opportunity360 data and mapping tool,^{vi} we are working closely with communities to provide them with in-depth analysis and help them understand the potential uses and benefits of this new way to invest in communities.

Enterprise is exploring Opportunity Fund models that would allow us to invest in and promote the activities that foster inclusive economic growth by promoting the availability of affordable homes and living-wage jobs. Our vision for the successful implementation of Opportunity Zones would include many of the same best practices that we have seen in our affordable housing and community development work over the past 35 years. These include investments that develop or preserve affordable housing, create and retain jobs that pay a living wage, support minority/disadvantaged/women-owned businesses, and increase transportation options and the overall infrastructure needed to increase access to opportunity for all community members. Our commitment to transparency and impact measurement will apply to any Opportunity Fund we may create, and our hope is to demonstrate that capital can be deployed successfully to deliver compelling financial returns *and* social benefits.

Feedback from Communities

Enterprise began developing and distributing [resources and tools](#) on Opportunity Zones in January 2018. Our online mapping tool has been accessed a total of more than 37,000 times by users in every state in the nation, including state and local government officials who said it informed their Opportunity Zone nominations. Enterprise hosted three free webinars to provide additional information about Opportunity Zones; collectively they garnered 2,500 registrants from across the country. Through these activities, we have learned a lot from our current partners, and been introduced to many new ones. I would like to share some of these observations with you today.

Many communities are looking to this new tax incentive as a catalyst for economic revitalization, and Enterprise is thrilled to have the opportunity to work alongside our partners as we consider how to most effectively deploy capital into these newly designated Opportunity Zones. In Minnesota, for example, we provided data and technical assistance to help the state Department of Employment and Economic Development understand the relationship between eligible tracts and other federal place-based investment programs, so the state could better focus its designations in places where Opportunity Zone investments could best align with other public priorities.



Other communities, however, have expressed concerns that additional private investment without an explicit commitment to benefiting local residents and businesses could unintentionally displace the very residents and businesses that Congress is seeking to support through this new tax benefit. In Oregon, we assisted members of the governor’s team in incorporating a measure of housing stability into their process, allowing them to focus on areas where residents were less likely to be displaced by increasing land values as a result of investments.

In these and other cases, we are seeing local communities work to determine what is best for them. In fact, Enterprise applauds the flexibility of this tax incentive and its responsiveness to local needs and priorities and is excited about the potential for additional investment in our nation’s distressed communities.

At the same time, the risk of not meeting the intended goal of inclusive economic growth that benefits existing residents and businesses also must be considered. For this reason, we urge that optimism be balanced with a sense of caution. This tax incentive – and the funds that will be created as a result – must be developed carefully and with attention to the long-term goals of communities, and with an eye towards potential negative unintended consequences. In particular, we believe that there is an important role for government to play – at the federal, state, and local level – to ensure that these investments advance local policy priorities and that their benefits are fully realized by all members of a community receiving the investment, not just a few. For instance, a central feature of Colorado’s process for Opportunity Zone nominations was community engagement, as the state carefully solicited input prior to selecting their tracts. And in Michigan, the state housing finance agency is exploring innovative ways to incentivize affordable housing development in designated Zones.

Recommendations for Implementation

Enterprise and our partner organizations are eagerly waiting for the U.S. Department of Treasury and the Internal Revenue Service to release additional guidance on certifying and structuring Opportunity Funds. We have identified two primary sets of issues that we believe will be critical to focus carefully on moving forward: promoting the transparency of Opportunity Fund activities, and ensuring accountability and preventing abuse in implementation. I want to share more about those here.

Promote Transparency to Ensure Accountability and Evaluate Impact. In the Conference Report that accompanied the Tax Cuts and Jobs Act, Congress clearly directed Treasury to report back on the use Opportunity Funds. To do so, Treasury must be able to collect and share data from the start. Due to the foregone revenue associated with the Opportunity Zones tax benefit, Enterprise believes that Opportunity Funds should be required to report specific investment activity to ensure accountability of federal resources. Because this tax benefit specifically incents investment in distressed communities, it is important that information is made publicly available so that stakeholders, including members of Congress, can evaluate the impact that these investment funds have on local residents and businesses.

