Memo To Members & Partners
A weekly newsletter from the National Low Income Housing Coalition

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HoUSed Campaign for Universal, Stable, Affordable Homes

NLIHC Testifies before House Financial Services Subcommittee in Hearing on Market-Based Solutions for Housing Affordability

NLIHC President and CEO Diane Yentel served as a witness at a U.S. House of Representatives Committee on Financial Services Subcommittee on Housing and Insurance hearing, "Housing Affordability: Governmental Barriers and Market-Based Solutions," on December 6. The hearing examined the role of market-based solutions in responding to the affordable housing crisis and the ways that government regulations can impede these solutions.

Other witnesses included Seth Appleton, president of U.S. Mortgage Insurers; Norbert Michel, vice president and director of Center for Monetary and Financial Alternatives at the CATO Institute; Dr. Emily Hamilton, senior research fellow and director of the Urbanity Project at the Mercatus Center at George Mason University; and Arianna Royster, president of Borger Residential, on behalf of the National Apartment Association (NAA).

In their opening statements, both Subcommittee Chair Warren Davidson (R-OH) and Ranking Member Representative Ayanna Pressley (D-MA) acknowledged the rising gap between the cost of housing and what workers are paid. "Renters are now the most cost-burdened they've been in over two decades," said Chair Davidson. "While rents have gone up – in some areas by double-digit growth – median income for renter households actually went down between 2019 and 2021."

"Millions of renter households are cost-burdened, spending elevated amounts of income on housing," said Representative Pressley. "Central to the question of how to address the affordable housing crisis is answering the question: affordable to whom? To close the affordable housing gap for low- and moderate-income households, there needs to be assistance for both development and rental income."

Diane provided additional context in her opening remarks, emphasizing the disproportionate impact of the affordable housing crisis on individuals and families paid the lowest wages. "Housing costs are out of reach for too many of the lowest-income renters," she stated. "Rents are far higher than what the lowest-income and most marginalized renters – including seniors, people with disabilities, and working families – can spend on housing." Diane also noted that the affordable housing shortage is fundamentally caused by market failures and the chronic underfunding of solutions, noting that "despite the clear and urgent need, Congress only provides housing assistance to one in four eligible households." Without sufficient federal investments, millions of the lowest-income households spend more than half of their incomes on their housing, leaving them "one financial emergency away from not being able to pay the rent, facing eviction, and possible homelessness."

Representative Bill Posey (R-FL) praised panelists for "[bringing] forth some really good suggestions for improvements" to spur the construction of affordable housing and wondered "if Congress could do just one thing" to address homelessness, "what would that one thing be?"

“Ending homelessness would require making homes affordable to people with extremely low incomes, which would require subsidies in the form of rental assistance, expanded Section 8 vouchers, preserving and expanding public housing programs, and other affordable housing solutions for the lowest-income people,” said Diane in response. “Creating and accessing these types of housing services – with wrap-around supports – has been shown again and again in the research to be highly effective at ending homelessness.”

Watch a recording of the hearing, read witnesses’ testimony, and view the Committee Memorandum here.

Senator Wyden and Representative Panetta Introduce Wasteful and Misguided “Workforce Housing Tax Credit Act” – Take Action to Reform LIHTC TODAY!

Senators Ron Wyden (D-OR) and Dan Sullivan (R-AK), along with Representatives Jimmy Panetta (D-CA) and Mike Carey (R-OH), introduced in the U.S Senate and House of Representatives the “Workforce Housing Tax Credit Act,” a bill that would create a Middle-Income Housing Tax Credit. NLIHC strongly opposes the bill on the grounds that investing federal funds in middle-income housing is a misguided and wasteful use of scarce federal resources. NLIHC urges members of Congress instead to support reforms to the Low-Income Housing Tax Credit (LIHTC) and include such reforms in the end-of-year tax package currently being negotiated by Congress. Reforming LIHTC would improve the program to ensure it addresses the most pressing housing issue facing communities nationwide: the lack of affordable housing for extremely low-income people and those experiencing or most at risk of homelessness.

The “Workforce Housing Tax Credit Act” would create a new federal tax credit to incentivize developers to build and preserve market-rate apartments affordable to families earning 100% or less of the area median income (AMI). NLIHC strongly opposes the “Workforce Housing Tax Credit Act” and encourages our members, partners, and allies to reach out to their members of Congress to urge them to oppose the bill as well. Research shows that middle-income families comprise less than 1% of those facing significant housing challenges, while 92.5% of severely cost-burdened households have very low or extremely low incomes and would not be served by the new tax break for investors.

This new version of the proposal for a Middle-Income Tax Housing Tax Credit (MIHTC) comes at a time when homelessness is increasing in many communities, with more than half a million people experiencing homelessness on any given night, and millions more at risk. MIHTC would divert scarce resources to create a program that would serve fewer than 100,000 middle-income renters who are severely housing cost burdened while providing minimal benefit to the 11 million low-income families who pay more than half their income on rent. Additionally, reframing middle-income housing investments as “workforce housing,” as the bill does, is disingenuous because many extremely low-income people are in the labor force . According to findings in NLIHC’s *Out of Reach*, 10 of the 20 largest occupations in the U.S. – representing one third of the workforce – pay median wages less than the wage a full-time worker needs to earn to afford a modest one-bedroom apartment at fair market rent. Any bill that leaves out the lowest-paid members of the workforce cannot be described as a bill that supports "workforce housing."

In a small number of communities, middle-income families do face high rents. However, rather than creating a new federal tax credit to incentivize the private market to build homes that it can already provide without a federal subsidy, Congress should look at other reforms that would more effectively and efficiently utilize federal dollars. For example, Congress should pass legislation incentivizing or requiring local and state governments to address restrictive zoning and land use policies that prevent the private sector from building homes and drive up the costs for all renters. Senator Wyden has introduced other proposals to create a Middle-Income Housing Tax Credit (MIHTC), including his "Decent, Affordable, Safe Housing for All (DASH) Act" (see *Memo*, 3/13), which NLIHC also opposed.

Take Action to Reform the Low-Income Housing Tax Credit (LIHTC)!

Top congressional leaders are working quickly to try to reach a bipartisan agreement before the end of the year to expand the Child Tax Credit and revive several expired business tax incentives. If a deal is reached, the tax package could also include resources to expand and reform the Low-Income Housing Tax Credit (LIHTC).

It is critical that Congress ensure that any new LIHTC resources included in a tax package can serve the millions of households experiencing or at risk of homelessness – those most harmed by our nation's housing crisis. Make your voice heard! **Tell Congress that any expansion of LIHTC must be paired with key bipartisan reforms to better serve America's lowest-income and most marginalized households and renters living in rural and tribal communities.**

While LIHTC is an important source of federal funding for affordable housing, it is rarely sufficient on its own to build or preserve homes affordable to households with the lowest incomes – those with the greatest, clearest needs. The majority (58%) of extremely low-income renters living in LIHTC developments who do not also receive rental assistance are severely cost-burdened, paying more than half their incomes on rent.

