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Statement on Behalf of the National Multifamily Housing Council and National Apartment Association
United States Senate Committee on Finance
Tax Policy's Role in Increasing Affordable Housing Supply for Working Families
March 7, 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 141 state and local affiliates, NAA encompasses over 95,000 members of all sizes representing more than 11.6 million apartment homes globally.

We appreciate the Senate Finance 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 offer our perspective on efforts needed to promote workable and sustainable policies to address our nation's housing challenges. Our ultimate goal is to be sure that apartment providers can meet long-term housing needs of the 38.9 million Americans who live in apartment homes and continue to make significant contributions to the growth of our economy, which currently stands at $3.4 trillion annually.[1] [2]

The Challenge: Decades-Long Underbuilding Has Resulted in Unaffordability in Many Communities

There is no doubt that America is facing a housing affordability crisis. Challenges are different from community to community and state to state, but facts are facts. For decades, America has witnessed the escalating challenge created by demographic shifts, short-sighted public policy decisions, and economic changes culminating in the inability of an increasing number of families, seniors, and people with disabilities to rent, buy, or maintain affordable homes that meet their needs.

Today, in more and more communities, hard-working Americans are unable to rent homes due to increased 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 percent of their income on housing) increased steadily from 28.0 percent in 1985 to 36.9 percent in 2021 and is growing, while others have been priced out of communities altogether.[3] 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 ("the behavior of someone who does not want something to be built or done near where they live,

[1] 2021 American Community Survey, 1-Year Estimates, U.S. Census Bureau, "Total Population in Occupied Housing Units by Tenure by Units in Structure".
[2] 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
[3] NMHC tabulations of 1985 American Housing Survey microdata, U.S. Census Bureau; 2021 American Housing Survey, U.S. Census Bureau.

although it does need to be built or done somewhere"[4]) – 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 a number of different policies that will incentivize new housing production.

In addition, more recent economic instability poses a serious threat to the ability of housing providers to leverage the private-market capital necessary to generate needed housing. The Federal Reserve'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 2023 Quarterly Survey of Apartment Market Conditions[5]:

- More than three-quarters of respondents (82 percent) reported declining sales volumes from three months prior;
- Nearly two-thirds (63 percent) indicated equity financing was less available; and,
- Fully 60 percent 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. Thus, we do not have enough housing to keep up with demand. Research from NMHC and 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.[6]

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 communities will see temporary softness for higher-income households in new Class A buildings, but these units will not filter down to the millions of lower- and middle-income 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 and have sufficient housing that meets the need of our growing population in the years to come. The apartment industry stands ready to help meet the rising need for attainably priced rental housing, but we cannot do it alone. It requires a strong partnership between the private and public sectors. 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 affordability challenges now and in the future. In addition to increased supply, we must also deliver short-term solutions to renter populations that need support. Increased subsidies and emergency housing support for those of modest means are critical to keeping struggling renters and their families afloat.

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[4] https://dictionary.cambridge.org/us/dictionary/english/nimbyism

[5] https://www.nmhc.org/research-insight/quarterly-survey/2023/nmhc-quarterly-survey-of-apartment-conditions-january-2023/

[6] Hoyt Advisory Services, "Estimating the Total U.S. Demand for Rental Housing by 2035." (2022), https://weareapartments.org/pdf/NMHC-NAA-US-Apartment-Demand-through-2035.pdf

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. These policy proposals are presented in two parts. The first considers tax policy proposals that are within the jurisdiction of the Finance Committee. The second provides analysis of actions that the broader Congress should consider.

Tax Policy Proposals to Promote 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 Middle-Income Housing Tax Credit to support workforce housing;
- Enhance Opportunity Zones to incentivize the rehabilitation and preservation of multifamily buildings;
- Encourage the adaptive reuse of underutilized commercial properties into multifamily housing; and
- Promote the rehabilitation of multifamily housing located near transit.

Each of these proposals is briefly described in the pages that follow, and we note that many have bipartisan 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. Between its inception in 1986 and 2021, the LIHTC program has, according to the A Call To Invest in Our Neighborhoods (ACTION) Campaign, developed or preserved 3.74 million apartments, served 8.06 million low-income households, supported 6.08 million jobs for one year, generated $239 billion in tax revenue, and produced $688.5 billion in wages and income.[7] 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* (*AHCIA*) (S. 1136 / H.R. 2573). Introduced last Congress by Senators Cantwell, Young, Wyden, and Portman (and cosponsored by Finance Committee Senators Blackburn, Bennet, Brown, Cardin, Carper, Casey, Cortez Masto, Hassan, Menendez, Stabenow, and Whitehouse), this bipartisan bill 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 Low-Income Housing Tax Credits.

