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Statement on Behalf of the National Multifamily Housing Council and the National Apartment Association
House Financial Services Subcommittee on Housing and Insurance
Housing Solutions: Cutting Through Government Red Tape
July 24, 2024

Chair Davidson, Ranking Member Cleaver, and Members of the Subcommittee:

My name is Jim Schloemer, and I am the Chief Executive Officer of Continental Properties Company and Chair of NMHC. My firm is a national developer and operator of multifamily communities targeted to serve households earning 80 to 120 percent of AMI. Over the past 23 years, Continental Properties has developed over 129 apartment communities encompassing more than 34,000 apartment homes in 19 states.

This morning, I am here on behalf of the nearly 100,000 combined housing providers and related businesses that are members of the National Multifamily Housing Council (NMHC)[1] and the National Apartment Association (NAA)[2]. I appreciate the opportunity to provide the views of the multifamily housing industry and note that the multifamily industry is committed to working together with Congress and the Administration to address America's housing supply crisis.

As the House Financial Services Subcommittee on Housing and Insurance conducts this hearing, I would like to offer the apartment providers' perspective on efforts needed to promote workable and sustainable policies to address our nation's housing challenges. Our goal is to ensure that apartment providers can meet the long-term housing needs of the 40 million Americans who live in apartment homes[3] and continue to make significant contributions, currently $3.9 trillion annually, to the growth of our economy.[4]

The Housing Imperative

Challenges present themselves differently from community to community, but it will come as no surprise to Americans nationwide that we are facing a widespread housing affordability challenge. No wonder communities are feeling pinched—we simply do not have enough housing to go around. Today, in more

[1] Based in Washington, D.C., NMHC is a national nonprofit association that represents the leadership of the apartment industry. Our members engage in all aspects of the apartment industry, including ownership, development, management, and finance, who help create thriving communities by providing apartment homes for nearly 40 affordable housing million Americans, contributing $3.4 trillion annually to the economy. NMHC advocates on behalf of rental housing, conducts apartment-related research, encourages the exchange of strategic business information and promotes the desirability of apartment living.
[2] The NAA serves as the leading voice and preeminent resource through advocacy, education, and collaboration on behalf of the rental housing industry. As a federation of 141 state and local affiliates, NAA encompasses over 96,000 members representing more than 12 million apartment homes globally. NAA believes that rental housing is a valuable partner in every community that emphasizes integrity, accountability, collaboration, community responsibility, inclusivity, and innovation.
[3] 2022 American Community Survey, 1-Year Estimates, U.S. Census Bureau, "Total Population in Occupied Housing Units by Tenure by Units in Structure".
[4] Hoyt Advisory Services, National Apartment Association and National Multifamily Housing Council, "The Contribution of Multifamily Housing to the U.S. Economy", https://weareapartments.org/pdf/Economic_Impact.pdf

and more communities, hard-working Americans are unable to rent homes due to increased costs driven by a lack of supply. Barriers to development, high construction and operating costs, and regulatory burdens all make it difficult, if not impossible, for developers to help remedy this problem. The total share of cost-burdened households (those paying more than 30 percent of their income on housing) increased steadily from 28.0 percent in 1985 to 36.9 percent in 2021, while others have been priced out of communities altogether.[5] This is not sustainable, particularly in a period of higher inflation. Barriers to new supply – for instance, onerous regulatory hurdles, antiquated and often discriminatory zoning and land use policies at the local level, and local opposition to development (also known as NIMBYism or "Not in My Backyard" opposition) – has led the nation to this juncture. It has taken many decades to get to this point, and it will take time to reverse these trends, but it is critical that we start now to enact new and innovative policies that will incentivize new housing production.

In addition, continued economic instability poses a serious threat to the ability of housing providers to leverage the private-market capital necessary to generate needed housing. Higher interest rates 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.

In addition to the increased construction, material, and labor costs that make development financially difficult, significant increases in insurance costs, and state and local sales and property taxes, payroll costs, and other line items have made the current operating environment extremely challenging. NMHC and NAA members are reporting that current economic and regulatory challenges are causing them to cut back significantly on development activities. This slowdown has very serious long-term implications.

As of July 2024, NMHC's Quarterly Survey of Apartment Market Conditions also recorded eight consecutive quarters of loosening market conditions (decreasing rent growth and increasing vacancy) and ten consecutive quarters in which equity investment became less available.[6] Furthermore, respondents reported decreasing sales volume for seven of the past nine quarters and worsening conditions for debt financing for ten of the past twelve quarters. Finally, according to the Census Bureau, multifamily starts were down 35 percent year-over-year in the second quarter of 2024.[7]

Housing Affordability: Growing Demand vs. Supply Challenges

It is essential that we build housing at all price points to meet the wide range of demand. While we are at historic levels of apartment completions, this will provide only short-term relief for a long-term problem. According to research conducted by Hoyt Advisory Services and Eigen10 Advisors, LLC, and commissioned by NMHC and NAA, **the U.S. is facing a pressing need to build 4.3 million new apartment homes by 2035.**

Key findings include:

- **Shortage of 600,000 Apartment Homes.** The 4.3 million apartment homes needed includes an existing 600,000 apartment home deficit because of underbuilding after the 2008 financial crisis.
- **Loss of Affordable Units.** The number of affordable units (those with rents less than $1,000 per month) declined by 4.7 million from 2015 to 2020.

[5] NMHC tabulations of 1985 American Housing Survey microdata, U.S. Census Bureau; 2021 American Housing Survey, U.S. Census Bureau.
[6] https://www.nmhc.org/research-insight/quarterly-survey/
[7] https://www.census.gov/construction/nrc/index.html

- **Homeownership.** Apartment demand also factors in a projected 3.8 percent increase in the homeownership rate.
- **Immigration.** Immigration is a significant driver of apartment demand. Levels tapered before the pandemic and have remained low, but a reversal of this trend would significantly increase apartment demand.

