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The Federal Housing Finance Agency
Office of Multifamily Analytics and Policy
400 7th Street, S.W.
Washington, D.C. 20219

Re: Tenant Protections for Enterprise-Backed Multifamily Properties - Request for Input

To Whom it May Concern:

As one of the largest owners and operators of multifamily properties in the United States, Equity Residential (NYSE: EQR) is pleased to have the opportunity to respond to the FHFA's Request for Input (the "RFI")[1] on challenges faced by providers of multifamily housing and their residents. While we share the Administration's commitment to addressing the affordable housing crisis in our nation, we believe that the increased level of regulation suggested by the RFI will fail to improve this issue. To the contrary, increased federal regulation will lead to the opposite: a disinvestment in multifamily properties and a weakening of the FHFA's ability to ensure that the Enterprises operate in a safe and sound manner.

At Equity Residential, our purpose is "Creating Communities Where People Thrive." The Company, a member of the S&P 500, is focused on the acquisition, development and management of multifamily residential properties located in and around various cities across the United States. As of March 31, 2023, we have a total capitalization of $30.8 billion and own or invest in 301 properties consisting of 79,351 apartment units, with a presence in the cities and suburbs of Boston, New York, Washington, D.C., Seattle, San Francisco, Southern California, Denver, Atlanta, Dallas/Ft.Worth and Austin. Some of our largest shareholders are index funds that are investing with us the pension and retirement savings of Americans at every income level, across the country. In exchange, we manage our properties in a manner that is designed to best protect the interests of these ultimate stakeholders. We do this by providing our residents with the best experience possible so that they continue to live with us.

We understand, however, that challenges continue to exist in the sufficiency of the nation's stock of affordable housing and the pressure this supply versus demand imbalance creates for economically vulnerable residents. As detailed below, we believe the solution to this issue is for governmental entities at all levels to support the production of new housing and the investment in existing housing. As the Biden Administration recognized in its Build Back Better

[1] Tenant Protections For Enterprise-Backed Multifamily Properties Request for Information - May 2023, [https://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/Multifamily-Tenant-Protections-RFI.pdf]

Framework,[2] state and local governments must reform overly restrictive zoning rules limiting housing production. Some states, such as California,[3] and cities, such as Minneapolis,[4] have done so. More should follow. The Federal Government's key role in addressing this issue is to provide capital to the housing industry, especially through the Enterprises, to finance multifamily investment. Additional layers of regulation that will create disinvestment, reductions in rental housing, and instability in the market will only detract from that vital mission.

Communication, not Regulation, is the Key to Ensuring Quality Housing Experiences

First, we believe that relationships between housing providers and their residents start with trust, not regulation. We build trust with our 150,000 residents by actively communicating with them about their rights, resources and responsibilities as our residents.

For example, during the COVID-19 pandemic, we actively identified governmental and community resources to help residents secure food, financial assistance and healthcare, and shared that information often with residents through electronic messages and physically posted communications. We stayed fully staffed, avoiding a reduction in force notwithstanding a significant decline in our revenue during the pandemic, and stayed in constant communication with our residents, advising them of cleaning schedules, capacity limitations and other health and safety matters, as well as new legal protections that were established throughout the pandemic. These communication efforts and assistance by our staff led to significant recoveries of governmental rental assistance for our residents, and established a sense of comfort among our residents that we were doing everything within our power to keep our properties clean and safe during this difficult period.

Today, we continue to alert our residents of important laws and regulations that protect their rights, as do most other multifamily operators. At Equity, we start with a Resident Handbook provided to each resident that describes the various rights and responsibilities of housing providers and their residents. We also have an electronic portal that allows us and our residents to communicate with each other in real time, as well as an overnight on-call phone line so that service requests and other immediate concerns can be addressed promptly even if our on-site property office is closed. Moreover, we have lease documents that are detailed and clear with respect to resident obligations, but we continue to communicate with residents with reminders regarding payment dates and other important resident obligations. We also endeavor to help educate renters in the larger community about their rights. For instance, in Alameda County, California we direct residents to Alameda Renters: Right To Know,[5] a website setting forth a wide range of information regarding residents' continuing protections following the recent end to the local eviction moratorium.

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[2] [www.whitehouse.gov/build-back-better]

[3] California recently passed a bill permitting homeowners to create duplexes or subdivide their lots for purposes of adding housing units [https://focus.senate.ca.gov/sb9].

