



July 31, 2023

Federal Housing Finance Agency
Office of the Secretary
Constitution Center
400 7th Street, SW
Washington, D.C. 20219

Re: Request for Input on Multifamily Tenant Protections

The Center for Popular Democracy (CPD) submits this comment on tenant protections in multifamily homes with financing backed by Fannie Mae and Freddie Mac. CPD is a national network of 48 high-impact base-building organizations, alliances, and progressive unions in over 200 cities and 33 states, as well as Puerto Rico and Washington, D.C. CPD works to promote equity, opportunity, and dynamic democracy. CPD leads Renters Rising, a national association of tenants who live in properties owned by corporate landlords, with over 15,000 members.

Corporate landlords are hiking up housing costs and evicting tenants at alarming rates. The FHFA must use its regulatory authority to curb these trends. It must fulfill its statutory mission to finance affordable housing, ensure stability in the market, and Affirmatively Further Fair Housing by mitigating displacement and housing segregation.

Through the GSEs, the FHFA has influence over one-quarter of the U.S. multifamily housing market. It must use its power to bolster tenant protections, and must stop financing housing inequality and displacement. The FHFA has previously required tenant protections for properties whose loans they will purchase, including pad lease protections for residents of manufactured home communities and additional eviction protections during the COVID-19 pandemic.

We fully support the requests in the Homes Guarantee Campaign's and other organizations' joint FHFA RFI, to require the following tenant protections in all GSE-backed multifamily properties, as well as the enforcement of these protections. We underscore that these protections must be implemented together, as their effectiveness is interdependent. For instance, for a tenant's right to organize to be effective, they must also be protected from lease non-renewal without good cause. Similarly, good cause eviction protections are insufficient without limits on unreasonable rent hikes, since eviction for failure to pay rent is still allowed under just cause protections.

1. Limit Egregious Rent Hikes

The FHFA must limit annual rent increases to 1.5 times the Consumer Price Index or 3%, whichever is lower, in GSE-backed properties. These rent increase limits should be applied universally and as a requirement.



Corporate landlords own most multi-family properties, and have played a key role inflating rents. By limiting egregious rent hikes, FHFA will counter abusive actors in the real estate market and mitigate the strain of rent increases on renters. The FHFA must encourage landlords and investors to treat housing as a long-term investment with more gradual but steady returns, rather than as speculative asset for short-term and reckless gain, at the expense of tenants.

The number of renters with unaffordable rents is at an all-time high, while growth in rental prices continues to climb. Renters need relief now. Rent stabilization policies that limit rent increases are a [proven solution](#): they immediately stabilize prices and increase housing affordability, while still providing ethical landlords a fair return on their investment.¹

Renters need limits on arbitrary rent increases, to prevent homelessness. And rent stabilization will preserve existing lower-cost and affordable housing that our communities so desperately need. In the past 10 years, we've lost over 4 million units of housing across the nation renting for \$600 or less, monthly, to rent increases, conversions, and demolitions. Preserving affordable housing through limits on rent increases is absolutely crucial – and will have a faster impact on mitigating our shrinking affordable housing stock, than new construction which takes far longer.

Limiting rent gouging not only provides tenants stability – but a host of benefits to communities in terms of wealth-building, health, education, and workforce stability. Those more likely to be renters, and most hurt by unaffordable rents – people of color, women, people living with disability, immigrants, households with children, elders, and others – will disproportionately benefit.

Currently, landlords of GSE-backed properties face little to no federal restrictions regarding whether and how much they can increase their tenants' rents. In fact, their business model and profitability often depend on raising rents significantly higher than what existing tenants can afford. The FHFA must use its authority to change this.

2. Institute Good Cause Eviction Protections

The FHFA must institute good cause eviction protections in GSE-backed properties. Good cause (sometimes referred to as “just cause”) protections means that landlords can only evict tenants in the event of serious and repeated lease violations when the tenant has failed to cure their breach after being given notice. The purpose of good-cause evictions should be to protect the health and safety of residents and employees, to protect the premises from major damages, and to enforce the obligation to pay rent. For GSE-backed properties, the definition of good cause for eviction should be especially

¹ The Center for Popular Democracy, PolicyLink, Right to the City, “Our Homes, Our Future: How Rent Control Can Build Stable, Healthy Communities,” February 2019, https://populardemocracy.org/sites/default/files/OurHomesOurFuture_Web-fin.pdf.



narrow. Common exceptions from other contexts – such as in the event that the landlord wishes to live in a unit as an owner-occupant – are unlikely to be relevant.

In most states, tenants may be evicted arbitrarily or for no reason at all. This lack of power for tenants increases housing discrimination and other abuses. The FHFA can use its authority to greatly extend good cause eviction protections.

Good cause is a well-established protection in federally assisted housing programs such as the Low Income Housing Tax Credit (LIHTC) program and the HOME Investments Partnerships (HOME) program. Additionally, several states, including California, New Jersey, and others, have good cause protections. The FHFA itself is familiar with good cause protections, having imposed them on borrowers of GSE-backed mortgages for manufactured home communities through its pad lease protections.

