

Resolution No. 9

Date: 10/12/2013

City: Colorado Springs, CO

NAHB Resolution

Title: U.S. Department of Labor Persuader Regulation
Sponsor: Federal Government Affairs Committee
Submitted by: John C. “Chuck” Fowke

WHEREAS, in June 2011, the U.S. Department of Labor (DOL) proposed radical changes to the regulations interpreting Section 203 of the Labor-Management Reporting and Disclosure Act (LMRDA), which contains federal reporting and disclosure requirements regarding individuals and entities hired by employers for the purpose of persuading employees to exercise or not exercise their right to organize;

WHEREAS, employers and “persuaders” are currently obligated to file public reports with DOL, disclosing finances and other information if they engage in covered activity;

WHEREAS, employers and their third party advisors (legal counsel) have historically been exempt from these reporting requirements when they discuss union organizing, so long as they do not directly interact with employees;

WHEREAS, DOL’s proposed rule would eliminate the “advice exemption,” and in doing so, substantially interfere with employers’ access to legal advice on labor matters and undermine the confidential attorney-client privilege;

WHEREAS, DOL’s proposed rule was designed to limit employers’ ability to communicate with their employees regarding union organizing;

WHEREAS, DOL’s proposed rule would require employers to begin filing persuader reports if they seek legal advice on general workplace policies regarding union organizing;

WHEREAS, the elimination of the “advice exemption” would have a particularly chilling effect on small businesses nationwide;

WHEREAS, employers and other advisors could be deemed “persuaders” merely by hosting conferences or meetings with a focus on labor relations;

WHEREAS, NAHB, state and local associations and members could be impacted;

WHEREAS, trade associations and their members could be obligated to file public reports with DOL, disadvantaging member recruitment;

WHEREAS, non-compliance with the proposed changes could impose criminal penalties; and

WHEREAS, DOL intends to issue a final regulation in November 2013,

NOW, THEREFORE, BE IT RESOLVED that the National Association of Home Builders (NAHB) strongly oppose the U.S. Department of Labor's regulations interpreting Section 203 of the Labor-Management Reporting and Disclosure Act and the elimination of the advice exemption.

BE IT FURTHER RESOLVED that NAHB urge Congress to strongly oppose any legislation or regulations that limit an employer's ability to communicate with his or her employees regarding labor relations.

Board of Directors Action:	Approved
Executive Board Action:	Recommends Approval
Resolutions Committee Action:	Recommends Approval
Business Management & Information Technology Committee Action:	Recommends Approval
Single Family Production Builders Committee Action:	Recommends Approval
Single Family Small Volume Builders Committee Action:	Recommends Approval
Legal Action Committee Action:	Recommends Approval
State and Local Government Affairs Committee Action:	Recommends Approval
Federal Government Affairs Committee Action:	Recommends Approval
Multifamily Council Board of Trustees Action:	Recommends Approval

This resolution will require a two-thirds majority vote for approval by the Board of Directors.