



## Community Preservation Corporation

July 28, 2023

Federal Housing Finance Agency  
Office of Multifamily Analytics and Policy  
400 7th Street SW, 9th Floor  
Washington, D.C. 2021

### **RE: TENANT PROTECTIONS FOR ENTERPRISE-BACKED MULTIFAMILY PROPERTIES - REQUEST FOR INPUT**

To whom it may concern:

The Community Preservation Corporation (CPC) is a nonprofit corporation specializing in multifamily finance that was founded in 1974 to provide financial and technical resources to stabilize and revitalize underserved communities. Today, CPC uses its unique expertise in housing finance and public policy to expand access to affordable housing, advance diversity and equity within the affordable housing development industry, and add sustainability measures to the multifamily housing in order to lessen the impact of climate change. Since its founding, CPC has invested over \$14 billion to finance the creation and preservation of more than 225,000 units of housing. CPC is a carbon-neutral company and has been rated AA- by S&P.

Along with the National Equity Fund and Cinnaire, CPC co-owns and operates CPC Mortgage Company LLC, a subsidiary of CPC and a first-of-its-kind partnership of impact driven, nonprofit mortgage lenders and investors. CPC Mortgage Company is pushing the industry forward to develop and implement innovative new models, and leverage our industry expertise to drive social impact particularly in affordable multifamily communities. CPC Mortgage Company is the only nonprofit multifamily mortgage lender with multiple licenses with Freddie Mac, Fannie Mae, the US Department of Housing and Urban Development (HUD), and the Federal Housing Authority (FHA).

In our capacity as individual organizations and as a partnership, we are proud of our work and the impact our investments have made in communities across the country. Since 2019, CPC Mortgage Company has executed \$1.27B in Freddie Mac originations, nearly all of which (\$1.1B) are affordable at or below 120% AMI and over half of which (\$719M) are affordable at or below 80% AMI. Additionally, through our ACCESS initiative, \$130.5M, or 10% of the total volume originated, has been executions for firms led by BIPOC developers.

In the following comments, we outline what we believe to be reasonable, common sense tenant protections that balance the responsibilities of property owners and renters. We urge FHFA to prioritize this balance first and foremost as overcorrections in either direction can send negative shocks through the housing system.



**GENERAL QUESTIONS ON TENANT PROTECTIONS**

1. What role should the Enterprises play in providing tenant protections at Enterprise-backed multifamily properties?

The most beneficial role that the Enterprises can play in support of tenant protections is to set a national clear, consistent and enforceable standard for the rights of tenants and owners. For example, tenants and landlords nationwide would benefit from a standardized rental lease agreement that establishes clear and fair terms that reflect a balance of rights for both tenants and landlords. Clarity will allow courts to function more smoothly and ensure timely managing of cases brought by tenants and landlords. Eviction prevention and diversion efforts are critical, but can only function effectively within a housing system that also protects the eviction process, including the rights of landlords to evict non-paying or destructive tenants who are causing safety and quality of life issues in multifamily buildings.

2. What minimum tenant protections should FHFA consider at Enterprise-backed multifamily properties? What are the benefits and risks of each tenant protection?

At CPC, we believe safe, quality, stable housing is the foundation of the housing ecosystem. Through the White House's Blueprint for Tenants Rights and the FHFA's inquiry into tenant protections, the federal government has a unique opportunity to develop standard nationwide rights and obligations pursuant to an agreement between renters and owners with standard terms. Currently, rental agreements can vary widely and are often tailored to a specific owner or property. A universal rental agreement would create clear and consistent language that is standardized and easy to understand, ensure that repairs, maintenance, evictions, and renewals are all implemented in a timely way, and allow the judicial process to uphold these agreements such that all parties have their needs met efficiently and fairly. By establishing clear, consistent lease terms, both tenants and landlords will be protected from undue burden.

3. Are there opportunities for improvements to current Enterprise multifamily programs or policies that would benefit tenants directly? What impact might these improvements have on the finances and operations of multifamily rental housing?

