

Volume 26, Issue 22

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HoUsed Campaign for Universal, Stable, Affordable Housing

- Bipartisan Infrastructure Negotiations Slow, House Appropriations Process Takes Shape
- House Financial Services Committee to Hold Hearings on Universal Vouchers and CDBG
- Join NLIHC's National Call on "HoUsed: Universal, Stable, and Affordable Housing" Today at 2:30 pm ET

Emergency Rental Assistance

- Updates on Treasury Emergency Rental Assistance Programs: Initial Trends from Tribal Nation Programs

Coronavirus, Disasters, Housing, and Homelessness

- Federal Appeals Court Keeps CDC Eviction Moratorium in Place as Realtors Appeal to Supreme Court
- Using ARPA Coronavirus State and Local Fiscal Recovery Funds to Develop Affordable Housing
- Bipartisan Bill Creating National Disaster Safety Board Reintroduced with Support from Disaster Recovery Advocates, Researchers, and Former FEMA Administrators
- HUD PIH Updates Eviction Prevention and Stability Toolkit
- HUD CPD Posts CDBG-CV Toolkit
- FHFA Extends COVID-19 Multifamily Forbearance through September 30

White House

- White House Releases Plan to Build Black Wealth and End Racial Discrimination in Housing

Opportunity Starts at Home

- Housing is Health: New Research Finds Relationship between Inclusionary Zoning and Population Health

Research

- Study Identifies Over 1,000 Inclusionary Housing Programs Nationwide
- Despite COVID-19 Economic Hardship, Low-Income Immigrants Avoid Safety Net Programs Due to Immigration Concerns

Fact of the Week

- Immigration Concerns Prevent More than 1 in 10 Adults in Low-Income Immigrant Families with Nonpermanent Residents from Accessing Emergency Rental Assistance

EVENT

- *Tenant Talk Live!* Tenant Organizing

From the Field

- “Anti-NIMBY” Bill Soon to Become Law in Virginia

NLIHC is Hiring

- NLIHC Seeks Housing Advocacy Organizer
- NLIHC Seeks Website and Graphic Design Specialist

NLIHC News

- NLIHC Welcomes Sarah Gallagher as ERASE Senior Project Director
- NLIHC Welcomes Stephanie Jean as Development Coordinator
- NLIHC Welcomes Emma Foley as a Research Analyst
- NLIHC Welcomes New Policy Intern Imani Mayo
- NLIHC Welcomes New Communications Intern Patrick Hanrahan
- NLIHC Welcomes Summer Graphic Design Intern Seulgi Smith

NLIHC in the News

- NLIHC in the News for the Week of May 30

HoUSed Campaign

Bipartisan Infrastructure Negotiations Slow, House Appropriations Process Takes Shape

President Joe Biden met last week with Senator Shelly Moore-Capito (R-WV) to continue bipartisan negotiations over the “American Jobs Plan,” the president’s \$2.3 trillion infrastructure plan that includes \$318 billion in housing investments. Senator Capito, who is leading negotiations on behalf of her Republican colleagues in the Senate, noted the White House and Senate Republicans are “inching towards one another” on a potential deal, but the White House said the latest Republican offer “did not meet the president’s objectives to grow the economy, tackle the climate crisis, and create new jobs.” Time is running short to reach a bipartisan compromise.

Senator Ben Cardin (D-MD) suggested that ten days remain before Democrats begin moving forward on a reconciliation bill that could pass without Republican support, but Senator Joe Manchin (D-WV) stated that he is not yet ready to give up on reaching a bipartisan deal. In an effort to bridge the divide between the White House and Senate Republicans, President Biden has reportedly backed off the proposed 28% corporate tax rate included in the “American Jobs Plan” to help pay for infrastructure investments, suggesting instead a new minimum corporate tax rate of 15% and utilizing increased revenues from Internal Revenue Service (IRS) enforcement.

