October 28, 2014

Alfred M. Pollard
General Counsel
Attention: Comments/RIN 2590-AA65
Federal Housing Finance Agency
Eighth Floor
400 Seventh Street, SW
Washington, DC 20024

Dear Mr. Pollard,

Background

The National Association of Affordable Housing Lenders (NAAHL) represents the vanguard of bank and mission-based lenders with proven track records in lending and investing, profitably and responsibly, in underserved areas throughout the United States. NAAHL members have provided billions in private capital to finance affordable rental housing and community economic development.

NAAHL's 20 blue-chip, mission-based lenders that include multi-bank loan consortia originate and currently hold more than $20 billion in high-quality, multifamily mortgages financing half a million rental homes in places as diverse as Oregon, North Carolina, and Massachusetts. Banks have profitably invested in these state and regional loan pools to leverage private capital where it is most needed.

But there is a major blind spot in America's mortgage finance system that is preventing more and more families from finding "naturally affordable" rental homes – the lack of a functioning secondary market for small properties (5-50 units). More than half of small rental properties, or 54%, are located in suburbs and rural areas, and nearly three-quarters are affordable to households earning half the area median income without any government assistance. Without such housing, many lower income individuals would not have the chance to live in good homes at rents they can afford.

For too long, Federal housing policy has ignored small rental properties, resulting in exclusionary lending practices that are unfair and hinder the preservation and construction of rental homes.

Our Separate and Completely Unequal Multifamily Secondary Market

In its 1954 Brown vs. Board of Education decision, the Supreme Court struck down institutional discrimination in public schools, helping to put the United States on the path toward equality and fairness. Decades later, our multifamily housing finance system remains "separate and unequal," with Fannie Mae and Freddie Mac ignoring 90% of rental housing, financing only part of the 9% of all rentals that are in buildings of 50-plus units, and focused on the biggest and most expensive properties in a handful of the nation's hottest markets.

Banks and mission-based lenders report having three to four times the demand for small property mortgages than they had before the downturn, but without any ability to sell those mortgages into the secondary market in order to make more loans.

Because the GSEs refuse to support a liquid market increasing the flow of private capital to small rental properties, current financing for smaller properties is often patchwork and ad hoc, as lenders scramble to secure additional resources to meet ever-expanding needs.

Financing affordable rental homes requires readily-available, consistently-priced, long-term credit. Unfortunately, this proposal does little to address the imbalance in what rental properties benefit from Fannie Mae and Freddie Mac's government sponsorship. Curiously, the proposal even reiterates long-time GSE excuses for disparate treatment of rental properties with 5-24 units. The caveats that FHFA includes in its discussion of the small properties targets are worrisome because the Enterprises have a history of gaming their affordable housing goals, and they will invariably view FHFA's language as a license not to serve this segment of the multifamily business.

We commend FHFA for including a new subgoal for mortgages on small affordable rental properties. The Housing and Economic Recovery Act of 2008 (HERA) reinforced the GSEs' responsibilities to provide capital market access to affordable rental housing. HERA revised the

income targets, implementation, and regulatory oversight of Fannie Mae and Freddie Mac's charter responsibilities for affordable housing to achieve a reliable secondary market for primary lenders' mortgages on affordable rental properties. It gave FHFA the discretion to give full, partial, or no credit for transactions the GSEs call affordable housing.

Unfortunately, the proposed rule sets the bar too low to realize HERA's objectives.

As the Government Accountability Office has pointed out, the "enterprises have played a limited role in financing small properties, which tend to have lower rents than large properties." By 2011, the average multifamily mortgage financed through Fannie Mae, Freddie Mac, and even FHA, ranged from $9 to $16 million. Historically, the Federal government's support for multifamily mortgages has focused on the most lucrative, "top 10%" of rental properties, especially in 100-plus-unit buildings, mostly owned by limited liability corporations.

Over the past five years, the GSEs have increasingly conferred the benefits of their "agency status" on multi-million dollar properties, through refinancing country clubs and other luxury properties, including the famous "Dakota" cooperative in Manhattan.

As HUD's Deputy Assistant Secretary for Housing told the Bipartisan Policy Center Housing Commission, not only the GSEs, "but also FHA's share of small property financing was trivial before the [housing] crisis, and still is."

The Multifamily Goals Must Be Increased

We heartily agree with the FHFA comment that "safety and soundness concerns should not preclude the Enterprises' ability to meet the proposed goals," and commend FHFA for incorporating mortgages for affordable small properties into the goals. Unfortunately, the proposal perpetuates FHFA's record setting the Enterprises' bar much too low for "facilitating the financing for low- and moderate-income families." The proposed targets are so low, opaque, and easy to game, that they will be easily achieved even if the GSEs continue to lag the market, ignore 45 states, nearly all metro areas, and all suburban and rural properties.

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FHFA proposes goals for Fannie Mae and Freddie Mac for 2015-2017 for "low-income" (defined here as affordable to 80% of area median income) renters and small properties that are tiny fractions of the primary market. The goals for low-income small properties ramps up from almost nothing to very little. The GSEs should not be encouraged to simply move the needle a millimeter on an already minuscule allotment. For example:

- For 2015, FHFA proposes that Fannie Mae only finance 8% of its "low-income" (defined as 80% of area median income) mortgages in small properties; for 2016, FHFA proposes only 10%; and for 2017, only 12% of its low-income units in small properties.
- For 2015, FHFA proposes that Freddie Mac only finance 2.4% of its low-income units in small properties; for 2016, FHFA proposes only increasing that to 4.5%; and for 2017, to just 6.5%.