[4] Minneapolis has updated its zoning plan to eliminate single-family exclusive zoning, minimum parking requirements, and other land use rules that historically have restricted construction of multifamily properties [https://minneapolis2040.com/implementation/land-use-rezoning-study/].

[5] [www.alamedarentersrights.com]

To ensure that these customer service and communication efforts are successful, we survey our residents multiple times a year to create a five-point Customer Loyalty Score (CLS). Resident responses and scores, which measure the difference between very satisfied customers versus neutral, dissatisfied, or very dissatisfied customers, are used to measure our progress and understand strengths and opportunities for improvement. These scores are also taken into account in the compensation of our property operations staff and management, including executive management, and ultimately customer satisfaction is reviewed by our Board of Trustees. In our experience, our communication efforts and active receipt of feedback from our residents has established a strong culture at Equity that focuses on delighting our residents and ensuring their trust. We are very proud to be rated as one of the leaders of our industry on Google, where we actively monitor and respond to both negative and positive reviews.

We and most other multifamily operators take resident rights seriously and invest significant resources in not only complying with the already complex multifamily regulatory environment but in ensuring that our residents have the appropriate experience when living with us, so that they renew their leases and stay with us. For example, just recently we added additional full time employees dedicated to managing the complex set of local affordable housing rules for the more than 2,800 units of affordable housing in our portfolio and steering through the complicated web of administrative processes housing providers must navigate in order to provide housing to residents that use government vouchers.[6] We also note that rental housing is a highly competitive business and it is in our shareholders' best financial interest for us to treat residents fairly so that we keep their business.

These types of efforts go a long way towards establishing a positive relationship between housing providers and renters. As such, we caution against increasing regulatory requirements such as those suggested in the RFI, which will add confusion and expense to the communication and compliance efforts of housing providers. To the contrary, we would expect that the higher costs and time investment necessary for compliance to cause housing providers to pull back on efforts that improve the renter experience, and for new rules to instead be a constraint on the investment of badly needed capital to create and maintain rental housing.

Rental Housing is Largely a State and Local Issue

Furthermore, the increased level of regulation suggested by the RFI would be conflicting and overlapping with the existing and established governance of multifamily properties. The relationships between multifamily housing providers and residents, the communities served, and the broader housing market are already governed by layers of federal, state and local statutes, case law, regulations, and private contractual agreements—all providing specific rights and responsibilities. This includes building codes; contractual notices and disclosures; fair housing; eviction processes; consumer reporting and debt collection laws; and enforcement provisions to guard against fraud and abuse. Our lease agreements, which are tailored to comply with a

[6] We believe that expanding governmental voucher programs such as Section 8 can potentially be an effective tool that the federal government can use to help alleviate the shortage of affordable housing, but only if the administration of these programs are made more efficient for both housing providers and voucher recipients. For example, repetitive unit inspections, slow agency response time and heavy paperwork are some of the factors that discourage providers from participating.

myriad of varying state and local regulations and disclosure obligations, outline the rights and responsibilities between residents and housing providers and are actively enforced by state and local courts. The U.S. Supreme Court recently recognized this, in striking down the federal eviction moratorium put in place during the COVID-19 pandemic, stating that the landlord-tenant relationship "is the particular domain of state law."[7]

Given that our policies and operations are already governed by an elaborate set of state and local laws and regulations based on local real estate market conditions, any one-size-fits-all new "protections" as suggested by the RFI will undoubtedly lead to misaligned requirements that do not account for unique local housing needs as determined by the electorate of each of the communities we serve, nor would they productively support communities in dire need of affordable housing opportunities that will be reduced as a result of additional regulation (as detailed below). Additional and conflicting levels of rules and regulations will also lead to confusion and reduce the ability of housing providers to accurately communicate with residents about their rights. This confusion and lack of certainty will inevitably increase the costs and dissuade new sources from investing capital in multifamily housing, reducing the amount of affordable housing available, and disincentivizing providers from maintaining existing properties.

