

November 15, 2023

The Honorable Sandra L. Thompson
Director
Federal Housing Finance Agency
Office of Multifamily Analytics and Policy
400 7th Street SW, 9th Floor
Washington, D.C. 20219

Dear Director Thompson,

Thank you for opening a Request for Input on Multifamily Tenant Protections. As you review comments and consider next steps, we write to urge you to take bold action in line with the thousands of comments submitted by tenants, their allies, and Members of Congress. The Federal Housing Finance Agency has an opportunity to require clear, strong, and enforceable protections for tenants living in Enterprise-backed properties. Specifically, we urge the FHFA to require and enforce:

1. **Anti-rent gouging protections** to stop landlords from instituting egregious rent hikes.
2. **“Good cause” eviction standards** to ensure that tenants are safeguarded against unfair, discriminatory, and retaliatory evictions. FHFA should adopt a strong definition of “good cause” – such as serious and repeated lease violations provable in a court of law.
3. **Source of income protections** to prohibit landlords from discriminating against households receiving housing assistance, and to give families greater choice about where to live.
4. **Habitability and accessibility requirements** to ensure housing is safe, decent, accessible, and healthy for tenants and their families.
5. **Rental registry participation requirements** so that every tenant is adequately informed and has key information about their landlord before signing a lease.
6. **Limits on Artificial Intelligence (AI)** to curb rent spikes, prevent tenant discrimination, and reduce other unintended consequences.

Housing is a human right. We must ensure that everyone in the United States has a safe, affordable, accessible place to call home. As the historic investments Congress made to keep people safely housed during the pandemic are depleted, and as COVID-era renter protections have expired, creative and bold policymaking is needed to ensure that all people, particularly those with low incomes and the marginalized, have access to safe, affordable homes.

Renters across the nation are in crisis: high rents and rent hikes put America’s lowest-income and most marginalized renters at risk of losing their homes. Rent increases reached a record peak of 17.2 percent in February 2022.ⁱ Rent inflation continues to be a driver of overall inflation, with rents accounting for over half of inflation in September 2023.ⁱⁱ This should come as no surprise given that nearly half of all renters spent more than a third of their income on rent in the previous year, an all-time high for our nation.ⁱⁱⁱ Additionally, eviction filings are climbing to

even higher rates than before the pandemic.^{iv} In the worst cases, individuals and families are being forced into homelessness, living in tents, cars, or shelters and severely devastates families with children, and older adults –. 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.^{vii}

America’s housing crisis demands urgent action; 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.

To help ensure greater housing stability, FHFA should create new tenant protections for Enterprise-backed properties, as follows:

1. Anti-Rent Gouging Protections

While several states have laws in place to prevent price or rent gouging after natural disasters, most renters have few protections against exorbitant rent increases. Recent rent increases are driven by several factors, including a growing demand for rental housing, limited supply, and high inflation. During the pandemic, landlords converted affordable units to market rate housing, leading to the loss of 1.2 million affordable apartment units between 2019-2021 alone.^{vii} In the same period of time, 14 states lost more than 15 percent of their affordable housing stock.^{viii} Rent increases can also be attributed to a mostly unregulated rental market that permits landlords to raise rents as high as the market will allow, without regard to the impact on tenants with low incomes. To address this, FHFA should limit annual rent hikes to 3 percent annually in Enterprise-backed properties. These rent increase limits should be applied universally and as a requirement. Without these protections, tenants are at increased risk of unjust treatment, housing instability, eviction, and in worst cases, homelessness. Rent regulations are a necessary intervention to preserve affordable rental supply, while Members of Congress and the Administration work to make investments in building new units.

2. “Good Cause” Eviction Standards

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

3. Source-of-Income Protections

Many low-income tenants who use housing subsidies like housing vouchers, emergency rental assistance, and other forms of housing assistance struggle to find or maintain safe, quality,

affordable housing due to source-of-income discrimination – the practice of denying an individual full and equal access to housing based on their lawful source of income. Discrimination by landlords against renters can prevent households from effectively using federal, state, or local rental assistance and is often a pretext for illegal discrimination against renters of color, women, and people with disabilities.

