July 31, 2023

Federal Housing Finance Agency
Office of the Secretary
Constitution Center
400 7th Street, SW
Washington, D.C. 20219

Re: Request for Input on Multifamily Tenant Protections

The Homes Guarantee Campaign, along with 317 local, state, and national organizations, is pleased to submit this comment on tenant protections in multifamily homes with financing backed by Fannie Mae and Freddie Mac. On behalf of the tenants, tenant unions, grassroots organizations, academic, policy, legal, and research allies that make up the Homes Guarantee campaign, we thank Federal Housing Finance Agency (FHFA) Director Thompson and FHFA staff for conducting this request for input.

Fannie Mae and Freddie Mac (hereafter referred to as the GSEs) work with banks to make $150 billion in financing available to landlords every year. The GSEs do not make loans directly to multifamily landlords but rather purchase multifamily loans from lenders. This promotes liquidity in the multifamily lending market while relieving lenders of default risk. Even though the GSEs do not directly lend to landlords, they guarantee the loans that landlords take out, allowing lenders to continue making loans to other landlords. The GSEs provide a major financial benefit to lenders and the multifamily housing finance system as a whole.

In today’s market, Enterprise-backed financing has become a tool that enriches real estate investors, often at the expense of tenants. Favorable loan terms benefit the landlords and their investors; tenants are an afterthought, mostly unprotected by any rights or regulations. The GSEs have a track record of buying and providing guarantees to overvalued loans. Many of these loans can only be paid down if the borrower plans to hike rents and fees, neglect building maintenance, and evict tenants. The GSEs have enabled a market that, in some ways, incentivizes predatory behaviors by landlords.

FHFA serves as the regulator and conservator of the GSEs. In these capacities, FHFA has the potential to implement tenant protections in an estimated 8 million rental units with Enterprise-backed mortgages. These protections are critical to protecting the safety and soundness of the secondary mortgage market and preserving the existing supply of affordable rental housing. By incorporating the tenant protections recommended here, the FHFA can move us toward a housing system that truly promotes affordability and racial justice.

An Unprecedented Housing Crisis Requires Bold Action from the FHFA

FHFA’s request for input (RFI) on tenant protections comes at a time of unprecedented housing unaffordability, evictions, and homelessness. In 2021, the number of tenants with unaffordable rents reached an all-time high, with 49% of US renters paying more than a third of their income to rent. In February 2022, year-over-year growth in rental prices reached a record peak of 17.2% across the U.S. During the pandemic, corporate landlords seized the opportunity to consolidate

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their market share and used inflation to hike rents and accumulate excessive profits. In many cases, landlords are using algorithms to set high rents and evict tenants. This has led median rents across the U.S. to surpass $2,000 for the first time, and there is no longer a single state or county where a worker earning a full-time minimum wage salary can afford a modest two-bedroom apartment. In fact, to afford a two-bedroom apartment, a minimum wage worker would need to work four jobs or have three roommates.

The rental affordability crisis displaces tenants with lower-paying jobs, thus exacerbating labor shortages and threatening economic growth and stability. For low to medium income households, rapidly rising rents exacerbate the risks of housing insecurity, homelessness, physical and mental health challenges, child educational disruptions, and economic precarity. Racialized housing segregation is reinforced and reproduced by the especially devastating impacts of the rental affordability crisis on tenants of color who are disproportionately more likely to face eviction, experience homelessness, and be displaced from their neighborhoods.

In the absence of universal tenant protections for the third of US households currently living in rental housing, tenants are inconsistently protected depending on where they live. The effects in areas with minimal protections are profound and most directly impact tenants of color, especially Black women, low-income populations, individuals with disabilities, and victims of domestic violence, who are displaced from their homes at alarming rates and often find it impossible to regain access to safe, affordable, and stable housing.

Evictions and rapidly rising rents are experienced in greater magnitudes by communities of color. Matthew Desmond’s 2020 research shows that Black and Latino renters are disproportionately threatened with eviction and disproportionately evicted from their homes. For centuries, but especially in the last 100 years, federal policies and private practices have led to the theft of land and housing opportunities for millions of Black and brown households in the United States, resulting in the deep racial disparities in housing access and ownership that exist today. In 2020, 72% of White households owned their homes, compared to 42% of Black households, 48% of Latino households, 42% of Pacific Islander households and 58% of Native American households. Accordingly, the lack of tenant protections in the rental market disproportionately impacts renters of color.