Because there are so few opportunities in 2023 and 2024 to expand housing resources at the federal level, it is critical that Congress ensure that these new resources are spent as effectively as possible to address the underlying causes of the housing crisis and to help those with the greatest needs.

Take Action!

Contact your senators and representatives – including those who serve on the Senate Finance Committee or House Ways & Means Committee – to urge them to ensure that any new LIHTC resources can reach households experiencing or at risk of homelessness.

Ask your members of Congress to pair any expansion of LIHTC with key bipartisan reforms, including:

- Expanding the Extremely Low Income (ELI) Basis Boost – for housing developments that set aside at least 20% of units for households with extremely low incomes or those experiencing homelessness, and
- Designating Tribal and rural communities as "Difficult To Develop Areas (DDAs)," which would make it more financially feasible for developers to build affordable homes in these areas.

All of these reforms are included in bipartisan legislation, the "Affordable Housing Credit Improvement Act," (S.1557/H.R.3238), as introduced by Senators Maria Cantwell, Todd Young (R-IN), Ron Wyden (D-OR), and Marsha Blackburn (R-TN), along with Representatives Darin LaHood (R-IL) and Suzan DelBene (D-WA).

Take action! Ask your members of Congress to pair any expansion of LIHTC with three key reforms, which are included in the bipartisan "Affordable Housing Credit Improvement Act": https://p2a.co/ZhQtlH2

Read Senator Wyden's press release on the "Workforce Housing Tax Credit Act" at: https://bit.ly/3uQV3BJ

Read the text of the "Workforce Housing Tax Credit Act" at: https://bit.ly/41i8B5A

Read NLIHC's fact sheet, "Middle-Income Housing Tax Credit: Wasteful and Misguided," at: https://bit.ly/3Nkigmp

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Recap of 12/4 National HoUSed Campaign Call

NLIHC hosted a national HoUSed campaign call on December 4. Alex Horowitz of Pew Charitable Trusts joined the call to discuss new research on how rising housing costs drive homelessness. Chi Chi Wu of the National Consumer Law Center reviewed recent actions by the U.S. Consumer Financial Protection Bureau and Federal Trade Commission to reduce junk fees and address unscrupulous background check practices. NLIHC's Kim Johnson provided policy updates on the federal appropriations process and prospects for the passage of an end-of-year tax bill by Congress. We also received field updates from Catrina Grigsby-Thedford of the Nevada Homeless Alliance, Sonya Starr of Housing Alliance Delaware, and Erin Hahn of Texas Housers.

Alex Horowitz discussed new research published by Pew Charitable Trust, "How Housing Costs Drive Homelessness Levels," which finds that areas with greater increases in the cost of rent also saw greater increases in rates of homelessness. For this reason, areas with high rents had higher rates of homelessness overall. The findings align with existing research showing a strong link between strict zoning regulations, high housing prices and high levels of homelessness. In addition, the new data confirm existing research that additional affordable housing supply lowers the cost of housing overall and that lower housing costs lower the rate of people experiencing homelessness.

Chi Chi Wu of National Consumer Law Center discussed the most recent efforts by the Consumer Financial Protection Bureau (CFPB) and Federal Trade Commission (FTC) to reduce the prevalence of junk fees and address unscrupulous background check practices by TransUnion, a background screening conglomerate. FTC issued a proposed rule that would require all businesses and industries to disclose a total price for goods and services, inclusive of fees. This rule would allow renters to be informed of all total fees upfront and increase transparency so renters know exactly what they are paying each month. FTC is asking for comments on the new rule, and NCLC is urging housing advocates and renters to comment on rental junk fees through its comment portal. Wu also discussed enforcement actions CFPB and FTC have taken against the tenant screening subsidiary of background screening conglomerate TransUnion for unscrupulous practices. The action charges TransUnion with failure to follow reasonable procedures to assure maximum possible accuracy of the eviction records and its tenant screening reports.

Catrina Grisby-Thedford of the Nevada Homeless Alliance discussed "Project Homeless Connect," a one-stop resource fair featuring the Nevada Homeless Alliance and multiple community partners, including employment agencies, legal agencies, housing agencies, and medical, dental, and vision services, as well as offering access to clothing and showers. The event was designed to help individuals experiencing or at risk of homelessness receive immediate services and resources. The alliance assisted 1,194 people, including children and families, during the event.

Rabbi Sonya Starr from Housing Alliance Delaware discussed the organization's Faith and Housing Justice Weekend. Held the weekend before Thanksgiving, the Faith and Housing Justice Weekend brought together communities across the state to learn more about housing instability and homelessness and to unite around the common cause of ensuring everyone has a safe place to call home. Rabbi Starr also shared Housing Alliance Delaware's Faith and Housing Justice Weekend Curriculum, noting other communities are welcome to use the materials with proper citation and credit.

Erin Hahn of Texas Housers shared Texas Housers' Bexar County Eviction Case Dashboard, the first ever public-facing analysis of all eviction filings in Bexar County, Texas. The dashboard tracks eviction trends from 2018 to 2022 and eviction filings in 2022. According to the dashboard, 17,900 households in the county received an eviction filing in 2022. An estimated 80% of extremely low-income households in Brexar county are severely housing cost-burdened, spending over half of their income on rent and utilities every month and putting them at risk of eviction and, in the worst cases, homelessness.

Finally, NLIHC's Kim Johnson discussed recent events in Congress. Members have until January 19 to reach a final agreement on four of the 12 fiscal year (FY) 2024 spending bills, including Transportation, Housing, and Urban Development (THUD). However, House Speaker Mike Johnson (R-LA) is threatening to delay and push instead for a year-long continuing resolution that would hold FY24 funding at FY23 levels, plus an additional, mandatory cut. Members are also hoping to move a tax package before the end of the year, with NLIHC urging Congress to include reforms to the Low-Income Housing Tax Credit (LIHTC) outlined in the bipartisan "Affordable Housing Credit Improvement Act."

Watch a recording of the call here.

Access slides from the call here.

Our next HoUSed Campaign National Call will be held on Monday, December 18, from 2:30 4 pm ET. Register here.

Budget and Appropriations

Senate Appropriators Warn of "Devastating" Impacts of Speaker Johnson's "Date Change" Continuing Resolution – Take Action!

