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The Honorable Sandra Thompson

Federal Housing Finance Agency

Washington, D.C.

July 27, 2023

Dear Director Thompson,

Thank you for the opportunity to provide feedback on the Federal Housing Finance Agency (FHFA) Request for Information on tenant protections. We are writing on behalf of the Michigan Coalition Against Homelessness (MCAH), a nonprofit membership organization that serves as an inclusive statewide voice in Michigan to support and unify communities, service providers, and policymakers towards a shared priority of ending homelessness and advancing housing justice. MCAH empowers over 650 Michigan homeless service agencies through public awareness activities, advocacy at the state and federal level, and support services that bring in national expertise and best practices.

We are writing to share our experience in Michigan and to urge FHFA to take bold action to create clear, strong, and enforceable renter protections for households living in multifamily rental properties with federally backed mortgages. Given the broad reach of FHFA’s work, any renter protections created by FHFA should cover a significant share of renters across the nation. Federal renter protections are critically needed to ensure that all tenants, particularly low-income renters and recipients of rental assistance, have access to safe, quality, affordable housing. Federal renter protections will also address the power imbalance between landlords and renters that puts renters at greater risk of housing instability, harassment, and homelessness, and fuels racial and gender inequity.

To help ensure greater housing stability and equity, FHFA must establish new and robust renter protections for multifamily households living in properties with federally backed mortgages, including:

**Source of Income Protections**

Source of Income protections refers to combating the practice of landlords refusing to rent to a housing applicant because of that person’s lawful form of income, including Housing Choice Vouchers (Section 8), Supplemental Security Income (SSI), Social Security, child support, alimony, and local or state rental assistance. The Michigan Coalition Against Homelessness is actively engaged in advocacy work to support proposed Source of Income (SOI) protection legislation at the state level in Michigan, and we urge the FHFA to implement SOI protections for its rental properties nationally.

Source of Income discrimination functions as a significant barrier to equitable access to safe, quality affordable housing, particularly to Housing Choice Voucher (HCV) recipients. Recent studies regarding landlord behavior and actions towards HCV holders strongly indicate that discrimination is happening at an alarming level. A 2018 HUD study found denial rates in 5 urban areas that ranged from 15% (Washington DC) to 78% (Fort Worth, TX). In surveying Michigan homeless service providers in 2018, the Michigan Coalition Against Homelessness learned that 44% of all respondents reported that landlords in their community will not rent to HCV holders.

Source of Income discrimination limits the stock of affordable rental units to HCV holders and can limit low-income renters’ mobility and ability to live in the community of their choosing, resulting in maintaining and furthering segregation in communities. The Center on Budget and Policy Priorities reports that only 14% of HCV holders with children live in low-poverty neighborhoods. Often the denial of housing will also serve as a pretext for a prohibited form of discrimination and disproportionately affects renters of color, women, and persons with disabilities. As a result, source of income discrimination contributes to the perpetuation of racially segregated communities and neighborhoods with concentrated poverty.

Source of Income protections do not adversely affect landlords or require significant changes to their standard business practices. When renting to HCV tenants, landlords can charge the full rent as well as request reasonable annual rent increases and have guaranteed, timely payments from the portion of the rent covered by a Public Housing Authority. HCV tenants are typically long-term tenants, living in a unit for 7-8 years on average. There are no documented statistics showing that HCV participants are any more likely to damage units or not pay rent than are non-HCV tenants.

We recognize the FHFA's existing effort to protect HCV income through pricing incentives to property owners who accept applications from HCV tenants (FHFA Expanded Housing Choice pilot program), and urge the FHFA to scale up to implementing standardized and enforceable protections against Source of Income discrimination for all tenants living in multifamily properties with federally backed mortgages.

**“Just Cause” Eviction Standards**

Just cause evictions– also known as “good cause” or “for cause” – eviction laws are tenant protections that prevent evictions and promote housing stability by limiting the grounds by which a landlord can evict a tenant or refuse to renew a tenant’s lease when the tenant is not in violation of the lease or any law. Just cause laws aim to benefit low-income tenants by:

* Protecting renters from evictions through no fault of their own.
* Delivering a sense of stability to tenants.
* Discouraging renters from self-evicting when they receive eviction notices from landlords.
* Empowering tenants experiencing poor living conditions, discrimination, or other illegal landlord behavior to advocate for improvements with landlords or file complaints without fear of retaliation.
* In some cases, protecting tenants from unreasonable rent increases.

Protections vary by jurisdiction but always include provisions that define the legal causes for which a landlord can evict a tenant or refuse to renew a tenant’s lease. Legal definitions of “just cause” usually involve substantial violations of a lease by a tenant, such as failure to pay rent or destruction of property. If a tenant receives an eviction notice without just cause, the tenant can challenge the eviction in court.

The FHFA must implement standardized “just cause” eviction standards now more than ever as evictions are rising nationwide at an alarming rate following the end of COVID-era emergency rental assistance programs and eviction moratorium. In Michigan, our homeless service and legal providers across the state are reporting eviction rates that meet or exceed pre-pandemic levels, and in the city of Detroit 21% of tenants (61,000) will face the threat of eviction this year.

**Rental Housing Junk Fee Standards**

Rental housing “junk fees” refer to a range of burdensome and often hidden costs outside of rent that tenants incur in the rental application process and throughout the duration of their lease. Rental applications are often accompanied by non-refundable application fees that can range from $50 to several hundred dollars. Application fees are highly burdensome for renters and limit housing choices, particularly as rental markets nationwide have led to an increase in tenants applying for two or more properties. During tenancy, renters often pay a higher monthly amount for their unit than listed on their lease due to a range of junk fees and hidden fees, which increases risk of eviction.

The FHFA must take action to limit the cost and increase the transparency of fees and charges in the application and lease payment process. MCAH is involved in drafting legislation in Michigan to address junk fees and strongly recommends the following provisions to regulate rental fees:

* Limit application fees to the actual cost of a tenant screening report obtained by the housing provider. If the housing provider obtains a tenant credit or screening report as part of the application process, a copy of that report must be provided to the tenant.
* Allow prospective renters to provide their own screening report or credit report in lieu of a provider obtained report. California, New York, Maryland, and Washington have successfully allowed tenants to provide their own reusable screening reports.
* Ban fees that exceed the actual cost of the service or pay for services not selected or ultimately provided (internet, trash, sewer, pest).
* Prohibit common junk fees including using a credit card to pay rent (convenience fee), waitlist fees, having a roommate, processing paperwork, mail sorting, damage or redecorating, administrative services, move-in/move-out, January fees or other fees that a landlord is legally obligated to pay as part of renting a habitable premises.
* Require mandatory fees or charges other than taxes imposed by a government to be disclosed in advance to prospective tenants.
* Limit late fees to less than 5% of the monthly rent.

The Michigan Coalition Against Homelessness urges FHFA to take bold action to implement mandatory, standardized protections with strong enforcement for all households living in multifamily properties with federally backed mortgages. We urge the FHFA to implement robust and enforceable source of income protections, “just cause” eviction standards, and rental housing “junk fee” standards. The FHFA must continue to engage tenants and directly impacted people throughout its process of establishing and implementing renter protections, and protections must be centered on racial and social equity as explicit goals. These protections are vital to ensuring that everyone, including the lowest-income and most marginalized renters, have a safe, quality, affordable, and accessible place to call home.

Sincerely,

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