In December 2022, it was estimated that over the 2023-2032 period, 1.93 million additional affordable homes, housing 4.5 million low-income people, could be financed across the United States and territories

[7] https://rentalhousingaction.org/wp-content/uploads/2022/12/ACTION-NATIONAL-2022-NEW-LOGO_01.pdf

by AHICA provisions expanding LIHTC authority and reducing the private activity bond financing threshold to 25 percent. Over that period, this enhanced financing could also create nearly 3 million jobs, more than $335 billion in wages and business income, and $116 billion in tax revenue.[8]

Finally, we would encourage the Finance Committee to consider increasing the private activity bond volume cap to enhance the utilization of 4 percent Low-Income Housing Tax Credits. According to March 2023 data by Tiber Hudson and Novogradac, 18 states and Washington, DC, are oversubscribed. Authorizing these states to issue additional private activity bonds would enable the financing of additional 4 percent LIHTC projects.[9]

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

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 2022 was $1,805, a 27 percent increase from the same period in 2017.[10]

For a renter to afford one of those units at the 30 percent of income standard, they would need to earn at least $72,200 annually. Moreover, the share of apartment households making between $30,000 and $74,999 with at least moderate housing cost burdens rose from 45 percent to 53 percent, while the share with severe burdens rose from 9 percent to 13 percent.[11]

Furthermore, based on 2021 American Community Survey data, we estimate that more than a quarter (26 percent) of middle-income renter households (81-100 percent of HUD Area Median Income) were cost burdened in 2021. This amounts to more than 1.2 million households.[12]

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 Middle-Income Housing Tax Credit (MIHTC) that Senate Finance Committee Chair 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. Estimates indicate the proposal could finance 344,000 affordable rental homes over 10 years while also creating 560,400 jobs and generating over $63.4 billion in wages and business income.[13]

[8] https://www.novoco.com/notes-from-novogradac/novogradac-estimates-193-million-additional-affordable-rental-homes-could-be-financed-if-lihtc
[9] Tiber Hudson and Novogradac, *Volume Cap Scarcity*, March 2, 2023.
[10] U.S. Census Bureau, Survey of Market Absorption.
[11] NMHC tabulations of American Community Survey microdata.
[12] IPUMS USA, University of Minnesota, ipums.org; 2021 HUD Median Family Incomes for FMR areas, metro areas and states.
[13] https://www.novoco.com/notes-from-novogradac/dash-acts-middle-income-housing-tax-credit-would-finance-344000-affordable-rental-homes-households

Designed to complement the successful LIHTC program, the MIHTC program 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 MIHTC would have to set aside 60 percent of units for households earning 100 percent or less of Area Median Income and must be kept affordable for up to 30 years.

Enhancing Opportunity Zones to Incentivize Rehabilitation of Housing Units

Under the leadership of Senators Tim Scott and Booker 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 should 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 100 percent basis increase excluding land 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; or (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

Given the nation's shortage of affordable rental housing, many are considering turning unused and underutilized commercial real estate structures, 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.

A segment of commercial real estate space could potentially be available to be converted into housing. According to a February 2023 study by the Urban Land Institute's Center for Real Estate and Economics and Capital Markets and sponsored by the NMHC Research Foundation and the Urban Land Institute's Terwilliger Center for Housing, *Behind the Façade: The Feasibility of Converting Commercial Real Estate to Multifamily*, "JLL Research found that between the onset of the pandemic and the second quarter of 2022, buildings delivered in 2015 or later had 86.8 million square feet of net absorption, while pre-2015 buildings had net negative absorption of 246.5 million square feet. Almost 80 percent of the negative net absorption was in buildings delivered in 1980 and earlier."[14]

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.

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, Senator Stabenow, joined by Senator Brown 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. This Congress, Representative Gomez has 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, among other things, enable other types of commercial properties (e.g., shopping centers and hotels) to qualify for the tax incentive; ensure REITs could utilize the benefit; and clarify that the credit does not reduce other tax benefits including the Low-Income Housing Tax Credit.

Additionally, the multifamily industry would encourage Congress to explore whether tax-exempt private activity bonds could be used as a means of promoting adaptive reuse. Housing finance agencies could issue such bonds to help facilitate adaptive reuse of underutilized properties, particularly in areas that have a plan to track discriminatory land use policies as envisioned by the *Yes In My Backyard Act (YIMBY Act)* (S. 1614 / H.R. 3198) introduced last Congress by Senators Young and Schatz and Representatives Kilmer and Hollingsworth and strongly supported by NMHC and NAA.

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 Blumenauer and cosponsored by committee members Kelly, Kildee, and 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;

[14] Kramer, Anita. *Behind the Facade: The Feasibility of Converting Commercial Real Estate to Multifamily*. Washington, D.C.: Urban Land Institute, 2023, pg. 5. https://www.nmhc.org/globalassets/research--insight/research-reports/conversion/behind-the-facade_conversion-report.pdf

- 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.

