

July 31, 2023

Federal Housing Finance Agency
Attn: Ms. Debra Fuller, Principal Financial Engineer/Economist
Office of Multifamily Analytics and Policy
400 7th Street, S.W., Washington, D.C. 20219

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

Dear Ms. Fuller,

The Lincoln Institute of Land Policy and the undersigned organizations appreciate the opportunity to offer this response to your request for input (RFI) on tenant protections for Enterprise-backed multifamily properties. The undersigned organizations are all members of the Underserved Mortgage Markets Coalition (UMMC), but this letter is only on behalf of the undersigned organizations and has not been endorsed by all members of the UMMC.

The UMMC works with the FHFA and the Enterprises to adjust their underwriting practices to better reach underserved markets in a safe, sustainable manner. The UMMC seeks to promote broader understanding of the increasingly central role the Enterprises play in U.S. affordable housing and to demystify the Enterprises' business practices to make them easier for our member organizations, and others, to understand and engage with. Protecting tenants in Enterprise backed properties falls squarely into the mission of the UMMC – to provide increased opportunities for low-and moderate-income homeowners and renters.

We commend FHFA's efforts to address the numerous challenges facing tenants and for advancing tenant protections in Manufactured Housing communities (MHCs). FHFA has a central role in setting the standards for the management of multifamily properties, although it may not directly operate those properties. We appreciated the tenant protections established for Enterprise-Backed Rental Properties in response to COVID-19 and advocate for them in federally backed multifamily properties.

The Duty to Serve (DTS) standards and practices should serve as a guide for FHFA to facilitate the Enterprises incorporating tenant protections into their lending offerings in the rental market. In response to the DTS regulation, increased protections for tenants in MHCs were implemented for both Enterprises and have set the norm for the industry. Prior to this advancement, MHC tenant protections varied greatly by state. While both Enterprises adopted a set of tenant protections in MHCs, we encourage both Enterprises to explore additional options to strengthen their protections. Specifically, we recommend that the GSEs improve the Tenant Site Lease Protections by retaining the 60-day advanced notice period for a planned sale, while establishing a 180-day notice for planned closures. We also recommend that tenants, nonprofits and public entities have the right to match any MHC purchase offer within 180 days of when an MHC with an Enterprise-backed loan is sold.

Protections in Multifamily Buildings

Renters living in properties with Enterprise backed loans should have access to reasonable tenant protections, regardless of their socioeconomic status and we recommend that FHFA:

- Establish a source of income protection to prevent landlords from refusing to rent to someone because of their source of income (such as a Section 8 Housing Choice Voucher) to protect them from discrimination;
- Provide notice of rent increases at least 30 days prior to the increase. This is similar to the additional protections FHFA established for MHCs;
- Remove barriers in the rental application process by eliminating unnecessary fees that prevent tenants from applying; and
- Establish just-cause requirements to prohibit landlords from evicting renters for specific discriminatory reasons.

Data

Monitoring and evaluating the effects of multifamily tenant protections is essential to their success. The Enterprises should establish a baseline and continuously survey borrowers to identify the impact of the protections being implemented and what, if any, additional policies or services could help enhance rental stability. Capturing and publishing data on each dependent variable (rent increases, eviction rate, resident turnover, etc.) is essential to showing the impacts of the policy. In the DTS and Equitable Housing Finance planning context, if FHFA and the Enterprises could establish a pattern of practice of disclosing data at an objective level, stakeholders could provide more specialized feedback.

As the need for rental housing continues to grow, we ask that FHFA require both Enterprises to incorporate tenant protections in multifamily properties for the 2025-2027 DTS plan cycle. Members of the UMMC are happy to work with FHFA and Enterprise staff on the details of these policy questions.

Thank you for considering our comments.

Respectfully,

American Council for and Energy-Efficient Economy
Housing Assistance Council
Lincoln Institute of Land Policy
Local Initiatives Support Corporation
Prosperity Now