Rent Control and Other Price Control Measures Have Been Repeatedly Proven to Limit the Supply of Rental Housing and Increase Costs

America's renters and multifamily housing providers share the larger goal of addressing housing needs nationwide. Academic research and real life experience, however, has proven repeatedly that rent control, rent stabilization, and similar governmental efforts to control pricing are failed policies that do nothing to get at the root of the challenge—our nation's lack of supply. In fact, while rent control and rent stabilization laws purport to improve housing affordability, they often have exactly the opposite outcome and lead to disinvestment, increased costs and a reduction in the available supply of rental housing. Not only that, rent control and rent stabilization laws tend to benefit a more affluent demographic than intended, and lead to an increased cost of housing in the long run.[8]

Layered on top of the aforementioned concerns are the many complexities that would result if a federal agency attempted to make broad assessments about rent at the federal level without input from local or state officials in each applicable jurisdiction. FHFA should avoid any type of rent regulations, including rent control, rent stabilization or pricing policies, as they would harm national affordability goals by deterring investment in much needed housing production, including the Enterprises' backed secondary mortgage market. Real world experience supports

[7] See Alabama Ass'n of Realtors v. HHS, 141 S.Ct. 2485, 2489 (2021).
[8] See "The Effects of Rent Control Expansion on Tenants, Landlords, and Inequality: Evidence from San Francisco", by R. Diamond, T. McQuade and F. Qian; *American Economic Review*, Sept. 2019, Vol. 109, Issue 9, pp. 3365-3394, available at https://www.gsb.stanford.edu/faculty-research/publications/effects-rent-control-expansion-tenants-landlords-inequality-evidence. See also "Why Rent Control Hurts Renters", video by N. Gelinas of the Manhattan Institute, available at https://youtu.be/oJvTTGOHFkU.

this statement. For example, recent nationwide surveys repeatedly show that multifamily investors are planning to reduce or avoid investment in rent controlled markets.[9]

There is no question that the more rent regulations that are added to a market, the lower the amount of capital that will go into the industry, to renovate properties or to create more housing. Also, if users of capital backed by the Enterprises are required to follow onerous new rent control rules or other regulations, the market response would be to avoid using that capital which would cause a bifurcation of the multifamily debt markets. Properties that can obtain debt funding from private sources without the rent regulations tied to Enterprise-supported debt will likely be properties with stronger prospects for revenue growth, leaving weaker-performing properties, which would now have additional regulatory burdens, as the predominant collateral for Enterprise debt, putting the safety and soundness of those institutions at risk. We, like many other housing providers, would endeavor to reduce the regulatory risks in our portfolio by reallocating our shareholders' capital away from those markets and debt providers with material regulation – capital that could otherwise be used to build more housing in cities that need it.

Federal Policies Should Target the Root Causes of Eviction, As It Is Almost Always a Last Resort

Evictions are a troubling experience for all parties involved, thus it is a last resort for us as housing providers. Private, public and non-profit rental housing providers engage in the eviction process as their only legal remedy to remove a resident who has breached the lease. And oftentimes, the eviction process doesn't lead to an actual eviction. Most of our residents who become subject to an eviction action end up being able to stay in their unit whether by making full payment or by entering into a payment plan with us. While most evictions are premised on non-payment of rent, other reasons evictions may be necessary include lease breaches that threaten the health and safety of other residents, fraud during the application process, and other criminal activities.

Unfortunately, the prolonged and one-size-fits-all eviction moratoriums in some of our markets in recent years, especially the three-year long moratoriums in Los Angeles and Alameda County, were not tied to actual needs of our residents. These laws were overbroad and were extended for too long, and ultimately resulted in our Company recording over $100 million in Bad Debt, Net (i.e. lost rental revenue) even after the application of funds received for the benefit of our residents under the Emergency Rental Assistance Program. In our experience, a significant number of residents took advantage of the eviction moratorium to avoid paying rent, even though they were gainfully employed, the pandemic had abated, and businesses were widely

[9] "...nearly six in 10 (58%) of surveyed multifamily firms indicate they are reducing or avoiding investment in rent controlled markets, and another 15% of firms are considering cutting back in those markets.." from "NMHC Rent Control Update: Multifamily Firms Reconsider Investments in Rent Control Markets, February 1, 2022" [https://www.nmhc.org/news/nmhc-news/2022/nmhc-rent-control-update-multifamily-firms-reconsider-investments-in-rent-control-markets/]; "Over 70% of housing providers say rent control impacts their investment and development plans", from "Examining the Unintended Consequences of Rent Control Policies in Cities Across America" [https://www.naahq.org/examining-unintended-consequences-rent-control-policies-cities-across-america]; "Fully 87.5% [of developers] avoid working in jurisdictions with rent control.", from "NMHC-NAHB Cost of Regulations Report (2022) [https://www.nmhc.org/research-insight/research-report/nmhc-nahb-cost-of-regulations-report/]