The Conference Report included the following guidance related to annual reporting requirements:

The Secretary or the Secretary’s delegate is required to report annually to Congress on the opportunity zone incentives beginning 5 years after the date of enactment. The report is to include an assessment of investments held by the qualified opportunity fund nationally and at the State level. To the extent the information is available, the report is to include



the number of qualified opportunity funds, the amount of assets held in qualified opportunity funds, the composition of qualified opportunity fund investments by asset class, and the percentage of qualified opportunity fund investments. The report is also to include an assessment of the impacts and outcomes of the investments in those areas on economic indicators including job creation, poverty reduction and new business starts, and other metrics as determined by the Secretary.

Enterprise appreciates the guidance laid out in the Conference Report because it could allow Treasury, Congress and stakeholders to understand how the investments are impacting the local economy, community and residents. As Treasury and IRS consider additional guidance and clarification, Enterprise specifically recommends that Opportunity Funds be required, at a minimum, to report:

- Who the fund manager is.
- The state in which the fund is registered.
- Transaction-level information, such as the Zone(s) in which the fund has invested, how much the fund has invested, and in what the fund has invested (i.e. real estate, business, etc.).

And to provide an additional degree of public accountability, Enterprise recommends that Treasury make this information publicly available and allow stakeholders to comment on a fund's investments.

This transparency is in line with the original intent of IIOA and will allow Congress to evaluate the efficacy and impact of the tax benefit in meeting its intended policy goals, and thus make an informed decision about the future extension or expansion of Opportunity Zones.

Ensuring Accountability and Preventing Abuse in Implementation. Opportunity Zones have the potential to catalyze investment in affordable housing, businesses that create living-wage jobs, public transportation, and other necessities for sustainable and prosperous communities. At the same time, our collective vision for Opportunity Zones cannot be realized without practical guardrails that help to ensure that the residents and business owners currently living in newly designated Qualified Opportunity Zones in fact benefit from the resulting economic growth. In the Tax Cuts and Jobs Act, Congress gave the implementing agency the authority to promulgate regulations to prevent abuse:

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including: (A) rules for the certification of qualified opportunity funds for the purposes of this section, (B) rules to ensure a qualified opportunity fund has a reasonable period of time to reinvest the return of capital from investments in qualified opportunity zone stock and qualified opportunity zone partnership interests, and to reinvest proceeds received from the sale or disposition of qualified opportunity zone property, and (C) rules to prevent abuse.

Therefore, we recommend that the Department of Treasury issue regulations to prevent abuse not only to ensure that tax benefits inure to investments consistent with good public policy, but also lead to a direct and sustained benefit for the residents and local businesses in the census tract at the time it was designated as an Opportunity Zone.



Because Opportunity Zones provide a federal tax benefit for investing in some of the nation's most vulnerable communities, Enterprise believes that it is critical that these investments benefit the communities that they are impacting. Every community has its own challenges, so "direct and sustained" benefits will look different across geographies, and state and local governments will need to consider policies and programs that fit their needs. However, Enterprise believes it is important for the federal government to explicitly prevent Opportunity Fund investments that would disproportionately harm low-income residents and local businesses.

For example, we recommend that Treasury prohibit abusive investments that result in the net elimination of affordable housing (housing that is affordable to residents earning up to 120 percent of Area Median Income) because housing affordability is vital to achieve the intent of the IIOA. The definition of abuse should also include the refinancing of existing projects. We believe that investments that do not result in new activities or harm low- and modest-income residents will be contrary to our collective public policy goals. We urge the use of notice-and-comment rulemaking to allow affected communities to participate in identifying practices that would constitute abuse.

These are the priorities that Enterprise is committed to achieving through our own work in distressed communities, and we encourage federal policy mechanisms to ensure that other stakeholders also address the needs of the communities in which they are investing.

Conclusion

Enterprise is eager to add Opportunity Zones to our industry's toolkit of affordable housing and community development resources, and we applaud the committee for convening this hearing to consider how to most efficiently implement this new tax benefit. If implemented with transparent reporting requirements and an explicit commitment to prevent abuse – and in doing so, connecting local residents to opportunity – Opportunity Zones could have a transformative impact in distressed communities nationwide.

Thank you for your efforts to ensure that distressed communities receive critical private investment capital. Enterprise would be pleased to work with you on implementing our recommendations and discussing these issues further.



ⁱ Opportunity Zones were introduced in the 115th Congress through the Investing in Opportunity Act (S. 293 and H.R. 828), bipartisan legislation sponsored by Senator Tim Scott (R-SC), Senator Cory Booker (D-NJ), Congressmen Pat Tiberi (R-OH) and Congressman Ron Kind (D-WI). The concept for the Investing in Opportunity Act was introduced by the Economic Innovation Group, a bipartisan public policy organization that combines innovative research and data-driven advocacy to address America’s most pressing economic challenges.

