

United States Senate
WASHINGTON, DC 20510

July 31, 2023

The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
400 7th Street SW, Washington, D.C. 20024

Dear Director Thompson:

We write in response to the Federal Housing Finance Agency's (FHFA) Request for Input (RFI) on multifamily tenant protections with mortgages backed by Fannie Mae and Freddie Mac (the Enterprises). We applaud FHFA for embarking on this holistic, listening-based approach to implement the Biden Administration's Blueprint for a Renters Bill of Rights and address the challenges renters are facing across the nation, particularly within underserved communities. Strengthening tenant protections attached to federally-backed financing can be a powerful tool in ensuring that Americans are able to find and stay in safe, stable, and affordable housing.

The RFI asks "what actions should the Enterprises take, if any, to ensure universal acceptance of sources of income at Enterprise-backed multifamily properties?"¹ We write today to encourage FHFA to include broad source of income (SOI) protections for tenants as a condition of backing from the Enterprises, including explicitly requiring such properties to accept federal, state, and local housing assistance such as the Section 8 Housing Choice Voucher and HUD-Veterans Affairs Supportive Housing (HUD-VASH) program. Doing so would also advance a key solution to another question asked in the RFI: how to address barriers to multifamily tenants' access to housing.

Congress chartered Fannie Mae and Freddie Mac to provide increased liquidity, stability and affordability in the single- and multifamily mortgage markets, especially within underserved communities.² By guaranteeing timely repayment of principal and interest to mortgage originators and institutional investors in the secondary market, the Enterprises play a key role in facilitating the finance of affordable home ownership and housing construction.

However, securitization is not the only tool the Enterprises can and should use to meet their responsibility to promote access to affordable housing. As the Congressionally designated supervisor of the Enterprises, your agency has taken a variety of important steps to fulfill its

¹ "Tenant Protections for Enterprise-Backed Multifamily Properties: Request for Input," Federal Housing Finance Agency, question B-2, available at <https://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/Multifamily-Tenant-Protections-RFI.pdf>.

² 12 U.S.C. 1716; 12 U.S.C. 1452.

mission to ensure the Enterprises safely and soundly achieve their statutory purpose.³ By continuously refining and improving upon previous enforcement strategies in a changing multifamily housing market landscape, FHFA has demonstrated that it has a legitimate and impactful role to play in addressing the challenges faced by tenants seeking safe, accessible and affordable housing beyond liquidity provision. Adding SOI protections would be a natural extension of these steps and further FHFA's progress in recent years.

The Fair Housing Act of 1968 explicitly prohibits discrimination in the housing market on the basis of disability, sex, race, color, religion, or national origin. Currently, though, there is no universal federal protection against discrimination based on the source of income that a prospective tenant intends to use to pay rent. This enables landlords in areas where there is no state or local prohibition to deny rental opportunities to applicants solely on the basis that they intend to use a payment method such as a Housing Choice Voucher.

As the largest federal rental housing assistance program, the Housing Choice Voucher (HCV) program provides critical access to decent, stable, private-market housing for over 2.2 million households.⁴ Across numerous multi-site studies, vouchers made the difference between living on the street or staying in a shelter and finding an affordable rental unit for three quarters of housing-insecure families in the groups studied.⁵ Particularly for adults who experience homelessness, rental assistance has been shown to reduce psychological and economic distress, and children living in a household with access to rental assistance are less likely to experience behavioral problems and sleep disruptions.⁶ Housing Choice Vouchers also have the potential to promote opportunity by enabling many families to move to neighborhoods with lower poverty levels if they choose. When families are able to use them to move to low-poverty areas, specifically, vouchers been shown to improve test scores for some children and contribute to higher earnings in adult life.⁷

Although access to safe, affordable housing through vouchers can provide low-income individuals and families with stability and opportunity, research indicates that voucher holders often face barriers to utilization. The most recent data published by HUD indicates that more

³ See, for example, protections for Manufactured Housing Communities, 12 CFR 1282.33, and tenant protections during the pandemic, available https://www.fhfa.gov/Media/PublicAffairs/Pages/Tenant-Protections-for-Enterprise-Backed-Rentals_7282021.aspx.

⁴ "Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results," Allison Bell, Barbara Sard and Becky Koepnick, Center on Budget and Policy Priorities, 2018, available at <https://www.cbpp.org/research/housing/supportive-housing-helps-vulnerable-people-live-and-thrive-in-the-community>.

⁵ "Housing Affordability and Family Well-Being: Results from the Housing Voucher Evaluation," Michelle Wood, Jennifer Turnham and Gregory Mills, Housing Policy Debate, 2008, available at https://www.researchgate.net/publication/252968087_Housing_Affordability_and_Family_Well-Being_Results_from_the_Housing_Voucher_Evaluation.

⁶ Bell et al.