NLIHC is working to ensure that Congress includes in any infrastructure spending plan comprehensive resources to achieve housing justice, specifically:

- Expansion of rental assistance to every eligible household
- \$70 billion to repair and make energy-efficient upgrades to public housing
- At least \$40 billion for the national Housing Trust Fund to build and preserve homes affordable to people with the lowest incomes

Take action by signing your organization on to a national letter urging Congress to robust investments in affordable housing at: <https://tinyurl.com/zbau4kee>

While negotiations continue over an infrastructure package, the release of President Biden’s budget request (see *Memo*, [6/1](#)) marked the beginning of the appropriations process for fiscal year 2022 (FY22). House Budget Chairman John Yarmuth (D-KY) stated the committee will take up a “deeming” resolution in the coming weeks to set discretionary spending limits that will likely match the targets proposed in the president’s budget request, including a \$9 billion, or 15%, increase to HUD’s budget. With spending limits set, the House Budget Committee will then release a “shell” budget resolution for FY22 that will include reconciliation instructions to pass a potential infrastructure package without bipartisan support.

Learn more about NLIHC’s HoUSed Campaign and get involved at: <https://nlihc.org/housed>

House Financial Services Committee to Hold Hearings on Universal Vouchers and CDBG

House Financial Services Committee (HFSC) Chairwoman Maxine Waters (D-CA) announced on June 4 several full and subcommittee hearings for the month of June, including a hearing on ending homelessness through universal housing vouchers and another on the impact of the CDBG program.

The hearings include:

- “Universal Vouchers: Ending Homelessness and Expanding Economic Opportunity in America” (Full Committee) – [June 9 at 12 pm ET](#)
- “Flexible Federal Funding: Examining the Community Development Block Grant Program and Its Impact on Addressing Local Challenges (Subcommittee on Housing, Community Development and Insurance) – [June 16 at 10 am ET](#)
- Hybrid Markup (Full Committee) – June 23 at 10 am ET

Read Chairwoman Waters’s announcement at: <https://bit.ly/3ihfdN5>

Unless otherwise noted, hearing and votes will broadcast live at: <https://financialservices.house.gov/live/>

Visit <https://financialservices.house.gov/calendar/> for an up-to-date schedule of HFSC hearings and witnesses lists.

Join NLIHC’s National Call on “HoUSed: Universal, Stable, and Affordable Housing” Today at 2:30 pm ET

Join today’s (June 7) national HoUSed campaign call from 2:30-4 pm ET. Representative Pramila Jayapal (D-WA) will join the call to discuss the importance of including substantial housing investments in the “American Jobs Plan.” Peggy Bailey, senior advisor to HUD Secretary Fudge, will share updates on the president and Secretary Fudge’s commitment to major investments in affordable housing. We will also discuss the latest developments related to the CDC eviction moratorium; hear the latest from Capitol Hill; receive updates from the field; and more.

Register for the call at: <https://tinyurl.com/ru73qan>

See the full agenda [here](#).

Emergency Rental Assistance

Coronavirus, Disasters, Housing, and Homelessness

Federal Appeals Court Keeps CDC Eviction Moratorium in Place as Realtors Appeal to Supreme Court

The U.S. Court of Appeals for the District of Columbia ruled on June 2 that it would continue to stay a lower court ruling seeking to overturn the CDC eviction moratorium. This latest ruling leaves the moratorium in place, so that millions of households behind on their rent continue to receive eviction protections. Moreover, the court, which is the highest court to date to address the eviction moratorium, noted that the Department of Justice “made a strong showing that it is likely to succeed” on its appeal of the lower court’s order to overturn the moratorium.

The Court of Appeals decision is good news for the millions of renters who remain stably housed because of the protections under the CDC eviction moratorium. Currently, more than 6 million renter households report being behind on rent and are at heightened risk of eviction, almost twice the number of homeowners who lost their homes to foreclosure in the 2008 financial crisis.