open. For example, like residents in our other markets, our residents in Los Angeles (taken as a whole) were not generally rent burdened at the time they came to live with us with rent making up approximately 20% of their median income.[10] Despite this fact, Los Angeles County renters were nearly twice as likely to not make rent payments during these extended eviction moratoriums than residents in other markets. While we are focused on making sure that residents find the best housing solutions that work for them, we believe it is important to acknowledge how policy decisions can adversely affect the industry. Due to eviction moratoriums, providers of housing, such as our Company, continued to suffer lost revenue in markets like Los Angeles while other businesses were permitted to operate normally, precluding housing providers from paying bills, making debt payments, investing in property renovations and developing new housing. Eviction moratoriums also restricted housing providers from removing individuals who were presenting threats to the health and safety of other residents.

Rather than pursuing misguided policies such as eviction moratoriums and other ineffective additional eviction-related regulations that increase rent delinquencies and prevent housing providers from receiving necessary revenue to cover expenses in an inflationary economy, we believe the federal government's efforts in this area should target the root cause: a lack of affordable housing supply.

Importance of Enterprise Capital Availability to Serving America's Housing Needs

It is vital to housing providers and renters that FHFA remain focused on the Enterprises stated mission which is, "to serve as a reliable source of liquidity and funding for housing finance and community investment."[11] As cited in the RFI, the FHFA supports that mission by ensuring that the Enterprises operate in a "safe and sound manner".[12]

Many factors influence the ability of the multifamily housing industry to meet the nation's growing demand for rental housing, but at the forefront is the reduction of barriers for building new multifamily units. An essential barrier is the availability of consistently reliable and competitively priced capital.

The Enterprises' existing multifamily programs help tackle these barriers by serving a critical public policy role and ensuring that multifamily capital is available in all markets at all times, so that multifamily housing providers, like us, can address the broad range of America's housing needs in our markets.

As it is, current market conditions, increased construction costs, and higher levels of regulation are causing many in our industry to cut back significantly on new apartment construction.[13] While the Enterprises are not normally directly involved in sponsoring construction financing, any actions that would restrict or reduce the attractiveness of the Enterprises multifamily

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[10] Prior to executing a lease with a prospective resident, the Company requests and may verify income information showing the prospective resident's ability to cover their rental obligations.
[11] "About FHFA | Federal Housing Finance Agency "Mission", available at https://www.fhfa.gov/AboutUs.
[12] The RFI, p. 2.
[13] In our highly regulated coastal markets (i.e. Boston, New York, Washington DC, Seattle, San Francisco, and Southern California), we expect that new starts of projects that would be competitive to us are down 35% in 2023 as compared to 2022. See p.11, Equity Residential Investor Presentation May, 2023 (available on the Investor page of Equity Residential's website).

programs would likely reduce the availability of new construction financing from banks and other market participants that look towards the Enterprises to provide long-term refinancing alternatives or takeouts at completion. By introducing layers of additional regulations and controls, the actions contemplated in the RFI would add confusion, disincentivize investment, increase the risks or costs associated with using Enterprise programs, limit broader housing availability and prevent affordability goals from being met, especially at this time of market uncertainty. This in turn would deter much-needed investment in housing supply and increase costs for housing providers and residents alike.

From the perspective of ensuring the safety and soundness of the Enterprises, the FHFA is best served by promoting policies that will increase the financial health of properties supported by Enterprise-backed debt, not by promoting policies that will reduce cash flow, limit growth and cause disinvestment, destroying the value of the collateral that ultimately supports the ongoing ability of the Enterprises to support America's housing market.

Conclusion

We share the Administration's commitment to addressing the affordable housing crisis in our nation. We also believe that improving relationships between housing providers and their renters is an important goal. Imposing additional obligations for Enterprise multifamily borrowers, however, will create instability and operational uncertainty in an already challenged market and undermine the important goals of fostering a healthy housing market, increasing supply and creating successful apartment communities. Inherent in ensuring stability for our nation's renters, is maintaining the current and future viability of the rental housing supply in this country. As such, respectfully, FHFA should refrain from placing new or expanded federal obligations on private rental housing providers and instead focus on leveraging federal resources in the form of incentives to bolster new affordable housing supply.

Sincerely,

EQUITY RESIDENTIAL

Mark J. Parrell, President and Chief Executive Officer