Furthermore, federal policies and private practices to disinvest in communities of color and exclude them from various wealth-building initiatives and opportunities have contributed to a larger racial wealth gap, meaning households of color have less money to spend on housing. As a result, renter households of color are disproportionately housing cost-burdened – and are hit harder by rising rents. In 2020, 45% of White renters were cost-burdened, compared to 56% of Black renters

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6 National Low Income Housing Coalition, The Gap: A Shortage of Affordable Rental Homes, (March 2023) (https://nlihc.org/gap)
8 Timothy A. Thomas, Ott Toomet, Ian Kennedy, & Alex Ramiller, The State of Evictions: Results from the University of Washington Evictions Project, University of Washington (Jan. 6, 2020) (https://evictionresearch.net/washington/)
and 54% of Latino renters. 12 This RFI represents a historic moment with potential for the FHFA to have a meaningful impact on closing racial disparities across the rental market, in which renters of color – who have been marginalized and extracted from by private actors via predatory exclusion and inclusion – are the most vulnerable, and the least protected.

**The FHFA has the Legal Authority to Impose Tenant Protection Requirements on its Borrowers**

Through the GSEs, FHFA has regulatory authority over approximately one-quarter of U.S. multifamily assets 13 and has the ability to exert significant influence over a sizable portion of the multifamily rental market. Through FHFA's statutory mission to finance affordable housing, ensure stability in the market, and obligation to Affirmatively Further Fair Housing by mitigating the displacement and segregation of communities of color, 14 it has the opportunity to exert its influence over a significant portion of the rental housing market with Enterprise-backed mortgages.

The FHFA has oversight over the GSEs as both a conservator and regulator and has the broad authority necessary to facilitate equitable and sustainable access to housing. The agency is also well equipped – as both a conservator and regulator – to ensure that Fannie Mae and Freddie Mac adhere to the affordable housing obligations required of them. Since tenant protections fall squarely within the agency’s commitment to equitable, sustainable, and affordable housing, FHFA must use its power to bolster and expand tenant protections in Enterprise-backed properties. As discussed in the Tenant Protection RFI, the FHFA has ample past precedent of requiring tenant protections for properties whose loans they will purchase, including pad lease protections for residents of manufactured home communities and additional eviction protections during the COVID-19 pandemic. 15

**Recommendations**

The FHFA must require the following tenant protections in all Enterprise-backed multifamily properties. These protections must be implemented together, as they are interdependent: for example, for a tenant's right to organize to be effective, they also must be protected from a lease non-renewal without good cause. Similarly, good cause eviction protections are insufficient without limits on large, unreasonable rent increases, which can serve as *de facto* evictions.

1. **Limit Egregious Rent Hikes**

The FHFA should limit rent hikes at 3% annually in Enterprise-backed properties. This limit on rent hikes should be applied universally and as a requirement.

Imposing limits on rent increases is a proven policy that can immediately stabilize prices, halt rent gouging, and reduce the risk of displacement and homelessness, while increasing housing security and affordability over the long term. Limits on rent increases will protect tenants from eviction and/or homelessness by creating a schedule for reasonable and gradual rent increases.

Currently, landlords of Enterprise-backed properties face little to no federal restrictions regarding whether and how much they can increase their tenants’ rents. In fact, their business model and profitability often depend on raising rents significantly higher than what existing tenants can afford.

While a restriction on rent increases in FHFA-financed multifamily buildings will not have as large of a local impact as an entire state or municipality opting into a rent stabilization regime, research on the impact of rent regulations is useful in demonstrating their positive outcomes. A 2019 review of existing academic research on the economic and social impacts of rent regulations found that rent regulations improve affordability for tenants and that, on balance, rent regulations do not increase the cost of renting non-regulated units. In localities where they do, closing policy loopholes (such as condo

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13 Board of Governors of the Federal Reserve System (US), Government Sponsored Enterprises; Multifamily Residential Mortgages; Asset, Level, [BOGZ1FL403065405Q] retrieved from FRED, Federal Reserve Bank of St. Louis; [https://fred.stlouisfed.org/series/?g=16xbf] (June 27, 2023).

14 42 USC 3608(d); 42 U.S.C. 3601 et seq. (imposing the duty to affirmatively further fair housing to all federal agencies with regulatory or supervisory authority over financial institutions).

conversions) can help. In fact, some research shows that rent regulations could help keep rent more affordable for all renters. For example, a 2007 study of rents in Boston, Cambridge, and Brookline, Massachusetts, distinguished between controlled and uncontrolled units, indicated that having 10 to 12 percent of rent-stabilized units in an area decreases the rents of non-controlled units by $23 to $28. Finally, multiple studies have found that rent regulations have little impact on the construction of new housing.