Operational Costs Continue to Rise

Operating apartments has become increasingly challenging, highlighted by rising expenses. Industry data shows that operating expenses per unit nationally increased by 8.0 percent year over year in 2023, with insurance (+29 percent), marketing (+12.7 percent), administrative (+10.8 percent), and repairs/maintenance (+9.8 percent) costs taking the lead.[8] Other cost drivers seeing significant increases include taxes, utilities and the provision of security.

One of the most challenging operational costs that has increased dramatically in recent years is insurance. The lack of affordability and availability of insurance options for property owners, of all types, increasingly puts needed insurance coverage out of reach or limits the ability of property owners to make needed investments in their properties. Two new data sets show the significant impact of insurance costs on housing operations and affordability. First, NMHC released the State of Multifamily Risk Survey & Report[9] in June 2023 that looked across all types of multifamily housing and showed, on average, property insurance premiums soaring 26 percent year-over-year. Yet, it is common to hear of triple-digit property premium increases in certain parts of the country. Other lines of coverage are also troublesome and impacting property operations.

As problematic as this has been across the broader housing ecosystem, the challenge is even more daunting in the affordable and middle-income housing space. A new survey and report released in September[10], commissioned by the National Leased Housing Association, and supported by NMHC, NAA, and other housing organizations, focused on the impact of the current insurance market challenges on affordable housing providers. The survey found that rental housing businesses are facing much higher premiums—nearly one in every three policies had rate increases of 25 percent or more. These conditions have led to negative impacts on both housing providers and renters, with most housing providers indicating that they would take action to mitigate cost increases due to higher insurance premiums by increasing insurance deductibles, decreasing operating expenses, and being forced to increase rent.

Insurance is not the only area of property operations seeing an acute increase in costs. Based on data from NAA's Income/Expense IQ, property taxes surged by an average of 6.5 percent from 2021 to 2022. Notably, cities like Orlando, FL, Norfolk, VA, Minneapolis, MN, Riverside, CA, and Salt Lake City, UT, experienced double-digit increases.

Data from the 2022 Income/Expense IQ also revealed that costs for utilities experienced the highest increase, up 14.3 percent year-over-year. Natural gas and heating fuel came out on top, increasing by 41.8 percent and 19.1 percent, respectively. Additionally, electricity, internet/wireless and water/sewer all rose by double digits. Total repairs and maintenance were up 13.7 percent with a median cost of $950,

[8] Yardi Matrix > Matrix Multifamily National Report-June 2024
[9] https://pages.nmhc.org/rs/676-UDD-714/images/NMHC_InsuranceReport_2023.pdf
[10] https://www.nmhc.org/globalassets/research--insight/research-reports/insurance/ndp-nlha-housing-provider-insurance-costs-report-oct-2023.pdf

driven by appliances, painting/decorating, and general repairs, all of which increased by 20 percent or more.[11]

Payroll and other administrative expenses increased by 8.5 percent in rental housing. Labor market challenges have plagued the multifamily for years, particularly for on-site staff, but the red-hot job market that was kickstarted by the pandemic recovery and stayed strong through 2022, only exacerbated the problems.

It is critical that Congress and policymakers at all levels of government understand the significant financial headwinds facing housing operators that are negatively impacting housing affordability and explore consensus-driven solutions to alleviate these pressures.

The Regulatory Environment is Increasingly Challenging

At a time when housing providers are facing increasing pressure to meet booming demand, an overly burdensome regulatory framework is forcing financers, developers, and operators to manage numerous compliance hurdles and rising costs. Housing affordability, driven by a lack of supply, is a top issue plaguing communities nationwide. The only way out of this supply shortage crisis is to build more housing—but the current political and regulatory environment makes it incredibly hard to do so.

Multifamily housing providers understand that smart regulation can play an important role in ensuring the health and well-being of the American public, but undue regulation is a disincentive to investors and increases the cost of transactions and impacts the viability of development. Housing providers, and particularly apartment owners and developers, must balance a wide array of concerns regarding project viability and regulatory costs and compliance at all levels of government.

Imposing additional federal regulation on top of what is already an overly complicated set of regulations at the state and local levels disincentivizes investors and further exacerbates the supply shortage, hurting our nation's renters.

NMHC and National Association of Home Builders (NAHB) research has found that many regulations can go far beyond the important goals of ensuring the health and well-being of the public, and instead impose costly mandates on developers that drive housing costs higher. In fact, according to that research, regulation imposed by all levels of government account for an average of 40.6 percent of multifamily development costs.[12]

Currently, policymakers are considering a multitude of regulatory and legislative proposals on a broad array of issues—including AI, revenue management, broadband, rent and fee regulation, evictions, financial and criminal screening, energy efficiency and building code standards, just to name a few. Each of these could impact the investment, ownership, and operations of housing providers. Unfortunately, none do anything to address the root cause of the housing affordability crisis by building more housing. Instead, they undermine efforts to increase housing supply.

A key pillar of NMHC and NAA's advocacy efforts is working with the various federal agencies to ensure proposed policies do not have a negative impact on housing affordability. In the last year and a half, the attempt to issue additional federal regulations has accelerated. We are currently working with over 10

[11] NAA's 2022 Income/Expense IQ Executive Summary https://www.naahq.org/challenging-times-rental-housing-industry
[12] https://www.nmhc.org/research-insight/research-report/nmhc-nahb-cost-of-regulations-report/

different agencies on over 30 proposals and rules. Last year, NMHC and NAA submitted over 50 regulatory and congressional letters on several critical regulatory and legislative issues.

We have included an addendum that describes many of the regulations that we are tracking but would note that the White House's Blueprint for a Renters Bill of Rights alone recognizes more than two-dozen commitments from agencies and Fannie Mae and Freddie Mac (collectively "the Enterprises") to examine and potentially implement sweeping changes to federal housing policy in line with Blueprint principles. These include a commitment by the Federal Housing Finance Agency (FHFA) to consider federalizing landlord and tenant laws, including proposed rent control for Enterprise-backed properties. These are all counterproductive to achieving the goal of increasing housing opportunities.