Additional Recommendations for Congress to Consider

While changes to tax laws are especially important to spurring affordable housing, the multifamily industry also urges Congress to consider additional proposals and issues relative to the production of multifamily housing. Specifically, we urge Congress to consider proposals that:

- Lower regulatory hurdles;
- Ease construction costs and delays;
- Deploy the Housing Supply Action Plan (e.g., reward jurisdictions that have reformed zoning and land-use policies with higher scores in certain federal grant processes and deploy new financing mechanisms to build and preserve more housing where financing gaps currently exist);
- Reform and fully fund the Section 8 Housing Choice Voucher Program; and
- Sustain funding for Federal housing support and affordability programs.

Lower 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, there are numerous barriers that can drive up costs or halt development altogether.

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 (NAHB).[15] 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, including via NIMBYism.

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. Three quarters of respondents to the NMHC-NAHB research reported they had encountered NIMBY opposition to a proposed development. This added an average of 5.6 percent to the total development cost and delayed the completion of those developments by an average of 7.4 months.[16]

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[15] National Association of Home Builders and National Multifamily Housing Council, *Regulation: 40.6 Percent of the Cost of Multifamily Development,* https://www.nmhc.org/globalassets/research--insight/research-reports/cost-of-regulations/2022-nahb-nmhc-cost-of-regulations-report.pdf

[16] National Association of Home Builders and National Multifamily Housing Council, *Regulation: 40.6 Percent of the Cost of Multifamily Development,* https://www.nmhc.org/globalassets/research--insight/research-reports/cost-of-regulations/2022-nahb-nmhc-cost-of-regulations-report.pdf

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. It is important to keep in mind that rental housing requires significant operating expenses to maintain quality. According to research by NAA, only 9 cents of every dollar of rent goes back to the owner as profit, including the many apartment owners who are themselves small businesses and rely on this revenue to make ends meet.[17]

We urge Congress 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.

NMHC and NAA strongly support the *Yes In My Backyard Act* (S. 1614/H.R. 3198), introduced in the last Congress by Senators Young and Schatz and Representatives Kilmer and Hollingsworth 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.

Policymakers, at all levels of government, should 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 purport to help by discouraging new apartment housing construction and limiting the financial resources owners have to maintain existing communities. Also, rent control proposals are not targeted at those most in need of affordable housing, thus incentivizing those who could otherwise afford an unrestricted unit to remain in place. Past experiments with rent control have been shown time and time again to result in unhealthy conditions and deteriorating neighborhoods.[18]

Notably, NAA conducted interviews with professionals who own, manage, or develop rental housing properties in Santa Barbara/Santa Ana, CA, Portland/Eugene, OR, and St. Paul, MN, and garnered findings buttressing the conclusion that rent control policies negatively impact investment in existing and future multifamily housing. [19]

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[17] https://www.naahq.org/sites/default/files/naa-documents/dollar_of_rent_2022.pdf

[18] Diamond, McQuade, and Qian, *The Effects of Rent Control Expansion on Tenants, Landlords, and Inequality: Evidence from San Francisco*, American Economic Review 2019. https://pubs.aeaweb.org/doi/pdfplus/10.1257/aer.20181289

[19] One of the key findings from that research was that owners and operators reported that their plans to invest in or develop the market dramatically shifted after rent control laws were put into effect: More than two-thirds of housing providers have reduced or expect to reduce development or investment plans as a result of rent control policies; and over half have considered selling off properties. This is clearly seen when building permit applications dropped by 80 percent in St. Paul when its rent control

__Ease 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. Eighty-four percent of respondents reported construction delays in NMHC's December 2022 Quarterly Survey of Apartment Construction and Development Activity. Fifty-seven percent reported experiencing repricing increases in projects at an average rate of 8 percent. The availability of construction financing, or lack thereof, continues to be of primary concern, as 29 percent of respondents cited this as a contributing factor to delayed starts. Additionally, 30 percent of respondents attributed delays to materials sourcing and delivery challenges.[20]

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 percent of respondents reported that construction labor costs increased more than expected during Q4 2022, up from 21 percent in the previous quarter. Forty-six percent of respondents said that costs increased as expected, while only 5 percent said costs did not increase, down from 11 percent in September.

__Deploy the 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 Congress to work with the Administration to implement provisions in the Housing Supply Action Plan issued in May 2022 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.

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initiative passed during a period where building permits were increasing significantly elsewhere around the country. Additionally, NAA's interviews reveal that the majority of housing providers have had to or expect to defer maintenance and improvement projects in jurisdictions where rent control is enacted.

