December 27, 2016

Regulations Division
Office of General Counsel
U.S. Department of Housing and Urban Development
451 7th Street, S.W., Room 10276
Washington, D.C. 20410-0500

Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard
Docket ID No. HUD-2016-0124-0001

Dear Sir or Madam,

On behalf of the National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA), we write to applaud the U.S. Department of Housing and Urban Development (HUD) and the Obama Administration for taking steps to make our communities more resilient and lessen the financial burden that taxpayers face in the wake of disaster. Investing in pre-disaster mitigation efforts and making our communities more resilient is a shared, common goal for HUD and our industry.

Additionally, we wish to express our deep concerns regarding HUD's proposed rule entitled "Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard" ("the Proposal") that was published in the *Federal Register* on October 28, 2016.

For more than 20 years, NMHC and NAA have partnered in a joint legislative program to provide a single voice for America's apartment industry. Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management and finance. NMHC represents the principal officers of the apartment industry's largest and most prominent firms. As a federation of nearly 170 state and local affiliates, NAA is comprised of over 69,000 members representing more than 8.1 million apartment homes throughout the United States and Canada.

The multifamily sector is under increasing pressure to meet booming demand across the country and experts believe that this trend will only continue, if not increase, due to a host of factors, including demographic change and evolving consumer preferences. With that in mind, our industry and particularly multifamily owners and developers must balance a wide array of concerns with regard to project viability, of which floodplain management and resiliency are two. Developing multifamily properties in areas that are at risk of flooding typically requires greater financial investment, longer permitting time, and enhanced construction standards. This affects a project's viability, but also lends to why the multifamily industry takes project development, regardless of funding source, and its relation to floodplain management and sustainability seriously.

NMHC/NAA are especially concerned that HUD's Proposal threatens access to FHA mortgage insurance programs for multifamily builders in an already tight credit market. If implemented, the Proposal will severely disrupt the multifamily housing market and harm affordability for countless families living in areas designated under the expanded floodplain definition. This comes at a time when the entire multifamily industry as well as policy makers at all levels of government are striving tirelessly to make housing more affordable—from development, construction, and ultimately what level of rents residents pay.

In response to President Obama's Executive Order 13690 and the Federal Flood Risk Management Standard (FFRMS), HUD has proposed a rule to expand its floodplain management oversight. According to the Proposal, multifamily builders would face a new two foot elevation requirement if funding is derived from a HUD grant program, such as HOME or CDBG, or when using FHA mortgage insurance for new construction or substantial rehabilitation projects. This proposal would apply within the 100-year floodplain and in an unmapped, and therefore unknown, horizontally expanded FFRMS floodplain area. We believe this requirement for FHA multifamily projects exceeds the intent of E.O. 13690 by failing to limit expanded floodplain requirements only to "federally funded projects." HUD does not originate loans or fund projects through the FHA Multifamily Program. Rather, it insures those loans through the FHA. As such, projects insured by these programs should not be required to meet the mandates of the FFRMS.

If left as proposed, and while well-intentioned, we believe that the additional elevation and flood-proofing requirements for multifamily properties using FHA mortgage insurance and /or HUD grant programs could make many projects infeasible, due to increased construction costs and the inability to offset these costs through higher rents. In either case, the draft rule would prevent delivery of much-needed units as we all try to address our nation's affordable housing challenges. Additionally, the HUD proposal does not include a critical grandfathering provision for projects already in the development or construction pipeline, which will surely create unexpected project costs and delays for much needed multifamily communities.

We are also concerned that the Proposal is inconsistent with FEMA regulations under the National Flood Insurance Program and creates unnecessary and expansive flood mitigation requirements beyond those established by FEMA, the agency with the expertise, funding and statutory directive to administer flood insurance and floodplain mapping programs. Applying the expanded floodplain requirements to FHA multifamily mortgage insurance programs is unwise, unnecessary, and disregards the intent of the Order and the directive of the Guidelines. We strongly encourage HUD to exercise the flexibility it is afforded to ensure the rule does not make construction or substantial rehabilitation of multifamily housing cost prohibitive. Renters and multifamily builders rely on HUD mortgage insurance programs and grants to ensure access to safe and affordable housing nationwide. Regulatory changes that threaten the availability of such assistance, as the Proposal sets forth, have the potential to significantly impact builders' and developers' projects. At the same time, the proposed rule jeopardizes affordable housing opportunities for countless families.

For these reasons, HUD should withdraw the proposed rule and prevent its implementation. Additionally, the multifamily industry believes that HUD should only re-propose the rule and move forward with implementation after:

1) Limiting the FFRMS to purely "federally funded projects" while simultaneously excluding FHA multifamily mortgage insurance programs;
2) Providing nationwide maps of the expanded floodplain area that has been proposed; and
3) Including a grandfathering provision that would prevent multifamily projects already in the development and construction pipeline from being unnecessarily cost-burdened or delayed.

We appreciate the opportunity to share the views of the multifamily housing industry with you on this important matter. We look forward to working with HUD as we continue to strive to meet our shared goal of making our communities more resilient.

Sincerely,

Sincerely,

Douglas M. Bibby President National Multifamily Housing Council	Robert Pinnegar President & CEO National Apartment Association