Timely rent payments are one of the most important factors in the ability for owners to provide and maintain quality housing. Emergency rental assistance provided during the COVID-19 emergency was an essential resource for tenants



and landlords to maintain stable housing, but with those funds ending, multifamily owners are facing a new reality of a portion of tenants who are actively choosing to not pay rent. Across CPC's portfolio, we routinely saw rent collection rates at 95% prior to the pandemic; today, that number has rebounded significantly from a sharp fall at the onset of the COVID-19 pandemic but collections are still hovering around 85% - significantly below pre-pandemic standards. This lingering problem is draining building resources, and clogging up the court system delaying assistance to tenants and owners who need it. The Enterprises, HUD and other government partners must help reestablish rent requirements.

4. How might requiring tenant protections at Enterprise-backed multifamily properties impact housing supply, including new construction?

The limited supply and overwhelming demand of the current housing affordability crisis exacerbates injustices around renters' rights and creates an environment ripe for abuse. For that reason, it is essential that the relevant federal agencies collaborate and work together to holistically address the housing supply shortage. We believe that the two most powerful tools for immediate impact to increase supply and calm demand are robust nationwide production incentives and a fully funded Section 8 Housing Choice Vouchers Program which would guarantee a voucher to all eligible Americans.

- **Provide significant incentives to support new construction** so that the supply of housing can catch up to and then keep pace with demand and therefore moderate price increases to a more stable level. This could be accomplished through an increased funding allocation for the Low Income Housing Tax Credit.
- **Support federal entitlement of the Section 8 Housing Choice Voucher Program** so that all eligible Americans can receive a Housing Choice Voucher. The single greatest lifeline for America's renters and families across the country facing housing insecurity or homelessness is to commit the resources necessary to help tenants secure affordable and good quality housing. Making Housing Choice Vouchers a fully-funded federal entitlement program addresses these issues, and could lift millions of families out of housing insecurity and provide low-income renters a new level of tenant protections. Universal Housing Vouchers would ensure that anyone who qualifies for rental assistance would receive it, providing them with the ability to secure housing in which their rental payments are affordable based on their household income.



Additionally, there is an assurance that these tenants will be living in good quality homes as the program requires that property owners maintain HUD- mandated housing quality standards. Finally, vouchers also provide a stable operating source for multifamily buildings who are weathering a perfect storm of rising operating costs, reductions in rent collections, and increased interest rates. Tenant advocates and industry groups all agree on the need for this powerful tool, but unfortunately Universal Housing Vouchers are stymied by highly partisan congressional budget allocations. As long as housing vouchers remain only partially funded and subject to political headwinds, the federal government will be missing out on one of the most important opportunities to protect American renters.

5. Describe any gaps in available data that limit the ability to measure and assess the impact of various property management policies, procedures, and practices on tenants and the operations and finances of multifamily rental properties. How could such data gaps be addressed and what role might the Enterprises play?

There is an existing data gap around the emissions and energy efficiency of Enterprise properties. Since net zero emission/carbon neutral ready housing provides tenants with higher quality and healthier housing in addition to utility cost savings, collecting this data should be a priority for the Enterprises.

6. Is adequate information available publicly to assess the performance of the overall multifamily rental market in serving tenants? If not, what are potential solutions?

As it relates to the information gap around emissions and energy efficiency, all multifamily buildings should be benchmarking their energy performance and reporting to the Enterprises, which would provide a wealth of data and allow property owners to assess their performance data relative to energy efficiency standards. As stated in response 5, above, this ultimately would benefit tenants, who could experience cost savings and healthier housing.

#### **ACCESS TO HOUSING**

7. How might the Enterprises address barriers to multifamily tenants' access to housing?

Please see response to question 4.



8. What actions should the Enterprises take to ensure universal acceptance of sources of income at GSE-based MF properties?

The Enterprises should be stringent in enforcing compliance and consequences in the event that an owner refuses to accept payment via Housing Choice Vouchers. The Enterprises could also consider building out additional lending programs with affordability requirements in addition to incentivizing all borrowers to accept and house more Housing Choice Voucher holders.

9. What actions should the Enterprises take in support of existing federal fair housing laws?

Existing fair housing laws are only as strong as their enforcement mechanisms. In order to ensure existing federal fair housing laws are upheld in affordable housing across the country, the Enterprises should support and participate in the Department of Justice's Fair Housing Testing Program and/or HUD's Fair Housing Paired Testing to root out discrimination of rental applicants. The Enterprises should also provide required education materials and training to lenders and landlords on what is protected under the federal fair housing laws. Finally, the Enterprises should support tenant access to legal representation in all eviction and housing discrimination proceedings in order to ensure that tenants facing eviction are not being discriminated against.