3. Respect the Right to Organize

The FHFA must require landlords with GSE-backed mortgages to respect tenants’ rights to organize, form tenant unions, and elect tenant union leadership, free from retaliation. The right to organize is required in several federal housing programs, including public housing and HUD-supported multifamily housing.² The FHFA can also require that landlords of GSE-backed properties meet with tenants to negotiate when tenants request, as enacted in San Francisco’s [Union-at-Home](#) ordinance.

4. Ban Source of Income Discrimination

The FHFA must ban source of income discrimination in GSE-backed properties. Bans on source of income discrimination require landlords to accept all lawful forms of payment, including Section 8 Housing Choice Vouchers. Because of discrimination from landlords who refuse to rent to them, in many cities Section 8 voucher recipients are not able to find housing and make use of their vouchers.

Landlords with GSE-backed mortgages should not be allowed to refuse to rent to participants in federal housing programs. These protections are already required for recipients of HOME and LIHTC funding.³

5. Enforce and Expand Protections Against Discrimination

The FHFA must enforce existing laws that prohibit landlords from denying a tenant rental housing based on race, physical or mental ability, and family make-up, and expand protections to prohibit

² White House Domestic Policy Council and National Economic Council, *The White House Blueprint For a Renters Bill of Rights*, accessed June 13, 2023, 14, <https://www.whitehouse.gov/wp-content/uploads/2023/01/White-House-Blueprint-for-a-Renters-Bill-of-Rights.pdf>

³ Local Housing Solutions, “Source of Income Laws,” Housing Policy Library, accessed June 13, 2023, <https://localhousingsolutions.org/housing-policy-library/source-of-income-laws/>.



discrimination based on sexual orientation, gender expression or identity, immigration status, conviction and/or arrest history, bankruptcy history, eviction history, or credit score in GSE-backed properties.

6. Require Safe, Quality Housing Standards

The FHFA must articulate a clear set of habitability standards for GSE-backed properties. The FHFA should model its standards on the U.S. Department of Housing and Urban Development's Housing Quality Standards for the Housing Choice Voucher program.

Corporate landlords are known to neglect housing conditions, and refuse to perform basic maintenance, in order to increase their profits. Because of their role in the multi-family sector, the FHFA has an important role to play in ensuring these abusive business practices are curbed.

7. Include Fair Lease Provisions

The FHFA must develop standard fair lease provisions for all states and territories and require landlords of properties with GSE-backed mortgages to use them. The FHFA and the GSEs should work to develop standard fair leases for all states and territories, as well as the District of Columbia, in recognition of the variation that exists in state landlord-tenant law and state civil procedure. In developing fair lease provisions, the FHFA should view existing state lease requirements as a floor rather than a ceiling and go further to protect tenants. In particular, fair leases should:

- Provide at least a ten-day grace period in which to pay rent before any late fee is assessed;
- Cap late fees at 5% of the amount of rent owed;
- Ban junk fees;
- Limit security deposits to one month's rent;
- Clarify the circumstances under which landlords can withhold security deposits and the procedural steps that they have to take to be authorized to do so.

Fair lease provisions should include the right to automatic lease renewal, except for limited reasons deemed good cause.

8. Participate in a Rental Registry

The FHFA must require all GSE-backed properties to participate in a rental registry that is publicly available and accessible to tenants. The registry should include information that is key to tenants making an informed decision about leasing an apartment such as the number of code violations, evictions, and average rent hikes in a property. Tenants should also have access to contact information of the real, beneficial owner(s) of the property.

Often tenants are not able to hold landlords accountable for abusive practices, because they are not even able to ascertain the true owners of a property. Landlords hide behind LLCs and evade accountability by obscuring their identities. A rental registry is critical for effective enforcement of



tenant protections. The transparency offered through a centralized registry is also important for tracking the scope of landlords' holdings, as well as impacts on tenants and communities.

9. Create an Office of Tenant Protections with Enforcement Power

The protections outlined in this letter require diligent and proactive enforcement. Accordingly, the FHFA must create an Office of Tenant Protections that is responsible for ensuring that borrowers comply with required tenant protections. The Office of Tenant Protections would be responsible for identifying landlords (both corporate entities and the individuals behind them) who must be barred from future participation in Enterprise-backed mortgage programs in the event of serial and/or egregious violations of tenants' rights. Additionally, the Office of Tenant Protections should evaluate the effectiveness of existing tenant protections, conduct research on how market trends and emerging practices affect tenants' rights, and propose additional protections to ensure that the FHFA's tenant protections do not become outdated.

We urge the FHFA to finalize multi-family tenant protection policies that include the above recommendations. For more information, please contact: Katie Goldstein (kgoldstein@populardemocracy.org).

Sincerely,

The Center for Popular Democracy