In response to the stay, a group representing the interests of landlords and led by the Alabama Association of Realtors on June 3 appealed the issue the U.S. Supreme Court, urging the highest court to issue an order nullifying the stay and allowing moratorium protections to end immediately. In an [interview](#), NLIHC President and CEO Diane Yentel noted that “if [landlord groups] spent even a quarter of [their] effort instead convincing landlords to apply for and accept the money, maybe they wouldn’t feel such a pressing need to evict low-income tenants who fell behind on rent during the global pandemic.”

In a separate case against the moratorium brought forward in the District Court for the Northern District of Ohio, a judge issued a statement on June 3 clarifying the impact of the [court’s earlier decision](#) that the CDC exceeded its statutory authority in issuing the moratorium. The statement notes the court’s ruling applies only to the plaintiffs in the case, including the National Association of Homebuilders (NAHB) and its members. However, because the court decision only binds the parties to the case, tenants who live in properties owned by NAHB members are not bound by the decision and may still seek eviction protections through the CDC moratorium, as long as they are not party to the original court case.

The CDC eviction moratorium has provided vital protections to millions of people impacted by the pandemic. If it is overturned or allowed to expire after June 30, millions of renters will be at immediate risk of losing their homes. NLIHC will continue to urge the Biden administration to defend, enforce, and extend the moratorium until emergency rental assistance funds provided by Congress reach the renters most in need and most at risk of losing their homes.

Read Diane Yentel’s statement on the federal appeals court ruling at: <https://tinyurl.com/yw6jmd55>

Using ARPA Coronavirus State and Local Fiscal Recovery Funds to Develop Affordable Housing

The [American Rescue Plan Act](#) (ARPA) allocated \$350 billion in [Coronavirus State and Local Fiscal Recovery Funds](#) (Fiscal Recovery Funds) to help states, counties, cities, and tribal governments respond to the COVID-19 public health emergency, address its economic fallout, and lay the foundation for an equitable recovery. Fiscal Recovery Funds provide flexibility for governments to meet local needs, including providing emergency rental assistance, addressing the housing and health needs of people experiencing homelessness, and building and preserving affordable housing in impacted communities. See the NLIHC [fact sheet](#) for more information on eligible housing and homelessness uses for ARPA Fiscal Recovery Funds.

States and localities can use the substantial infusion of funding for affordable housing construction through ARPA Fiscal Recovery Funds to begin addressing the severe shortage of homes affordable, accessible, and available to the lowest-income renters. Even before the pandemic, nationally [only 37 affordable, available rental units existed for every 100 of the nation’s lowest-income households](#) – those earning below the poverty level or 30% of area median income (AMI) every year – and not one state or congressional district in the country had enough affordable, accessible homes to meet demand. In the absence of affordable housing, approximately [70% of the lowest-income households](#) must routinely spend over half their incomes on rent, leaving little to save for emergencies, buy nutritious food, or obtain needed medication.

Fiscal Recovery Funds present a significant opportunity for communities to address the systemic discrimination that has led to the pandemic’s disproportionate toll on people of color, people with disabilities, immigrant communities, and other historically marginalized groups. To maximize the impact of these funds, the U.S. Department of the Treasury must ensure resources are targeted to the lowest-income and most marginalized households. NLIHC is preparing a letter to Treasury outlining recommendations for developing guidance on the implementation of Fiscal Recovery Funds. These recommendations are designed to ensure any funds used for affordable housing are targeted to the lowest-income and most impacted communities and to ensure they advance racial and economic equity.

Treasury’s [Interim Final Rule](#) governing the implementation of ARPA Fiscal Recovery Funds, for example, restricts the construction of new affordable housing to Qualified Census Tracts (QCTs, as designated by HUD) or other disproportionately impacted areas, and when provided by tribal governments. Restricting the construction of new affordable housing to primarily QCTs threatens to reinforce housing segregation and patterns of racial discrimination. Rather than relying primarily on QCTs, communities should be encouraged to consider factors that are more likely to reflect affordable housing needs in an area, including the number of extremely low-income renters and severely housing cost-burdened renters in a census tract.