NMHC and NAA were proud to partner with the White House on their resident-centered housing challenge, their call-to-action to strengthen industry practices that improve the lives of renters. Through this partnership, NMHC produced a resource website for housing providers and renters to access a number of resources to support their success, while NAA committed to showcasing industry practices that help renters avoid eviction, remain stably housed and thriving in rental communities as well as offering resources to help renters navigate the leasing process.[13] NAA has made significant waves to increase fee transparency amongst the users of our national lease program, Click & Lease. In addition, NMHC unveiled its Foundations for Rental Housing, six core principles that support a positive resident/housing provider relationship. To date, more than 115 firms representing more than 4.3 million rental units across all 50 states and the U.S. have signed on to the Foundations.

Despite housing providers' ongoing support of our residents, FHFA on July 12 imposed new federal requirements for multifamily properties financed by the Enterprises that address matters traditionally governed by state and local law. These new requirements are in addition to FHFA's continued enforcement of the COVID-enacted 30-Day pre-eviction notice requirement which expired but remains a contested issue in courts today. FHFA is also considering efforts to attach specific building energy performance requirements to Enterprise-backed properties, regardless of the market or jurisdictional factors that typically drive building code adoption and compliance. While it is often good business for housing developers to include resiliency features, the proscriptive requirements are cost prohibitive in many cases and, if enacted, will mean less housing will be built.

Through meetings and comment letters to the Administration and FHFA specifically, NMHC and NAA have raised concerns that implementing additional federal regulations on top of what is already a complicated patchwork of state and local regulatory and tenant landlord laws could not only further exacerbate the housing affordability shortage, but also result in even fewer quality and affordable, rental housing options for renters.

The Role of Technology in Addressing our Nation's Long-Term Housing Challenges

Rental housing providers, developers, and operators are working rapidly to invest in emerging technologies to meet resident demand, improve property operations, and reduce costs. Increasingly, they have also begun to use technologies, like AI, to overcome regulatory barriers like antiquated zoning policies, improve the housing development process, and improve housing affordability that benefits millions of American renters. Applications of this technology continue to grow rapidly and to date, include virtual touring, enhanced resident screening and leasing, home automation, predictive

[13] See https://www.naahq.org/resident-programs-practices.

maintenance, and even improved property-level climate resilience. These tools offer benefits to housing providers and residents alike, driving modernization of historic practices forward and maximizing operational efficiency and improving housing outcomes. Yet, despite the promise of AI and related technologies, a fundamental lack of understanding of the role and promise of these technologies has led policymakers at all levels of government to pursue counter-productive and harmful regulation. It is critical that policymakers avoid unnecessary regulation of real estate technologies given the potential negative impact on housing operations and housing affordability.

For example, in March 2024, the White House and the Federal Communications Commission (FCC) proposed a ban on broadband bulk billing arrangements. Nonetheless, bulk billing arrangements are a proven tool to remove barriers to broadband deployment, access, and adoption in rental housing of all types and reduce the cost to consumers by as much as 50 percent. This model is especially beneficial in communities with a higher population of low or moderate-income, student, and/or senior residents. These groups are often disadvantaged in the traditional retail model because of the costs to the provider of deploying and maintaining the necessary broadband infrastructure on the property.

The FCC's announcement indicated that its forthcoming proposal would "seek to eliminate" the use of bulk billing arrangements in the provision of broadband services in apartments and public housing, among other multi-unit dwellings.[14] This plan is troubling and fails to recognize the positive role of bulk billing in increasing many communities' access to quality broadband service at competitive price points. In fact, leveraging a property owners' market power, bulk broadband service is typically provided at a significantly discounted rate, often at higher speeds and service standards than what are found in the broader community.

Recently, after hearing from a diverse range of stakeholders opposing such a move, the FCC has apparently shifted its efforts to require consumer opt-outs from bulk billing service despite the technical challenges and possibilities that many low-income households could be disconnected from the internet and millions more could face higher prices for broadband service. NMHC and NAA continue to push the FCC to rethink its proposal and avoid counter-productive regulation in this area, especially at a time of increasing housing costs. Our country simply cannot afford to increase costs, hurt service quality, and negatively impact critical broadband access while trying to improve housing affordability and digital equity.

Broadband policy is certainly not the only technology-focused area where policymakers have introduced legislation or put forward regulations that could be harmful to housing affordability. It is critical that as policymakers seek to determine how to best regulate AI and other emerging technologies, they should be cautious not to stifle innovation or inhibit the development of tech-driven, pro-consumer solutions that can drive better housing operations and housing affordability.

Rent Control is Not the Answer to Housing Affordability

One particularly harmful proposal considered is rent control, including the extraordinarily misguided and counterproductive proposal President Biden made just last week to cap rent increases at 5 percent. This proposal is based on erroneously cited evidence that is contrary to facts and data. Decades of academic research and real-world case studies show that rent regulation in various forms devastates rental housing and worsens housing affordability and access for renters. Rent regulation will not add a

[14] https://docs.fcc.gov/public/attachments/DOC-400915A1.pdf

single new unit of housing. In fact, it has the opposite effect. Rent control distorts the housing market by discouraging the development of rental housing and investment in maintenance and rehabilitation.

A new study by Dr. Arthur C. Nelson, Professor Emeritus at the University of Arizona, provides a comprehensive review of peer reviewed academic articles that examine various rent control and other rent regulation laws across the United States and abroad. This review reaffirms that these programs reduce the supply of housing in communities resulting in, among other things, increased housing costs.

Dr. Nelson's work reinforces an earlier 2018 paper following similar methodology by Dr. Lisa Sturtevant.[15] Since Dr. Sturtevant's literature review was conducted, additional research has been published that looks at the impacts of more recent rent regulation models that may not appear to be as restrictive as older rent control programs. Dr. Nelson finds that the results of these newer rent control efforts have harmful effects on renters and those seeking rental housing including:

- Disincentivizing investment in the rental community, resulting in fewer rental units;
- Inhibiting mobility, thus creating a barrier to entry for new renters seeking housing in rent-controlled communities;
- Distributing the limited benefits of rent regulation disproportionally to higher-income, older and white residents, respectively;
- Substantially reducing the value of rent-regulated properties as well as nearby unregulated rental properties, thereby reducing real estate tax revenue to the locality; and
- Failing to address, if not negatively impacting, eviction prevention, renter well-being, renter educational attainment opportunities and neighborhood quality.

