



NATIONAL LOW INCOME HOUSING COALITION

July 31, 2023

Federal Housing Finance Agency
Office of Multifamily Analytics and Policy
400 7th Street SW, 9th Floor
Washington, D.C. 20219

Dear Director Thompson:

We, the members of the National Low Income Housing Coalition's (NLIHC's) 2022-2023 Tenant Leader Cohort, want to thank you for the opportunity to provide feedback on the Federal Housing Finance Agency (FHFA) Request for Information on tenant protections. NLIHC's Tenant Leader Cohort is a group of tenant advocates and community leaders with lived experience of housing insecurity who work towards housing justice and racial equity in their neighborhoods and greater communities. NLIHC collaborates with the Tenant Leader Cohort to inform its policy priorities so that these priorities best reflect the needs of low-income renters. We write to encourage you to take bold action towards creating, implementing, and enforcing strong tenant protections for households that live in rental properties with mortgages backed by FHFA programs, including Fannie Mae and Freddie Mac (the Enterprises).

FHFA should create new, strong, and enforceable renter protections for households to ensure greater housing stability, including:

1. **Source of income protections** to prohibit landlords from discriminating against households receiving housing assistance, and to give individuals and families an expanded choice about where to live;
2. **“Just cause” eviction standards** and the right to renew leases to help protect renters from housing instability and unjustified evictions;
3. **Anti-rent gouging protections** to stop landlords from dramatically raising rents, and limiting add-on fees landlords can charge;
4. **Habitability and accessibility requirements** to ensure housing is safe, decent, accessible, and healthy for renters and their families;
5. **Promoting tenant rights and advancing racial equity** in households with federally backed mortgages;
6. **Improving data collection** to promote racial equity in renter households.

I. Source of Income Protections

The National Low Income Housing Coalition is dedicated to achieving racially and socially equitable public policy that ensures people with the lowest incomes have quality homes that are accessible and affordable in communities of their choice.

Many low-income tenants who use housing subsidies like housing vouchers, emergency rental assistance, and other forms of housing assistance struggle to find or maintain safe, quality, affordable housing due to source-of-income discrimination – the practice of denying an individual full and equal access to housing based on their lawful source of income.

Discrimination by landlords against renters can prevent households from effectively using federal, state, or local rental assistance and is often a pretext for illegal discrimination against renters of color, women, and people with disabilities.

FHFA should prohibit source of income discrimination in all properties within its portfolio. Banning landlords from denying housing to a prospective tenant because of their lawful source of income would give households that rely on rental assistance greater choice in where they live, and increase the effectiveness of rental assistance programs. While several states and localities have passed source of income protection laws, federal law does not protect against this type of discrimination, leading to a patchwork of protections covering only one in three voucher-holding households. Implementing source of income discrimination protections across FHFA’s portfolio would help standardize protections and increase housing choice among households using rental assistance.

II. “Just Cause” Eviction Standards

In most states and localities across the country, landlords are not required to provide a reason for evicting a tenant at the end of the lease term or for evicting a tenant without a lease. Landlords who are unable to evict a tenant during their lease term may choose not to renew the tenant’s lease and use the lease holdover as grounds for eviction. A tenant at the end of their lease is also at risk of unreasonable rent increases, a tactic that can be used to force tenants out of their home. When a tenant receives an eviction notice, faces rent hikes, or fears displacement, they may choose to leave their unit – or “self-evict” – rather than go to court. Those who pursue legal action often find that no laws exist to protect them from eviction at the end of a lease term and that having an eviction judgment on their record creates further barriers to obtaining and maintaining future housing.

“Just cause” eviction standards limit the causes for which a landlord can evict or tenant or refuse to renew a tenant’s lease when the tenant is not at fault or in violation of any law. These laws can help prevent evictions and promote housing stability by:

- Protecting renters from evictions for no fault of their own.
- Delivering a sense of stability to tenants.
- Discouraging renters from self-evicting when they receive eviction notices from landlords.
- Empowering tenants experiencing poor living conditions, discrimination, or other illegal landlord behavior to advocate for improvements with landlords or file complaints without fear of retaliation.

FHFA should require Enterprise-backed properties to provide just cause eviction standards, setting a model for other properties that receive federal funding to do the same.

