

July 27, 2023

The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20219

RE: Tenant Protections for Enterprise-Backed Multifamily Properties – Request for Input (RFI)

Dear Director Thompson:

On behalf of the DUS Peer Group¹, the DUS Advisory Council² welcomes the opportunity to respond to the RFI on Tenant Protections for Enterprise-Backed Multifamily Properties. The DUS Advisory Council represents 23 DUS Lender firms that do business with Fannie Mae.

Tenant Protections is an important topic that the enterprises, together with lenders, have worked to address through existing programs and practices aimed at providing safe, healthy, and affordable housing. In addition to the comments here, the Fannie Mae DUS Advisory Council supports comments submitted by the Mortgage Bankers Association (MBA).

Safe, healthy, and affordable housing is good for tenants, good for communities and good for owners, operators, and lenders. As lenders we want well-maintained physical assets that serve as security for the loan and strong management operations that maximize occupancy, and we assess and monitor these during the term of the loan. We have concerns about creating additional requirements, particularly given there is not a direct relationship between lenders and tenants relationship and the numerous local, state, and federal protections already in place. A patchwork of different requirements within the same geographic area is difficult to administer and difficult for tenants to understand.

¹ The Delegated Underwriting and Servicing (DUS) Peer Group is a coalition of lenders who originate the preponderance of multifamily mortgages that are sold to or securitized by Fannie Mae. Most of our members also utilize the Freddie Mac and Ginnie Mae programs for financing rental housing. Our members are key participants in the multifamily rental housing market as originators, securitizers and servicers of mortgages on rental housing for millions of U.S. households.

² The DUS Advisory Council is elected by the DUS Peer Group to represent the DUS network. The members of the DUS Advisory Council include Berkadia Commercial Mortgage, LLC; Capital One, National Association; CBRE Multifamily Capital, Inc.; Greystone Servicing Company, LLC; JLL Real Estate Capital, LLC; KeyBank National Association; Newmark; PGIM Real Estate; Walker & Dunlop, LLC; and Wells Fargo Multifamily Capital.

Key lender/servicer points are as follows:

1. Lenders and servicers do not have a direct connection with tenants or ability to monitor and report on the tenant/landlord relationship.
2. Involving the mortgage lender/servicer in any enforcement is not a workable or lasting solution as the loan will pay off and all agreements will terminate in a relatively short period of time.
3. Enacting new or expanded obligations like rent control will disincentivize participation in the GSE programs and overall production of affordable housing will suffer.
4. Increasing affordable housing supply, not imposing rent control, will benefit tenants and localities.
5. Most properties are inspected annually during the term of the loan, with more frequent inspections often performed on troubled loans, and there are remedies built into the mortgage documents for non-compliance with maintaining buildings in decent, safe and sanitary conditions.
6. Existing voluntary programs like “positive rent payment,” “housing choice vouchers,” and “sponsor initiated affordability (SIA)” are examples of voluntary and incentivized tenant protections which should be expanded and enhanced for greater effect.

We appreciate the importance of protecting tenants against unscrupulous landlords and unsuitable living conditions. However, we believe this represents a very small percentage of Enterprise borrowers that lenders can and do address through existing remedies. The focus for FHFA and Enterprises should remain on housing supply so that tenants can choose to live in properties that are both well-maintained and affordable.

Sincerely,

Dan Brendes

Dan Brendes
Chair, DUS Advisory Council