[20] https://www.nmhc.org/research-insight/nmhc-construction-survey/quarterly-survey-of-apartment-construction-development-activity-december-2022/

While we support the Administration's Housing Supply 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 the recently released White House "Blueprint for A Renter's Bill of Rights" will create potentially duplicative and confusing 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 or households that are struggling financially and could, in fact, discourage much-needed private-market investment in new housing construction.

Reform and Fully Fund the Section 8 Housing Choice Voucher Program

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.

The Section 8 program has additional 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 prevent private housing providers from being able to accept vouchers.

Despite previous Congressional and Administrative attempts at improving the program, it remains overly burdensome. Our groups, once again, call on Congress to pass the *Choice in Affordable Housing Act of 2023* (S. 32), introduced by Senators Coons and Cramer. The legislation empowers public housing authorities (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.

Sustain 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 one of the 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.

Conclusion

On behalf of the multifamily industry and the millions of family, single, senior, student, veteran, and disabled households we serve, we applaud the Committee's efforts to explore solutions to the nation's most significant housing challenges. The increased supply of multifamily rental housing at all price points in all markets will play a vital role in promoting economic growth, encouraging household stability for all American households, and we look forward to working together as legislation to further these efforts is considered.

ADDENDUM

New Report Tracks Apartment Demand Through 2035

Spoiler: We need to build 4.3 million new apartments to close the supply-demand gap.

Amidst demographic shifts and lingering pandemic-impacts on the population and broader economy, **the U.S. faces a pressing need to build millions of new apartment homes to accommodate current and future housing demand**—according to research conducted by Hoyt Advisory Services and Eigen10 Advisors, LLC, commissioned by the National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA).

Report Highlights

4.7 million affordable apartments were lost from 2015-2020 as a result of outpricing brought on by a serious lack of supply.

We're still picking up the pieces from the Great Recession as we grapple with a 600,000 apartment home deficit resulting from that time.

Explore the full report to access data specific to your state or locality.
The full report includes data from all 50 states and 50 key metro areas, including the District of Columbia.

Learn More

Visit WeAreApartments.org to dive into custom data for your area and download the full report.

LOW-INCOME HOUSING TAX CREDIT (LIHTC)

NMHC/NAA Viewpoint

The LIHTC program provides critical support to the nation's affordable housing production. Given that 11.6 million renter households spend more than half their income on rent, lawmakers should strengthen the program by increasing credit authority and reducing the bond financing threshold to 25 percent to receive the full amount of 4 percent Low-Income Housing Tax Credits.

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 2019, the LIHTC program has according to the ACTION Campaign financed 3.7 million apartments and served approximately 8 million households. This development has supported 5.68 million jobs for one year while generating $643 billion in wages and business income and $223 billion in Federal, state and local tax revenues.

Under the program, state housing agencies issue credit allocations to developers who then sell the credits to investors. Investors receive a dollar-for-dollar reduction in their federal tax liability over a 10-year period, and developers invest the equity raised to build or acquire apartments. This equity allows apartment firms to operate the properties at below-market rents for qualifying families. LIHTC-financed properties must be kept affordable for at least 30 years.

The LIHTC has two components:

- A 9 percent tax credit that subsidizes 70 percent of new construction and cannot be combined with any additional federal subsidies.
- A 4 percent tax credit that subsidizes 30 percent of the unit costs in an acquisition of a project and can be paired with additional federal subsidies.

The LIHTC has developed or preserved 3.7 million apartments since 1986.

Given the nation's severe shortage of affordable housing, Congress in recent years has enacted significant improvements to the LIHTC program. In December 2020, Congress established a minimum 4 percent credit rate, akin to current law's minimum 9 percent credit rate -- so that investors may derive its full value. Under prior law, the 4 percent credit rate floated and was worth considerably less due to low interest rates. Additionally, in March 2018, rightly increased LIHTC authority by 12.5 percent for 2018-2021. Congress also sensibly authorized income averaging so that LIHTC could serve a wider array of households.

Congress should continue to invest in the LIHTC's success by making permanent the expired increase in program authority effective in 2018-2021, as well as further augmenting 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 LIHTC has enjoyed broad bipartisan support over the years, and Congress sensibly preserved it in the 2017 tax reform bill. It should now be strengthened to meet the continued need for affordable

MIDDLE-INCOME HOUSING TAX CREDIT

NMHC/NAA Viewpoint

The proposed Middle-Income Housing Tax Credit (MIHTC) would complement the successful Low-Income Housing Tax Credit (LIHTC). Although LIHTC should be provided with significant additional resources, middle-income households are also facing severe cost burdens that cannot be addressed without a new, dedicated resource. The MIHTC program is necessary to construct workforce housing that working households can afford.

