

# ANALYSIS: FHFA TENANT PROTECTIONS REQUEST FOR INPUT SUBMISSIONS

**NOVEMBER 28, 2023**

**TO:** Federal Housing Finance Agency

**FROM:** Homes Guarantee Campaign

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## INTRODUCTION

In May 2023, the Federal Housing Finance Agency (FHFA) opened a Request for Input (RFI) on Tenant Protections for Enterprise-backed Multifamily Properties. The RFI sought input from a wide variety of stakeholders on the challenges experienced by tenants in multifamily properties and the role of tenant protections in addressing those challenges. The RFI is one step in a public stakeholder engagement process as the agency explores conditioning Enterprise-backed mortgages on tenant protections. Comments submitted through the RFI will be used to inform future decision making by the agency.

This memo, produced by the Homes Guarantee campaign, provides an analysis of the 3,537 comments submitted to the request for input.

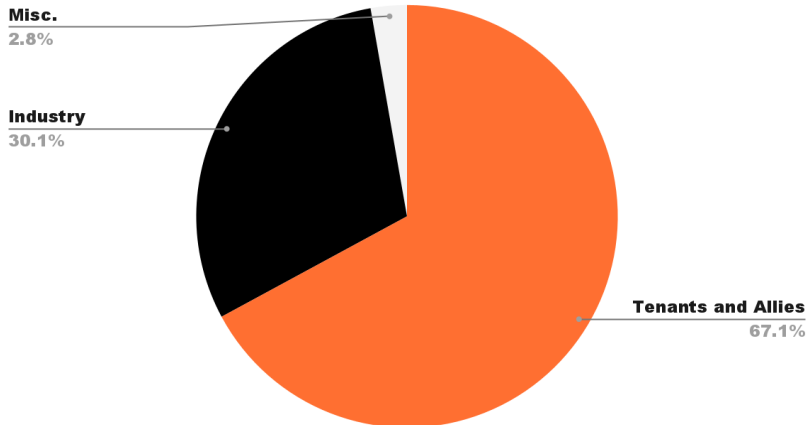
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## OVERVIEW

**FHFA's Tenant Protections RFI received unprecedented engagement.** In total, FHFA received 3,537 comments through the public submission portal between May 31 and July 31, 2023.

**Tenants and their allies submitted the overwhelming majority of public submissions in response to the FHFA Tenant Protections RFI.** In total, tenants and allies submitted 2,374 or 67% of all public comments. These submissions came from tenants, homeowners, advocacy organizations, economists, academic and policy researchers, local elected officials, Members of Congress, and non-profit developers. Members of the multifamily industry submitted 1,065 or 30% of total comments. The majority of these comments used copy and paste templates created by the National Association of Realtors and the Institute of Real Estate Management.

### COMMENTS SUBMITTED



## TENANT AND ALLY SUBMISSIONS

**Proponents of tenant protections submitted 2,374 comments.** Of these, 61% came from tenants and 39% were submitted by allies including homeowners, advocacy organizations, economists, researchers, local elected officials, Members of Congress, and landlords.

**Tenants and their allies consistently identified rent hikes as a problem and rent regulations in Enterprise-backed properties as a solution.** 1,330 or 56% of submissions named rent hikes, rent increases, rental housing cost inflation as a problem. 1,032 or 43% submissions from tenants or allies named rent regulations, rent control, or anti-price gouging regulation as a policy solution. Tenants shared their experience with egregious rent hikes, evictions, and deferred maintenance.

**Tenant-led organizations, labor unions, and faith organizations showed historic support for rent regulations.** The [Homes Guarantee Campaign](#) with the support of [317 partner organizations](#) submitted a comment outlining the history of rent regulation policies, their potential impact, and the authority for FHFA to require them in Enterprise-backed properties.

**Researchers, academics, and economists supported rent regulations in Enterprise-backed properties.** FHFA received notable responses, including a [climate-focused letter signed by 72 academics](#) and a more general [letter signed by 148 academics](#), both of which noted egregious rent hikes as a problem and rent regulation as a policy solution. A [comment submitted by 32 economists](#) examined the economic risk of unregulated rent hikes, and called for rent regulations.