#### **ACCESS TO INFORMATION**

12. What are the components of a model rental agreement? Please provide sample leases or lease forms that might be considered exemplary.

Clear and consistent tenant and landlord rights protect safe and stable housing for tenants, and also support a landlords' ability to provide it – and these rights should be codified within a standardized nationwide lease. A standard, universal rental lease agreement would outline the basic terms of the tenant-owner agreement – covering foundational elements like the right of a landlord to charge and receive rent which the tenant pays on time in return for maintenance and upkeep of safe, quality housing; standards for a security deposit amount due at lease signing, and terms/timeline for return after move out; and access to heat and hot water – while also clearly defining for both parties the timeframe and process for defaults, remedies (including eviction), renewal, and termination.



Such a standard rental lease agreement could outline rights for both tenants and landlords. For tenants, a universal lease could include language to protect a tenants' rights to utilize different sources of income to pay rent (including a Section 8 voucher), receive and review the lease in English (with translated versions available), and reflect terms for when housing court proceedings can be pursued. A universal lease could protect landlords' rights as well by standardizing the process for commencing and terminating a lease, notifying and remedying defaults, and evicting a tenant should they violate the terms of the universal lease agreement.

Many of these ideas have been amplified by the White House's work to Affirmatively Further Fair Housing (AFFH). New York City's AFFH plan, "Where We Live NYC", lays out numerous housing goals and strategies to confront segregation and take action to advance fair housing and opportunity for all across the City's housing stock, including ways to combat persistent, complex discrimination, facilitate equitable housing development, preserve existing affordable housing, enable more effective use of rental assistance, and make equitable neighborhood investments. The complete report and its accompanying recommendations can be found [here](#).

13. What role might the Enterprises play to enable multifamily tenants and landlords to be well-informed of their rights, to exercise their rights effectively, and fully meet their responsibilities?

The Enterprises can and should serve as a clearing house for information on multifamily tenant and landlord rights. A centralized, clear, easy to understand database of information and resources will ensure that both landlords and tenants have access to materials about their rights and the support if needed to exercise them. This should be reflected in a robust online platform of materials hosted on the FHFA website in addition to a widely distributed phone number to call for assistance from FHFA staff if someone is unable to access the web.

15. Should landlords provide a written notice to prospective tenants that their lease application has been rejected, including a description of the reasons for rejection? What are the potential benefits and challenges of delivering such notices?

Landlords should provide written notice to prospective tenants in the event that their lease application has been rejected and provide the description of such reasons. This can help not only highlight and root out discriminatory practices, but also help applicants understand the causes of rejection and take steps to



address them. In parallel, the Enterprises should consider paths for applicants who are rejected due to justifiable reasons (like poor credit scores, previous evictions, and/or criminal records) to cure the cause of denial. These causes of denial, while currently legal, have a deeply biased impact and most negatively harm low-income people and people of color. If the tenant can demonstrate that they are currently willing and able to uphold a rental contract, past actions should not bar them from safe, quality housing. In the case of these tenants, the Enterprises explore new methods and standards for screening tenant applicants, like a peer reference, current paystub/W2, or letter of support from a parole officer or employer.

#### **TENANT HOUSING STABILITY**

16. Have any eviction prevention programs or policies (either voluntary or required) improved the housing stability of multifamily tenants? Please describe those programs and policies, how performance was measured, and please share any data or evidence on performance, if possible.

The eviction prevention and emergency rental assistance funds, both from the Federal government and New York State, were tremendously helpful during COVID when many renters were facing perilous economic circumstances compounded by an ongoing public health crisis. These protections prevented evictions and helped millions of Americans stay housed during a time in which the access to safe shelter was crucial. However, as the country has now moved into “post-COVID”, there is a significant portion on renters in New York City and state who are choosing to not pay rent despite the end of the emergency eviction-prevention policies. This decline in rental collections is ultimately damaging the quality of multifamily housing overall as owners are having to defer maintenance in order to cover basic expenses. FHFA should look to this recent experience as a cautionary tale and ensure that any new tenant protections do not engender other negative unintended consequences.

17. How can the owners and managers of Enterprise-backed multifamily properties reduce evictions and improve housing stability of tenants? What role can the Enterprises play in promoting housing stability of tenants at Enterprise-backed multifamily properties?

