NATIONAL COALITION FOR HOUSING JUSTICE

September 21, 2022

The Honorable Ron Wyden
Committee on Finance
U.S. Senate
Washington, DC

The Honorable Richard Neal
Committee on Ways and Means
U.S. House of Representatives
Washington, DC

The Honorable Mike Crapo
Committee on Finance
U.S. Senate
Washington, DC

The Honorable Kevin Brady
Committee on Ways and Means
U.S. House of Representatives
Washington, DC

To Chair Wyden, Ranking Member Crapo, Chair Neal, and Ranking Member Brady:

In rural, suburban, and urban communities across the nation, one of the most pressing issues facing America's lowest-income and most marginalized households today is the severe lack of affordable housing, skyrocketing rents, and increased homelessness. While the Low Income Housing Tax Credit (LIHTC) is the primary source of financing for the construction and preservation of affordable housing, the tax credit – on its own – rarely builds or preserves homes affordable to households with the lowest incomes who face the greatest and clearest needs. As a result, our nation's largest source of affordable housing financing too often leaves behind those experiencing or at risk of homelessness. To help states and communities better address this growing crisis, **we urge you to ensure that any expansion of LIHTC in a tax extenders package is paired with key reforms** to better serve our nation's lowest-income and most marginalized households, including those experiencing or at risk of homelessness who are disproportionately Black, Indigenous and people of color.

The National Coalition for Housing Justice (NCHJ) is a group of national organizations who have aligned behind seeking housing justice in order to end homelessness. Our vision of housing justice guarantees opportunities for everyone in our country to have affordable, safe, accessible, stable housing. NCHJ members include Community Solutions, Center on Budget and Policy Priorities, CSH, Funders Together to End Homelessness, Heartland Alliance, Housing Justice Collective, National Coalition for Homeless Veterans, National Coalition for the Homeless, National Homelessness Law Center, National Low Income Housing Coalition, National Health Care for the Homeless Council, True Colors United, and Youth Collaboratory.

To end homelessness and housing poverty once and for all, NCHJ believes that our nation needs a bold, comprehensive strategy that includes large-scale, sustained investments and anti-racist reforms to ensure that people experiencing homelessness and renters with the lowest incomes have an affordable place to call home. Reforming LIHTC is a small – but important – step towards this larger vision.

Incentives to Serve Extremely Low-Income Households and Those Experiencing Homelessness

The shortage of affordable and available rental housing is most acute for extremely low-income renters, who earn no more than 30% of the Area Median Income or the federal poverty limit, and it is a primary

cause of homelessness. Nationally, there is a shortage of 7 million homes affordable and available to these households. For every 10 of America's lowest-income households, there are fewer than 4 homes affordable and available to them. No state has an adequate supply of affordable and available homes for these renters. In fact, extremely low-income households are the *only* income group in America facing an absolute shortage of affordable homes. Without affordable housing options, 72% of America's lowest-income renters spend more than half of their limited incomes on housing, putting them at increased risk of evictions and, in worst cases, homelessness. Another half a million people experience homelessness on any given night. To help increase the supply of deeply affordable housing for America's lowest-income households, Congress should include in any tax extenders package:

- **A 50% basis boost for housing developments where at least 20% of units set aside for households with extremely low incomes or those experiencing homelessness**. This reform, as included in the Affordable Housing Tax Credit Improvement Act, would help facilitate the development of more affordable housing for populations with special needs, such as formerly homeless individuals and people with disabilities.

- **A 10% set-aside of tax credits to help offset the costs to build these homes, as** proposed by Senator Wyden (D-OR) in the DASH Act**.** To ensure that more housing developments built using LIHTC serve extremely low-income households, Congress should set aside 10% of the program's resources for developments where at least 20% of units set aside for households with extremely low incomes or those experiencing homelessness.

- **Changes to allow operating costs needed to serve extremely low-income households to be included in the eligible basis for LIHTC.** One of the largest barriers to serving extremely low-income households is the need for operating assistance. Despite the need, only 1 in 4 people eligible for rental assistance are able to access the assistance they need, due to chronic underfunding by Congress. Reforming LIHTC to cover some operating expenses would help overcome this barrier.

Reforms to Encourage More Housing Development in Tribal and Rural Areas

Indigenous people have some of the worst housing needs in the United States. They face high poverty rates and low incomes, overcrowding, lack of plumbing and heat, and unique development issues. Despite the growing need for safe, decent homes, however, federal investments in affordable housing on tribal lands have lagged for decades, particularly in more rural and remote areas. Likewise, rural communities face unique barriers to developing affordable rental homes, including lower incomes, higher poverty rates, and lack of access to private capital. As a result, far too many rural families live in rental homes that are unaffordable or are in substandard condition. To address the significant housing needs for indigenous people and those in rural America, Congress should include in any tax extenders package:

- **Changes to designate tribal communities as "Difficult To Develop Areas (DDAs)."** Most tribal areas do not qualify under current DDA standards. This reform, as proposed in the Affordable Housing Credit Improvement Act, would make housing developments in tribal communities automatically eligible for a 30% basis boost, making it more financially feasible for developers to build affordable homes in these areas.

- **A requirement for states to consider the needs of Native Americans when determining which housing developments will receive LIHTC allocations each year.** This reform, as proposed in the Affordable Housing Credit Improvement Act, will help address the needs of Indigenous people, who are disproportionately impacted by the housing crisis and are more likely to experience homelessness.

- **Changes to designated rural communities as "Difficult To Develop Areas (DDAs),"** making housing developments in rural America automatically eligible for a 30% basis boost.

Reforms to Help Preserve Long-Term Affordability and Access

To ensure long-term affordable, Congress should in any tax extenders package:

- **Eliminate the "Qualified Contract" loophole from the LIHTC program, as proposed in the DASH Act.** Under the Qualified Contract loophole, LIHTC owners can avoid federal and state affordability restrictions after just 15 years, rather than the 30-year minimum requirement. The QC loophole has led to a substantial loss of affordable rental homes, harming low-income residents and wasting scarce federal investments.

- **Clarify and strengthen the "right of first refusal (ROFR)" for nonprofit owners, as proposed in the DASH Act.** By statute, Congress provides nonprofit organizations with a ROFR to help facilitate their ability to purchase LIHTC developments. In recent years, some private investors have challenged the ROFR in hopes of preventing the preservation sale in order to raise rents or extracting additional payments from the nonprofit. This puts the long-term financial health and condition of the properties at risk.

- **Provide HUD access to IRS data on LIHTC properties.** HUD's LIHTC database, the primary data source about LIHTC properties, includes critical information needed to protect residents and preserve federal investments. However, the database is incomplete and some datapoints can be unreliable. While HFAs report critical property-level data to IRS, federal law does not allow IRS to share this data with HUD. Without more accurate and complete data, long-term tracking of LIHTC properties and the ability to preserve these homes is more difficult.

- **Congress should extend renter protections to tenants living in LIHTC properties.** Tenants in LIHTC properties have few protections, placing tenants and applicants in a vulnerable position as they may be evicted or denied admission for arbitrary or unlawful reasons.

Homelessness and housing poverty is an urgent crisis that demands action by all levels of government. The end-of-year tax extenders package provides the most immediate opportunity to improve LIHTC so that it better serve extremely low-income households, including people experiencing or at risk of homelessness.

Sincerely,

National Coalition for Housing Justice