The Middle-Income Housing Tax Credit (MIHTC) is a proposal to establish a public/private partnership that leverages federal dollars with private investment to produce rental housing affordable to our nation's workforce.

Designed to complement the successful Low-Income Housing Tax Credit (LIHTC), the MIHTC program 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 of qualifying units. A development project eligible for MIHTC would have to set aside 60 percent of units for households earning 100 percent or less of Area Median Income (AMI) and must be kept affordable for up to 30 years.

Housing affordability is a significant challenge facing many American families. The U.S. needs to build 4.3 million more apartments by 2035 to meet the demand for rental housing. This includes 600,000 units (total apartments) to fill the shortage from underbuilding after the 2008 financial crisis. Underproduction of housing has translated to higher housing costs – resulting in a decline of 4.7 million affordable apartments (monthly rents less than $1,000) from 2015-2020.

The median asking rent for an apartment completed in the third quarter of 2022 was $1,805, and a renter would need to earn at least $72,200to afford such a unit. MIHTC would make housing more affordable and available to middle-income Americans.

Affordability challenges are not unique to households receiving federal subsidies. In fact, solidly middle-income households are facing constraints. 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 2022 was $1,805, a 27 percent increase from the same period in 2017. NMHC calculates that for a renter to afford one of those units at the 30 percent of income standard, they would need to earn at least $72,200 annually. Thus, this issue impacts those supporting the very fabric of communities nationwide, including teachers, firefighters and nurses.

The Middle-Income Housing Tax Credit would help build housing that is affordable to a wide range of income levels at a time such housing is increasingly difficult to afford.

ADAPTIVE REUSE

NMHC/NAA Viewpoint

NMHC/NAA strongly support establishing Federal tax incentives to encourage the repurposing of underutilized commercial real estate structures into housing. A tax incentive could help overcome costly hurdles such projects face while helping to create jobs and boost local property tax revenues all while addressing our nation's shortage of housing supply.

There is tremendous potential for repurposing underutilized structures into housing. JLL Research shows that between the advent of the COVID-19 pandemic and the second quarter of 2022, pre-2015 buildings had net negative absorption of 246.5 million square feet. Meanwhile, estimates show that there are between several hundred million to 1 billion square feet of surplus and obsolete retail space.

Given the nation's shortage of affordable rental housing, many are considering turning unused and underutilized commercial real estate structures, including offices, hotels, and retail 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.

A large portion of commercial real estate space could potentially be available to be converted into housing.

According to a February 2023 study sponsored by NMHC and the Urban Land Institute's Terwilliger Center for Housing, JLL Research shows that between the advent of the COVID-19 pandemic and the second quarter of 2022, office buildings delivered in 2015 or later absorbed 86.8 million square feet of space. In contrast, pre-2015 office buildings had net negative absorption of 246.5 million square feet, 80 percent of which was attributable to buildings delivered in 1980 and earlier.

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.

Unfortunately, converting commercial real estate into housing can be extremely challenging and 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, 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 and zoning rules.

A Federal tax incentive to encourage property conversions would be greatly beneficial in overcoming these obstacles and spurring additional housing supply. In fact, research commissioned by NMHC/NAA shows that the nation will need to build 4.3 million new apartment homes by 2035.

In addition to ensuring a Federal tax incentive is sufficiently robust to account for barriers to property conversions, NMHC/NAA encourage policymakers to structure a tax incentive to enable:

- All types of commercial property (e.g., offices, retail, and hotels) to qualify for conversion;
- REITs, which own approximately 15 percent of U.S. commercial real estate, to utilize the incentive;
- Other tax incentives, such as the Low-Income Housing Tax Credit and energy tax benefits, to be used in conjunction with the incentive; and
- Government buildings to qualify for conversion.