U.S. Senate Appropriations Chair Patty Murray (D-WA) and Vice Chair Susan Collins (R-ME) warned of the "devastating" impacts of a full-year continuing resolution (CR) on federal programs in statements released following U.S. House of Representatives Speaker Mike Johnson's (R-LA) threat to "go with the most painful version of a full-year CR" instead of finalizing fiscal year (FY) 2024 spending bills.

Speaker Johnson is proposing an unprecedented "date change" CR, or a full-year CR with no adjustments. In this case, doing so would extend FY23 funding levels without revisions for addressing new or changed needs in FY24. Because the costs of housing and development programs are tied to market rates, which have risen dramatically in recent years, flat funding acts as a cut and reduces the number of people served by HUD's vital affordable housing and homelessness programs.

While long-term CRs always act as a cut to HUD programs, a long-term CR would be especially harmful under the terms of the "Fiscal Responsibility Act" (FRA), the debt ceiling agreement signed into law in June (see *Memo*, 6/5). Under the FRA, if any of the 12 annual federal appropriations bills are still operating under a CR by April 30, mandatory sequestration – or across-the-board spending cuts – will be triggered. For domestic programs – including HUD – a "date change" CR would result in cuts of up to 9.4% – or more than $73 billion – from the topline funding agreed to in the FRA.

"It is deeply dangerous," said Chair Murray of the proposal. "It would lock in outdated spending plans and devastating across-the-board cuts with no rhyme or reason and completely lock Congress out of any kind of thoughtful decision-making process for our nation's future."

A resource released by the Senate Appropriations Committee notes that a "date change" CR would cut assistance for nearly 700,000 households who rely on HUD's housing assistance programs to keep a roof over their heads, pushing these families closer to housing instability, eviction, and in the worst cases, homelessness. The CR would also result in the production of nearly 3,000 fewer units of affordable housing at a time when the nation's affordable housing shortage has gotten worse, especially for people with the lowest incomes.

Take Action!

It is critical that advocates keep weighing in with their senators and representatives on the importance of increased funding for HUD's vital affordable housing and homelessness programs in FY24. Tell Congress that it cannot balance the federal budget at the expense of people with the lowest incomes!

- Contact your senators and representatives to urge them to expand – not cut – investments in affordable, accessible homes through the FY24 spending bill, including full funding for NLIHC's top priorities:
    - Full funding to renew all existing contracts for the Tenant-Based Rental Assistance (TBRA) and Project-Based Rental Assistance (PBRA) programs.
    - Full funding for public housing operations and repairs.
    - The Senate's proposed funding for Homeless Assistance Grants.
    - Protecting $20 million in funding for legal assistance to prevent evictions in the Senate bill.
    - The House's proposed funding for Native housing.
- Join over 2,100 organizations by signing on to a national letter calling on Congress to support the highest level of funding possible for affordable housing, homelessness, and community development resources in FY24.

Renter Protections

Congressional Caucuses Send Letter to FHFA Urging Agency to Take "Bold Action" on Tenant Protections

The Congressional Progressive Caucus, along with the Congressional Asian Pacific American Caucus (CAPAC), the Congressional Hispanic Caucus (CHC), and the Congressional Black Caucus (CBC) – together known as the Tri-Caucus – sent a letter to Federal Housing Finance Agency (FHFA) Director Sandra Thompson urging her agency to take "bold action…to require clear, strong, and enforceable protections for tenants living in Enterprise-backed properties." The letter calls for FHFA to require and enforce six protections: anti-rent gouging protections, "good cause" eviction standards, source-of-income protections, habitability and accessibility requirements, rental registry participation requirements, and limits on artificial intelligence (AI) to curb rent spikes.

Led by Congressional Progressive Caucus Chair Pramila Jayapal (D-WA), the letter calls for bold action to implement renter protections for all households living in properties with Enterprise-backed mortgage. The letter recognizes the high cost of housing for America's lowest-income and most marginalized renters, drawing a direct connection to racial inequities and homelessness. "In the worst cases, individuals and families are being forced into homelessness, living in tents, cars, or shelters," the letter states. "The rent inflation crisis is an issue of racial and economic justice. Black, Hispanic, and Asian American renters are more likely to be severely cost burdened than white renters." The letter urges FHFA to act in coordination with Congressional action. The letter continues: "In addition to the work that lies ahead for Congress, the FHFA must use every tool available to ensure stability and affordability for tenants. Given the broad reach of FHFA's work, any tenant protections created by FHFA should cover a significant share of tenants across the nation and put America on a pathway towards stronger protections for all tenants."

The letter was signed by chairs of each caucus: Rep. Judy Chu (D-CA) representing the Congressional Asian Pacific American Caucus (CAPAC); Rep. Nanette Diaz Barragán (D-CA), representing the Congressional Hispanic Caucus (CHC); and Rep. Steven Horsford (D-NV), representing the Congressional Black Caucus.

Read the letter to FHFA at: https://tinyurl.com/5y57ddn2

Congress

Senator Fetterman Introduces Legislation to Encourage Plans for Long-Term Housing Affordability in the Reconnecting Communities and Neighborhood Grant Program

U.S. Senator John Fetterman (D-PA) introduced legislation on November 28 to encourage plans to promote long-term housing affordability in communities being revitalized through the Reconnecting Communities and Neighborhood Grant Program. The "Keep Affordable Housing in Forgotten Communities Act" (S.3350) would help grant recipients plan for long-term housing affordability, ensuring that revitalizing efforts benefit longtime community members. The bill is supported by NLIHC, the National Housing Law Project, and Grounded Solutions Network, among other organizations.

As communities across the country carry out critically important revitalizing projects, longtime residents are too often pushed out of existing affordable housing. The Keep Affordable Housing in Forgotten Communities Act would help grant recipients seeking to redevelop community-severing infrastructure for new uses to consider a project's impact on housing. Recipients would be able to use funds to plan for long-term affordability, create or preserve long-term affordable housing units in the neighborhood, and support the creation or expansion of community land trusts.

"Hardworking people should be able to find housing in the communities where they grew up," said Senator Fetterman. "This is especially true in forgotten communities – places where opportunity dried up as factories and plants closed, but where we are making investments to bring life back. We must invest in the whole community, not just the parts that big businesses and luxury developers can profit from. This bill will allow us to be proactive in how we capitalize on infrastructure investments in forgotten communities, so we can ensure the benefits are passed on to middle- and lower-income residents."