Additionally, Treasury’s Interim Final Rule notes that Fiscal Recovery Fund recipients may allocate funding for services provided to “populations, households, or geographic areas disproportionately impacted by the pandemic,” but does not clarify how recipients can support their determination that a particular area or household has been disproportionately impacted by COVID-19. Rather than limiting funds to the geographic areas impacted most by COVID-19, Treasury should provide guidance to state and local governments to direct resources to the populations disproportionately impacted: people with the lowest-incomes; Black, Indigenous, and people of color; people with disabilities; people with limited English proficiency; immigrants; and others. Additionally, Treasury should consider allowing affordable, accessible housing that serves the lowest-income renters and is constructed outside of Tribal areas or QCTs to meet the criteria of assisting households disproportionately impacted by the pandemic.

At least eleven state and local governments have so far allocated or are considering allocating Fiscal Recovery Funds for affordable housing.

Learn more on Treasury’s Coronavirus State and Local Fiscal Recovery Funds webpage: <https://bit.ly/3eT9Rp7>

Read Treasury’s FAQ on Coronavirus State and Local Fiscal Recovery Funds at: <https://bit.ly/3uYeOSY>

Read Treasury’s Interim Final Rule at: <https://bit.ly/3byMGy7>

See NLIHC’s fact sheet on Fiscal Recovery Funds at: <https://bit.ly/3vCAAtAM>

Bipartisan Bill Creating National Disaster Safety Board Reintroduced with Support from Disaster Recovery Advocates, Researchers, and Former FEMA Administrators

Senators Brian Schatz (D-HI) and Bill Cassidy (R-LA) announced the reintroduction of the “[Disaster Learning and Lifesaving Act](#)” in the Senate on May 27. The bill was also introduced in the House of Representatives by Representative Katie Porter (D-CA). First introduced in October of 2020, the bill would create a new permanent and independent National Disaster Safety Board (NDSB) to study the underlying causes of disaster related deaths and property damage across the country. The legislation has garnered support from disaster advocates and researchers from across the country, including NLIHC, which signed on to a [letter](#) to members of the House of Representatives. Other signatories included almost 50 national, state, and local organizations and researchers, as well as two former FEMA administrators, Craig Fugate and Brock Long.

The National Disaster Safety Board (NDSB) is modeled on the National Transportation Safety Board (NTSB) that investigates plane crashes, major railroad accidents, and commercial highway accidents. Rather than working to assign specific blame for disaster failures, the NDSB would focus on how to improve disaster recovery systems to avoid future loss of life and major property damage. The legislation would also ensure that reports and recommendations would be publicly available, tasking the board with providing technical assistance to jurisdictions attempting to implement them. Low-income households commonly experience the worst effects of disasters while also receiving the least amount of assistance to recovery afterward. By attempting to identify

the underlying causes of such catastrophes and implementing improvements, the NDSB would mitigate the risks facing low-income households during major disasters.

“With climate change causing more frequent and severe natural disasters, we need more data to make sure our communities are resilient and prepared to respond to the next crisis,” said Senator Schatz in a [press release](#) announcing the reintroduction. “Our bill creates a new independent board to investigate major natural disasters and gives policymakers and the public a full accounting of what happened and what should happen next.”

In the same press release, Senator Cassidy referenced Louisiana’s struggle to recover from multiple hurricanes that struck the state last year. “I was just in Cameron and Calcasieu parishes, and it is clear, lessons have been learned from past hurricanes efforts that could help, but they have not been implemented” said Senator Cassidy. “I proposed, with Senator Schatz, a Natural Disaster Safety Board to memorialize these lessons so that in future storms, wherever they may be, recovery of life and community is faster and better.”