III. Anti-Rent Gouging Protections

While some states have laws in place to prevent price or rent gouging after natural disasters, renters often lack sufficient protection against exorbitant rent increases. Recent rent spikes stem from multiple factors, including high demand for rental housing, limited supply, and inflation. The mostly unregulated rental market also allows landlords to raise rents without considering the impact on low-income tenants, inflating rental prices even further. Moreover, the growing trend of real estate investors buying low-cost homes further drives up rental prices, placing low-income renters at greater risk of eviction and homelessness. Without these safeguards, tenants face unjust treatment, housing instability, eviction, and, in severe cases, homelessness.

To ensure fairness, leases should include the full rent amount year-round, encompassing the full monthly cost of rent and other expenses such as trash, internet, water, and parking. This upfront inclusion prevents tenants from incurring additional fees and ensures tenants know how much they should expect to pay in rent every month. Landlords and property managers must be held accountable for unnecessary fees beyond the cost of rent and other needed expenses. For individuals who rely on subsidies to afford the cost of rent (e.g. Section 8 voucher holders), it is crucial to ensure they do not face higher rent increases compared to those without subsidies.

For example, in buildings financed through the Low-Income Housing Tax Credit (LIHTC), property owners often pair various assistance programs such as housing choice vouchers, project-based rental assistance, or project-based vouchers to ensure and increase affordability for tenants. Despite such measures, some landlords still exploit loopholes or brazenly break the law to charge higher rents to individuals with subsidies. Examples of such practices can be found in [Delaware](#), [District of Columbia](#), and [Massachusetts](#). Research by Matthew Desmond in 2016 also highlights the [practice of landlords overcharging voucher holders](#). The study highlights the significance of regulatory bodies like FHFA being actively involved in ensuring that landlords are well-informed about setting fair rents for individuals with subsidies (refer to page 157, paragraph 4). By actively engaging in this process, regulatory agencies can play a crucial role in promoting fairness and transparency in the rental market, protecting the rights of renters, and fostering a more equitable housing environment for all.

Ensuring affordable rent necessitates affordable property prices and taxes for community buyers and homeowners as well. The high property valuation directly translates into rent prices in buildings with federally backed mortgages. Programs like Fannie Mae's Community First Program and Freddie Mac's Neighborhood Stabilization Initiative provide local non-profits and community-based organizations (CBOs) with the opportunity to provide housing to low-income renters by buying out properties provided by the Enterprises. However, when this housing is priced high with high interest rates, it makes it very difficult for these buyers to provide housing to renters at affordable prices. FHFA needs to work with the Enterprises to ensure they are

encouraging banks and Community Development Financial Institutions (CDFIs) to provide community buyers with lending tools (e.g. better rates for buyers and developers) to facilitate cost savings for everyone, but especially the low-income renters. Otherwise, FHFA will let racism and systemic oppression persist by limiting community buyers' access to properties.

Soaring rents makes homeownership an almost unattainable goal, especially for renters with the lowest incomes. Strengthening tenant protections, such as implementing anti-rent gouging measures, fosters greater housing stability and greater opportunities for low-income individuals, Black, Indigenous, and people of color (BIPOC) communities, the elderly, and those with disabilities to participate in homeownership programs and build wealth.

IV. Habitability and Accessibility Requirements

Housing has an [enormous impact on health and wellbeing](#), particularly for young children. Too often, however, low-income housing is plagued with issues related to air quality, pests, flooding, mold, lead, and water quality, leaving families with low incomes few options for housing that is both affordable and safe. In the absence of safe, decent, healthy housing, children from low-income families who live in substandard housing are more likely to develop asthma and experience hospitalization, and adults are more likely to report poor mental health, including depression and anxiety.

People with disabilities struggle to find homes that are both affordable and accessible. Despite the tremendous need, less than five percent of housing nationwide is accessible for people with moderate mobility difficulties, and less than one percent is accessible for wheelchair users. The lack of accessible homes harms millions of renters and their families, making them vulnerable to exploitation and discrimination. For example, in the case [Ian Smith v. City of Oakland](#) (2021), Mr. Smith and the other plaintiffs filed a lawsuit against the city, alleging discrimination in their Rent Adjustment Program (RAP) due to limited accessibility for renters with mobility disabilities. This discrimination forced these renters to search for more expensive accessible housing, making them more vulnerable to rent gouging practices and forcing them to spend more on housing than they could reasonably afford.