Read the bill text at: https://tinyurl.com/4z99s932

Read Senator Fetterman's press release: https://tinyurl.com/mud2vp7w

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HUD

HUD CPD Notice Extends HOTMA Compliance Deadline to January 1, 2025

HUD's Office of Community Planning and Development (CPD) published a *Federal Register* notice on December 8, extending the date by which CPD programs must fully implement and comply with the income and asset requirements of the "Housing Opportunity Through Modernization Act of 2016" (HOTMA) final rule. The HOTMA final rule regarding changes to income requirements (Section 102) and asset limits (Section 104) was published on February 14, 2023 (see *Memo*, 2/27), and established January 1, 2024, as the date by which changes should be made. However, the December 8 notice extends the date for full compliance to January 1, 2025, in order to provide CPD program administrators time to develop and/or update software and program policies, procedures, and internal systems.

The notice applies to the following CPD programs: the Housing Trust Fund (HTF), HOME Investment Partnerships (HOME), HOME-American Rescue Plan (HOME-ARP), Housing Opportunities for Persons With AIDS (HOPWA), Community Development Block Grant (CDBG) program, Emergency Solution Grants (ESG), Continuum of Care (CoC) homelessness programs, and CPD programs funded through competitive processes ("CPD programs").

The notice also states that CPD grantees must comply with all applicable HOTMA requirements to establish policies and procedures, including: hardship policies; policies prescribing when and under what conditions a household must report a change in household income or composition; and policies describing income verification if using "safe harbor provisions," such as those using income determinations for other subsidy programs such as the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), and Social Security Income (SSI). CPD also intends to issue supplemental guidance for HTF and HOME grantees.

In brief, Section 102 reduces the frequency of income reviews and modifies the definition of income and assets. For example, the HOTMA statute:

- Created a 10% adjusted income increase or decrease threshold for conducting interim income reexaminations. In most situations, increases in earned income (e.g., wages) will not be processed until a resident's next annual income reexamination.
- Increased the standard deduction for households with a head, co-head, or spouse who is elderly or is a person with a disability.
- Excluded income received from Medicaid or other state or local programs designed to keep at home a household member who has a disability.
- Increased the allowance for unreimbursed health and medical care expenses from 3% to 10% of annual income (phased in over two years).
- Provided hardship relief for expense deductions, lessening the impact of the above increased threshold for medical expenses. Public housing agencies (PHAs) may grant hardships for households unable to pay rent due to unanticipated medical or disability expenses, as well as for households no longer eligible for the childcare expense deduction.

Section 104 sets maximum asset limits for eligibility and continued occupancy and implements deductions and exceptions for certain investments, such as retirement savings. Retirement accounts and educational savings accounts will not be considered "net family assets."

Read the *Federal Register* notice at https://tinyurl.com/57xh2k89

Information about each of the CPD programs is available in NLIHC's *2023 Advocates' Guide* at Chapter 3 (HTF), Chapter 4 (HOPWA, CoC, and ESG), Chapter 5 (HOME), and Chapter 9 (CDBG).

HUD Multifamily Office Seeks Feedback Regarding Budget-Based Rent Increases for LIHPRHA Properties

HUD's Office of Multifamily Asset Management sent an email on December 4 seeking feedback regarding how best to process budget-based rent increases for projects subject to "Low-Income Housing Preservation and Residential Homeownership Act of 1990" (LIHPRHA) Use Agreements. The email notes the inconsistent processing and approval of budget-based rent increases pursuant to the "Fixing America's Surface Transportation Act of 2015" (FAST Act), which allowed projects subject to a LIHPRHA Use Agreement to refinance a loan or obtain a new loan to request a budget-based rent increase that included the refinancing or new loan debt service. A draft Notice for comment is posted on Multifamily's Drafting Table. The draft notice provides guidelines for preparing, submitting, and reviewing a budget-based rent increase subject to the FAST Act amendments to LIHPRHA. Comments are due by January 11, 2024.

Congress enacted LIHPRHA in 1990 to prevent the loss of FHA-insured and HUD-assisted affordable housing units to mortgage prepayment. A variety of incentives were offered to such properties, such as additional Section 8 subsidy, Section 8 rent increases, and capital grants. In return, owners could either extend low-income affordability restrictions for the remaining useful life of a property (for at least another 50 years), or transfer the property to nonprofit organizations, tenant associations, or community-based organizations that agreed to maintain the property as affordable housing for its remaining useful life. Currently, there are approximately 640 properties with more than 75,000 units subject to LIHPRHA provisions. Statutory use restrictions and rent-setting processes for these properties are in a LIHPRHA Use Agreement and a project-specific Plan of Action.

The purpose of the draft Notice is to provide clarifying guidance for owners of a property subject to a LIHPRHA Use Agreement who want to take on new debt to recapitalize the property to preserve it. The draft notice applies to all properties with a Section 8 PBRA Housing Assistance Payment (HAP) contract subject to a LIHPRHA Use Agreement or Plan of Action that authorizes a budget-based rent increase if an annual Operating Cost Adjustment Factor (OCAF) is insufficient to address a project's operating expenses. A Use Agreement is a contract between an owner and HUD that binds the owner for a specified length of time to specific requirements, such as maintaining the property as "affordable" at program-determined rent limits for households meeting program-determined income limits. A Plan of Action (POA) is a plan developed by an owner that is submitted to HUD for the extension of affordability restrictions, as well as other matters.

HUD may approve a rent increase greater than the OCAF adjustment only to address extraordinary and necessary expenses of owning and maintaining a property. Any budget-based rent increase only applies to the year for which HUD approves the increase. Owners may request a budget-based rent increase if they want to include debt service incurred due to a new loan or the refinancing of an existing loan used to make capital repairs to sustain the property over the long term.

Read the draft Notice for comment at: https://tinyurl.com/39bjrcav

More information about the various Project-Based housing programs, including LIHPRHA, can be found on page 4-77 of NLIHC's *2023 Advocates' Guide*.

HUD Proposes Rule Requiring 30-Day Notice for Tenants before Termination of Lease for Non-Payment of Rent

HUD published on December 1 a proposed rule in the *Federal Register* that requires tenants to receive a written notice at least 30 days before their lease is terminated due to non-payment of rent if they live in public housing or one of several project-based rental assistance (PBRA) properties. For the purposes of the proposed rule, "PBRA" includes projects in the following programs: the Section 8 Project-Based Rental Assistance program, various Section 202 Supportive Housing for the Elderly programs [Section 202/162 Project Assistance Contract projects; Section 202 Project Rental Assistance Contract (PRAC) projects; and Senior Preservation Rental Assistance Contract projects (SPRAC)], and two Section 811 Supportive Housing for Persons with Disabilities programs [Section 811 PRAC; and the Section 811 Project Rental Assistance Program (811PRA)]. Comments regarding the rule are due by January 30, 2024.