4. Habitability and Accessibility Requirements

Housing has an enormous impact on health and wellbeing, particularly for young children. Too often, however, low-income housing is plagued with issues related to air quality, pests, flooding, mold, lead, and water quality, leaving families with low incomes few options for housing that is both affordable and safe. In the absence of safe, decent, healthy housing, children from low-income families who live in substandard housing are more likely to develop asthma and experience hospitalization, and adults are more likely to report poor mental health, including depression and anxiety. People with disabilities struggle to find homes that are both affordable and accessible. Despite the tremendous need, less than 5 percent of housing nationwide is accessible for people with moderate mobility difficulties, and less than 1 percent is accessible for wheelchair users. The lack of accessible homes harms millions of renters and their families.

5. Rental Registry Participation

Tenants should be aware of their prospective landlords' history regarding code violations, eviction rates, and rent hikes. Although some jurisdictions publicize some of these details, there remains a greater need to ensure that every tenant can make a responsible decision before signing a lease to avoid abusive and neglectful landlords. Requiring Enterprise-backed properties to participate in a publicly available and accessible rental registry will equip tenants with timely data to inform their decision of where to live next. Tenants should be fully informed of any code violations pertaining to a property, as well as the frequency of evictions and propensity to increase rents, including the average amount of that increase. Tenants should also know if their landlord is an individual or large entity, the tax status of an entity, and have contact information for the real, beneficial owner(s) of the property.

6. Artificial Intelligence Limits

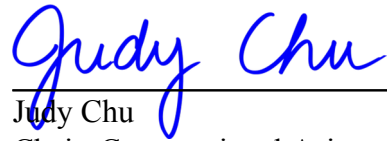
AI is increasingly prominent in the rental market with the offer of practical, helpful applications for landlords, but the risk of housing instability for vulnerable tenants. For instance, new technologies like YieldStar, which uses data from client property managers to predict rental market prices, is under investigation by the Department of Justice for its role in driving rapid rent increases and may illegally allow property managers to coordinate their pricing. Other applications have been used to help landlords screen potential tenants and score them using AI, a flawed process that opens tenants to new forms of bias and discrimination. A study found that such tools are 5 to 10 percent less accurate for low-income families and families of color because the underlying data they use are poor predictors of creditworthiness.^{ix} The Consumer Financial Protection Bureau and the Federal Trade Commission have urged the public report on their experiences with algorithms in housing to better inform their options in enforcement and policy to prevent such abuses. FHFA should seriously consider the actions of other agencies in recognizing the risks for harm to tenants and enact limits and protections to promote affordability and equality in housing.

We urge FHFA to take bold action to implement these protections for all households living in properties with Enterprise-backed mortgages. FHFA has the authority to take these steps. These protections are necessary – along with large-scale, sustained investments that only Congress can provide – to ensure that the lowest-income and most marginalized renters have an affordable place to call home.

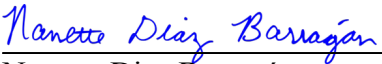
Sincerely,



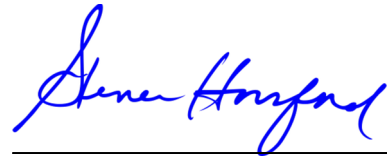
Pramila Jayapal
Chair
Congressional Progressive
Caucus



Judy Chu
Chair, Congressional Asian
Pacific American Caucus
(CAPAC)



Nanette Diaz Barragán
Member of Congress



Steven Horsford
Member of Congress
Chairman, Congressional
Black Caucus

ⁱ <https://www.zillow.com/research/zillow-rent-report-october-2022-31676>

ⁱⁱ <https://www.bls.gov/news.release/pdf/cpi.pdf>

ⁱⁱⁱ <https://www.urban.org/urban-wire/cares-act-eviction-moratorium-covers-all-federally-financed-rentals-thats-one-four-us-rental-units>

^{iv} <https://www.pbs.org/newshour/nation/eviction-filings-soar-over-50-above-pre-pandemic-levels-in-some-cities-as-rents-increase#:~:text=The%20latest%20data%20mirrors%20trends,was%20following%20an%20eviction%20moratorium.>

^v <https://nlihc.org/resource/new-research-highlights-housing-experiences-asian-americans-and-pacific-islanders#:~:text=AAP%20renters%20are%20severely%20cost,burden%20varied%20significantly%20by%20ethnicity>

^{vi} <https://www.jchs.harvard.edu/blog/black-and-hispanic-renters-face-greatest-threat-eviction-pandemic#:~:text=Figure%201%3A%20In%202019%2C%20Over,assumed%20to%20be%20without%20burdens.>

^{vii} Id.

^{viii} Id.

^{ix} <https://hai.stanford.edu/news/how-flawed-data-aggravates-inequality-credit>