**Members of Congress supported tenants' calls for rent regulations.** A [letter](#) led by Senator Sherrod Brown, signed by 17 Senators and submitted on behalf of the Senate Committee on Banking, Housing, and Urban Affairs, cited recent "steep rent increases" as well as the high rate of cost burden among rental households. The Committee's letter described FHFA tenant protections as "common sense" and called for a limit on egregious rent hikes. Rep. Maxine Waters, Ranking Member of the House Financial Services Committee, organized a [letter](#) from House members, calling for rent regulation. [Senate Majority Leader Chuck Schumer](#) and [Rep. Jamaal Bowman](#) submitted individual letters. Senator Schumer's letter discussed the need to limit fees that inflate the cost of rent. Rep. Bowman highlighted limits on rent hikes as a policy solution.

**Local officials called for federal intervention.** Officials from the [City of Olympia, Washington](#), a Councilmember from [Louisville, Kentucky](#), appointed committee members from [Shelbyville, TN](#), and commissioners from [Santa Fe County, New Mexico](#) submitted comments calling for federal intervention. Additionally, Local Progress, a network of over local officials across 47 states, submitted a [comment signed by 74 local elected officials](#) calling for rent regulations and tenant protections as a condition for Enterprise-backed financing.

**Research and advocacy organizations demonstrated FHFA's jurisdiction and responsibility to regulate rents.** [The National Housing Law Project](#) explained how tenant protections and rent regulations fall squarely within FHFA's statutory mandate and the GSE's charters. [The Poverty and Race Research Action Council](#) cited FHFA's duty to Affirmatively Further Fair Housing as rationale for enacting rent regulation and federal tenant protections more broadly. The [Partnership for Strong Communities \(PSC\)](#) used the correlation between the increased rate of homelessness and median rent that surpasses 30% of an area's median income to show the power imbalance between landlords and tenants. [University Neighborhood Housing Program \(UNHP\)](#) presented research on Enterprise-backed rental housing in New York City and housing code violations, demonstrating how mortgages can operate as an extractive mechanism, deteriorating funds that would otherwise be used to pay for housing maintenance and operations.

**Multifamily industry members supported tenant calls for rent regulations and tenant protections in Enterprise-backed properties.** [Bob Knapp](#), a member of the National Association of Realtors, called for rent regulations in response to price gouging. [Lynette Pearson](#), [Mehrdad Azemun](#), and [Jordan Berg Powers](#) were among landlords who named rent regulations and tenant protections as reasonable business practices. [Dutchtown South Community Corporation](#) was amongst affordable housing owners encouraging rent regulations and tenant protections.

## INDUSTRY SUBMISSIONS

**Multifamily industry groups submitted 1,065 public comments, most of which opposed FHFA tenant protections.** These submissions came from national lobby groups, trade associations, local landlords, and banking institutions.

**A majority of industry comments were based on templates from the National Association of Realtors (NAR) and the Institute of Real Estate Management (IREM).** Besides minor language differences distinguishing between property managers and realtors, the [NAR template](#) and the [IREM template](#) were nearly identical. These comments emphasized housing supply as the most important driver of housing affordability. They argued that tenant protections in Enterprise-backed properties would reduce the incentive for landlords to build new units. These comments did not provide any evidence to substantiate their claims.

**Industry groups opposed rent regulations and tenant protections but did not offer any solutions to challenges that tenants currently face in the market.** Developers consistently said adding new regulations would increase the complexity of an “already complex” regulatory environment. They argued that, together with the uncertainty of the market, additional regulations may discourage landlords and developers from seeking financial backing from the Enterprises, or may cause them to leave the market.

**National industry groups, including the National Multifamily Housing Council (NMHC), argued against federal intervention entirely.** A collection of multifamily landlords, organized by NMHC, asserted that rental housing is primarily a state and local issue, again using a [template comment](#) to argue against federal intervention. A separate template said that federal tenant protections are a “one-size-fits-all” approach that will hurt landlords’ ability to make mortgage payments.