The proposed rule would also require the 30-day notice to include instructions enabling a tenant to clearly understand how to avoid commencement of a formal judicial eviction proceeding for nonpayment of rent. Such instructions would identify the amount of rent owed, any other arrearages allowed by the HUD program, and the date by which the tenant must pay the rent and arrearages to avoid an eviction filing in court. The notice would also include information on how a tenant can recertify their income or request a minimum rent hardship exemption, and – in the case of public housing residents – how tenants can request a change from a flat rent to an income-based rent.

The rule would require public housing authorities (PHAs) and owners to amend all current and future leases to incorporate the 30-day notice requirement for non-payment of rent, which would also entail that PHAs and owners provide tenants with notification of changes to the lease according to the existing regulations of a HUD program.

The preamble to the proposed rule recommends that PHAs and PBRA owners enter into a rental repayment agreement instead of requiring a tenant to provide a lump-sum payment for the past due amount. The preamble also reminds PHAs and owners of their legal obligation to provide the 30-day notice in accessible formats to ensure effective communication for people with disabilities and for people with limited English proficiency (LEP).

HUD proposes to give PHAs 18 months to comply with the lease change and PBRA owners 14 months from the date HUD issues model PBRA leases, which HUD plans to issue within one year of the effective date of a final rule.

The preamble states that the rule would not preempt any state or local law that provides greater or equal protection for tenants.

Finally, the proposed rule states that in the event of a presidentially declared national emergency, PHAs and owners would also need to provide tenants with other information as specified by HUD.

HUD previously published an interim final rule on October 7, 2021, in response to the COVID-19 pandemic and any future emergencies. That interim final rule created a minimum 30-day period before a PHA or owner could terminate a lease for nonpayment of rent, and it required PHAs and owners to provide tenants with information about any federal funding available to prevent eviction for nonpayment of rent during a national emergency. The proposed rule extends the 30-day notice to situations outside of a national emergency.

The preamble also reminds PHAs and owners that the CARES Act 30-day notice to vacate is still in effect for CARES Act covered properties, which includes additional programs such as the following: Housing Choice Vouchers, Low Income Housing Tax Credits (LIHTC), HOME Investment Partnerships, Housing Opportunities for Persons With AIDS, the national Housing Trust Fund (HTF), McKinney-Vento homelessness programs, VASH vouchers, Section 236 Multifamily, Section 515 Rural Development, Section 416/516 Farm Labor Housing, Section 533 USDA preservation grant housing, Section 538 USDA multifamily housing, the Rural housing voucher program (Section 521), Fannie Mae-owned mortgage loans, Freddie Mac-owned mortgage loans, the HUD Section 184 Indian Home Loan Guarantee, and Ginnie Mae-backed mortgage loans, including those of the Federal Housing Administration, the Veterans Administration, and USDA direct or guarantee loans. In addition, the CARES Act applies to any other federal program providing affordable housing to low- or moderate-income persons by means of restricted rents or rental assistance and any other federal program providing affordable housing opportunities as identified through agency regulations, notices, or any other means.

See the National Housing Law Project's "Enforcing the CARES Act 30-Day Eviction Notice Requirement" for more details.

End Rental Arrears to Stop Evictions

NLIHC Publishes Brief on History, Successes, and Highlights of ERASE Project

NLIHC released on December 7 a new brief, *End Rental Arrears to Stop Evictions (ERASE): History, Successes, and Highlights*. The brief recounts the origin of NLIHC's ERASE project – which formally concludes this year – and explains the project's aims and structure, surveys the achievements of the ERASE team, and details the successes of member organizations in the three ERASE cohorts. The brief also discusses how NLIHC plans to build on lessons learned from the ERASE project in future advocacy for federal, state, and local policies that promote housing stability and reduce homelessness.

Emerging in early 2020, the COVID-19 pandemic resulted in widespread job losses that threatened access to safe, stable, and affordable housing for millions of low-income renters. By the last quarter of 2020, housing insecurity had reached unprecedented levels, with more than 8 million renter-households having fallen behind on at least one rental payment. By March 2021 – one year into the public health emergency – extremely low-income renters nationwide faced a looming eviction crisis.

In response, NLIHC led a campaign for "Rent Relief Now" that persuaded Congress to make an historic $46.5 billion in emergency rental assistance (ERA) available to states, localities, tribes, and territories through two pieces of legislation: the "Consolidated Appropriations Act, 2021" and the "American Rescue Plan Act of 2021." To ensure that ERA funds reached those renters most in need, NLIHC simultaneously launched a new project, "End Rental Arrears to Stop Evictions" (ERASE). The project engaged in advocacy, research, communications, tracking, and outreach at the federal, state, and local levels to support the efficient and equitable disbursal of ERA. From the beginning, the project also compiled lessons learned from the successes of various ERA programs to support future advocacy for a permanent ERA program and broader renter protections.

The new brief highlights the successes of the ERASE project over its three-year history and summarizes the activities and achievements of its member organizations. In addition to describing the advocacy and research efforts conducted by the ERASE team, the brief surveys the activities conducted by members of the three ERASE cohorts, which included well over one hundred local housing organizations that conducted on-the-ground advocacy, developed ERA program infrastructure, and pushed for ERA program improvements, permanent ERA, the expansion of tenants' rights, and stronger tenant protections. In addition to successfully advocating for hundreds of millions of dollars in ERA funds for their localities, cohort members helped bring about the passage of more 200 new state and local tenant protections.

The brief also explains how NLIHC will build on the successes of the project in future advocacy efforts. For example, NLIHC will draw on the lessons learned from ERASE to promote policy innovations at the state and local levels, with the overall objective of supporting federal policies that seek to end homelessness and increase housing stability. To support such policy innovations, NLIHC plans to convene housing- and justice-based state and local advocacy organizations to draft sample legislative text for local laws and ordinances that support tenants. NLIHC will also build national momentum for the passage of tenant protections by organizing members of previous ERASE cohorts, tenant-led organizations, state and tribal partners, and other interested stakeholders in a collective that will provide information sharing, technical support, and research assistance, while also serving as a vehicle to advocate for the enactment of uniform federal tenant protections. In this way, NLIHC will advance a coherent set of local, state, and federal policies that support housing stability and prevent evictions over the long term.

Disaster Housing Recovery

Senate Appropriations THUD Subcommittee to Hold Hearing on Need for Long-Term Disaster Assistance

The U.S. Senate Committee on Appropriations Subcommittee on Transportation, Housing and Urban Development, and Related Agencies (THUD) will hold a hearing, "Communities in Crisis: What Happens When Disaster Recovery Funds Are Delayed," on December 12. Led by Chair Brian Schatz (D-HI), the hearing will examine the impact of delays in the disbursal of disaster recovery funds and explore how Congress can improve the country's disaster recovery system by permanently authorizing HUD's long-term recovery program through enactment of the NLIHC-supported "Reforming Disaster Recovery Act of 2023." The hearing will be held at 10 am ET in Room 2128 of the Rayburn House Office Building and broadcast live.