2. Institute Good Cause Eviction Protections
The FHFA should institute good cause eviction protections in Enterprise-backed properties. Good cause (sometimes referred to as “just cause”) protections mean that landlords can only evict tenants in the event of serious and repeated lease violations when the tenant has failed to cure their breach after being given notice. The purpose of good-cause evictions should be to protect the health and safety of residents and employees, to protect the premises from major damages, and to enforce the obligation to pay rent. For Enterprise-backed properties, the definition of good cause for eviction should be especially narrow. Common exceptions from other contexts – such as in the event that the landlord wishes to live in a unit as an owner-occupant – are unlikely to be relevant.

Good cause eviction policies protect the rights of tenants to seek repairs and to organize with other tenants. Lease non-renewals and evictions are often used by landlords in retaliation for maintenance requests or tenant organizing.

Good cause is a well-established protection in federally assisted housing programs such as the Low Income Housing Tax Credit (LIHTC) program and the HOME Investments Partnerships (HOME) program. Additionally, several states, including California, New Jersey, and others, have good cause protections. The FHFA itself is familiar with good cause protections, having imposed them on borrowers of Enterprise-backed mortgages for manufactured home communities through its Pad Lease protections.

3. Respect the Right to Organize
The FHFA should require landlords with Enterprise-backed mortgages respect tenants’ rights to organize, form tenant unions, and elect tenant union leadership, free from retaliation. The right to organize is required in several federal housing programs, including public housing and HUD-supported multifamily housing.

4. Ban Source of Income Discrimination
The FHFA should ban source of income discrimination in Enterprise-backed properties. Bans on source of income discrimination require landlords to accept all lawful forms of payment, including Section 8 Housing Choice Vouchers. Landlords with Enterprise-backed mortgages should not be allowed to refuse to rent to participants in federal housing programs. These protections are already required for recipients of HOME and LIHTC funding.

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5. **Enforce and Expand Protections Against Discrimination**
The FHFA should enforce existing laws that prohibit landlords from denying a tenant rental housing based on race, physical or mental ability, and family make-up, and expand protections to prohibit discrimination based on sexual orientation, gender expression or identity, immigration status, conviction and/or arrest history, bankruptcy history, eviction history, or credit score in Enterprise-backed properties.

6. **Require Safe, Quality Housing Standards**
The FHFA should articulate a clear set of habitability standards for Enterprise-backed properties. The FHFA should model its standards on the U.S. Department of Housing and Urban Development’s Housing Quality Standards for the Housing Choice Voucher program.

7. **Include Fair Lease Provisions**
The FHFA should develop standard fair lease provisions for all states and territories and require landlords of properties with Enterprise-backed mortgages to use them. The FHFA and the GSEs should work to develop standard fair leases for all states and territories, as well as the District of Columbia, in recognition of the variation that exists in state landlord-tenant law and state civil procedure. In developing fair lease provisions, the FHFA should view existing state lease requirements as a floor rather than a ceiling and go further to protect tenants. In particular, fair leases should:
   - Provide at least a ten-day grace period in which to pay rent before any late fee is assessed;
   - Cap late fees at 5% of the amount of rent owed;
   - Ban junk fees;
   - Limit security deposits to one month’s rent;
   - Clarify the circumstances under which landlords can withhold security deposits and the procedural steps that they have to take to be authorized to do so.

8. **Participate in a Rental Registry**
The FHFA should require all Enterprise-backed properties to participate in a rental registry that is publicly available and accessible to tenants. The registry should include information that is key to tenants making an informed decision about leasing an apartment such as the number of code violations, evictions, and average rent hikes in a property. Tenants should also have access to contact information of the real, beneficial owner(s) of the property.

9. **Create an Office of Tenant Protections with Enforcement Power**
The protections outlined in this letter require diligent and proactive enforcement. Accordingly, the FHFA should create an Office of Tenant Protections that is responsible for ensuring that borrowers comply with required tenant protections. The Office of Tenant Protections would be responsible for identifying landlords (both corporate entities and the individuals behind them) who must be barred from future participation in Enterprise-backed mortgage programs in the event of serial and/or egregious violations of tenants’ rights. Additionally, the Office of Tenant Protections should evaluate the effectiveness of existing tenant protections, conduct research on how market trends and emerging practices affect tenants’ rights, and propose additional protections to ensure that the FHFA’s tenant protections do not become outdated.

We appreciate the opportunity to comment on this urgent matter. We urge the FHFA to finalize multifamily tenant protection policies that include our recommendations. For more information, contact: Grace White (g.white@peoplesaction.org).

