February 9, 2023

The Honorable Sherrod Brown
Chairman
U.S. Committee on Banking, Housing and Urban Affairs
United States Senate
Washington, D.C. 20510

The Honorable Tim Scott
Ranking Member
U.S. Committee on Banking, Housing and Urban Affairs
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Chairman Brown and Ranking Member Scott:

The National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA) respectfully submit this statement for the record for the U.S. Senate Committee on Banking, Housing and Urban Affairs February 9, 2023, hearing titled "The State of Housing 2023."

For more than 30 years, NMHC and the NAA have partnered 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 145 state and local affiliates, NAA encompasses over 91,000 members of all sizes representing more than 11 million apartment homes globally.

We appreciate the Committee's continued focus on housing issues and, in particular, the rental housing sector and the many challenges that face our industry and its residents. As the Committee conducts this hearing, we write to offer our perspective on efforts needed to promote workable and sustainable polices to address our nation's housing challenges. Our ultimate goal is to ensure the long-term viability of a sector that provides apartment homes for 38.9 million Americans and contributes $3.4 trillion annually to the economy.

The Challenge: Decades-Long Underbuilding Has Resulted in Widespread Unaffordability

There is no doubt that America is facing a housing affordability crisis. Challenges are different from city to city and state to state, but facts are facts. For decades, America has witnessed the escalating challenge created by demographic shifts, flawed public policy decisions and economic changes culminating in the inability of families to rent, buy, or maintain stable, affordable and safe homes.

Today, in more and more communities, many hard-working Americans are unable to rent homes due to skyrocketing costs driven by a lack of supply, barriers to development and regulatory burdens. The total share of cost-burdened households (those paying more than 30% of their income on housing) increased steadily from 28.0% in 1985 to 36.9% in 2021, while others have been priced out of communities altogether. This is not sustainable, particularly in a period of high inflation. Wage stagnation in conjunction with barriers to new supply – for instance, onerous regulatory hurdles, antiquated and often discriminatory zoning and land use policies at the local level, and NIMBYism – has led the nation to this junction.

In addition, current economic instability poses a serious threat to the future of our sector and our ability to deliver housing. The Fed's rate increases have contributed to a period of economic volatility, which is driving up the cost of building new housing, discouraging new investment and pushing some in our sector out of the market altogether. According to NMHC's January Quarterly Survey of Apartment Market Conditions:

- More than three-quarters of respondents (82%) reported declining sales volumes from three months prior;
- Nearly two-thirds (62%) indicated equity financing was less available; and,
- Fully 60% said it was a worse time for mortgage borrowing compared to three months earlier.

Further, we are still making up for lost housing not produced during the 2008 financial crisis, and while household formations have slowed recently, we still do not have enough housing to keep up with demand.

Research from the NMHC and the NAA estimates the U.S. needs to build 4.3 million more apartments by 2035 to make up for decades-long underbuilding, meet future demand and avoid increasingly expensive housing.

While demand for apartments in recent months has softened as a result of economic uncertainty fueled by high inflation, we caution that this is only a short-term trend. We simply do not have enough homes to meet this long-term demand—this housing shortage is immense, widespread and enduring. Some metropolitan areas will see temporary softness for higher-income households in new Class A buildings, but these units will not filter down to the millions of market-rate affordable households, unless those households choose or are forced to become more cost-burdened.

The Solution: Supply + Subsidy

It is imperative we keep building new housing despite this temporary demand lull if we want to avoid large rent increases in the future. The apartment industry stands ready to help meet the rising need for accessibly priced rental housing, but we cannot do it alone. First and foremost, we must seek solutions that support increased supply—at all price points. Without investment in our nation's housing, we will continue to face housing instability and unaffordability. But in addition to increased supply, we must also deliver short-term solutions to renter populations that need support. Increased subsidy for those struggling to make ends meet is critical to keeping families afloat.

While there is no one silver bullet, a multi-faceted approach can be effective in easing current market constraints. As such, we believe the following actions will help further our shared affordability goals:

Overcoming Regulatory Hurdles

Regulatory, administrative, and political obstacles at all levels of government prevent us from delivering the housing our country so desperately needs. Yet, even in communities that want new rental housing development, our industry faces numerous barriers that can drive up costs or halt development altogether.

NIMBYism and antiquated, discriminatory land use policies coupled with onerous local requirements (like building code provisions that have nothing to do with health or safety, land or infrastructure donation requirements and ill-fitting transportation and parking mandates) add to project costs and, ultimately, the rents American families pay.

