



Western
Manufactured Housing Communities
Association



July 31, 2023

Manufactured Housing Communities of Arizona
Nevada Manufactured Home Community Owners
Manufactured Housing Communities of Washington
Western Manufactured Home Communities (California)

Sandra L. Thompson, Director
The Federal Housing Finance Agency
400 7th Street, S.W,
Washington, D. C. 20219

Dear Director Thompson,

The Executive Directors of the Organizations signatory hereto are pleased to provide comments in response to the Federal Housing Finance Agency's ("FHFA") May 2023 Request for Input ("RFI") on Tenant Protections for Enterprise Backed MultiFamily Properties.

BACKGROUND ON MANUFACTURED HOME COMMUNITIES AND TENANT LEASE PROTECTIONS

As explained on page 4 of the RFI, the Enterprises (Fannie Mae and Freddie Mac) finance manufactured home communities ("MHCs") only when the owner has agreed to implement eight tenant site lease protections ("TLPs"). FHFA also explains that it sought stakeholder feedback in 2022 (although the TLPs had already been implemented at the time). FHFA gives the impression that such feedback was used to "balance providing appropriate borrower and tenant protections in a way that is operationally feasible for both the Enterprises and their counterparties." We respectfully disagree and urge that the mandated imposition of TLPs in the MHC sector does not provide a successful base from which to enlarge and extend the program to the multi-family platform.

First, while certain of the TLPs may be considered best practices, they are already addressed by state law. The landlord-tenant relationship has been the historical purview of state law and MHCs are one of the most highly regulated forms of housing in the country. Manufactured Housing Communities of Arizona identified the conflict and confusion with state law in detailed letters to FHFA dated October 29, 2021 and April 11, 2022. Western Manufactured Housing Communities representing California provided a similar analysis to FHFA dated August 8, 2022. Mandating a "one-size fits all" overlay of tenant protections causes unnecessary conflict with state law, confusion for tenants and enhanced risk for Enterprise borrowers who must implement the TLPs. As we have pointed out in letters and conversation, it is not enough to simply provide that the most protective provision applies because that determination is a subjective matter. Moreover, it is inappropriate for a federal agency to usurp the rights of state legislators.

Second, in the guise of "tenant protection", the mandated TLPs impose very poor policy choices on Enterprise borrowers in the MHC industry. For example, MHC borrowers are required to allow all homes to be sold in place regardless of age or condition; to allow evicted tenants to enter the property to sell their homes "post-eviction"; and

to allow subleasing. These policies provide negligible tenant benefit while posing serious problems for operators. We urge our multifamily brethren to be on the lookout for similar harmful policy directives. Finally, in the MH sector, the Enterprises have urged borrowers to implement the TLPs through changes to a property's rules and regulations – a process which at least in California and Arizona may be found to violate state law. It is quite typical for state law to expressly state that lease terms may not be amended by rule change and that no party may waive state law.

While the Enterprises (especially Freddie Mac) have made some minor adjustments to the TLPs over the last year, for the most part the Enterprises flat out refuse to tailor the TLPs to state law, do not negotiate the contract language and demand that the TLPs be implemented no matter what.

REQUEST FOR INPUT

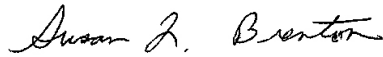
Increased Supply and Reduced Regulatory Burden Are Key. At this point in time it appears well understood that the primary driver of affordability issues in residential housing is lack of supply. We believe that focus on providing financing and liquidity to housing providers to both maintain existing units and build new units should be the Enterprises' primary focus. In our industry we see very few new manufactured housing communities built primarily because of exclusionary zoning and the NIMBY (not in my backyard) attitude prevalent around communities. Providing incentives to change zoning rules that would allow new communities or other types of affordable, high-density housing to be built is key. Increasing regulatory costs, burdens and risks to builders and operators moves the needle in exactly the wrong direction.

Housing is a State and Local Issue. As we attempt to point out above, the landlord-tenant relationship has historically been regulated at the state and local level. The Enterprises should require their borrowers to comply with state and local laws without judgment as to the efficacy of such laws.

Rent Regulation will not solve the Problem. We oppose all forms of rent control. It is well understood that rent control will not reduce the cost of housing in the long term, will reduce the supply of housing (which increases cost), and will result in deterioration of existing housing stock. You do not have to take our word for these propositions:

- “Rent control is among the dumbest policies known to man, but cities keep trying it. St. Paul, Minn is the latest to discover this universal truth, though not before significant damage was done. Voters passed a ballot measure last November imposing a 3% cap on annual increases. The result was that builders shunned the city, and the City Council has responded by voting late last month to create new exceptions to the cap... Score half a point for the persuasive power of economic reality. The City Council noted in its reform bill that ‘according to data from the Department of Housing and Urban Development, there have been only two hundred (200) residential building permits in Saint Paul through April 2022 compared to 1,391 at the same point in 2021.’” *Wall Street Journal Editorial Board October 3, 2022*
- “Rent Controls are a textbook example of a well-intentioned policy that does not work. They deter the supply of good quality rental housing. With rents capped, building new homes becomes less profitable. Even maintaining existing properties is discouraged because landlords see no return for their investment. Renters stay put in crumbling properties because controls often reset when tenants change. Who occupies housing ends up bearing little relation to who can make best use of it (ie, workers well suited to local job opportunities). The mismatch reduces economy-wide productivity. The longer the tenant stays put, the bigger the disparity between the market rent and his payments, sharpening the incentive not to move.
- The resulting damage is clear from the fate of two American cities: In the mid-1990s Cambridge, Massachusetts, scrapped its rent controls, while San Francisco made its regime even stricter. In Cambridge apartments freed from rent control saw a spurt of property improvements. San Francisco experienced its own residential investment boom, but one that was aimed at getting round the rules, for example by converting rental properties so they could be sold. The subsequent 15% reduction in supply by affected landlords pushed up rents across the city by more than 5%.” *Rent Control will make housing shortages worse: The latest trend in housing policy will compound decades of failure, The Economist September 19, 2019.*
- “In spite of the noble intent of these laws, 37 states prohibit or preempt rent-control policies. Why? Simply stated, its because they don't work as designed.” *How Rent Control Hurts The Very People It Seeks To Help (And What We Can Do Instead) Forbes March 10, 2020*

Thank you for the opportunity to participate in the Request for Input. We welcome the opportunity to further engage with FHFA and the Enterprises should questions arise.



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