Sincerely,
The Homes Guarantee Campaign and undersigned organizations.
NATIONAL
Accountable.US
Action Center on Race and the Economy
ADOS Advocacy Foundation
African Communities Together
Alliance for Housing Justice
Americans for Financial Reform Education Fund
Center for Economic and Policy Research
Center for Law and Social Policy
Center for Popular Democracy
Coalition for the Homeless
Consumer Action
Church World Service
Debt Collective
Demos
Housing Rights Initiative
Human Impact Partners
Institute for Local Self Reliance
Jobs With Justice
JustFix
Liberation in a Generation
Local Progress
MLPB
National Coalition for a Civil Right to Counsel
National Coalition for the Homeless
National Equality Action Team (NEAT)
Organized Communities Against Deportations
Parents Together Action
Partners for Dignity & Rights
People's Action Institute
PolicyLink
PowerSwitch Action
Poverty & Race Research Action Council
Private Equity Stakeholder Project
Public Citizen
Race Forward
Revolving Door Project
Service Employees International Union (SEIU)
Showing Up For Racial Justice (SURJ)
Social Security Works
Sunrise Movement
Unemployed Workers United
United for Respect
United for a Fair Economy
Upturn
Western Regional Advocacy Project
Youth Alliance for Housing
LOCAL
ACCE
ACT UP Philadelphia (AIDS Coalition To Unleash Power)
Action North Carolina
Action St. Louis
ACW
Affordable Housing Network of Santa Clara County
AFT CHICAGO Black Caucus
Age-friendly Englewood Village
Alliance for Community Transit - Los Angeles
Appalachian GameChangers
Arkansas Community Organizations
Arkansas Renters United
Art Against Displacement
Asian Pacific Environmental Network
Battle Born Progress
Be:Seattle
Bedford County Listening Project
Berkeley Tenants Union
Big Shoulder Church Chicago
Binghampton Tenants Union
Black Leadership Action Coalition of Kentucky
Broken Hearted Homes Renter's Association
Broadway UMC
Bozeman Tenants United
Buffalo Anti Racism Coalition
CA Renters Caucus
CAAAV: Organizing Asian Communities
CADEM Renters Council
California Calls
California Foundation for Independent Living
Cape Girardeau Tenants
CASA (Community Action for Safe Apartments)
Cathedral in the Night Ministry
Center for Biological Diversity
Center for Community Action and Environmental Justice
Center for Healing Racial Trauma
Chainbreaker Collective
Change Today, Change Tomorrow
Charles House
Charleston DSA
CHD/Family Outreach of Amherst
Chicagoland Black Chamber of Commerce Inc
Chiquita Jackson Enterprise
Chispa
Churches United For Fair Housing | CUFFH
Citizen Action of New York
City-Wide Tenant Union of Rochester
Clergy & Laity United for Economic Justice
Colorado People's Alliance
Communities Resist
Communities United For Action
Community Action Agency of Somerville, Inc.
Community Alliance of Tenants
Community Control Now
Community First Whatcom
Community Justice Project
Community Legal Services of Philadelphia
Community Voices Heard
Compost Cooperative, Inc.
Congolese Integration Network
Connecticut Citizen Action Group
Cooper Square Committee
Courage California
Crenshaw Subway Coalition
Crown Heights CARE Collective
CUFFH Action
Culinary Union
DARE (Direct Action for Rights and Equality)
Detroit Action
DSA LA
Domus Incorporated
Down Home North Carolina
East Village Mutual Aid
Eden Community Land Trust
El Shaddai Refuge Homes
Ensuring Opportunity Campaign
EKY Mutual Aid
Faith in Action Nevada
Faith in the Valley
Firelands Workers Action
First Wednesdays San Leandro
Florida for All
Florida Housing Justice Alliance
Florida Rising
Franklin County Continuing the Political Revolution
Freedom BLOC
Fund for Empowerment
Fuerte Arts Movement
Glad Tidings COGIC
Granite State Interfaith Action Fund
Granite State Organizing Project
Granite State Tenants Union
Greening Greenfield
Ground Game LA
Health Justice Alliance Law Clinic
HerStory Ensemble LLC
HOMES Campaign DE
Hometown Action
Homeless and Housing Coalition of Kentucky
Hoosier Action
Housing Conservation Coordinators
Housing Equality & Advocacy Resource Team (HEART LA)
Housing Greenfield
Housing Justice Center
Housing Justice for All-NY
Housing Rights Committee of San Francisco
Housing LOUISIANA
HousingNow! CA
Human Rights Protection & Global Peace
Illinois Coalition of African American Business