Even after numerous disasters in 2023 – including severe tornado outbreaks across the southern U.S., Hurricane Idalia, flooding and winter storms in California, severe flooding in Vermont, and the catastrophic Maui wildfires in Hawaii – Congress has yet to approve long-term recovery funds through the Community Development Block Grant-Disaster Recovery (CDBG-DR) program facilitated by HUD. This program is the only source of long-term disaster recovery funds and can be used to pay for vital aspects of disaster recovery, including providing rental assistance to prevent the permanent displacement of impacted households, repairing damaged housing, constructing replacement housing, economic development, and infrastructure repair. Without these funds, communities struggle to keep recovery efforts afloat, with many disaster-impacted households facing permanent displacement and homelessness.

The challenges are exacerbated by the fact that the CDBG-DR program is not permanently authorized, meaning that it only operates when Congress approves funds under the program. This status delays the use of the funds and subjects disaster-impacted communities to long waits for approval. By passing the "Reforming Disaster Recovery Act of 2023," Congress can formally authorize the CDBG-DR program and provide important safeguards to help ensure (1) that funds are made quickly available after disasters so that all impacted survivors and their communities can fully recover; (2) that communities receive assistance fairly, based on need; and (3) that the program prioritizes transparency and oversight over how and where funds are being used.

Witnesses for the hearing will include:

- The Honorable Shaun Donovan, CEO and president of Enterprise Community Partners.
- Jennifer Gray Thompson, founder and CEO of After the Fire USA.
- Ran Reinhard, director of operations at the South Carolina Office of Resilience.

Watch the hearing live at: https://bit.ly/3NiYiIs

Read the NLIHC fact sheet on the "Reforming Disaster Recovery Act" at: https://bit.ly/47NQNSa

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Opportunity Starts at Home

New Article Explores Intersectional Implications of Housing

An article published on OtherWords, a platform hosted by the Institute for Policy Studies, explores the intersectional importance of homes. Written by Seeking 1610 founder Kazmyn Ramos, the piece makes the case that housing policy impacts well-being and helps build community, while also noting that housing is increasingly unaffordable and evictions are rampant. The author contends that housing should "lift us all up rather than segregate us and perpetuate the cycle of poverty." Read the article here.

Housing Policy Forum 2024

Applications Now Open for Housing Policy Forum 2024 Hotel and Travel Scholarship!

NLIHC's Housing Policy Forum 2024: An Unwavering Path Forward to Housing Justice will commemorate the 50-year anniversary of NLIHC by offering a limited number of shared-lodging scholarships for stays at the Hilton Washington DC Capitol Hill **and** travel reimbursement to individuals and sponsoring organizations to help low-income people attend.

NLIHC encourages the active participation of low-income people in all areas of our work, including our annual Housing Policy Forum. A limited number of scholarships are available and will cover shared lodging and travel costs for low-income people to attend. Scholarship recipients must be current, dues-paying NLIHC members and must pay the $100 Forum registration fee. Scholarships will be awarded on a first-come, first-served basis.

The forum will offer an array of opportunities to engage with and learn from others to advance housing justice, including a special session for tenant leaders and keynote addresses by acclaimed attorney and scholar Sherrilyn Ifill and Jelani Cobb, a renowned author and journalist.

IMPORTANT SCHOLARSHIP DATES AND DEADLINES:

December 8: Scholarship applications open on a first-come, first-served basis.

January 5: Scholarship applications are due. Once all scholarships are filled, additional applicants will be placed on a waitlist until February 5.

February 2: Deadline for scholarship recipients to pay NLIHC membership dues (if not already current) and the $100 Forum registration fee. After this date, those who have not paid will forfeit their scholarship to someone on the waitlist.

February 5: Individuals on the waitlist will be notified about whether NLIHC will be able to offer a scholarship to them.

February 16: Deadline for scholarship recipients notified on February 5 of a scholarship award to pay NLIHC membership dues (if not already current) and the $100 Forum registration fee.

For more information, email outreach@nlihc.org

Research

Fewer Than 15% of Older Adults Can Afford Combined Costs of Housing and Long-Term Care Services.

A report published by the Harvard Joint Center for Housing Studies, "Housing America's Older Adults," shows that older adults increasingly struggle to afford the combined costs of housing and the care needed to remain in the home of their choice. Approximately one-third of older adult households were cost-burdened in 2022, and nearly 50% of these households were severely cost-burdened. Meanwhile, fewer than 15% of single adults aged 75 or older could afford both the costs of housing and long-term care (LTC) services like in-home medical care, household support services, or assisted living facilities.

Between 2012 and 2022, the population of adults who are 65 and over in the U.S. increased by 34%, reaching 58 million. The authors of the new paper find that, in 2021, most older adults lived on their own or with a spouse only. Approximately 20% of older adults in 2021 lived in multigenerational households, which can provide opportunities for older adults to share housing costs or provide and receive social support. Older adults of color were much more likely to live in multigenerational housing arrangements compared to their white counterparts. The authors report that older adults are more likely than any other age group to require accessible housing, of which there is an inadequate supply. As of 2019, less than half of individuals aged 65-79 and 54% of those aged 80 and over lived in single-floor homes with non-step entries – important accessibility features for keeping older adults safe in their homes.

The authors analyzed data on housing tenure and identified widening wealth gaps between homeowners and renters, particularly for older adult renters of color. In 2022, most older adults (79%) owned their homes, the highest percentage of any age group. Older adults of color were more likely than the average older adult household to be renters: 37% of older adult Black households and 34% of Hispanic households were renters, compared to 20% of all older adults. In 2022, the median net wealth of older renters was $10,100, which is only 2% of the median net wealth of older homeowners. The median net wealth for older renters of color was even less: $3,000 for Hispanic households and $3,900 for Black households.

The authors also find that the number of older adults burdened by housing costs reached an all-time high in 2021, with 11.2 million adults aged 65 or older spending 30% or more of household income on housing costs, nearly half of them spending 50% or more (making them severely cost burdened). However, some older adults are disproportionately impacted. Eighty percent of older adults with annual household incomes below $15,000 were cost-burdened in 2021. Over 40% of Black and Hispanic older adult households (respectively) were cost-burdened, compared to 30% of White households. Older renters were also far more likely to face housing cost burdens than older homeowners: in 2021, more than half of older renter households were cost burdened, compared to about a quarter of homeowners. Unlike homeowners, older adult renters cannot rely on home equity as a source of funds and may not have sufficient savings to cover unexpected financial setbacks. For example, 43% percent of older renters had less than $1,000 in cash savings in 2022. Despite the clear need for government housing assistance, only one in three eligible older adult households currently receive a housing subsidy.