These costs and barriers can account for an average of 40.6 percent of multifamily development costs further impacting affordability – according to research released by NMHC and the National Association of Home Builders. This research illustrates how unnecessary and duplicative regulation can negatively impact developing housing that is affordable. Although smart regulations can play an important role in ensuring the health and well-being of the American public, the NMHC-NAHB research found that many regulations can go far beyond those important goals and impose costly mandates on developers that drive housing costs higher.

Easing regulations could go a long way to address the housing affordability challenges faced by communities across the nation, especially at a time of high inflation and other cost of living challenges.

To that end, we urge the Committee to redouble its efforts to incentivize states and localities to:

- Reduce barriers to housing production and rehabilitation;
- Streamline and fast track the entitlement and approval process;
- Provide density bonuses and other incentives for developers to include workforce units in their properties;
- Enable “by-right” zoning and create more fully entitled parcels;
- Defer taxes and other fees for a set period of time;
- Lower construction costs by contributing underutilized buildings and raw land; and
- Encourage higher density development near jobs and transportation.

NAA and NMHC strongly support the Yes In My Backyard Act (S.1614/H.R. 3198), introduced in the last Congress and due to be reintroduced in the 118th Congress. This legislation requires recipients of Community Development Block Grants to provide information on how they are reducing local barriers to housing development. This will focus attention on the critical issue of enabling greater development of housing across the country.

Finally, policymakers must also avoid the lure of “quick fix” regulations such as rent control or similar rent stabilization laws that do nothing to address the underlying supply shortage. Such policies do not create a single additional home and eventually harm the very people they are trying to help by discouraging new housing construction and limiting the financial resources owners have to maintain existing communities.

Understanding Rising Construction Costs and Delays

As we look for solutions to the nation’s housing supply challenges, we must also recognize the immense, practical pressures on apartment development and construction that impact our ability to deliver new housing units. Following extreme, pandemic-fueled volatility in product costs, supply chain stability and staffing constraints, the apartment construction and renovation pipeline has seen some moderation, yet continues to face difficult conditions. In NMHC’s most recent Quarterly Survey of Apartment Construction and Development Activity, 84% of respondents reported construction delays while 58% reported experiencing repricing increases in projects, at an average rate of 8%. The availability of construction financing, or lack thereof, continues to be of primary concern, as 29% of respondents cited this as a contributing factor to delayed starts. Additionally, 30% of respondents attributed delays to materials sourcing and delivery challenges.

Apartment builders and developers also continue to see escalations in materials costs and mixed labor conditions. The prices of a range of critical building materials and equipment continue to rise, including exterior finishes and roofing, electrical components, appliances and insulation. In addition, 36% of respondents reported that construction labor costs increased more than expected during Q4 2022, up from 21% in the previous quarter. Forty-six percent of respondents said that costs increased as expected, while only 5% said costs did not increase, down from 11% in September.

Deploying the Administration's Housing Supply Action Plan

We applaud the Biden Administration for recognizing the nation's critical shortage of affordable housing and developing the Housing Supply Action Plan, a comprehensive package of regulatory and legislative measures to address the supply demand imbalance.

We urge the Committee to work with the Administration to implement provisions in the Housing Action Plan issued in May that aim to address the myriad challenges to the development of new housing, such as:

- Reward jurisdictions that have reformed zoning and land-use policies with higher scores in certain federal grant processes, for the first time at scale;
- Deploy new financing mechanisms to build and preserve more housing where financing gaps currently exist;
- Expand and improve existing forms of federal financing, including for affordable multifamily development and preservation; and
- Work with the private sector to address supply chain challenges and improve building techniques.

While we support the Administration's Housing Action Plan and worked in good faith with the Administration on its Resident-Centered Housing Challenge (both NMHC and NAA made commitments as part of the Challenge), we are concerned over the recently released White House "Blueprint for A Renter's Bill of Rights" which will create potentially duplicative and onerous federal regulations that interfere with state and local laws meant to govern the housing provider and resident relationship. These efforts will do nothing to address the nation's housing shortage and could, in fact, discourage much-needed investments in new housing construction.

Reforming and Fully Funding Section 8

As the COVID-19 pandemic has taught us, the most valuable short-term policy solution to the housing affordability crisis is rental assistance. The Section 8 Housing Choice Voucher (HCV) program has long served as America's primary method for aiding 2.1 million low-income households with rental assistance and has helped millions of Americans find homes in communities near good schools, jobs, and transportation services. Critical reforms to the program are urgently needed to expand private industry participation and improve housing opportunity for millions of American families.