⁷ "Research Shows Rental Assistance Reduces Hardship and Provides Platform to Expand Opportunity for Low-Income Families," Will Fisher, Douglas Rice and Alicia Mazzara, Center on Budget and Policy Priorities, 2019, available at <https://www.cbpp.org/research/housing/research-shows-rental-assistance-reduces-hardship-and-provides-platform-to-expand>.

than 30 percent of voucher holders return them, unable to find a suitable unit that accepts vouchers within the designated time frame.⁸

Members of underserved communities make up an outsized share of voucher holders, creating the potential for voucher-based discrimination to serve as a proxy for other forms of discrimination. One in 4 households with a voucher include a family member with disabilities and 78 percent of voucher households are women-led. Sixty-six percent of voucher holders are Black or Hispanic, compared to just 40 percent of the renter population at large.⁹ This means that HCV program outcomes have important fair housing implications because members of other protected classes are overrepresented among program participants. Addressing barriers that have disparate impacts on protected classes is vital to ensuring FHFA fulfills the agency's duty to affirmatively further fair housing.¹⁰

FHFA has already recognized the importance of increasing housing opportunities for voucher recipients with the Expanded Housing Choice Initiative pilot in North Carolina and Texas.¹¹ To actualize the White House Blueprint for a Renters Bill of Rights and complement government-wide efforts toward this end, FHFA can and should build upon its recent efforts to improve the availability of safe and affordable housing for households using federal and other rental support.

In the absence of federal SOI protections, states, cities and other federal programs have passed laws and instituted requirements to prevent housing discrimination based on source of income. Since Massachusetts enacted the first state-level source of income protections in 1971, 16 states and DC, 21 counties and 85 cities nationwide have followed suit. Today, over 57 percent of households using Housing Choice Vouchers live in jurisdictions with some legal protection against SOI-based discrimination.¹² However, not all jurisdictions have the ability to implement these protections. Some localities that may otherwise adopt them are blocked by state laws preempting local SOI protections. Adding these protections to Enterprise-backed properties nationwide would continue the progress towards 100 percent coverage and ensure that federal programs and efforts are working together to be more effective.

There is consistent evidence indicating a positive correlation between the presence of SOI protections and landlord voucher acceptance spanning over 20 years. In one of the earliest studies on the topic, HUD reported in 2001 that voucher recipients in jurisdictions with laws that

⁸ "Study on Section 8 Voucher Success Rates: Volume I, Quantitative Study of Success Rates in Metropolitan Areas," Meryl Finkel and Larry Burton, Abt Associates, 2001, available at https://www.huduser.gov/portal/publications/pdf/sec8success_1.pdf.

⁹ "Housing Choice Voucher Program Explained," Fannie Mae, available at <https://multifamily.fanniemae.com/media/15531>.

¹⁰ 42 U.S.C. 3608(d); 42 U.S.C. 3601 et seq. (imposing the duty to affirmatively further fair housing to all federal agencies with regulatory or supervisory authority over financial institutions).

¹¹ "Expanded Housing Choice Initiative," Fannie Mae, available at <https://multifamily.fanniemae.com/financing-options/specialty-financing/expanded-housing-choice-initiative>.

¹² "Expanded Protections for families with Housing Choice Vouchers," Brian Knudsen, Poverty & Race Research Action Council, 2022, available at <https://prrac.org/pdf/soi-voucher-data-brief.pdf>.

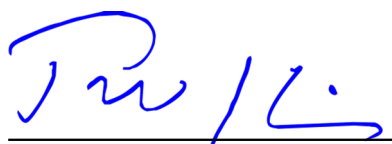
bar discrimination based on SOI are 12 percent more likely to be successful in using their voucher than recipients in jurisdictions without similar protections.¹³ Additional research in 2018 examined landlord acceptance of housing vouchers in five U.S. cities, and data in the study suggests that landlord refusal of vouchers is more common in jurisdictions without SOI protections. Strikingly, denial rates between the cities varied by as much as 60 percentage points.¹⁴ This regional variation highlights the potential value of SOI protections at Enterprise-backed properties, given the widespread impact of Fannie Mae and Freddie Mac in the multifamily housing market.

Ensuring that Enterprise-backed multifamily properties accept all sources of income would also ensure that they are accepting a stable group of tenants for their properties, enhancing financial resilience among Enterprise borrowers. The pandemic demonstrated this, as during a time of immense economic loss and uncertainty, landlords saw enhanced value in renting to voucher holders.¹⁵ Encouraging this kind of revenue certainty for Enterprise-backed borrowers aligns with FHFA's mission to promote the safety and soundness of the housing finance system.

The Administration's Blueprint for a Renters Bill of Rights recognizes that a shared set of principles for engaging on renter protections will support collaboration and complementary work across the federal government. Requiring SOI protections for tenants of units in Enterprise-backed multifamily properties should be one of the actions FHFA takes to move this principle from blueprint to reality.

Thank you for your time and attention to this critical issue.

Sincerely,



Tim Kaine
United States Senator



Richard Blumenthal
United States Senator

¹³ "Study on Section 8 Voucher Success Rates."

¹⁴ "A Pilot Study of Landlord Acceptance of Housing Choice Vouchers," Mary K. Cunningham et al., Urban Institute, 2018, available at <https://www.urban.org/research/publication/pilot-study-landlord-acceptance-housing-choice-vouchers>.

¹⁵ "Housing Vouchers Have Helped Tenants and Landlords Weather the Pandemic," Jung Hyun Choi and Laurie Goodman, Urban Institute, 2021, available at <https://www.urban.org/urban-wire/housing-vouchers-have-helped-tenants-and-landlords-weather-pandemic>.



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