

April 21, 2023

The Honorable Brian Schatz  
Chair  
Senate Committee on Appropriations  
Subcommittee on Transportation, Housing  
and Urban Development

The Honorable Tom Cole  
Chair  
House Committee on Appropriations  
Subcommittee on Transportation, Housing  
and Urban Development

The Honorable Cindy Hyde-Smith  
Ranking Member  
Senate Committee on Appropriations  
Subcommittee on Transportation, Housing  
and Urban Development

The Honorable Mike Quigley  
Ranking Member  
House Committee on Appropriations  
Subcommittee on Transportation, Housing  
and Urban Development

To Chair Schatz, Ranking Member Hyde-Smith, Chair Cole, and Ranking Member Quigley:

On behalf of the undersigned organizations, we write to express our concerns over the crisis of poor housing conditions plaguing HUD's project-based Section 8 program. We urge Congress to place tighter guardrails around investments to preserve these properties to ensure that HUD and owners are held accountable for maintaining decent, safe, and affordable housing. As has been extensively documented and reported, tenants throughout the country are living in housing that is harmful to their health and that does not meet federal conditions standards. Tenants are directly harmed by HUD's failure to hold these owners accountable and to [use its existing tools to improve housing conditions and protect tenants](#).

[HUD's Office of Inspector General's FY 2023 Report on Top Management Challenges](#) identifies eliminating hazards in HUD assisted housing, including improving physical conditions in units, as a continued top management challenge. There are also countless stories throughout the country of project-based Section 8 housing in disrepair, despite HUD's existing tools to ensure housing is habitable. [The Millennia Resistance](#) and the [Apex Investments](#) campaigns underscore the seriousness of these issues within the portfolio. Several tenants have died at Millennia properties due to gas leaks. At one of Millennia's properties, [Sunset Village](#), residents allege that they are being exposed to ongoing hazards, including asbestos. At another Millennia property, the conditions were so dire that the [residents sued HUD](#) in an attempt to secure tenant protection vouchers. The time is now to respond to dire conditions in HUD project-based Section 8 housing.

The President's FY 24 Budget attempts to address this crisis by requesting funding resources for these troubled properties. The undersigned organizations support these investments, but we are concerned that many owners caused or contributed to poor conditions while HUD failed to exercise its existing authority. Therefore, additional terms are necessary. Section 233 of the General Provisions included in the President's Budget permits HUD to make direct loans to owners of distressed PBRA properties to support rehabilitation or replacement in exchange for 30-year use agreement. Section 234 permits HUD to increase rents to owners of distressed PBRA properties to support rehabilitation. The undersigned recommend that the Committee include the following provisions so that result of Congress' investments is habitable, preserved housing:

- As a condition of receipt of the direct loan or increased rents, owners must agree to a longer use restriction of 50 years, and a perpetual required HAP renewal if HUD offers the contract for renewal;
- There must be use restrictions entered that are expressly enforceable by tenants, including for a failure to meet decent, safe, and sanitary requirements.
- As a condition of receipt of the direct loan or increased rents, owners must agree to promptly make all required repairs, and when required by the Secretary, to develop a rehabilitation plan in consultation with the tenants and that will be approved by the Secretary, in conjunction with appropriate capital needs planning and required reserves, in order to ensure the provision of decent, safe and sanitary housing throughout the full term of any extended restrictions and contracts;
- The Secretary must establish a policy by which these owners must have a higher reserve sufficient to cover repairs and replacement needs for the term of the use restriction;
- The Secretary shall take reasonable steps to ensure that the owner or purchaser has no significant record of material noncompliance with applicable program standards and has demonstrated capacity to perform the obligations specified under this section;
- If there is a material violation of the terms of the contract or program standards that remains unremedied after notice and opportunity to cure, the Secretary shall seek specific performance of the contract or a judicial receivership, or a transfer of the property to a capable preservation purchaser, prior to terminating the contract;
- Mandate HUD to require a preemptive purchase option for non-profits/public entities during two-year period prior to expiration of next renewal contract or any use restriction.
- Impose more specific performance requirements and higher reserves, coupled with stronger and certain remedies if these are not met. This includes HUD heightening its performance monitoring of properties with a history of repeated noncompliance from regressing, including satisfactory Management and Occupancy Review (MOR) ratings one year after the loan or increased rent, all corrective actions must be addressed within the MOR deadlines, and annual on-site inspection from HUD staff.

HUD must also be required to take enforcement actions against problem owners and to engage impacted tenants. In previous years, Congress included strong general provisions language that required HUD to take additional enforcement actions against properties in continued non-compliance and required consultation with the residents on these actions. Since revisions were made to these General Provisions in FY 2017, Congress no longer requires HUD to develop a Compliance, Development, and Enforcement Plan and does not require HUD to take any actions if the property continues to be in non-compliance. Congress also removed the requirement for informed consent of affected tenants when deciding the feasibility of continuing the rental assistance. The undersigned ask that the FY 16 language be restored so that Congress can ensure that HUD is using its authority to preserve and maintain the project-based section 8 stock.

Finally, active resident participation is critical to the long-term success of assisted properties. Residents and resident organizations play a vital role in identifying systematic issues and developing solutions. Resident organizations also educate their neighbors about their rights in the federal housing programs and mobilize them to assert those rights. HUD provides an explicit right to organize in the multifamily programs but does not fully fund tenant organizing activities in project-based properties. Under the amended *Multifamily Assisted Housing Reform and Affordability Act of 1997* (MAHRA), Congress allows HUD to allocate up to \$10 million per year (under Sec. 514) for tenant groups and nonprofit organizations to provide capacity building and technical assistance to tenants in HUD properties facing

issues with housing conditions, contract restructuring, or other threats to long-term affordability. Congress should make these funds available for use to support legitimate tenant organizations' preservation efforts.

If you have any questions, please reach out to Noelle Porter, Director of Government Affairs for the National Housing Law Project, [nporter@nhlp.org](mailto:nporter@nhlp.org).

Sincerely,

AMERICAN FRIENDS SERVICE COMMITTEE – ATLANTA ECONOMIC JUSTICE PROGRAM  
ARKANSAS COMMUNITY ORGANIZATIONS & ARKANSAS RENTERS UNITED  
COMMUNITY CHANGE ACTION  
FACES OF HUD HOUSING  
MASS ALLIANCE OF HUD TENANTS  
MEMPHIS TENANTS UNION  
NATIONAL ALLIANCE OF HUD TENANTS  
NATIONAL HOUSING LAW PROJECT  
NATIONAL LOW-INCOME HOUSING COALITION  
TEXAS HOUSERS