To promote the housing stability of tenants at Enterprise-backed multifamily properties, CPC has partnered with Esusu, a financial technology company



leveraging rent reporting for credit-building, to provide rent reporting, analytics, and rent relief services to our borrowers and their tenants. By reporting on-time rent payments — often a person’s largest monthly expense — renters with poor credit scores or no credit scores can build a positive credit history. This delivers benefits for owners and tenants: multifamily rental property owners who finance their properties with CPC have access to Esusu’s property management analytics and rent reporting services; and tenants of these properties have their on-time rent payments reported to the three major credit bureaus, helping them to build a positive credit history. The partnership also allows residents the opportunity to access Esusu’s 0% rent stability program, which helps those at risk of missing a rental payment. As tenants pay rent and build credit, owners can increase on-time payments, prevent evictions, and lower vacancies.

20. Should the Enterprises define housing safety and if so, how?

The Enterprises should align their definition of housing safety with that of their government partners in order to avoid duplication and promote shared definitions. Under the Housing Choice Voucher program, HUD sets basic housing quality standards that apply to all units housing a voucher-holder. These standards cover the following 13 aspects of housing quality:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and security
- Thermal environment
- Illumination and electricity
- Structure and materials
- Interior air quality
- Water supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary conditions
- Smoke detectors

These 13 aspects each have minimum performance and acceptability criteria which are used by Housing Quality Standards inspections conducted by public housing authorities and contractors during three points: before a voucher holder moves in, annually during tenancy, and special inspections either due to a complaint or a random quality control inspection. This standard could be illustrative for FHFA.





21. Should the Enterprises define housing habitability and if so, how?

See question 20.

22. Should the Enterprises require borrower compliance with ongoing property maintenance after an initial inspection? What is a reasonable timeframe to provide unit maintenance and repairs?

The Enterprises not only finance a property, but they also play an instrumental role in ensuring its maintenance over time. At the time of financing, building owners are required to have a third-party engineer complete a useful life of systems check for all building-wide systems. This provides the owners with a lifespan of their building systems and helps set an appropriate building reserves schedule so that the owner will have the needed funds to replace systems and maintain a quality building over time. Additionally, Enterprise servicing agents already complete annual housing inspections as a part of the standard seller asset management process, which further aids in ensuring that the building is being well maintained. These building inspections and system repairs standards should be in alignment with and complementary to national efforts to convert housing to net zero emissions in order to support existing federal climate goals.

Given this, the Enterprises should be careful not to require an additional layer of inspections for buildings that already undergo these standard processes as additional requirements could add redundancy, delays, and costs. In the event that an inspection is unsatisfactory, appropriate maintenance and repairs should be completed as soon as possible (ideally within 1-3 months).

#### **RISK MANAGEMENT**

24. What potential benefits or risks to the Enterprises' lenders, servicers, and multifamily borrowers/property owners should the Enterprises consider when assessing each Enterprise's role in addressing tenant protections?

The best way to capitalize on the benefits and reduce the risks of addressing tenant rights is to ensure that rights for owners and tenants are clear, consistent and enforceable. Overly strong tenant protections run the risk of emboldening tenants who are choosing to not uphold the lease, or not paying rent without fear of consequence which could further destabilize the housing market. On the other hand, overly strong protections for property owners could tip the scales



away from fair, equitable housing standards and maximize profit motive over tenant security.

As a construction and permanent financing lender, we are very familiar with the industry standard assumptions that property owners bake into their financing, including assumptions of 95% occupancy and 95% rent collections. As we emerge from pandemic-related tenant protections, we are seeing occupancy remain at or in some cases exceed 95% while rent collections remain stagnant below 90% as some tenants, emboldened by pandemic-related protections, are choosing to not pay rent. Landlords are left with limited recourse as housing court is severely backlogged and evictions cases are taking months to proceed. In the meantime, some property owners are facing revenue losses such that they have to dip into reserves and/or delay maintenance, which can ultimately lead to lower housing quality for current tenants. It is imperative that the Enterprises keep this delicate balance in mind while determining their role in addressing tenant protections.

25. How could the quality of housing units be assessed and how could the Enterprises support the ongoing monitoring of such efforts?

See answer to question 22.

CPC appreciates the opportunity to comment on these important proposals and our partnership with the Enterprises. We stand ready to support FHFA in implementing common sense tenant protections that ensure quality, safe, stable housing across the country.

Thank you,

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