Finally, the authors examined the dual challenges of unaffordable housing and the high costs of LTC services needed by older adults to remain in their homes. The authors find that 70% of adults ages 65 and older will require LTC services at some point, but the need for care arises at an earlier age for renters, people with low incomes, and people of color. Nationally, the average cost of in-home care is $100 a day, while assisted living facilities that combine housing and long-term care cost an average of $63,000 a year. Analyzing data from 97 U.S. metro areas on adults ages 75 and older who live alone, the authors find that only 14% could afford a daily visit from a home health aide after paying for their housing costs, and only 13% of adults could afford living in an assisted living facility without tapping into their assets, such as retirement funds, stocks and bonds, and home equity. These dual challenges are not limited to the lowest-income populations. For example, of adults 75 or older earning more than 50% of the area median income, only 8% could afford a daily visit from a home health aide, and 16% could not afford a single weekly visit. (For more, see the interactive map published by the Joint Center for Housing Studies, which allows users to compare the combined cost burden of housing and LTC services for older adults by metro area.)

As the share of the U.S. population over age 65 increases, the authors predict that a growing number of households will struggle to afford to stay in the home of their choice and receive the care they need. They project that the number of older adults headed by an adult age 80 or over will double by 2040, as will the share of older adults who are low-income, renters, and people of color. With limited government assistance and scarce high-cost LTC services, more low- and moderate-income older adults will struggle to afford both housing and the care they need. The authors emphasize that more funding to sustain and enhance existing housing and care models is critical, as are innovative approaches to better support the country’s growing older population.

Read the article at: https://bit.ly/481VRlA

From the Field

Douglas County Plans to Pay People with Lived Experience for Input on Homelessness Policy

Douglas County, Kansas, is launching a lived experience compensation policy as part of a strategic plan to address homelessness in the county. Approved on September 13, 2023, the policy will pay community members who have experienced homelessness or housing insecurity for short-term engagements and for serving on county boards and committees. The goal is to address barriers that prevent people from participating in the decision-making process regarding issues that affect them.

The policy is the result of HUD guidance that stresses the importance of paying people with lived experiences of homelessness to participate in the creation and implementation of homelessness policy. The guidelines suggest that people with a personal knowledge of homelessness can make vital contributions to relevant programs. HUD also stresses that "compensation acknowledges and affirms the contributions of people with lived experience and expertise of homelessness, addresses inequalities between those who are and those who are not paid to engage in work, and helps break down barriers to participation."

Jill Jolicoeur, assistant county administrator for Douglas County and treasurer for the Kansas Statewide Homeless Coalition, says that Douglas County has much room to improve when it comes to lived experience compensation policies for homelessness programming. The policy's approval comes after the 2022 Douglas County Homelessness Needs Assessment drew heavily from the relevant lived experience of community members. The new policy is similar to other policies enacted by Douglas County, which has an established Peer Fellows Program that pays people with lived experience of mental illness and addiction to support other community members.

The county's housing and homelessness stakeholder group steering committee's five-year strategic plan to address homelessness has prioritized equity and inclusion. The committee formulated the plan after researching similar policies enacted by Ramsey County, Minnesota, the Washington State Office of Equity, and the LA County Transit Authority.

The Douglas County policy will pay people with lived experience to provide input on Douglas County initiatives in a short-term or long-term capacity. Short-term engagements include attending board or committee meetings and participating in a focus group. Short-term engagements will pay $25 per event. Participants may also serve on a board or committee, a more intensive role that will pay $50 per meeting. The maximum compensation for any individual will be $599 per fiscal year. (Participants must complete a 1099 tax form if that amount is exceeded.) Payments will come in the form of cash, check vouchers, or approved non-monetary compensation, such as food, transportation, or parking vouchers. The compensation will also provide additional incentives for individuals with lived experience, as they typically volunteer and have limited time availability.

The new policy will "allow Douglas County to operationalize our community's goals related to housing insecurity and homelessness by authentically engaging the individuals that stand to benefit or potentially be harmed by public policies and programs," said Jolicoeur, when asked how the policy would impact the community.

Though the policy has now been approved, the final version of the five-year strategic plan still needs to be submitted to county and city elected bodies by the end of December for approval by

January 2024. The Lived Experience Advisory Council will then be installed and will begin to build a framework throughout the next year.

Read more about the concept of lived experience in this blog post: https://hfront.org/2023/10/11/what-is-lived-experience/

Learn about the future of the Douglas County policy by e-mailing Jill Jolicoeur at: jjolicoeur@douglascountyks.org

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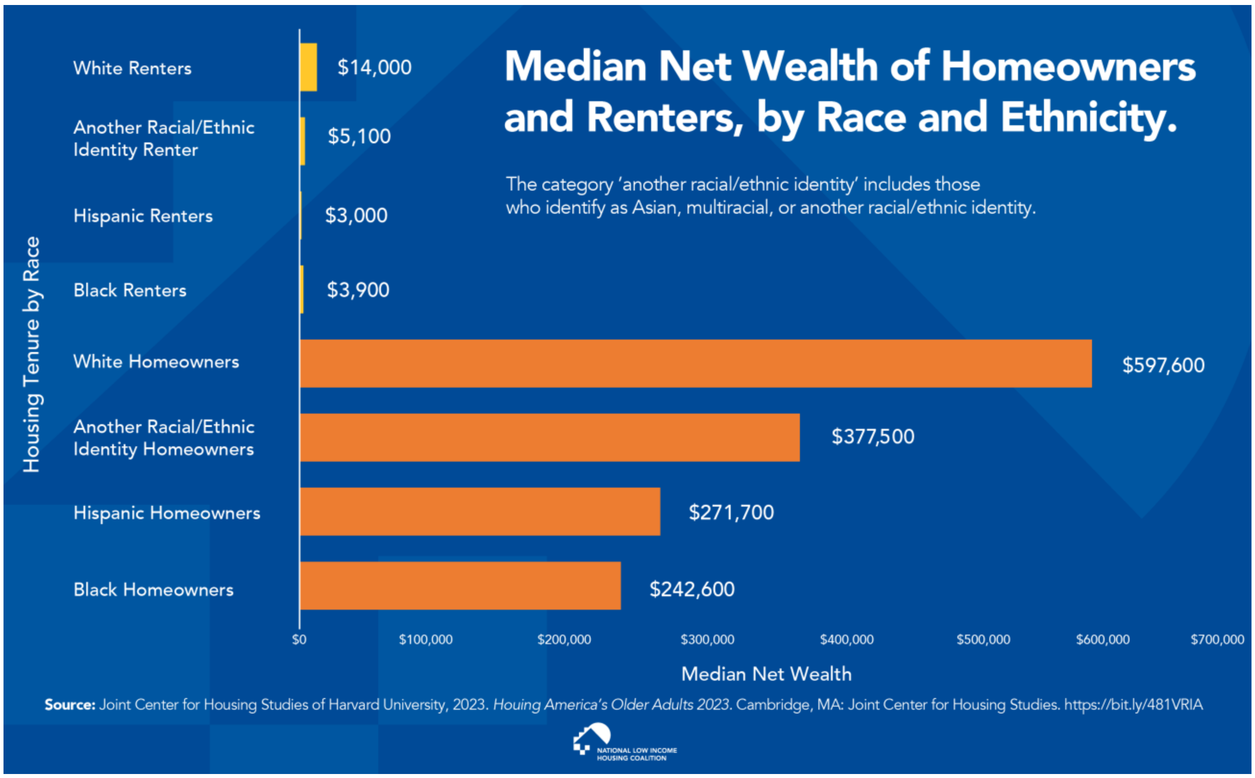
Fact of the Week