HUD PIH Updates Eviction Prevention and Stability Toolkit

HUD’s Office of Public and Indian Housing (PIH) updated its “[Eviction Prevention and Stability Toolkit](#)” on June 2. The 10-part toolkit has been updated (see *Memo*, [7/13/20](#)) with new information and reflects the latest Centers for Disease Control and Prevention (CDC) guidance. PIH indicates that the resource builds on public housing agency (PHA) practices and existing HUD guidance. The updated toolkit offers information and resources for PHAs and Housing Choice Voucher (HCV) landlords regarding ways to stabilize households during and after the coronavirus pandemic.

The updated toolkit includes ten attachments with links to:

- Tenant brochure containing tips on how to avoid eviction,
- PHA best practices guide, an HCV landlord flyer to encourage engagement with tenants before the CDC moratorium expires on June 30
- Repayment agreement guidance and examples
- Needs assessment tool
- HUD’s Emergency Rental Assistance Program (ERAP) frequently asked questions (FAQs).

NLIHC has not combed the ten attachments to identify significant changes. However, immediately noticeable on “Attachment 1: PHA Brochure” is the new language: “In addition, **Federal law under the CARES Act requires that an eviction notice for nonpayment of rent must provide at least 30 days to vacate the property**, but a longer notice period may be required by state or local law.”

PIH’s brief description of “Attachment 2: Tenant Brochure” states that PHAs ought to distribute the brochure to tenants to prevent eviction for nonpayment of rent as the end of the eviction moratorium approaches. PIH will translate this brochure into multiple languages that will be available on PIH’s [COVID-19 Resources webpage](#).

The updated tenant brochure adds:

“The Centers for Disease Control and Prevention (CDC) issued an Order to prevent the spread of COVID-19. The Order, and extensions to the Order, temporarily suspends evictions for nonpayment of rent from September 4, 2020 through June 30, 2021, to the extent its application is not prohibited by federal court order. Where it applies, the CDC eviction protections can postpone an eviction for nonpayment of rent **BUT PROTECTIONS ARE NOT AUTOMATIC!!**”

The brochure has the English version of the CDC Declaration form as well as translations in Amharic, Haitian Creole, Hindi, Russian, Somali, Spanish, and Traditional Chinese.

The tenant brochure adds that federal law requires a 30-day eviction notice for nonpayment of rent, and that a longer notice period might be required by state or local law and that state or local eviction moratoriums might be in place. The brochure reminds residents that they can ask to have their income recertified if they have experienced reduced income and that they might qualify for the new Emergency Rental Assistance Program (ERAP) if they owe back rent and are at risk of eviction. Public housing residents are reminded that they have the right to engage the public housing grievance procedures, while voucher households are encouraged to contact their PHA if they think they are being wrongfully threatened with eviction.

The updated “Eviction Prevention and Stability Toolkit” is at: <https://bit.ly/3wU0YSg>

PIH’s COVID-19 Resources webpage is at: <https://bit.ly/2Rks0mE>

More information about PIH public housing coronavirus actions is on [page 10-8](#) of NLIHC’s *2021 Advocates’ Guide*.

More information about PIH voucher coronavirus actions is on [page 10-24](#) of NLIHC’s *2021 Advocates’ Guide*.

Information about public housing is on [page 4-30](#) of NLIHC’s *2021 Advocates’ Guide*.

Information about public housing is on [page 4-1](#) of NLIHC’s *2021 Advocates’ Guide*.

HUD CPD Posts CDBG-CV Toolkit

HUD’s Office of Community Planning and Development (CPD) posted a comprehensive [CDBG-CV Toolkit](#) for the \$5 billion CARES Act supplemental Community Development Block Grant funds (CDBG-CV). The toolkit provides guidance to state and local governments (grantees) receiving CDBG-CV regarding the ongoing task of identifying and implementing CDBG-CV-assisted activities. States and localities have six years after signing a grant agreement with CPD to expend CDBG-CV.