With little to no ability to earn a profit, developers and investors will shift their investments to other non-rent regulated jurisdictions—the NMHC/ NAHB cost of regulations report[16] indicated 88 percent of respondents avoid working in jurisdictions with rent control.

Furthermore, NMHC survey data shows that nearly six in 10 (58 percent) of surveyed multifamily firms indicate they are reducing or avoiding investment in rent-controlled markets, and another 15 percent of firms are considering cutting back in those markets.[17] Additionally, academic research indicates that rent control leads to a decrease in housing quality. Dr. Andrew Hanson, from the Stuart Handler Department of Real Estate at the University of Illinois Chicago conducted an empirical study sponsored by NAA. The study found a strong correlation between an increase in rent-controlled units in an area and a 16.2 percent rise in severely inadequate housing.[18] This data explains why NMHC, NAA, and other national real estate trade organizations last August sent this letter[19] to FHFA Director Sandra Thompson urging FHFA to reject imposing rent regulation as a condition of Enterprise-backed financing.

Turning specifically to the Biden Administration's proposal to implement a 5 percent cap on rent increases, economists across the spectrum have already panned the initiative:

Jason Furman, former President Obama's chair of the Council of Economic Advisers, on July 15 said to the *Washington Post*, "Rent control has been about as disgraced as any economic policy in the tool kit.

[15] https://www.nmhc.org/globalassets/knowledge-library/rent-control-literature-review-final2.pdf
[16] https://www.nmhc.org/research-insight/research-report/nmhc-nahb-cost-of-regulations-report/
[17] https://www.nmhc.org/news/nmhc-news/2022/nmhc-rent-control-update-multifamily-firms-reconsider-investments-in-rent-control-markets/
[18] Hanson, Andrew, *Rent Control and Housing/Neighborhood Quality: An Analysis of American Housing Survey Data,* https://www.naahq.org/ripple-effect-rent-regulation-and-its-effects-housing-and-neighborhood-quality
[19] https://www.nmhc.org/globalassets/advocacy/comment-letters/2023/2023-08-10-rent-control-coalition-letter-to-fhfa.pdf

The idea we'd be reviving and expanding it will ultimately make our housing supply problems worse, not better."[20]

Douglas Holtz-Eakin, Chief Economist of President George W. Bush's Council of Economic Advisors and formerly a Director of the Congressional Budget Office wrote, "There is absolutely no justification given for the 5 percent cap on rent increases, nor is it tailored in any way to local housing market conditions. It's just blunt, across-the-board price control delivered with Thor-like delicacy."[21]

On July 22, 2024, a broad coalition of 19 housing providers sent a letter linked here to the Administration and Congress expressing strong opposition to the Biden administration's proposal to cap rents nationwide.

NMHC and NAA encourage this Committee and policymakers at all levels of government to promote proven alternatives to rent control that address the critical affordable housing shortage, making rents more affordable to lower-income residents and encouraging development of new housing at a variety of rental levels.

Pursuing federal rent control or other policies that inhibit efficient business practices, and implementing additional layers of federal regulation on top of what is already an overly complicated set of regulations and landlord-tenant laws at the state and local levels will only disincentivizes investors further exacerbating the supply shortage, hurting our nation's renters.

Opportunity Abounds: Sustainable Solutions to Housing Affordability

The good news: There is a clear path to solving this challenge. Congress must prioritize increasing our nation's housing supply and support pro-housing policies that will in turn ensure greater housing stability and affordability for renters at a variety of income levels for decades to come.

NMHC and NAA are leaders of the **Housing Affordability Coalition**, a broad coalition of professionals and policy experts from various parts of the real estate community committed to working together with Congress and the Administration to address America's housing affordability crisis. In April 2024, the coalition sent a letter[22] urging Congress to work with the Biden Administration, housing providers, lenders, and other stakeholders to pursue bipartisan solutions to increase the supply of housing in all markets and at all price points.

While there is no one silver bullet, a multifaceted approach can be effective in easing market constraints. The letter outlines bipartisan recommendations that include a combination of tax policy, regulatory reform, rental assistance, and development incentives to chip away at current affordability constraints. Enacting these types of bipartisan proposals would have a positive impact on the housing affordability crisis and help increase the nation's housing supply.

Outlined below are policy areas that are of particular importance as the Committee looks at the housing challenges facing our nation and explores steps that policymakers can take to improve affordability and drive new supply.

[20] https://www.washingtonpost.com/business/2024/07/15/rent-cap-biden-housing/
[21] https://www.americanactionforum.org/daily-dish/housing-policy-failure-on-steroids/
[22] https://www.nmhc.org/globalassets/advocacy/comment-letters/2024/2024-04-29-housing-affordability-coalition-congressional-letter.pdf

Deploy the Housing Supply Action Plan

NMHC and NAA urge Congress to work with the Biden Administration to implement provisions included in the Administration's Housing Supply Action Plan[23] 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;
- 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.

Reduce Barriers to Development

Rental housing providers stand ready to help meet current and future demand but cannot do so alone. Federal, state, and local policymakers also must play a role. Regulatory, administrative, and political obstacles at all levels of government prevent us from delivering the housing our country so desperately needs.

Easing regulations could go a long way to addressing the housing affordability challenges faced by communities across the nation while making critical investments in infrastructure of all types. Looking forward, we urge the Committee to support the Pro Housing Grant Program and redouble its efforts to incentivize states and localities to remove or mitigate local barriers to development of rental housing. Examples include:

- 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, including providing tax abatement;
- Lower construction costs by contributing underutilized buildings and embrace new technology driven construction advancements; and
- Encourage higher density development near jobs and transportation.