Median Net Wealth of Homeowners and Renters, by Race and Ethnicity



Source: Joint Center for Housing Studies of Harvard University, 2023. *Housing America's Older Adults 2023*. Cambridge, MA: Joint Center for Housing Studies. https://bit.ly/481VRlA

NLIHC in the News

NLIHC in the News for the Week of December 3

The following are some of the news stories to which NLIHC contributed during the week of December 3:

- "Voters Split Over Initiatives to Reduce Homelessness" *Invisible People,* December 8 at: https://tinyurl.com/59r69eba
- "Lawmakers blast growing divide between housing supply and demand" *The Hill,* December 6 at: https://tinyurl.com/yeyjs5pk

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NLIHC Careers

NLIHC News

Nominate an NLIHC Board Member Today!

NLIHC members and partners are encouraged to submit nominations (or self-nominate!) to fill upcoming vacancies on the NLIHC Board of Directors. Nominees for board membership must be current dues-paying NLIHC members or be employed by a current dues-paying NLIHC member organization. Please send nominations – and in the case of self-nomination, a brief biographical description or resume and a statement of interest – to NLIHC President and CEO Diane Yentel at dyentel@nlihc.org by close of business on December 31.

NLIHC's board consists of six impacted persons (defined as individuals with lived experience of homelessness and/or housing instability), six representatives of allied national organizations, six representatives of NLIHC state partners, and up to seven unrestricted or at-large NLIHC members. NLIHC is seeking nominations for the following positions: one representative from a national NLIHC member organization, and three at-large NLIHC member representatives. The new board members will assume their duties in March 2024.

At least 90% of NLIHC board members must be people with low incomes or individuals who are or have been engaged directly in working on meeting the housing needs of low-income people. In selecting board members, NLIHC strives to achieve a broad diversity in terms of race, ethnicity, gender, and geography, including representation from both urban and rural communities. We seek to have as many different states represented as possible.

Board members are elected for three-year terms and can serve up to three terms. The board meets in person twice a year in Washington, D.C. – once in conjunction with our annual forum in the spring and once in the fall. The board also meets by conference call in the summer. Attendance at board meetings is required, with exceptions for illness or emergencies. Generally, new board members are elected by existing board members at the annual board meeting held in the spring. All board members serve on at least one standing committee of the board and all board members are members of the NLIHC Policy Advisory Committee. Committees meet by conference call. All new board members must attend an in-person orientation in Washington D.C. soon after their election.

NLIHC subsidizes travel and lodging expenses of low-income board members to attend board meetings. All others are expected to cover their own travel and lodging expenses, unless doing so would prevent an otherwise qualified person from serving on the board. In addition to paying

NLIHC membership dues, all board members are asked to make financial contributions to NLIHC at the level they are able. We strive for 100% board giving.

The best way to be considered for board membership is to get involved in the activities of NLIHC, particularly by serving on the Policy Advisory Committee and attending NLIHC's annual Housing Policy Forum in the spring. The NLIHC Nominating Committee will review the level of a potential board member's involvement in his or her own community or state/national housing advocacy activities and accountability to a constituent base.

To make a nomination or self-nominate, send the required materials (statement of interest and bio or resume) to Diane Yentel at dyentel@nlihc.org by December 31.

Where to Find Us – December 11

- SAHF Resident Services Peer Convening – Washington, DC, December 12 (Courtney Cooperman)
- Sinergia NY Housing Advocacy Program – Virtual, December 13 (Lindsay Duvall)
- United Way National ALICE Summit – New Orleans, LA, January 30-31, 2024 (Andrew Aurand)
- Neighborworks Training Institute – San Francisco, CA, February 26-27 (Sid Betancourt)

NLIHC Staff

Sarah Abdelhadi, Senior Research Analyst
Meredith Abel, Research Intern
Andrew Aurand, Senior Vice President for Research, x245
Sidney Betancourt, Housing Advocacy Organizer, x200
Victoria Bourret, ERASE Senior Project Coordinator x244
Jen Butler, Vice President, External Affairs, x239
Alayna Calabro, Senior Policy Analyst, x252
Matthew Clarke, Writer/Editor, x207
Courtney Cooperman, Housing Advocacy Organizer, x263
Lindsay Duvall, Senior Organizer for Housing Advocacy, x206
Dan Emmanuel, Senior Research Analyst, x316
Ed Gramlich, Senior Advisor, x314
Sarah Gallagher, Senior Director, ERASE Project, x220
Jordan Goldstein, Communications/Graphic Design Intern
Yingxue Snow Guo, Communications Intern
Danita Humphries, Senior Executive Assistant, x226
Nada Hussein, ERASE Project Coordinator, x264
Kim Johnson, Public Policy Manager, x243
Kayla Laywell, Housing Policy Analyst, x231
Mayerline Louis-Juste, Senior Communications Specialist, x201

Steve Moore Sanchez, Development Coordinator, x209
Khara Norris, Vice President of Operations and Finance, x242
Noah Patton, Senior Housing Policy Analyst, x227
Mackenzie Pish, Research Analyst
Ikra Rafi, Creative Services Manager, x246
Benja Reilly, Development Specialist, x234
Gabrielle Ross, Housing Advocacy Organizer, x208
Sarah Saadian, Senior Vice President for Public Policy and Field Organizing, x228
Brooke Schipporeit, Manager of Field Organizing x233
Sophie Siebach-Glover, Research Analyst, x205
Lauren Steimle, Web/Graphic Design Specialist, x246
Chantelle Wilkinson, OSAH Campaign Director, x230
Renee Willis, Senior Vice President for Racial Equity, Diversity, and Inclusion, x247
Diane Yentel, President and CEO, x225