The online resource has eight chapters that include webinar recordings, slides, transcript, and related materials such as Quick Guides, FAQs, and memoranda. Chapters are as follows:

1. Getting Started—which includes webinars held in August and September 2020 describing program rules, statutory and regulatory waivers, and alternative requirements
2. CDBG National Objectives—which has a webinar about the CDBG National Objectives and a webinar focused on the Area Benefit to Low- and Moderate-income National Objective
3. Eligible Uses—covering public services, public facilities and improvements, economic development, administration and planning, and ongoing coronavirus recovery.
4. Duplication of Benefits
5. Program Management
6. Financial Management
7. Documentation
8. State CDBG-CV Implementation

The CDBG-CV Toolkit is at: <https://bit.ly/3cvYKkv>

More about CDBG-CV is on [page 10-15](#) of NLIHC’s *2021 Advocates’ Guide*.

Information about regular CDBG is on [page 8-4](#) of NLIHC's *2021 Advocates' Guide*.

FHFA Extends COVID-19 Multifamily Forbearance through September 30

The Federal Housing Finance Agency (FHFA) [announced](#) on June 3 that Fannie Mae and Freddie Mac (the Enterprises) will continue to offer coronavirus forbearance to multifamily property owners with mortgages backed by Fannie Mae or Freddie Mac through September 30, subject to the continued tenant protections FHFA has imposed during the pandemic. This is the third extension (see *Memo*, [3/8](#), [7/6/2020](#)).

Property owners who enter into a new or modified forbearance agreement because they experience hardship due to the coronavirus pandemic must:

- Inform tenants in writing about tenant protections available during the owner's forbearance period as well as the owner's repayment period, a policy added on August 6, 2020 (see *Memo*, [8/10/20](#))
- Agree not to evict tenants solely for nonpayment of rent while the property is in forbearance

During the owner's repayment period, owners must:

- Give tenants at least a 30-day notice to vacate
- Not charge tenants late fees or penalties for nonpayment of rent
- Allow tenant flexibility to repay back rent over time, and not necessarily in one lump sum

An initial forbearance extension (see *Memo*, [7/6/20](#)) specifically echoed Section 4023 of the CARES Act, which provided that if forbearance is extended by a mortgage servicer, a borrower may qualify for up to 24 months to repay the missed payments once the forbearance period concludes. It is not clear that the March 4 or June 3 extensions include a 24-month repayment period. Note that the July 6 announcement did not urge owners to establish repayment plans for tenants for up to 24 months while the owner has a reprieve from paying their mortgage. Also note that to obtain forbearance, a mortgage servicer must agree to provide it to the borrower.

In the past, NLIHC and NHLP have asked FHFA to ensure that tenants using the [Fannie Mae](#) and [Freddie Mac](#) lookup tools could determine whether the owner of their property had received mortgage forbearance, but FHFA has not added that information. Fannie and Freddie continue to rely on owners to provide notice to tenants.

The FHFA announcement is at: <https://bit.ly/3vRrRWO>

White House

White House Releases Plan to Build Black Wealth and End Racial Discrimination in Housing

The White House announced [new actions](#) to reduce the racial wealth and housing gap and to address racial discrimination in the housing market. The administration plans to build Black wealth by investing in housing and community development through the American Jobs Plan, while aligning fair housing regulations with the congressional promise of the Fair Housing Act. The White House unveiled its plan on the centennial of the Tulsa Race Massacre, in which a thriving Black community in Tulsa, Oklahoma known as "Black Wall Street" was violently attacked and devastated by white supremacists.

The plan outlines action the administration will take to address racial discrimination in the housing market. Strategies include an interagency initiative to address inequity in home appraisals, which would be led by HUD Secretary Marica Fudge. The plan states the purpose of this interagency group: “The effort will seek to utilize, quickly, the many levers at the federal government’s disposal, including potential enforcement under fair housing laws, regulatory action, and development of standards and guidance in close partnership with industry and state and local governments, to root out discrimination in the appraisal and homebuying process.”

