



October 4, 2017

The Honorable Virginia Foxx  
Chairwoman  
House Education and the Workforce Committee  
2176 Rayburn House Office Building  
Washington, DC 20515

The Honorable Robert Scott  
Ranking Member  
House Education and the Workforce Committee  
2101 Rayburn House Office Building  
Washington, DC 20515

Dear Chairwoman Foxx and Ranking Member Scott:

On behalf of the National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA), we are writing to express our strong support for the *Save Local Business Act* (H.R. 3441). Thank you for holding today's markup to restore an appropriate definition of an employer and provide certainty to the nation's job-creating owners, operators and developers of multifamily housing.

For more than 20 years, the National Multifamily Housing Council (NMHC) and the National Apartment Association (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 more than 160 state and local affiliates, NAA encompasses over 73,000 members representing nearly 9 million apartment homes globally.

In 2015, the National Labor Relations Board (NLRB) in its *Browning-Ferris Industries of California* decision significantly expanded the definition of joint employer. This decision could potentially and inappropriately make apartment firms liable for the actions of their subcontractors, suppliers, vendors and temporary staff.

Joint employers occur when the supervision of an employee's activity is shared between two or more businesses. The NLRB ruled that it could impose joint employer liability when an entity has "indirect" control and "unexercised potential" of control over another entity's employees. This is a significant change from the status quo of the last 30 years when entities were designated joint employers when both had "direct and immediate" control over "essential terms and conditions of employment."

The *Save Local Business Act* would rectify the rule by restoring the requirement that employers must have direct and immediate control over the essential terms and conditions of employment. Apartment firms should not be left liable for fines for employees of suppliers who violate Federal labor laws.

Our thanks to the House Education and the Workforce Committee for acting on the *Save Local Business Act*. We look forward to working with panel members and the entire Congress to make it law.

Sincerely,

Cindy V. Chetti  
Senior Vice President, Government Affairs  
National Multifamily Housing Council

Gregory S. Brown  
Senior Vice President, Government Affairs  
National Apartment Association