To this end, NMHC and NAA strongly support the *Yes in My Backyard (YIMBY) Act* (H.R. 3507/S. 1688) that Representative Flood, (R-NE) has introduced with Representative Kilmer, (D-WA). We applaud the Financial Services Committee for unanimously approving this bill – by a 48-0 vote – on May 16. This legislation would help eliminate barriers to development by requiring Community Development Block Grant (CDBG) recipients to report periodically on the extent to which they are removing discriminatory land use policies and promoting inclusive and affordable housing. Exclusionary land use policies like zoning and density restrictions, onerous parking requirements and other development regulations

[23] https://nlihc.org/resource/white-house-announces-new-action-plan-boost-housing-supply#:~:text=The%20%E2%80%9CHousing%20Supply%20Action%20Plan%E2%80%9D%20includes%20a%20series,sources%20to%20help%20lower%20costs%20and%20speed%20development.

exacerbate both the housing supply and affordability crisis. We urge the full House and Congress to pass the *YIMBY Act*.

Return Housing and Eviction Policy Back to the State and Local Level

The *Coronavirus Aid, Relief, and Economic Security (CARES) Act* established a temporary 120-day moratorium on evictions due to nonpayment of rent, applicable to federally backed and federally assisted housing. This section of the *CARES Act* also instituted what should have been a temporary notice procedure, requiring housing providers to notify covered residents 30 days before filing for eviction after the moratorium ended on July 24, 2020.

Throughout the pandemic, rental housing professionals worked to both help residents resolve their hardships and to advance policies to provide renters with essential resources to meet their housing needs. Now that Congress and the President have terminated the federal COVID-19 public health emergency, it is time to acknowledge that the *CARES Act's* 30-day notice-to-vacate requirement ended and remove the ambiguous language from federal law. We urge this Committee to support H.R. 802/S. 3755, the *Respect State Housing Laws Act*, returning eviction policies back to the state and local levels where they can be more effectively administered in accordance with community needs.

Fully Fund and Reform Federal Housing Support & Affordability Programs

While increasing supply is critical to the goal of addressing the Nation's housing affordability crisis, it is equally critical to ensure that policymakers take the steps necessary to ensure assistance is available for those that simply cannot afford the housing they so desperately need. In that regard, we continue to advocate for funding for multiple critical programs that focus on housing affordability, such as the Section 8 Housing Choice Voucher Program (HCV), Project Based Rental Assistance (PBRA), Rental Assistance Demonstration (RAD), Homelessness Programs, HOME, Community Development Block Grants (CDGB), and Rural Housing programs. However, we believe that many of these programs would benefit from reform efforts to ensure the programs are operating in a cost effective and efficient manner.

Improve the Section 8 Housing Choice Voucher (HCV) Program

Since developing new housing can take some time due to the number of barriers to development, by filling the gap between the cost to provide housing and what families can afford to pay, improving the Section 8 HCV program is a crucial step to increase housing affordability in the short term.

NMHC and NAA strongly support the Section 8 HCV Program, which has long served as America's primary method for aiding 2.1 million low-income households with rental assistance. This public/private partnership helps millions of Americans find homes in communities near good schools, jobs, and transportation services, but reforms are needed to encourage and increase private-industry participation. According to HUD's own estimates, more than 55,000 private housing providers left the program from 2010 to 2020.[24]

To reinforce the rationales behind these significant departures, NAA recently surveyed frontline rental housing providers about their experiences, challenges, and recommendations regarding the HCV

[24] A Briefing From HUD on Boosting Landlord Voucher Acceptance | HUD USER

program. The survey findings revealed five key reasons why housing providers are leaving the HCV program[25]:

1. Administrative burden and paperwork requirements were the most significant challenge that led to rental housing providers leaving the HCV program;
2. Burdensome, lengthy and inconsistent inspection, application and approval processes;
3. Inefficient communication and a lack of timely responses from PHAs;
4. Systemic issues associated with the voucher program such as liability for damages and repairs;
5. Increased administrative costs to accept vouchers and increased financial strain caused by higher insurance costs attributable to accepting vouchers.

To address these concerns and bring private sector participants back to the Section 8 program, NMHC and NAA strongly support the bipartisan and bicameral *Choice in Affordable Housing Act* (H.R. 4606/S. 32), introduced by Ranking Member Cleaver (D-MO). This legislation includes common-sense reforms that could help improve the program for both renters and property owners and increase housing provider participation overall. Key elements include:

- Enabling public housing authorities (PHAs) to make one-time incentive payments to recruit housing providers into the program;
- Allowing PHAs to pay for security deposits for voucher holders and help mitigate housing providers' risk of damages;
- Awarding bonus payments to PHAs that hire "landlord liaisons" to contact, recruit, retain and generally support private housing providers;
- Permitting units in buildings that have been inspected in the last year under other federal housing programs to meet the HCV inspection approval; and
- Expediting the inspection progress by creating a 60-day "pre-inspection" approval for housing providers who anticipate participating in the HCV Program.

We strongly encourage the Committee and HUD to support the *Choice in Affordable Housing Act*.

Residents could also benefit from increased subsidies. Just as the Section 8 Housing Choice Vouchers help the neediest households cover the cost of rent to maintain their homes, security deposit subsidies can help the neediest household obtain rental housing in the first place.

Enact and Enhance Tax Policy That Promotes Housing Supply

While it will take a variety of tax and non-tax approaches to increase supply, the rental housing industry believes tax policy can play a critical role in this regard. To this end, we strongly urge Congress to:

- Expand and enhance the Low-Income Housing Tax Credit;
- Enact the Workforce Housing Tax Credit Act to support workforce housing;
- Enhance Opportunity Zones to incentivize the rehabilitation and preservation of multifamily buildings; and
- Encourage the adaptive reuse of underutilized commercial properties into multifamily housing.

[25] https://www.naahq.org/unveiling-reality-rental-housing-providers-insights-housing-choice-voucher-program

Each of these proposals is briefly described below, and we note that many have bipartisan or bicameral support.

