

July 29, 2021

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
Washington, D.C.

The Honorable Marcia Fudge
Secretary
U.S. Department of Housing and Urban Development
Washington, D.C.

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
Washington, D.C.

The Honorable Merrick Garland
Secretary
U.S. Department of Justice
Washington, D.C.

The Honorable Denis McDonough
Secretary
Veterans Affairs
Washington, D.C.

The Honorable Susan Rice
Director
White House Domestic Policy Council
Washington, D.C.

The Honorable Dr. Rochelle Walensky
Director
Centers for Disease Control and
Prevention
Atlanta, Georgia

The Honorable Sandra L. Thompson
Acting Director
Federal Housing Finance Agency
Washington, D.C.

The Honorable Gene Sperling
American Rescue Plan Coordinator &
Senior Advisor to the President
White House
Washington, D.C.

To Secretaries Yellen, Fudge, Vilsack, Garland, and McDonough, Directors Rice and Walensky, Acting Director Thompson, and Advisor Sperling:

On behalf of the National Low Income Housing Coalition and National Housing Law Project, we write in response to the Biden administration's decision – [announced](#) today – not to extend the federal eviction moratorium issued by the Centers for Disease Control and Prevention (CDC), which expires July 31. In its announcement, President Biden asked federal housing agencies “to extend their respective eviction moratoria through the end of September” and urged them “to do everything in their power so that owners and operators of federally-assisted and financed rental housing seek Emergency Rental Assistance (ERA)...before moving toward eviction.” When the eviction moratorium expires, millions of renters will be at risk of losing their homes – and with them, their ability to keep themselves and their families safe from the growing threat of the Delta COVID-19 variant. Recent research estimates that up to 80% of households behind on rent and at risk of eviction live in communities with over 100% COVID-19 case growth rates in July. If the federal government cannot or will not extend a broad eviction moratorium to keep renters stably housed during the pandemic, it must take every alternative action to protect renters.

The Biden administration should immediately announce an eviction moratorium for renters living in all federally assisted properties supported by the U.S. Departments of Housing and Urban Development (HUD), Agriculture (USDA) or Treasury. As outlined in previous

correspondence, these departments can use existing authorities to issue an eviction moratorium for residents.

Additionally, housing authorities and property owners should be required to apply for ERA before filing for eviction for non-payment. While this is a relatively small part of the housing stock, tenants living in federally subsidized properties have lower incomes and are at a greater risk of experiencing homelessness or housing instability following an eviction.

The Federal Housing Finance Agency (FHFA) should also investigate any authority it has to institute a moratorium or other eviction prevention requirements on properties that have a federally backed mortgage or multifamily loan. Renters living in properties with a federally backed mortgage loan comprise 30% of all renters. FHFA should commit to making public information on all covered properties, including smaller properties, to ensure renters know whether they are protected. Making this information public will also help renters understand whether they are covered by the 30-day notice requirement from the CARES Act.

The Department of Justice should issue a notice to state courts declaring that evictions during the pandemic present heightened dangers both to the affected tenants and to the public, and therefore heightened procedural safeguards are required to avoid wrongful or improper evictions. Such protections should include at least 14 days for pre-trial discovery, legal representation at public expense, and notice to relevant public health authorities. The Justice Department should also issue a notice to state courts urging them to stop evictions for renters applying for ERA and urge courts to work with ERA programs to prioritize renters most at risk.

The Treasury Department should eliminate barriers that prevent ERA programs from serving households in need. Only \$3 billion of the \$46 billion in ERA provided by Congress had been spent at the end of June, despite robust efforts by the Biden administration to encourage state and local governments to distribute aid quickly. The Biden administration can support state and local efforts to ramp up ERA programs by creating explicit safe harbor provisions to provide administrators with clear assurances that funds will not be clawed back if administrators' interpretation of the guidance is "reasonable." Treasury should also allow programs to presume applicants have a COVID-19 related hardship if they have low or moderate incomes, as is allowed under the State and Local Fiscal Recovery Fund. Guidance should make clear that bridge loans provided by philanthropy or federal, state, and local resources are eligible for reimbursement with ERA funds. Program administrators should be directed to simplify applications and work with renters to complete those applications that are currently incomplete.

The CDC should require landlords or courts to provide 30-days-notice to renters once the moratorium ends before proceeding with an eviction. Such notice should include critical information renters need to protect themselves from COVID-19, including information related to: local ERA programs and basic eligibility criteria; COVID-19 symptoms, the Delta variant, and manner of transmission; where households can obtain COVID-19 testing and what do in case of suspected infection; effective ways to minimize COVID-19 risks related to eviction, displacement, and homelessness; where to obtain vaccinations locally and who is eligible for them; and how to access local shelter resources. If landlords are required to provide notice, courts must verify compliance, and improper notice must result in a delay of the eviction until proper notice can be given.

The Biden administration must take every action to protect renters from COVID-19 and keep them stably housed. As always, NLIHC, NHLP, and our partners across the country stand ready to assist.

Sincerely,

A handwritten signature in black ink that reads "Diane Yentel". The signature is written in a cursive style with a large, looped initial "D".

Diane Yentel
President and CEO
National Low Income Housing Coalition

A handwritten signature in blue ink that reads "Shamus Roller". The signature is written in a cursive style with a large, looped initial "S".

Shamus Roller
Executive Director
National Housing Law Project