



**GREATER  
MEMPHIS  
HOUSING JUSTICE  
PROJECT**



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July 31, 2023

The Honorable Sandra Thompson  
Federal Housing Finance Agency  
Washington, DC

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

Dear Director Thompson:

Thank you for the opportunity to respond to the Federal Housing Finance Agency's Request for Input on Multifamily Tenant Protections. My name is Jamie Johnson, and I am the Executive Director of the Memphis Public Interest Law Center (MPILC) located in Memphis, Tennessee. We work with and for renters every day through the Housing Project, our grass-roots legal advocacy project designed to address our local rental housing crisis through renter-centered research, education, and advocacy. I submit this letter as a partner in, and representative of, the Greater Memphis Housing Justice Project (GMHJP), a coalition of local organizations designed to conduct research, raise awareness, tell renters' stories, and explore policy and structural changes to address the housing crisis in Memphis. GMHJP members who have signed onto this letter include Black Clergy Collaborative of Memphis, BLDG Memphis, Memphis Public Interest Law Center, Whole Child Strategies, Inc., and Dr. Austin Harrison, Assistant Professor of Urban Studies, Rhodes College.

Because of my experience advocating with and for tenants, representing tenants in court, and working with organizers and direct service providers who serve tenants, I have an intimate understanding of the need for stronger tenant protections. I work with hundreds of tenants every year. In this work, I am required to look at local, state, and federal policies and practices that impact tenants. I have become very familiar with the landlord-tenant laws in Tennessee, the challenges of enforcement, and the need for a minimum federal floor on tenant protections.

FHFA has an important opportunity to help establish a minimum federal floor of tenant protections. Federal regulation of these issues is particularly important right now because the Tennessee General Assembly has passed laws that limit our local government's ability to enact regulations to address our housing crisis and, because each year for the past few years, they have chipped away at rental housing regulations that protect tenants from predatory landlord practices.

A federal minimum floor of tenant protections is also necessary due to the growing number of properties in my jurisdiction with corporate landlords with multi-state portfolios. The supply of affordable, safe housing is disappearing at an alarming rate, in large part driven by out-of-state institutional investors. In just a two-year period between 2020 and 2022, more than 7000 single family homes were purchased by such investors. Such aggressive out-of-state investment is causing sky rocketing rents, deteriorating housing stock, and an increase in eviction filings.

**Tenant protections align with FHFA's statutory mandate** to ensure that the GSEs fulfill their mission by operating in a safe and sound manner and to serve as a reliable source of liquidity and funding for the housing finance market. See 12 U.S.C. § 4513 (a)(1). The FHFA website states that FHFA strategic goals are to (1) secure the regulated entities' safety and soundness, and (2) foster housing finance markets that promote equitable access to affordable and sustainable housing.

Ensuring that tenants in properties with federally-backed mortgages have equitable access to affordable and sustainable housing fits squarely within FHFA's statutory mandate and strategic goals, and we applaud the FHFA for undertaking the RFI process to learn more about the challenges that these tenants face and to consider the role of FHFA and the GSEs in addressing these challenges.

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### **Minimum Tenant Protections**

FHFA should consider the following minimum federal tenant protections: good cause eviction requirements; rent stabilization; warranty of habitability; right to cure; and non-waivable minimum 30-day notice requirements. The FHFA could implement these protections both as stand-alone protections and/or as part of a model lease requirement, which would embed these protections in the terms of all lease agreements for properties backed by the FHFA. In addition to terms that cover the above protections, a model lease could include a mutual attorney fee provision; terms that make transparent monthly fees other than rent; and terms that restrict eviction for late payment of non-rent fees.

With any tenant protections that are passed, the FHFA should make sure that they structure and draft these protections in a way that makes them practical for tenants and tenant advocates to enforce. The FHFA should strongly consider the creation of a dedicated office whose mandate is to make sure these protections are being enforced.

In my jurisdiction, we do not have many of these protections. We have a common law warranty of habitability, statutory habitability requirements, and a limited notice requirement. However, the few protections we do have are rarely enforced. Due to power imbalances between landlords and tenants created by policies and structures controlled at the state level, official Court data shows that renters receive favorable outcomes in 1.3% of cases.

Our organizational data shows that more than half of the calls we receive requesting help related to eviction are actually cases about substandard housing conditions. Though retaliatory eviction is expressly unlawful in my jurisdiction, landlords are taking advantage of weak regulation and enforcement of eviction by filing evictions in retaliation for renters asking them to make repairs – so they can evade laws that require them to provide habitable housing. Our data also shows that more than 80% of our cases involve unlawful landlord behavior.

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I know that FHFA tenant protections could help renters because I have worked with renters who have benefited from tenant protections imposed by the FHFA. Specifically, I have seen the eviction moratorium protections built into federally-backed loans and the CARES Act 30-day notice requirement invoked to stop evictions and allow tenants more time to find alternate housing.

The FHFA has an important opportunity to help set the foundation for a minimum federal floor of tenant protections, and we urge the FHFA to act boldly. The Tennessee General Assembly is systematically removing laws that protect renters from predatory landlord practices. Year after year, they target a new regulation. Local government officials have attempted to implement—and continue to consider—strategies to address various facets of our local housing crisis; most strategies are preempted by state law. After many years, we finally have the will to address our housing crisis – but not the authority. YOU DO.

Sincerely,

THE GREATER MEMPHIS HOUSING JUSTICE PROJECT



Jamie M. Johnson  
Executive Director, Memphis Public Interest Law Center