Expand and Enhance 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. Between its inception in 1986 and 2022, the LIHTC program has, according to the A Call To Invest in Our Neighborhoods (ACTION) Campaign, developed or preserved 3.85 million apartments, served 8.97 million low-income households, supported 6.33 million jobs for one year, generated $257.1 billion in tax revenue, and produced $716.3 billion in wages and income.[26] The LIHTC program provides critical support to the nation's affordable housing production but could be made even more impactful.

NMHC and NAA support the *Affordable Housing Credit Improvement Act of 2023* (*AHCIA*) (H.R. 3238 / S. 1557). Introduced by Representatives LaHood, DelBene, Wenstrup, Beyer, Tenney, and Panetta and Senators Cantwell, Young, Wyden, and Blackburn, this bipartisan bill, which is supported by a total of 34 Senators and 230 Members of the House, would, among other provisions, make permanent the now-expired 12.5 percent increase in LIHTC authority for 2018-2021 to enable the production of new units and further augment credit authority by 50 percent. Additionally, the bill would lower the private activity bond financing threshold to 25 percent from 50 percent required to receive the full amount of 4 percent LIHTC.

We also strongly support LIHTC provisions in the *Tax Relief for American Families and* Workers *Act of 2024* (H.R. 7024), which the House on January 31 approved by a bipartisan 357-70 vote. Provisions included in H.R. 7024 would augment credit authority by 12.5 percent between 2023 and 2025, as well as reduce the private activity bond financing threshold to 30 percent from 50 percent in 2024 and 2025. These provisions would create over 200,000 new multifamily units and represent a critical step toward addressing this nation's affordable housing supply crisis.[27]

Enacting the primary unit financing provisions in the *Affordable Housing Credit Improvement Act* could finance up to an additional 1.94 million affordable units over 10 years. Over that period, this enhanced financing could also support nearly three million jobs, $333 billion in wages and business income, and $115 billion in additional tax revenue.[28]

Finally, we encourage Congress to consider increasing the private activity bond volume cap to enhance the utilization of 4-percent LIHTC. According to February 2024 data by Tiber Hudson and Novogradac, 20 states and Washington, DC, are oversubscribed for the credit.[29] Authorizing these states to issue additional private activity bonds would enable the financing of additional 4-percent LIHTC projects.[30]

[26] https://rentalhousingaction.org/wp-content/uploads/2023/11/ACTION-NATIONAL-NOV-2023.pdf
[27] https://www.novoco.com/periodicals/news/low-income-housing-tax-credits-news-briefs-march-2024
[28] https://www.novoco.com/notes-from-novogradac/lihtc-pab-provisions-newly-reintroduced-ahcia-could-result-nearly-2-million-additional-affordable
[29] https://www.novoco.com/periodicals/articles/surge-in-pab-financed-affordable-housing-signals-need-to-expand-its-use.

Enact the Bipartisan Workforce Housing Tax Credit Act

Housing affordability is an issue threatening the financial wellbeing of both middle-income and low-income households across the nation. According to the U.S. Census Bureau's Survey of Market Absorption, the median asking rent for apartment units completed in the third quarter of 2023 was $1,833, a 12.23 percent increase from the same period in 2018.[31] For a renter to afford one of those units at the 30 percent of income standard, they would need to earn at least $73,320 annually.

Furthermore, Harvard University's Joint Center for Housing for Housing Studies reported in January 2024 that "Renter households with annual incomes of $45,000 to $74,000 have seen the fastest growth in their burden rates, both over the longer term and during the pandemic. Indeed, 41 percent of renter households in this income category were burdened in 2022, a 5.4 percentage point increase since the start of the pandemic, nearly doubling their 2001 rate." [32]

Accordingly, this is an issue impacting those workers who comprise the very fabric of strong communities nationwide, including teachers, firefighters, nurses, and police officers whose wages are not keeping pace with costs. 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 enact the bipartisan and bicameral *Workforce Housing Tax Credit Act* (H.R. 6686 / S. 3436), sponsored by Representatives Panetta and Carey and Senators Wyden and Sullivan. This legislation establishes a new tax credit to produce affordable rental housing for households earning 100 percent or less of the area median income (AMI).

Designed to complement the successful LIHTC program, the Workforce Housing Tax Credit (WFHTC) would enable state housing agencies to issue credit allocations to developers that would subsequently be sold to investors. Investors would receive a dollar-for-dollar reduction in their federal tax liability over a 15-year period, and developers would invest the equity raised to build apartments. The equity raised would cover 50 percent of the cost of constructing qualifying units. A development project eligible for WFHTC would have to set aside 60 percent of units for households earning 100 percent or less of AMI and must be kept affordable for up to 30 years.

Enhancing Opportunity Zones to Incentivize Rehabilitation of Housing Units

Enacted as part of the *Tax Cuts and Jobs Act*, Opportunity Zones are designed to provide tax incentives for investments in distressed communities. Opportunity Zones have held great promise for the development of multifamily housing. In fact, Novogradac in April 2024 reported that residential investment continued to be the leading investment area for Opportunity Funds. Funds tracked by Novogradac have helped finance over 175,000 homes in more than 200 cities across the United States.[33][34]

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[31] U.S. Census Bureau, Survey of Market Absorption.

[32] Harvard Joint Center for Housing Studies, *State of the Nation's Housing 2024, pg. 35, https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2024.pdf*.

[33] https://www.novoco.com/notes-from-novogradac/qof-investments-build-homes-across-hundreds-of-american-cities.

Under the program, state governors have designated over 8,700 qualified low-income census tracts nationwide as Opportunity Zones, which remain in effect through 2028. Real-estate developers and others may establish Opportunity Funds to construct and rehabilitate multifamily property that are eligible for two tax incentives.

First, taxpayers may defer taxes on 0capital gains that are reinvested in Opportunity Funds to the earlier of the date an investment in an Opportunity Fund is disposed of or December 31, 2026. Notably, gains deferred for five years are eligible for a 10-percent basis step up, while gains deferred for seven years are eligible for an additional 5-percent basis step up.

