



October 17, 2022

Sandra L. Thompson
Director of the Federal Housing Finance Agency

[Submitted via fhfa.gov]

RE: Community Support Requirements, (No. 2022–N–11) Multifamily Enterprise Housing Goals Proposed Rule

Dear Director Thompson:

This letter is in response to the FHFA Multifamily Enterprise Housing Goals Proposed Rule Comment Request: ‘Community Support Requirements, (No. 2022–N–11) Multifamily Enterprise Housing Goals Proposed Rule.

The National Housing Law Project (NHLP) is a legal advocacy center focused on increasing, preserving, and improving affordable housing; expanding and enforcing rights of low-income residents and homeowners; and increasing housing opportunities for underserved communities.

We write to express our enthusiastic support of the comments submitted by tenant leaders of the Homes Guarantee campaign; those comments call upon FHFA to regulate rents for properties with federally-backed mortgages. We also strongly support the sign-on letter submitted by the California Reinvestment Coalition and agree with its recommendations against the financing of displacement.

We also bring attention to the urgent need for FHFA to help ensure that tenants are protected while living in properties with federally backed mortgages.

Tenants in this country are facing an acute rent crisis. June 2022 saw the biggest one-month increase in rents since 1986. Nationally, median rent is over \$2000 for the first time ever. Rent inflation impacts urban, suburban and rural communities alike. In 2022, there is not a single state, metro area or county where a minimum-wage worker can afford a two-bedroom apartment. Rents rose over 14% year over year in June, much higher than the overall inflation rate of 9.1%. Before the Covid-19 pandemic, rents increased by 2% to 3% annually.

As a result, many tenants find themselves in an increasingly precarious position, especially low income households. According to a [2020 GAO study](#), a \$100 increase in median household rent was associated with a 9% increase in the estimated homelessness rate.

This precarity for renters is due in large part to the fact that, in most states, landlord tenant laws strongly favor landlords both in design and function. Because landlord tenant laws are generally designed to provide a quick and frictionless way for landlords to remove tenants, large numbers of tenants continued to be evicted during the pandemic, including tenants who paid their full rent, tenants protected by eviction moratoriums, and tenants with strong

defenses. The eviction process is a conveyor belt moving tenants towards eviction. In many states, it lacks the most basic elements that most people would assume a modern-day court process would include. Faced with the prospect of losing their home, tenants deserve basic due process, notice, a right to fix the underlying problem and the right to raise reasonable defenses.

Without basic eviction prevention protections, both individuals and society will bear a heavy cost much over the long term, a cost that is much higher than the amount of rent owed. Eviction is often a traumatic event for families that results in school changes, lost jobs, health decline and a huge amount of stress. The trauma of these evictions falls most heavily on communities of color, especially on Black women and children. Evictions are often only for a few hundred or a few thousand dollars. In most cases, communities pay far more for the costs of destabilized families further down the road. Reforming the eviction system makes financial and moral sense.

The federal government has a responsibility to raise the floor, and FHFA has the opportunity and responsibility to ensure that tenants in properties with federally-backed mortgages are afforded basic rights.¹

In general, tenants should have:

1. A habitable property, including a right to be free from environmental harm and pollution
2. The right to organize and ability to exercise other rights without retaliation
3. Freedom from discrimination and abuse by the landlord and agents of the landlord
4. Just cause protections that prevent evictions without good cause including preventing end-of-lease and “no fault” terminations
5. Protection from rent gouging and protection from unreasonable rent increases
6. The ability to preserve the tenancy by curing the lease violations for non-payment of rent and other violations within a reasonable amount of time
7. Protections against illegal evictions and lockouts along with a practical mechanism for regaining entry to the property in cases of violation
8. Access to balanced courts and administrative hearings, including the right to a trained, competent, independent judicial/hearing officer

¹ The charter for the GSEs include “provid[ing] ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing.” See, e.g., Title III of National Housing Act, 12 U.S.C. 1716 (Fannie Mae).

9. Basic due process protections in any eviction proceeding including reasonable notice, a written record and the ability to present evidence, cross examine witnesses and conduct discovery
10. Access to legal representation in legal and administrative hearings
11. The right to a fair and transparent application process, free from arbitrary financial and screening barriers
12. A clear articulation of these rights in the lease or in a lease addendum

While some of these rights fall outside of FHFA's scope of control, there are some rights that FHFA is in a strong position to influence as the regulator and conservator of the government-backed enterprises. To help ensure that tenants are able to maintain and access affordable housing in this time of precarity, we strongly urge FHFA to consider the extent to which some of these tenant protections can be strengthened through federally-backed mortgages.

We appreciate your time and attention to the need for strong tenant protections to help tenants achieve housing stability and fully enjoy the benefits of affordable housing. If you have questions, please contact Marie Claire Tran-Leung at mctranleung@nhlp.org.

Sincerely,

/s/ Marie Claire Tran-Leung
Marie Claire Tran-Leung
Evictions Initiative Project Director & Senior Staff Attorney
National Housing Law Project