It is crucial that FHFA meaningfully and actively enforce the requirements of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, ensuring that rental properties with federally backed mortgages provide necessary accommodations for individuals with disabilities. To address this concern, FHFA can work to ensure mortgages for rental buildings include a detailed list of accessibility features in each unit and the buildings entrances and exits.

V. Promoting Tenant Rights and Advancing Racial Equity

President Biden has demonstrated [a strong commitment to prioritizing racial equity throughout his administration](#). To enhance housing stability for renters, it is crucial for the FHFA to

strengthen its programs by placing a central focus on racial equity and restorative justice. Alongside this, FHFA should explore the development of more robust tools to educate tenants in properties with federally backed mortgages about their rights, and ways tenants can hold negligent landlords accountable.

One approach is to introduce a mandatory lease clause that explicitly outlines tenant rights, in plain language and in the language preferred by household members. Additionally, providing renters with a comprehensive tenant handbook at the beginning of their lease can be highly beneficial. We urge FHFA to collaborate closely with the Department of Housing and Urban Development (HUD) and draw insights from their recent Affirmatively Furthering Fair Housing (AFFH) comment period and final rule to find ways to further tenant rights and equity for protected classes. This collaboration can help incorporate ideas from the Fair Housing Equity Plan into new FHFA regulations, fostering greater equity in housing.

Furthermore, the impact of large landlords with federal grants creating shell companies through random LLCs cannot be ignored. This practice makes it difficult for individuals receiving assistance to seek help with repairs, get answers to questions about their lease, and find other help renters might need. With a different point of contact for each issue and no clear path for reporting negligent practices, the burden of keeping track of multiple channels becomes overwhelming. FHFA should ensure none of its funding is financing shady shell companies, or large rental companies with histories of bad tenant practices, and provide tenants with clear, publicly available information on who owns their properties and how tenants can hold property owners accountable for negligent practices. To address this concern, FHFA should enforce ownership disclosure requirements about any additional LLCs associated with the landlord, as mandated by state law in [New York, Philadelphia, and Washington, D.C.](#)

VI. Improving Data Collection

Improving data collection on homes with federally backed mortgages is a crucial step toward promoting racial equity among renter households. Publishing publicly accessible information on federally backed mortgages allows for an evaluation of the extent to which BIPOC communities are benefiting – or not benefiting – from federal subsidies. Failing to explicitly acknowledge racial disparities between homeownership and renter households undermines the lived experiences of these individuals. To achieve racial equity, diversity, and inclusion, it is imperative to establish a comprehensive database that collects information on Enterprise-backed properties, including the racial and geographic backgrounds of owners and renters.

We also urge the FHFA to reconsider its data collection methods. This should involve revising the formulas and methodologies used to calculate the House Price Index (HPI). Overreliance on Census data limits opportunities to accurately capture the identities and experiences of the black community and the broader BIPOC community. Historical distrust among African Americans toward the government and data collection processes significantly influences data collection efforts by various institutions, including FHFA. In addition to racial disparities, the available data

for homeowners is flawed, failing to account for crucial factors such as food deserts, school closures, and crime rates in specific areas. Finally, while no federal landlord databases currently exist, it would be beneficial to create a comprehensive database encompassing all landlords renting FHFA-backed properties to improve transparency and accountability of such entities.

Thank you for considering our input on FHFA's tenant protections for rental properties with federally backed mortgages. We strongly urge FHFA to take decisive action in implementing these protections across all households residing in such rental properties. These measures are vital to guarantee affordable housing options for lowest-income households. However, it is crucial to acknowledge that the effectiveness of these new protections heavily relies on robust enforcement. Therefore, we also encourage FHFA to enhance their enforcement mechanisms concerning tenant protections.

If you have any questions or need additional information, please feel free to contact NLIHC Senior Vice President for Racial Equity, Diversity, and Inclusion Renee Willis at rwillis@nlihc.org.

Sincerely,

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