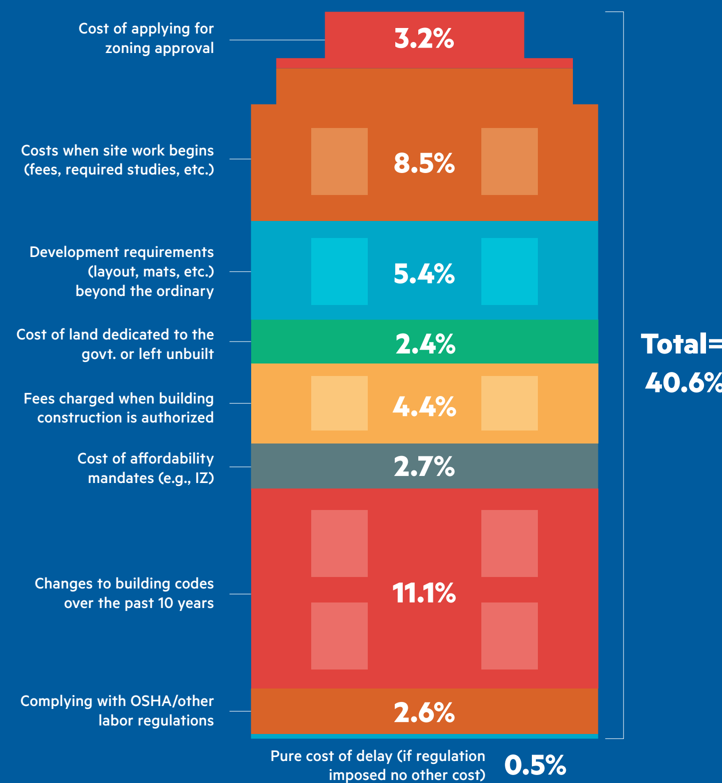
Regulations Account for 40.6% of Multifamily Development Cost, Driving Up Housing Costs and Worsening Affordability

Multifamily developers are subject to a wide range of regulations at all levels of government. While some are necessary for the health and safety of America's renters, many are not.

In addition, neighborhood opposition and affordable housing mandates can sometimes deter development altogether.

Research by the National Multifamily Housing Council (NMHC) and the National Association of Home Builders (NAHB) quantifies just how much those regulations drive up costs.

AVERAGE COST OF REGULATION AS A SHARE OF TOTAL MULTIFAMILY DEVELOPMENT COST



Note: Averages are across all multifamily properties, even those not subject to a particular type of regulation. Those are factored in as "0" when calculating.

Governments Impose Costs, But Policymakers Can Also Reduce Them Through Regulatory Reform

Examining whether some of the fees/requirements associated with these regulations are truly necessary is one way to make a dent in the affordability problem

BUILDING CODES

Changes over the past 10 years are the largest regulatory driver of development costs.

Average Cost: 11.1%

ZONING

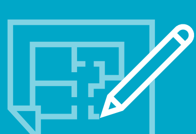
Very little land in the U.S. is zoned for "by right" apartment development. 94% of developers reported they must dedicate resources to getting land rezoned.

Average Cost: 3.2%

PUBLIC LAND/OPEN SPACE

Local governments often require developers to donate a portion of the land for its use or leave it unbuilt.

Average Cost: 2.4%



DESIGN CHANGES

Local governments also often require developers to add certain features to their projects – such as energy-efficiency upgrades – or comply with specific design requirements.

Average Cost: 5.4%

DELAYS

Navigating the approval process, waiting for permits and inspections makes the development process take longer and time is money.

Average Cost: 0.5%

LOCAL FEES

Once developers start preparing the land for construction, local governments often impose impact fees (to be used for capital improvements, utility impact fees, specialized environmental or other impact studies).

Average Cost: 8.5%

They can also charge building permit and other fees before building construction can begin. **Average Cost: 4.4%**

Community Opposition Imposes Real Costs

75% of respondents said they encountered "Not In My Backyard" (NIMBY) opposition to their proposed development.

Confronting NIMBYISM adds an average of 5.6% to the development cost and delays completion of the housing by an average 7.4 months.

"Quick-Fix" Affordability Mandates Make Housing More Expensive and Deter Development

Inclusionary Zoning. Mandates to require a certain number of apartments to have below market rents, mean higher rents for the rest. **Cost: 7.6% Rent Increase**

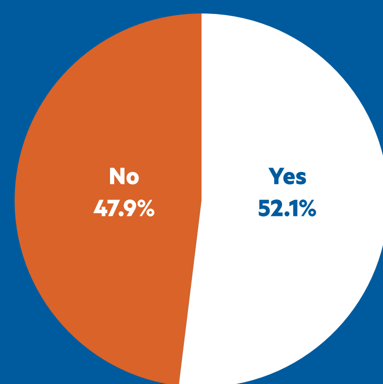
Rent Control and IZ deter some construction altogether. Developers simply avoid communities with those requirements. This translates into housing not being built in many areas where it is so desperately needed.

This translates into housing not being built in many areas where it is so desperately needed.

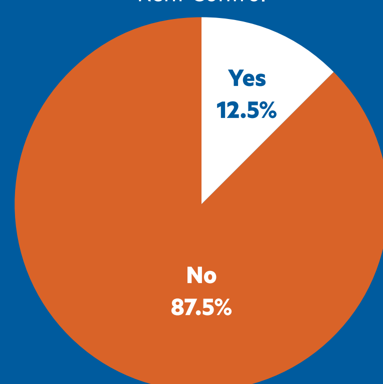
SOME MULTIFAMILY DEVELOPERS AVOID BUILDING IN JURISDICTIONS WITH THESE POLICIES

Will You Build if Affordable Housing Mandates Are Required?