In addition, FHFA proposes significantly lower targets for Freddie Mac on affordable multifamily housing, and the same for small properties, some 25 years after Freddie Mac mismanaged its multifamily lending. FHFA has tried in other areas to align the two companies' business practices, like instituting a common securitization platform, so continuing to give Freddie Mac a free pass on the most unmet needs of the rental housing market simply rewards their lack of effort.

An FHFA snapshot of recent performance illustrates how AWOL from its charter responsibility Freddie Mac continues to be: in 2011, Freddie Mac financed *691* small low-income properties; in 2012, it financed *829*; and in 2013, *1,128*.

Overall, the multifamily "low-income" and small property goals for the GSEs are even *less than meet the eye* because the law allows double- and triple-counting of GSE loans for the purposes of the goals. In addition, the FHFA proposal would count blanket loans on mobile home parks, and blanket loans and unit loans for cooperatives, toward the "low-income goals." Manufactured housing and cooperatives also provide affordable housing; but these proposals add further reason for FHFA to increase the proposed unit goals significantly.

Don't Discriminate Between Subsidized and Unsubsidized

As the proposal states, financing multifamily affordable rental homes often requires subsidies, including "low-income housing tax credits (LIHTCs), tax-exempt bonds, Section 8 rental assistance or soft subordinate financing." We agree that "there should continue to be opportunities in the multifamily market to provide permanent financing for properties with low-income housing tax credits during the 2015-2017 period."

However, "affordable is not a synonym or euphemism for assisted," and most small properties do not involve subsidies. These properties are most likely owned by "Mom and Pop" local entrepreneurs, and are naturally affordable to most tenants earning 50% of area median income, without vouchers or other government assistance.

The proposal that Fannie Mae and Freddie Mac receive automatic goals credit for any mortgages they finance deemed affordable by an applicable subsidy program (LIHTCs, etc.) undermines efforts to increase secondary market support for small rental properties. It also risks allowing the GSEs to game their multifamily goals as past practices were documented by members from both sides of the aisle in the House Financial Services Committee.

Improve the Transparency and GSEs' Accountability for Ensuring a Liquid and Efficient Secondary Market for Rental Housing

We strongly support the proposed language that the GSEs "support housing for tenants at different income levels in various geographic markets and in various market segments." Fannie Mae itself has admitted that nearly half of its small loan book of business is highly concentrated in just two MSAs, New York and Los Angeles; the companies have a history of focusing their efforts on a select few metropolitan areas, to the exclusion of other cities, the suburbs, or rural areas. Freddie Mac recently announced a new specialized small balance loan program, but only in cooperation with three companies that tout their financing of glitzy properties in the hottest rental markets.

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To ensure their goals compliance, and to get a clearer picture of how much of the nation's rental housing remains circumscribed, FHFA should require the Enterprises to issue annual reports, publicly available by state, including locations, number of units, and mortgage amounts, which are designed clearly to show how the GSEs are meeting their affordable housing goals.

FHFA should also make a special effort to size more accurately the market for smaller sized low- and moderate-income (LMI) property loans and loans benefitting "very low-income." Existing HUD and bank regulatory reports consistently understate the actual originations by nonprofit lenders.

Small Multifamily Market: Underwrite the Underwriter

We are pleased that the proposed rule finally includes a new subgoal for small rental properties. Unfortunately, the proposal almost immediately throws the target overboard by claiming it will be hard for the Enterprises to finance properties with only 5-24 units.

All smaller rental properties need additional sources of capital, so Enterprise attention to 25-50 unit properties is welcome, but the assumption that they cannot support the smallest properties is wrong.

FHFA echoes GSE excuses about the "lack of standardization" in underwriting, originating, and servicing that makes small property financing more expensive, and actually suggests that the Enterprises may "compete" with existing sources of liquidity for small multifamily properties. Unfortunately, "existing sources of liquidity" are ad hoc, unpredictable, and a fraction of what is needed. Mortgages on small multifamily properties are simply not uniform or "cookie-cutter." They often require flexibility in underwriting.

Fortunately, a sophisticated industry of mission-based lenders has grown up over the past two decades to fill the vacuum in financing affordable rental housing. These lenders and many community banks have strong track records in successful multifamily lending.

To ensure reliable access for small property loans, the GSEs need to underwrite the underwriter, i.e. offer support to the existing nonprofit mission-based lenders that are actively financing such

properties so those lenders can do more. Rather than simplify and streamline "products," the Enterprises should simplify and streamline their processes to qualify more non-depository lenders as "mini-Delegated Underwriting Servicers." These specialized lenders tailor their loan products to their communities, are ready and willing to share the risk of their loans, and many meet the highest financial standards of insured depositories.

Conclusion

The proposed goals fall well short of what is needed to ensure FHFA's new strategic priority of supporting "multifamily housing needs with a focus on the affordable and underserved segments of the market." To accomplish that objective, FHFA must refocus the Enterprises on bringing capital markets' funding to Main Street rental properties, to make a market in mortgages on naturally affordable small properties, including ones in rural and suburban areas.

It took a Supreme Court decision to start our journey to a more equitable and fairer public education system. FHFA can and should be part of the solution to the GSEs' exclusionary lending practices. That will require FHFA insistence that the GSEs benefit not only the most lucrative, biggest rental properties in hot markets, but also bring the benefits of government support for a secondary market to affordable small rental properties throughout the 50 states.

Sincerely,

Judith A. Kennedy
President and CEO

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