Organizations
Inland Equity Community Land Trust
InnerCity Struggle
Inquilinx Unidxs por Justicia
Iowa Citizens for Community Improvement
Ithaca DSA
Ithaca Tenants Union
Jane Addams Senior Caucus
JC Hodge Associates
KB Comms
KC Tenants
Kentuckians for the Commonwealth
Kentucky Anti-Eviction Network
Kentucky Equal Justice Center
Kentucky Student Environmental Coalition
Kentucky Tenants
KIWA
Latino Health Access
Legal Aid Justice Center
Legal Services Staff Association, NOLSW/UAW 2320
Lexington Tenants Union
Lift the Ban Coalition
Lift Up Contra Costa
Living United for Change in Arizona (LUCHA)
Local Clean Energy Alliance
Louisiana Fair Housing Action Center
Louisville Metro Council District 4
Louisville Recovery Community Connection, Inc.
Louisville Showing Up for Racial Justice
Louisville Tenants Union
LSSA 2320
Maine People's Alliance
Make It Work Nevada
Make the Road Nevada
Mar Vista Voice
Maryland Communities United
 Masks for Victory S. Illinois
Mass Renews Alliance
Metropolitan Interfaith Council on Affordable Housing
Miami Homes for All
Miami Workers Center
Michigan United MinKwon Center for Community Action
Monterey Bay Renters Coalition
Monterey County Renters United
Monument Impact
NAACP - Lexington-Fayette Branch
Neighbors Together
Neighbor to Neighbor
Nelsonville Voices
Network Delaware / H.O.M.E.S Campaign
New Jersey Citizen Action
New York Doctors Coalition
Nobody Leaves Mid-Hudson
Northtown Resident Council
Not Me We
NPEU (IFPTE Local 70)
OCCORD
OneAmerica
ONE Northside
One Redwood City
Parable of the Sower Intentional Community Cooperative
Partnership for the Public Good
Party for Socialism and Liberation- Louisville
Pasadena Tenants Union
Pennsylvania Stands Up
PICO California
Pioneer Village Tenants Association (PVTA)
POWER
Progressive Asian Network for Action
Progressive Leadership Alliance of Nevada
Progressive Maryland Public Counsel
Public Advocates
Public Health Institute of Western Massachusetts
Puente Human Rights Movement
PUSH Buffalo
Raise-Op Housing Cooperative
Rebuild, Overcome, and Rise (ROAR) Center at UMB
Reclaim Philadelphia
Rent and Mortgage Relief SLO County
Rent Zero Kansas
Resident Action Project
Right to Counsel NYC Coalition
Rights & Democracy New Hampshire
Rights & Democracy Vermont
Rise Economy
Rise Up West Virginia
River Valley Organizing
Root Cause Research Center
S.T.R.O.N.G Youth, Inc.
San Francisco Anti-Displacement Coalition
San Gabriel Valley Tenants Alliance
Save Section 9
South Carolina Housing Justice Network
South Carolina Progressive Network
Siembra NC
Silicon Valley De-Bug
Silicon Valley DSA
Socio-Spatial Climate Collaborative (UPenn)
Sonoma County Tenants Union
Sonoma Valley Housing Group
South Louisville Community Ministries
South of Market Community Action Network (SOMCAN)
South Shore Wealth Authority Giving Gratitude, LLC
Springfield No One Leaves
Stand Up Nashville
Steering Committee of Las Vegas Democratic Socialists of America
St. James AME Church
Strategic Actions for a Just Economy (SAJE)
Struggle for Miami’s Affordable and Sustainable Housing
Students Break the Silence NYC
Students for Transit Justice
Summers County Huddle
The Neighborhood Resource Center
Tenant Law Center
Tenants Political Action Committee
Tenants Rights for Durhamites
Tenants Together
Tenants Union of WA
Territorial Empathy
Texas Organizing Project
Thai Community Development Center
The Center for Independence of the Disabled, NY
The Hope Buss, Inc
The Justice League Inc
The Kennedy Commission
The Peer Defense Project
The People's Lobby
The People’s Resource Center
The Women's Building
TN4SafeHomes
Transit Riders Union
Tzedek DC
Tyler For Knox
Unified Citizens, Inc.
United Church of Rogers Park
United Council For Change
United Vision for Idaho Unity Fellowship of Christ Church-NYC
Universal Labor Foundation Ltd.
University Neighborhood Housing Program
Uptown People’s Law Center
Urban Justice Center Venice Community Housing
Virginia Organizing
VOCAL-KY
VOCAL-NY
Welcome Home Skagit
West Louisville Women's Collaborative
Western Massachusetts Network to End Homelessness
Westside Health Authority
Westside Community Organization
WethepeopleNYC
Willow Permanent Real Estate Cooperative LLC
Winners PLUS Inc
Women with Broken Heals
Youth Power Coalition