Inclusionary Zoning



Rent Control



Source: NAHB and NMHC.

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Identifying duplicative and unnecessary regulatory costs and combatting NIMBYism are key factors as we work to address the nation's housing affordability crisis.

Learn more at **www.nmhc.org/cost-of-regulations**

NMHC NATIONAL **MULTIFAMILY HOUSING** COUNCIL

NMHC.ORG

NMHC Quarterly Survey of Apartment Construction & Development Activity (December 2022)

December 19, 2022

The December 2022 Quarterly Survey of Construction & Development Activity (Construction Quarterly Survey for short) was conducted from December 5 – 15, 2022 and received 90 responses from leading multifamily construction and development firms. Historical data from 2022 surveys for all questions are also available in a downloadable spreadsheet.

Average Materials Price Change in 4Q 2022Sr

↑ **9%**
Exterior Finishes & Roofing

↑ **13%**
Electrical Components

↑ **9%**
Appliances

↑ **9%**
Insulation

↓ **5%**
Lumber

Full Data Available here: https://www.nmhc.org/globalassets/research--insight/construction-survey/2022/nmhc-quarterly-apartment-construction-survey-data-spreadsheet-122022.xlsx

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Permitting and Starts

During the December 2022 Construction Quarterly Survey, 84% of respondents reported experiencing construction delays over the last three months. Of those experiencing delays, 84% reported experiencing permitting delays, and 79% reported delays in starts. These numbers are fairly similar to those reported last quarter, indicating that delays are still a common feature of the current development environment.

Respondents experiencing delayed starts were mostly likely to blame permitting, entitlement, and professional services as a cause (46% of respondents, down from 54% in the previous quarter). Economic uncertainty was cited as the second most common cause for delays with 39% of respondents reporting. Although this is down from 41% in the previous quarter, it still indicates that federal monetary policy is influencing the industry at large.

Additionally, 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. Finally, 30% of respondents attributed delays to materials sourcing and delivery.

Over the past three months, how long, on average, have municipalities reported it would take before you receive building permits?

	June 2022	September 2022	December 2022
Up to 2 Months	13%	2%	12%
3-4 Months	23%	29%	36%
5-6 Months	37%	24%	22%
7-8 Months	10%	7%	7%
9+ Months	10%	22%	12%
N/A	7%	15%	11%

Thirty-eight percent of respondents reported jurisdictions imposing additional project requirements unrelated to actual project construction, down from 39% in the previous quarter. Most notably, respondents mentioned affordability requirements with some also citing public infrastructure improvements and open space preservation.

Materials and Pricing

Overall, 76% of respondents reported experiencing deals repricing over the last three months. Of those respondents, 57% reported that they have experienced deals repricing up, down from 76% of respondents who said the same in September. Of those experiencing repricing, either up or down, respondents reported an 8% average increase over the last three months, down from 9% in the previous quarter.

Respondents reported an average drop in lumber prices for the third straight quarter, down 5% over the last three months. Prices for other essential products continued to see increases. Over the last three months, respondents reported a 9% average increase in the price of exterior finishings and roofing, a 13% increase in electrical components, a 9% increase in appliances, and a 9% increase in insulation, all larger increases than reported during the previous quarter.

A sizeable portion of respondents reported using alternative brands or suppliers to mitigate price increases and supply shortages for exterior finishes and roofing (46%) as well as for appliances (30%). For the second-straight quarter, respondents reported utilizing escalation clauses at lower rates than in the previous quarter for all materials. However, unlike the previous quarter, respondents reported utilizing design changes much less frequently over the last three months for all materials. Additionally, the share of respondents who reported that this question did not apply to them increased significantly for both insulation (an increase from 15% to 32%) and lumber (17% to 30%).

Which of these approaches have you adopted to mitigate the price increases/supply shortages for each material? (multiple selection - totals will not equal 100%)

	Exterior Finishes and Roofing	Electrical components	Appliances	Insulation	Lumber
Used alternative brands or suppliers	46%	27%	30%	13%	6%
Used alternative product/material types	34%	22%	12%	8%	6%
Made design changes	35%	19%	10%	7%	6%
Changed purchasing schedules including pre-purchasing and/or warehousing products/materials	33%	38%	20%	13%	20%
Given greater focus on escalation clauses and acceptance of higher escalations	23%	20%	10%	8%	10%
N/A	10%	11%	20%	32%	30%

To gain further understanding of other materials of issue, respondents were asked about a more extensive list of common products and materials used in development, seen in the table below. As supply chains recover, respondents reported using fewer alterations for all products compared to last quarter except for copper and brass mill shapes and exterior finishes.