On February 2, 2018, Senator Scott, Senator Booker, Rep. Tiberi and Rep. Kind released a [statement](#) about the enactment of Opportunity Zones in the Tax Cuts and Jobs Act of 2017. Citing the challenges created by closing businesses, lack of access to capital, and declining entrepreneurship, these elected officials highlighted the potential for Opportunity Zones to “expand the resources to restore economic opportunity, job growth, and prosperity for those who need it most.”

Enterprise supports the expansion of resources to address these challenges. We also believe that affordable housing and local businesses are critical for successful community development and prosperous neighborhoods, and we encourage lawmakers to commit to these community assets while implementing Opportunity Zones.

ⁱⁱ The Economic Innovation Group estimates that there is [\\$6 trillion in untapped capital gains](#) being held in stocks and funds. Opportunity Zones make it possible to reinvest this capital into communities that need it the most.

ⁱⁱⁱ New [research from the Urban Institute](#) reports on trends in economic health and inclusion across many cities, including within a smaller subset of cities that have experienced an economic recovery. The researchers identify key lessons and common building blocks that can support progress on inclusion during a city’s economic recovery.

^{iv} [The Low-Income Housing Tax Credit \(Housing Credit\)](#) is the nation’s primary tool for developing and preserving affordable rental housing. Since 1986, it has financed three million affordable rental homes, supported 3.4 million jobs annually, and generated \$323 billion in local income nationwide.

Congress reaffirmed the Housing Credit’s role in the tax code by preserving it in the Tax Cuts and Jobs Act of 2017. However, as a result of the corporate tax rate being lowered from 35 to 21 percent, investor demand for the Credit has decreased, which has impacted the amount of equity in the Housing Credit market. As a result, accounting firm Novogradac & Company estimates that approximately 235,000 fewer affordable rental homes will be produced over the next decade. Given that over 11 million households already pay more than half of their income on rent, this reduction production will exacerbate the vast and growing affordable housing crisis nationwide.

Congress made an important down payment on the Housing Credit in the Consolidated Appropriations Act of 2018 by enacting a temporary, 12.5 percent expansion of the Housing Credit for four years (2018-2021) and the new permanent option for income averaging in Housing Credit developments. Novogradac & Company estimates that this temporary expansion will result in the production of approximately 28,400 affordable rental homes over the next decade.

Enterprise applauds Congress for enacting these critical provisions to strengthen and expand the Housing Credit. While this is an important step forward, the country still faces a reduction in affordable housing production because of the lower corporate tax rate. Enterprise encourages Congress to enact the Affordable Housing Credit Improvement Act (S. 548), bipartisan legislation sponsored by Senate Finance Committee Chairman Orrin Hatch (R-UT) and Senator Maria Cantwell (D-WA). This bill would increase Housing Credit allocation authority by 50 percent, phased-in over five years, and would enact nearly two-dozen other provisions to strengthen the Housing Credit. The 50 percent cap increase would allow for the



production or renovation of approximately 400,000 affordable rental homes over the next decade, which would fully make up for the reduced production resulting from the Tax Cuts and Jobs Act.

^v [The New Markets Tax Credit \(NMTC\)](#) is an effective, targeted and cost-efficient financing tool that increases the flow of capital to businesses and low-income communities by providing a modest tax incentive to private investors. Since it was authorized in 2000, NMTC has leveraged nearly \$80 billion in total capital investment to businesses and revitalization projects in communities with high rates of poverty and unemployment. NMTC has also generated more than one million jobs. This successful public-private partnership exemplifies how patient capital can directly benefit low-income residents, communities, and local businesses in urban and rural areas.

Congress reaffirmed the importance of NMTC by preserving the Credit in the Tax Cuts and Jobs Act of 2017. Enterprise applauds Congress for recognizing the value of this proven and effective community development tool. However, NMTC authorization expires at the end of 2019 unless Congress extends the Credit. Enterprise urges Congress to enact the New Markets Tax Credit Extension Act of 2017 (S. 384, H.R. 1098), bipartisan legislation to permanently extend NMTC.

^{vi} Through our [Opportunity 360 platform](#), Enterprise Community Partners created a specific data and mapping tool to specifically help states and others interested in Opportunity Zone eligibility to determine which tracts in their state or region are eligible. The tool also depicts how eligible tracts relate to other federal programs and designations, including Low-Income Housing Tax Credit developments, New Markets Tax Credit projects, Choice Neighborhoods, Empowerment Zones, and others.