Second, post-acquisition capital gains on investments held in Opportunity Funds for at least 10 years may be permanently excluded from income.

While taxpayers may continue to invest capital gains in Opportunity Funds through June 28, 2027, it is already too late to meet requirements for a step up in basis attributable to newly deferred capital gains. In addition, the economy has changed since Opportunity Zones were originally designated shortly after the enactment of *TCJA*.

Opportunity Zones can be a helpful tool to incentivize housing production and, thereby, assist in addressing the nation's housing affordability crisis. However, to maximize the full potential of Opportunity Zones, Congress should:

- Enable states to recertify and/or redesignate Opportunity Zones to account for current economic realities and changes since zones were originally designated; and
- Establish new investment deadlines so that taxpayers are incentivized to receive both a longer deferral period and the potential for the 10-percent or 15-percent basis increase with respect to reinvested capital gains.

While Opportunity Zones are beneficial for new multifamily development, developers may find it difficult to use Opportunity Zone benefits to rehabilitate existing properties. To qualify for Opportunity Zone benefits for renovations, the basis of an existing asset must be doubled, excluding the value of any land. Although property that is added to and improves an asset can count toward this threshold, doubling the basis can still be a high hurdle. Accordingly, Congress should reduce the basis increase necessary to qualify a multifamily rehabilitation project for Opportunity Zone purposes.

Encouraging the Adaptive Reuse of Underutilized Commercial Properties into Multifamily Housing

Given the nation's shortage of affordable rental housing, many developers are considering turning unused and underutilized commercial real estate, including offices, hotels, and retail spaces into housing. Not only would such repurposing help address the nation's housing supply challenge, but it would also create jobs and boost local property tax revenues and economic growth.

A segment of commercial real estate space could potentially be available to be converted into affordable housing. A February 2023[35] Urban Land Institute study commissioned by the NMHC Research Foundation provided case study examples of successful conversions, and several large jurisdictions,

[35] Kramer, Anita. *Behind the Facade: The Feasibility of Converting Commercial Real Estate to Multifamily*. Washington, D.C.: Urban Land Institute, 2023. https://www.nmhc.org/research-insight/research-report/behind-the-facade-the-feasibility-of-converting-commercial-real-estate-to-multifamily/

including Washington, DC, and New York City, have recently embarked on plans to incentivize office-to-residential conversions.[36]

Changing consumer preferences and online shopping are also changing the real estate landscape. Estimates show between several hundred million and 1 billion square feet of surplus and obsolete retail space. Slower post-pandemic business travel is also challenging a portion of the nation's hotel stock.[37]

Unfortunately, converting commercial real estate into housing can be extremely challenging and can be more complicated than typical ground-up development. Costs associated with property acquisition and conversion, including addressing structural building issues (e.g., beams, columns, ceiling heights, utilities, and floor layouts), can quickly add up and make the difference between a viable or unfeasible project. This is in addition to other barriers that may arise, including permitting, zoning rules, and NIMBYISM.

A Federal tax incentive to encourage property conversions would be greatly beneficial in helping to overcome these obstacles and spurring additional housing supply. In addition, it would help revitalize distressed commercial property and stabilize the surrounding communities. Notably, Representatives Carey and Gomez and Senators Stabenow, Brown, Peters, and Padilla on July 11 introduced the *Revitalizing Downtowns and Main Streets Act* (H.R. 9002 / S. 4693) that would establish a temporary and allocated 20-percent tax credit to convert commercial property into residential use. NMHC and NAA strongly support this legislation.

Conclusion

This is the bottom line: there is no silver bullet, but a multi-faceted approach to improving housing affordability and increasing housing supply is our best bet. The health and stability of the rental housing sector is paramount to that of our overall economy. And, importantly, the sufficient supply of quality housing is necessary in ensuring the continued economic prosperity and household stability for Americans nationwide. Without it, we put both at risk. Solving this challenge should be mission critical for Congress.

On behalf of the nation's rental housing providers and the nearly 40 million Americans we serve, NMHC and NAA applaud the House Financial Services Subcommittee on Housing and Insurance for its commitment to finding solutions to the nation's most significant housing challenges.

[36] Ibid and https://dcregs.dc.gov/Common/NoticeDetail.aspx?NoticeId=N135303 and https://www.nyc.gov/site/officeconversions/index.page

[37] Kramer, Anita. *Behind the Facade: The Feasibility of Converting Commercial Real Estate to Multifamily*. Washington, D.C.: Urban Land Institute, 2023. https://www.nmhc.org/research-insight/research-report/behind-the-facade-the-feasibility-of-converting-commercial-real-estate-to-multifamily/

NMHC and NAA Regulatory Addendum

Rental Housing Regulatory Overview

As of July 18, 2024

At a time when housing providers are facing increasing pressure to meet booming demand, an overly burdensome regulatory infrastructure is forcing financers, developers and operators to manage numerous compliance hurdles and rising costs. Housing affordability, driven by a lack of supply, is a top issue plaguing communities nationwide. The only way out of this crisis is to build more housing—but the current political and regulatory environment make it incredibly hard to do so.

Housing providers, and particularly apartment owners and developers, must balance a wide array of concerns regarding project viability and regulatory costs and compliance at all levels of government.

We understand that smart regulation can play an important role in ensuring the health and well-being of the American public, but the regulatory environment can be a disincentive to investors and can increase the cost of a transaction and ultimately impact the viability of a deal.

Imposing additional federal regulation on top of what is already an overly complicated set of regulations at the state and local levels will disincentive investors, and further exacerbate the supply shortage, ultimately hurting our nation's renters.