To address racial discrimination in housing, the White House announced that an interim final rule that would restore the Affirmatively Further Fair Housing (AFFH) rule and a proposed rule to reinstate the 2013 Disparate Impact rule (see Memo, [04/19](#)). These rules have been sent for review to the HUD’s congressional authorizing committees in the House and Senate and are expected to be posted to the *Federal Register* next week.

The plan also includes President Biden’s “American Jobs Plan” proposals in housing and community development, including:

- \$10 billion for a Community Revitalization Fund. This fund would support civic infrastructure projects that create innovative shared amenities, spark new local economic activity, provide services, build community wealth, and strengthen social cohesion. The fund will be targeted to economically underdeveloped and underserved communities, providing \$500 million in planning grants and \$9.5 billion in implementation funds.
- \$15 billion in the Reconnecting Neighborhoods Program. This program would provide new grants and technical assistance to support the planning, removal, or retrofitting of existing transportation infrastructure that creates a barrier to community connectivity, including barriers to mobility, access, or economic development.
- \$5 billion for a new Thriving Communities Program through the Department of Transportation to support communities eliminate persistent transportation barriers and increasing access to jobs, schools, and businesses.
- A new Neighborhood Homes Tax Credit to attract private investment in the development and rehabilitation of affordable homes for low- and moderate-income homebuyers and homeowners. These tax credits would cover the difference between total development costs (including acquisition, rehabilitation, demolition, and construction) and the sales price.
- \$5 billion for the Unlocking Possibilities Program to award flexible and attractive funding to jurisdictions that take steps to reduce needless barriers to producing affordable housing and expand housing choices for people with low or moderate incomes. The fund would include a grant program for community engagement, technical assistance, and analysis to help communities identify the best ways to produce more affordable housing and, incentivize ending exclusionary zoning, and expand housing choices.

The White House plan will leverage the government’s purchasing power to drive an additional \$100 billion to Small Disadvantaged Business owners over the next five years. The president’s “American Jobs Plan” would invest \$30 billion in new small business initiatives to reduce barriers to small business ownership and success. A new \$1 billion grant program through the Minority Business Development Agency would be created to help minority-owned manufacturers access private capital.

NLIHC applauds the White House’s plan to take these important first steps to dismantle racist systems and structures in housing and community development. “On the centennial of the Tulsa Race Massacre, it is critical that policymakers at every level of government advance anti-racist policies and redress the impacts of decades of intentionally racist housing and transportation policies, including redlining, blockbusting, restrictive covenants, restrictive zoning, and highway systems,” stated Diane Yentel, NLIHC president and CEO, in a [press statement](#).

Read the White House fact sheet at: <https://bit.ly/3uO85tZ>

Read NLIHC's press statement at: <https://bit.ly/3uIgzmb>

Opportunity Starts at Home

Research

Fact of the Week

EVENT

Tenant Talk Live! Tenant Organizing

[Join](#) resident leaders and NLIHC staff for the next *Tenant Talk Live!*, during which we will discuss Representative Ritchie Torres's (D-NY) actions to increase funding for tenant organizing. We will also discuss tenant organizing more broadly, and we will be joined by the National Housing Law Project's Bridgett Simmons and NLIHC Board Member Shalonda Rivers. *Tenant Talk Live!* will take place today at 6 pm ET (5 pm CT, 4 pm MT, 3 pm PT). Register at: <https://bit.ly/3dNekGP>

This Tenant Talk Live! provides opportunities for residents to connect with NLIHC and one another, share best practices, and learn how to be more involved in influencing federal housing policies and to lead in their communities.

NLIHC is committed to connecting and engaging with resident leaders in new, robust ways. If you are a low-income resident and have a topic you would like to propose for peer-sharing or if you want to be a speaker on an upcoming call/webinar, email: karbuckle@nlihc.org

Register for *Tenant Talk Live!* at: <https://bit.ly/3dNekGP>

From the Field

NLIHC is Hiring

NLIHC News

NLIHC in the News