Section 8 has enormous untapped potential to help address our nation's affordable housing needs. Unfortunately, the program has also been plagued with a flawed and inconsistent funding system that has undermined private-sector confidence in the program. The program's potential success is also limited by too many inefficient and duplicative requirements, which discourage private housing providers from accepting vouchers.

Despite previous Congressional and Administrative attempts at improving the program, it remains overly burdensome. Our groups, once again, call on the Committee and Congress to pass the Choice in Affordable Housing Act of 2023 (S.32), introduced by Senators Chris Coons (D-DE) and Kevin Kramer (R-ND). The legislation empowers PHAs to offer incentive payments for housing providers that operate in areas of opportunity; creates security deposit assistance to cover repairs and damages and to help participants better manage their risk; enables PHAs to hire "landlord liaisons" to improve communication and finally, would importantly streamline the costly and time-consuming property inspection process.

While more can certainly be done to reform the Section 8 program, the Choice in Affordable Housing Act is a critical step for Congress to take to expand housing options to American families in need of housing that is affordable.

Sustaining Funding for Federal Housing Support & Affordability Programs

Alongside inadequate funding and bureaucratic barriers in the Section 8 HCV program, for too many years, federal funding for the other primary housing programs serving low- income households has been virtually flat or declining. This has translated into waiting lists for support that can last years, pushes too many Americans into substandard housing that only exacerbates housing and racial inequities, and harms the economic potential of individuals and their overall communities.

For decades, we have advocated for increased funding for multiple critical programs that focus on housing affordability, (in addition to the Section 8 HCV program), such as Project Based Rental Assistance (PBRA), Rental Assistance Demonstration (RAD), Homelessness Programs, HOME, and Community Development Block Grants (CDGB), the Housing Trust Fund, FHA Multifamily Programs, Rural Housing Programs, and others.

Programs like Section 8 and PBRA allow low-income families to rent market rate housing, taking advantage of the broad offering of privately-owned and operated properties in a given market. Programs like HOME, CDBG, FHA Multifamily and Rural Housing programs allow developers to address financing shortfalls often associated with affordable housing properties and stimulate meaningful development and preservation activity as a result. Homelessness Assistance Programs provide funding to serve individuals and families across the nation who are affected by homelessness, while Section 811 and 202 programs provide assistance for elderly and persons with disabilities. These programs, in totality, are some of the most effective and proven means to increase housing supply across the nation, assist our most vulnerable families find stable housing and are worthy of bipartisan Congressional support.

Expanding and Enhancing the Low-Income Housing Tax Credit

The Low-Income Housing Tax Credit (LIHTC) is a public/private partnership that leverages federal dollars with private investment to produce affordable rental housing and stimulate new economic development in many communities. Since its inception in 1986, the LIHTC program has, according to the A Call To Invest in Our Neighborhoods (ACTION) Campaign, financed 3.7 million apartments and served 8 million households. The LIHTC program provides critical support to the nation's affordable housing production but could be made even more impactful.

NMHC and NAA strongly support the Affordable Housing Credit Improvement Act of 2021 (S. 1136 / H.R. 2573). Introduced last Congress by Senators Maria Cantwell, Todd Young, Ron Wyden, and Rob Portman, this bipartisan bill would, among other provisions, make permanent the 12.5 percent increase in LIHTC credit authority for 2018-2021 to enable the production of new units and further augment credit authority by 50 percent. Additionally, Congress should lower the bond financing threshold to 25 percent from 50 percent to receive the full amount of 4 percent Low-Income Housing Tax Credits.

The ACTION Campaign estimates this legislation would "result in the production of over 2 million additional affordable homes over the next decade, support the creation of nearly 3 million jobs, and generate more than $346 billion in wages and business income and nearly $120 billion in additional tax revenue."

Enacting the Middle-Income Housing Tax Credit (MIHTC) to Support Workforce Housing

Housing affordability is an issue threatening the financial wellbeing of solidly middle-income households in addition to low-income families. According to the Joint Center for Housing Studies of Harvard University, "the median asking rent for an apartment completed in the second quarter of 2021 was $1,669, a 17 percent increase from the same period in 2016."

For a renter to afford one of those units at the 30 percent of income standard, they would need to earn at least $66,760 annually. Moreover, the Joint Center reports that "Although much lower, the cost-burdened share of middle-income households increased the most in 2014-2019. The share of renters making between $30,000 and $74,999 with at least moderate housing cost burdens rose 4 percentage points to 41 percent, while the share with severe burdens rose from 7 percent to 8 percent."

