

**Exploiting the American Dream:
How Abusive Land Contracts Prey on Vulnerable Homebuyers
Housing, Transportation, and Community Development Subcommittee
Senate Banking Committee
July 11, 2023**

Opening Statements

Sen. Smith (D-MN) pointed to how contract for deeds (CFD) and land contracts are used instead of mortgages and they provide all of the risks and none of the protections of traditional mortgages. She said that vulnerable families in her state are targeted by these practices. Smith said that they would look at how these land contracts work and how they are used instead of mortgages. She said that these tools can be legitimate, but land contracts have also been a tool for housing discrimination and exploitation for those who do not have access to traditional banking products.

Sen. Lummis (R-WY) pointed to how the fixed costs of underwriting have increased at banks. She said that it is not surprising that the use of land contracts has increased since the 2008 financial crisis. Lummis also noted the need for more housing generally.

Witness Testimony

- [Ms. Sarah Bolling Mancini](#), *Senior Attorney, National Consumer Law Center*,
- [Ms. Elizabeth Goodell](#), *Supervising Attorney, Mid-Minnesota Legal Aid*
- [Mr. John Green](#), *Managing Principal, Blackstar Stability*

Member Questions

Sen. Tester (D-MT) asked about the protections that states can provide in this market and also discussed the issue of manufactured housing communities getting bought up by bad actors who jack up the lot rents.

Sen. Lummis (R-WY) wanted more ideas on what the solutions are to the issue of land contracts. Green discussed several solutions and noted lenders tend to not focus on lower dollar mortgages. Lummis noted that it is harder for banks to do small mortgages, so they just decide not to, so people are shifted to these CFDs since banks are not in the transactions. She said that there are unscrupulous private financiers and noted that Blackstar tries to get these products and turn them into traditional mortgages. Green agreed.

Sen. Smith (D-MN) discussed the lack of consumer protections for those who engage in land contracts with Mancini. Mancini noted that TILA actually applies to land contracts, but these laws are often ignored. Smith also discussed how these contracts are designed to fail and turned to the recommendations from Mancini's testimony. Mancini said we need to encourage lenders

to make small dollar loans and incentivize this. Smith asked what Green has learned from his model about how to better serve these Americans. Green said state AG's have pursued bad actors, which has prompted more desire to sell on the part of groups that would seek to hold. He added that pursuing these bad actors lowers prices as well. Smith understood the importance of the public and private sectors addressing this issue.

Sen. Lummis (R-WY) wondered where credit unions fit into this, saying that they are taxed differently than banks and are not for profit, so they should be able to address small lending issues. She asked why they are not helping out here. Mancini said some credit unions are more willing to make smaller dollar mortgages than many banks, but we still do not see a lot of it. She said the origination costs and the compensation structures, even at credit unions, make it difficult below \$100,000. Green agreed. Lummis asked if Congress should consider a carveout from Dodd Frank for small-sized mortgages that provide a lesser regulatory burden and greater financial incentive to land below the \$100,000 level. Green said there are provisions that exist and nuanced considerations to be able to incorporate reasonable costs so organizations like theirs do not have to fully absorb the cost. Lummis asked Green if they educate consumers as a part of their business model. Green said they do, and that part of their business model relies on trust building.

Sen. Smith (D-MN) said the fixed costs associated with mortgages are partly to pay for the things that protect buyers and asked Mancini what contributes to fixed costs. Mancini said that Fannie and Freddie, as a part of their equitable housing finance plans, have been looking at closing costs to see how they can be reduced.