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To: The Federal Housing Finance Administration
Re: Tenant Protections RFI
Date: July 31, 2023

To Whom it May Concern:

On behalf of over 500,000 members and supporters throughout the country, Public Citizen is excited to submit a comment in response to the Federal Housing Finance Agency's request for information titled "Tenant Protections". Public Citizen is a nonprofit consumer advocacy organization that champions the public interest in the halls of power. We defend democracy, resist corporate power, and fight to ensure that government works for the people – not big corporations.

Housing is critical to public health, racial justice, and the economic stability of families and communities. Quality of housing is a key social determinant of health. Despite the research that shows housing is key to maintaining thriving communities¹, we are currently living through a housing crisis defined by unaffordability, record evictions, substandard housing and homelessness². In 2021, 49% of renters were paying more than a third of their income in rent³ and in 2022 growth in rental prices reached 17.2% across the nation⁴. The increase of housing prices and continuation of low housing quality is being driven by the corrupt actions of greedy landlords.⁵

Government Sponsored Enterprises (GSEs) Fannie Mae and Freddie Mac help finance \$150 billion to landlords every year. FHFA serves as a regulator to GSEs and has the authority to implement tenant protection to around 8 million rental units with enterprise-backed mortgages.⁶

¹ Burns, R. (2020, January 6). How whole communities benefit from affordable housing. Forbes. <https://www.forbes.com/sites/forbesrealestatecouncil/2020/01/06/how-whole-communities-benefit-from-affordable-housing/?sh=367fe58624e8>

² The problem. (n.d.). National Low Income Housing Coalition. <https://nlihc.org/explore-issues/why-we-care/problem>

³ Joint Center for Housing Studies of Harvard University, (2023). *The State of the Nation's Housing 2023*, Harvard University, https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2023.pdf

⁴ Zillow, (2022). *Two-year Rent Growth Streak Ends in Small Step Toward Normalcy*, <https://www.zillow.com/research/zillow-rent-report-october-2022-31676/>

⁵ Accountable.US, (2023). America's Biggest Multifamily and Single-Family Landlords Continue to Reap Huge Profits and Take Advantage of Tenants, <https://accountable.us/wp-content/uploads/2023/04/2023-04-10-Updated-Research-On-Housing-Profiteering-FINAL.docx-1.pdf>

⁶ Goodman, L., Kaul, K., Neal, M. (2023). *The CARES Act Eviction Moratorium Covers All Federally Financed Rentals- That's One in Four US Rental Units*, Urban Institute. <https://www.urban.org/urban-wire/cares-act-eviction-moratorium-covers-all-federally-financed-rentals-thats-one-four-us-rental-units>

We have signed on to comments submitted by the Homes Guarantee Campaign and People's Action. We fully support both letters and echo the heightened concern for low-income communities of color impacted by the lack of tenant protections available in enterprise-backed properties. More specifically, we are concerned with the increased health risk for children and communities of color living in substandard housing and the impact that rent hikes have on housing affordability. Public Citizen endorses the following recommendations put forth:

- **Implement Rent Regulations:** Limit annual rent hikes to 1.5 times the Consumer Price Index or 3%, whichever is lower, in properties with federally backed mortgages. These limits should be applied universally as a requirement to all federally backed mortgage programs.
- **Implement Good Cause Eviction Policies:** Good cause is serious and repeated lease violations that are provable in court. Ensuring good cause is required for eviction helps preserve a tenant's right to rent renewal, organize and repairs by limiting unethical retaliation tactics.
- **Protect the Tenants' Right to Organize:** Tenants should be able to organize, form tenant unions, and elect tenant union leadership without the fear of retaliation.
- **Ban Source of Income Discrimination:** Prohibit landlords from discriminating against tenants based on their source of income including federal housing assistance. This ban will require landlords to accept all lawful forms of payment including housing vouchers.
- **Enforce and Strengthen Protections Against Discrimination:** Enforce existing laws that prohibit landlords from denying a tenant rental housing based on race, physical or mental ability, and family make-up. Expand protections to prohibit discrimination based on sexual orientation, gender expression or identity, immigration status, conviction and/or arrest history, bankruptcy history, eviction history, or credit score.
- **Adopt Safe, Quality Housing Standards:** Create a clear set of standards that require landlords to keep their units in good condition free from health and safety risks. Furthermore, properties should be accessible for people with disabilities.
 - o In addition to the standards outlined above, we recommend FHFA require enterprise backed properties to phase out the use of gas stoves. Gas stoves release air pollutants that are unsafe and linked to respiratory illnesses that disproportionately impact low-income communities of color.⁷ Any future stoves purchased and installed in the properties should be electric and properties should create a plan to phase out all gas stove usage in a specified amount of time.
- **Develop and Standardize Fair Lease Provisions:** Require landlords use standardized and clearly defined leases free of abusive terms. In particular, fair leases should, among other provisions;
 - o Provide at least a ten-day grace period in which to pay rent before any late fee is assessed;
 - o Cap late fees at 5% of the amount of rent owed;
 - o Ban junk fees;
 - o Limit security deposits to one month's rent.

⁷ Quinn, C. (2023). Reality check: Gas stoves are a health and climate problem. RMI. <https://rmi.org/gas-stoves-health-climate-asthma-risk/>

- **Require Participation in a Landlord Registry:** Require all enterprise-backed properties to participate in a rental registry that is publicly available and accessible to tenants. The registry should include contact information of the owners of the property and information that is key to tenants making an informed decision about leasing an apartment.
- **Create an Office of Tenant Protections:** Create a team charged with protecting tenants and enforcing their rights in properties with federally backed mortgages.

Alongside the recommendations in the forementioned letters, we ask that FHFA consider these additional recommendations to interrupt emerging threats to tenant protection, access, and equity.

Regulate the use Technology in Tenant Screening and Rent Determination: Innovative technology and software tools are increasingly being used by landlords in tenant screening processes. There have been reports of these recent programs heightening errors and discrimination.⁸ FHFA must put forth regulations to ensure use of technology in tenant screening is not discriminatory. This includes:

- Reviewing algorithms and AI tools used to determine tenant eligibility on a regular basis;
- Banning AI and algorithm programs that have histories or substantial probability of significant errors and discriminatory results;
 - o Create testing requirements for emerging technology programs that ensure standards of accuracy and objectivity are met.
- Creating an easy and accessible appeal process in the event of denials from technological screening programs;
- Prohibit Algorithm and AI screening programs from using prior arrests and criminal backgrounds to deny tenant applications;
- Ban or significantly limit application fee increases based on increased use of technology in the screening process;
- Full disclosure of application process and fees before an application is submitted. This disclosure should note the use of AI or algorithms in the tenant screening process and clear instructions on how to appeal screening results.

FHFA must create and enforce regulations that protect tenants in enterprise backed properties from price gauging and ensure housing is accessible and affordable for communities. We urge FHFA to finalize tenant protection policies that include these recommendations. Please contact Candace Milner (cmilner@citizen.org) for additional information.

Sincerely,

Public Citizen

⁸ Burns, R. (2023). Artificial Intelligence Is Making The Housing Crisis Worse. The Lever. https://www.levernews.com/artificial-intelligence-is-making-the-housing-crisis-worse/?utm_source=newsletter-email&utm_medium=link&utm_campaign=newsletter-article