The Honorable Sandra Thompson

Federal Housing Finance Agency

Washington, DC

July 31, 2023

RE: Federal Housing Finance Agency’s Request for Input on Multifamily Tenant Protections

Dear Director Thompson:

Legal Action of Wisconsin (“LAW”) writes this letter in response to the Federal Housing Finance Agency’s Request for Input on Multifamily Tenant Protections. LAW is Wisconsin’s largest nonprofit law firm, providing free, high-quality civil legal aid to the state’s low-income residents. Our work spans a wide range of issues across a broad geographic scope, covering urban, suburban, ex-urban, and rural areas.

One of LAW’s priority areas is housing law. Our attorneys regularly represent tenants in eviction hearings, proceedings regarding rental arrears and other monetary claims, affirmative cases to enforce tenants’ rights, and various other legal contexts. We regularly see how weak or nonexistent tenant protections can lead to the exploitation of vulnerable individuals. This exploitation often deepens racial and gender inequities. At the same time, we often see how the existence of even small tenant protections can be the lifeline that saves a family from homelessness.

FHFA has an important opportunity to help establish a minimum federal floor of tenant protections. Establishing the following renter protections for households living in properties with federally-backed mortgages would have a positive impact on LAW’s clients:

**Fair Tenant Screening Practices**: Landlords in Wisconsin regularly deny tenants housing due to past eviction records, credit history and credit scores, and criminal history. Indeed, Wisconsin law specifically provides that localities cannot enact ordinances that prohibit a landlords’ ability to screen tenants using many of these factors. Wis. Stat. § 66.0104(2)(a). Unfortunately, these screening practices create cycles of poverty and hardship.[[1]](#footnote-1) An FHFA rule that prohibited unfair screening practices by landlords with federally-backed mortgages would help tenants escape these negative cycles and further fair housing.

**Safe, Quality Housing Standards**: Even if a tenant can make it through the gauntlet of landlord screenings and secure an apartment, low-income tenants often find themselves in homes with various conditions issues. A study conducted in fifteen neighborhoods in Milwaukee found that nearly a quarter of all residential and mixed-use properties needed at least one major repair, and almost 15% needed multiple major repairs.[[2]](#footnote-2) Unaddressed repairs can cause significant health problems for tenants, such as asthma and lead poisoning.[[3]](#footnote-3) Children and people of color are disproportionately affected by such health concerns.[[4]](#footnote-4) Strong federal health and safety standards for federally-backed multifamily housing, as well as meaningful enforcement mechanisms, would be an important step to ensure safe and decent housing for thousands of families.

**Source of Income Discrimination Harms Multifamily Renters**: While Wisconsin does prohibit discrimination in rental housing based on “lawful source of income,” Wis. Stat. § 106.50(1), this has been interpreted to exclude housing choice vouchers, *Knapp v. Eagle Property Management Corp.* 54 F.3d 1272 (1995). Thus, many landlords will openly refuse to accept federal rental assistance or otherwise deny tenants housing, frustrating the purpose behind these subsidized housing programs and limiting family choice. An FHFA Rule protecting households receiving rental housing assistance such as Section 8 Vouchers, SSI or local rent assistance from discrimination would be particularly helpful in Wisconsin where such renters face persistent discrimination.

**Just Cause Eviction Protections**: In Wisconsin, like many states, landlords can evict a tenant for any reason or no reason, so long as the eviction is not discriminatory or retaliatory. However, even if a tenant believes the nonrenewal is retaliatory or discriminatory, the tenant will move anyway to avoid having an eviction filing on their record. An FHFA rule limiting the causes for which a landlord can evict a tenant or refuse to renew a tenant’s lease when the tenant is not at fault or in violation of any law would reduce evictions, increase housing stability, and further protect tenants from discriminatory and retaliatory non-renewals.

The implementation of strong tenant protections for families living in multifamily homes with federally-backed mortgages would greatly benefit Wisconsin renters whose rights have been reduced multiple times since 2011. Moreover, LAW emphasizes the importance of ongoing and effective enforcement of these protections. Thank you for your time and consideration.

Best,

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1. Jaboa Lake & Leni Tupper, *Eviction Record Expungement Can Remove Barriers to Stable Housing*, Center for American Progress (Sept. 30, 2021), https://www.americanprogress.org/article/eviction-record-expungement-can-remove-barriers-stable-housing/. [↑](#footnote-ref-1)
2. Reclaiming Our Neighborhoods, 2022 Milwaukee Housing Condition Report 5 (Apr. 2023), https://www.datayoucanuse.org/wp-content/uploads/2023/04/RON-2022-Housing-Conditions-Report-Full-Report-20230424.pdf. [↑](#footnote-ref-2)
3. Talis Shelbourne, *'Who wants to take a hot shower in mold?' Substandard housing promotes asthma 'triggers,' and getting help can be a nightmare*, Milwaukee Journal Sentinel (Aug. 29, 2022), <https://www.jsonline.com/in-depth/news/health/2022/08/29/milwaukee-rentals-can-breeding-ground-asthma-triggers/10098504002/>; Alison Dirr

   & Mary Spicuzza, *Wisconsin's Black children 4 times more likely to be lead poisoned than white children in 2022*, Milwaukee Journal Sentinel (Apr. 21, 2023), https://www.jsonline.com/story/news/politics/2023/04/21/lead-poisoning-4-times-more-likely-for-black-kids-in-wisconsin/70139003007/. [↑](#footnote-ref-3)
4. *Id.* [↑](#footnote-ref-4)