Currently, policymakers are considering a multitude of regulatory and legislative proposals on a broad array of issues—including AI, revenue management, broadband, rent control, evictions, financial and criminal screening, energy efficiency standards and building codes, just to name a few. Each of these has the potential to impact the investment, ownership and operations of housing providers. And importantly, does nothing to address the root cause of the housing affordability crisis. Read on for a list of regulatory proposals that NMHC and NAA are currently following and engaged on:

White House Activity

Early in 2023, the Biden Administration released the White House Blueprint for a Renters Bill of Rights which outlined a set of principles and best practices for tenant protections. This initiative presented a roadmap for both federal agencies and state and local governments to update and promulgate new rules, guidance and notices aimed at improving the resident's experience. NMHC and NAA have led the response to the White House Blueprint for a Renters Bill of Rights to push back on onerous federal regulation on issues like screening, fees, source of income and rent control.

- Resident Protections/Rent Control
- FTC/CFPB Unfair Renter Practices
- FTC Expand Authority Under FTC Act

- Survey on "Baseline Tenant Protections" (i.e. state landlord-tenant laws)
- Resident Screening
- Source of Income
- LIHTC: Source of Income and Renter Protections
- Quarterly Renter Advocate Meetings
- Enterprise Look-Up Tools Publication
- Eviction Protection Grant Funding
- FHFA "Mission Driven" Change
- Launch NSPIRE
- Implement VAWA Housing Protections
- Rental Assistance Demonstration (RAD)
- Military Housing Assistance
- Military Right to Organize
- Workshop on Information Sharing
- USDA Housing Inspection Pilot Program
- USDA Lease Standards and other Renter Rights & Responsibilities
- Award Funding for Renter Capacity Building Activities
- 504 Disability Standards Review
- Radon Standards
- 30-Day Notice to Vacate for PHAs

HUD Activity

NMHC and NAA focus on preserving efficient property operations and promoting more effective housing development. This enables the industry to attract the capital investment needed to increase and improve the nation's housing stock for the long-term. As such, NMHC and NAA are highly engaged with HUD on the following initiatives. While NMHC and NAA support adequate funding for these necessary programs, it's essential we also prioritize reform efforts that ensure greater private participation.

- HOME Investments Partnerships Program (HOME)
- Methodology Changes for Calculating Section 8 Income Limits
- 30-day Notification Requirement Prior to termination of Lease for Nonpayment of Rent
- Proposed Criminal Screening Rule to Reduce Barriers to HUD-Assisted Housing
- New Rule on Federal Flood Risk Management Standards
- Guidance on Application of the Fair Housing Act to the Screening of Applicants for Rental Housing
- Request for Information Regarding Iron, Steel, Construction Materials, and Manufactured Products Used in Housing Programs Pursuant to the Build America, Buy America Act
- 60-day Notice of Proposed Information Collection on Numerous Forms Regarding an Applicant's Eligibility for Admittance to Subsidized Multifamily Housing
- Affirmatively Furthering Fair Housing Final Rule
- NSPIRE Standards and Scoring

Financial Regulators' Activity

Apartments are a capital-intensive business that require a diversity of debt sources to provide mortgage financing for a wide array of properties. Almost nothing has the ability to impact the health of the apartment industry like reliable access to credit. Here is a snapshot of what NMHC and NAA are working on in this space:

- Banking Regulators Propose Basel III Rule
- Treasury Finalizes Beneficial Ownership Rule
- Proposed Extension of the Federal Financing Bank (FFB) Funding for FHA multifamily Risk-Sharing Mortgages ("FFB Risk-Sharing")

FHFA Activity

The ongoing health of the apartment industry relies on preserving the mortgage liquidity currently provided by the GSEs in all markets during all economic cycles. NMHC and NAA urge lawmakers to recognize the unique needs of the multifamily industry and to retain the successful components of the existing multifamily programs in whatever succeeds them. NMHC and NAA are engaged with FHFA on the following activities:

- RFI on Tenant Protections for Enterprise-backed Multifamily Properties
- Housing Affordability Goals
- Proposed Building Code Changes for Enterprise-Backed Properties
- RFI on Mission of Federal Home Loan Bank
- FHFA Announcement of Required Renter Protections for Multifamily Properties Financed by Fannie Mae and Freddie Mac (the Enterprises)
- Enforcement of Cares Act Pre-Eviction Notice

Energy and Environment Activity

NMHC and NAA support incentives for innovative, cost-effective environmental performance and energy efficiency strategies, while ensuring policies do not hinder apartment constructability, operations and affordability.

Over the last year, the Administration has put forth a number of environmental initiatives, energy efficiency standards and regulatory mandates for appliances that have far-reaching implications for the industry. NMHC and NAA have recently submitted comment letters on the following environmental proposals and Appliance Efficiency Standards:

- Phasedown of Hydrofluorocarbons
- Lead Hazards in Housing
- Water Heaters
- Cooking Products
- Refrigerators
- Clothes Washers and Dryers

- Distribution Transformers

Department of Labor Activity

NMHC and NAA strongly oppose regulatory and legislative actions that disproportionately favor unions above the interests of employees and businesses. Here's what we're currently tracking with the DOL:

- Overtime Rule
- Davis-Bacon Rule
- Joint Employer Rule
- Non-Compete Regulation

Treasury/IRS Activity

Tax policy is one of the most consequential issues facing the multifamily industry, and NMHC and NAA closely watch tax regulations that serve to provide guidance on tax laws and impact real estate transactions. Here is a snapshot of what we're currently tracking:

- Treasury and IRS Issue Final Regulations on Wage and Apprenticeship Requirements for IRA Tax Incentives
- Treasury and IRS Release Guidance Targeting Abusive Partnership Basis Shifting

Technology and Connectivity Regulation

Technology policy remains front-and-center for Washington at a time when rental housing providers, developers and operators are working rapidly to invest in emerging technologies to meet resident demand, improve property operations and reduce costs. Policymakers in Washington are engaged. In fact, the Administration and Congress have announced several proposals that will impact housing and technology providers. NMHC and NAA are closely tracking these proposals and educating policymakers to do no harm to the multifamily broadband and technology markets. The following proposals are just a few we are currently tracking:

- Cybersecurity Incident Reporting
- Proposed Ban on Bulk Billing Agreements
- Digital Discrimination Final Rule
- Cyber Incident Reporting for Critical Infrastructure Act (CIRCIA) Reporting Requirements