For which materials have you made alterations or used alternative products/materials? (multiple selection - totals will not equal 100%)

	June 2022	September 2022	December 2022
Lumber	20%	22%	8%
Plywood	13%	15%	8%
Interior wood trim	23%	17%	6%
Copper and brass mill shapes	10%	2%	3%
Steel mill products	17%	12%	10%
Hardware - locks, door/window hardware, cabinet hardware	43%	32%	30%
Lighting fixtures	43%	49%	34%
Exterior Finishes	43%	29%	32%
Electrical components - panels and items with chips	33%	32%	31%
Roofing	13%	34%	19%
Appliances	40%	32%	31%
Insulation	10%	17%	10%
Ready-mix concrete	3%	7%	6%
Other	7%	5%	2%

Labor and Logistics

Almost two thirds of respondents (64%) reported construction labor availability to be roughly the same as it was three months ago. Only 10% of respondents reported construction labor to be more available compared to three months ago, down from 11% in September, while 21% of respondents reported construction labor to be less available, down from 32%. All of this might suggest that the tight construction labor market is still gradually easing.

However, 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.

Given current challenges in the importation and transportation of goods, what are you doing to mitigate the negative impacts of these conditions? (multiple selection - totals will not equal 100%)

	June 2022	September 2022	December 2022
Sourcing more products/materials domestically	33%	33%	30%
Sourcing more products/materials from Canada	4%	4%	0%
Sourcing more products/materials locally or from specific domestic regions	11%	22%	20%
Using alternative products/materials	41%	37%	40%
Other	11%	4%	9%

Overall, there was no indication that developers are shifting greater attention to any one particular market in search of more projects. 46% of respondents said that the question was not applicable to them, up from 44% last quarter. However, 7% of respondents did say they were seeking out more projects in the Southeast (Atlanta, Charlotte, Orlando, etc.) and Southwest (Phoenix, etc.). Respondents commonly mentioned cities such as Charlotte, Raleigh, Tampa, Nashville, Phoenix, and Las Vegas as places of increased interest.

When asked about regions where they are no longer seeking projects, 51% of respondents said that the question was not applicable to them. A small portion of respondents (6%) said they were no longer seeking out projects in the Southwest Coast (LA, San Diego, etc.) and a select few (4%) said the same about the Northwest Coast (San Francisco, Seattle, etc.).

About the NMHC Quarterly Survey of Apartment Construction & Development Activity

Given the invaluable support the NMHC COVID Construction Survey provided, NMHC launched this new iteration of the survey to be more ongoing and branch beyond the obstacles of the pandemic. While the pandemic's effect on health and safety has become better controlled, its effects on the construction industry persist with supply chain obstacles and ongoing delays related to issues with staffing to permitting and entitlement. Issues beginning to draw concern pre-pandemic in the industry are now continuous impediments to building that threaten to worsen the affordability crisis.

SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

NMHC/NAA Viewpoint

The public-private Section 8 housing choice voucher program could be the nation's most effective affordable housing and community development tool. However, it is plagued with inefficiencies, onerous regulatory requirements and a flawed funding system. Lawmakers should address these issues to attract private housing providers' participation in the voluntary program.

The Section 8 housing choice voucher program has long served as America's primary method of rental assistance. Funded by the U.S. Department of Housing and Urban Development and administered by local public housing authorities, the program provides subsidized rents for qualifying low-income families in private rental housing, including apartments.

This public-private partnership has the potential to be one of the most effective means of addressing our nation's affordable housing needs and supporting mixed-income communities. However, the program's potential success is limited by too many inefficient and duplicative requirements, which discourage private providers from accepting vouchers. These include a required three-way lease between the provider, resident and the public housing authority; repetitive unit inspections; resident eligibility certification; and other regulatory paperwork. Collectively, these make it more expensive for a private owner to rent to a Section 8 voucher holder.

Two million very or extremely low-income families are housed in the private market annually through the Section 8 Housing Choice Voucher Program.

The program has also been plagued with a flawed and volatile funding system that has undermined private sector confidence in the program. With Congress focused on austerity measures, insufficient funding is expected to be worse in the near-term budget cycles. Common-sense reforms that could help control costs, improve the program for both renters and property owners, and increase private housing participation include: putting a reliable funding formula in place; and further streamlining the property inspection process.

It is also imperative for lawmakers to reinforce the voluntary nature of the program. Congress specifically made participation voluntary because of the regulatory burdens associated with it. However, state and federal governments are enacting laws that make it illegal for a private owner to refuse to rent to a Section 8 voucher holder. Recent examples include "source of income discrimination" provisions passed by a number of cities. While often well intentioned, such mandates are self-defeating because they greatly diminish private-market investment and reduce the supply of affordable housing.