Accordingly, this is an issue impacting those workers who comprise the very fabric of strong communities nationwide, including teachers, firefighters, nurses and police officers. Tax policies to spur the production of multifamily housing targeted to middle-income Americans should be a part of any legislation that seeks to address housing affordability on a comprehensive basis.

We urge Congress to strongly consider the Middle-Income Housing Tax Credit that Senate Finance Committee Chair Ron Wyden introduced last Congress as part of the Decent, Affordable, Safe Housing for All Act (DASH Act) (S. 2820) to address the shortage of workforce housing available to American households. A worthy complement of measures to expand and improve LIHTC, the Middle-Income Housing Tax Credit (MIHTC) takes over where LIHTC leaves off. LIHTC is currently designed to serve populations of up to 60 percent of area median income. MIHTC is designed to benefit populations earning below 100 percent of area median income.

Enhancing Opportunity Zones to Incentivize Rehabilitation of Housing Units

Under the leadership of Ranking Member Tim Scott (R-SC) and Senator Corey Booker (D-NJ) and enacted as part of tax reform legislation in 2017, Opportunity Zones are designed to provide tax incentives for investments in distressed communities. Opportunity Zones hold great promise for the development of multifamily housing.

While we expect the Opportunity Zones program to be beneficial in spurring the production of new multifamily housing, the program could be improved with respect to incentives for the rehabilitation and preservation of existing multifamily units. Current regulations work against using this program to rehabilitate properties for affordable housing since the developer must double their basis in the property without consideration of the cost of land. In many cases, such significant renovation is unnecessary to preserve buildings and units that might otherwise be lost to obsolescence.

Congress could leverage the Opportunity Zones program to promote the rehabilitation and preservation of multifamily units and, thereby, positively address the shortage of apartment units. NMHC and NAA recommend that Congress consider statutory modifications to reduce the basis increase necessary to qualify a multifamily rehabilitation project for Opportunity Zone purposes. It is noteworthy that to qualify for an allocation under the LIHTC, owners must commit to rehabilitations valued at the greater of: (1) 20 percent of adjusted basis of a building; 0r (2) $6,000 ($7,900 in 2023 as adjusted for inflation) per low-income unit.

Encouraging the Adaptive Reuse of Underutilized Commercial Properties into Multifamily Housing

With the COVID-19 pandemic modifying where Americans work and shop, the multifamily industry believes there is great promise in proposals to convert underutilized properties into multifamily housing. Office buildings, shopping centers, and hotels, for example, can be transformed into new units in places Americans want to live.

Notably, Senator Debbie Stabenow (D-MI), joined by Senate Banking, Housing, and Urban Affairs Committee Chair Brown (D-OH) as a cosponsor, last Congress introduced the Revitalizing Downtowns Act (S. 2511) that would provide a 20 percent tax credit to convert office buildings into other uses, including residential use. Rep. Jimmy Gomez has this Congress introduced this legislation (H.R. 419) in the House of Representatives.

The multifamily industry is interested in working with Congress on this type of proposal but would like to see it modified to enable other types of commercial properties (e.g., shopping centers and hotels) to qualify for the tax incentive, as well as to ensure REITs could utilize the benefit.

Promoting the Rehabilitation of Multifamily Housing Located Near Transit

NMHC and NAA strongly support bipartisan legislation that would provide a new tool aimed at encouraging greater community development and inclusive neighborhood revitalization. Introduced last Congress by House Ways and Means Committee member Earl Blumenauer and cosponsored by committee members Mike Kelly, Dan Kildee, and Darin LaHood, the Revitalizing Economies, Housing and Business Act (REHAB Act) (H.R. 1483) provides:

- a 15 percent tax rehabilitation credit for buildings that are more than 50 years old, not certified historic structures, and are within one-half of a mile of a public transportation station;
- expanded credit eligibility to include building expansion on the same block; and
- a bonus credit of 25 percent for expenses related to public infrastructure upgrades and rent-restricted housing.

Conclusion

On behalf of the multifamily industry and the millions of renters we house, we applaud the Committee's efforts to explore solutions to the nation's most significant housing challenges. Across all markets, the supply of multifamily rental housing at a variety of price points will play a vital role in promoting economic growth, encouraging household stability for all American families and we look forward to working together as legislation to further these efforts is introduced.

Sincerely,

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