**Industry groups did not substantiate their responses with factual evidence or research.** The [NMHC comment](#) pointed to a small survey, administered by NMHC, to argue that regulations will decrease developers’ involvement in the real estate market. This survey was not conducted using rigorous methods and included findings from only 49 landlords and developers, not a representative sample.<sup>1</sup> Furthermore, the NMHC statistic that “a majority of the 49 developers avoiding development in jurisdictions with rent control” does not reflect a relevant comparison when considering a national policy to prevent egregious rent hikes that would be consistent across market contexts. In fact, the idea that a developer would move to a different market to evade a specific regulatory context is yet another reason why developing federal policy for tenant protections and rent regulations will help prevent policy loopholes and create a fairer housing market.

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<sup>1</sup> Emrath, Paul and Caitlin Sugrue Walter. (2022). “Regulation: 40.6 Percent of the Cost of Multifamily Development.” *National Multifamily Housing Council and National Association of Home Builders*.

## METHODOLOGY

The data used in this report comes from a review of responses submitted to the FHFA's Input Submissions page.<sup>2,3</sup> First, researchers reviewed responses submitted to the Federal Housing Finance Agency (FHFA) Request for Input (RFI) on Tenant Protections For Enterprise-backed Multifamily Properties. The authors delineated all 3,537 responses into the following categories: submissions made by respondents opposed to tenant protections in Enterprise-backed properties and submissions made by tenants or tenant protection proponents. From there, the authors categorized the proponent responses based on their explicit identification as a tenant, homeowner ally, research center, congressional office, or academic. Similarly, the industry submissions were categorized based on the respondents' explicit affiliation with the National Association of Realtors, Institute of Real Estate Management, apartment associations, multifamily housing providers, housing operators respondents, and Who's Your Landlord. Industry responses that did not fall into the following categories were labeled unique individuals. Lastly, the content of each comment was assessed for its position on rent regulations, rent hikes, or tenant protections more broadly. 21 responses were counted as duplicates and 78 comments were identified to be off topic, neutral as it pertains to rent hikes or rent regulations, or lacking written content and attachment.

The authors also analyzed and compared trends reflected in prior FHFA Request for Inputs to further contextualize the scale of tenant engagement with this RFI. The authors identified a standard of relevance, which they generally applied to each FHFA RFI topic to determine whether the topic in question: (A) could influence the multifamily housing finance system in a manner that promoted or established tenant protections and (B) was of consequence in determining which tenant protections should be applied to Enterprise-backed properties.

Using this criteria, the authors developed a repository of prior RFI topics that met the relevance standard and narrowly tracked and analyzed the comment submissions posted to that scope of RFI topics publicly on the FHFA's Input Submissions page.<sup>4,5</sup> Once the authors established the scope of relevance, they compared the emerging response trends with responses submitted to the FHFA RFI on tenant protections.

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<sup>2</sup> RFI topics that fell within the scope of relevancy include: 2022 DTS Affordable Housing Preservation, 2022 DTS Manufactured Housing, 2022 DTS Rural Housing, 2023 Duty to Serve Listening Sessions, Duty to Serve Modification Request - Fannie Mae Spring 2023, Equitable Housing Finance Plans, FHFA's Strategic Plan: Fiscal Years 2022-2026, Short-Term Rental Projects, Strategic Plan: Fiscal Years 2018-2022, and Strategic Plan: Fiscal Years 2021-2024.

<sup>3</sup> FED. HOUS. FIN. AGENCY, 2022 DTS AFFORDABLE HOUSING PRESERVATION: REQUEST FOR INPUT (JUL. 2022)  
<https://www.fhfa.gov/AboutUs/Contact/Pages/input-submissions.aspx>

<sup>4</sup> RFI topics that fell within the scope of relevancy include: 2022 DTS Affordable Housing Preservation, 2022 DTS Manufactured Housing, 2022 DTS Rural Housing, 2023 Duty to Serve Listening Sessions, Duty to Serve Modification Request - Fannie Mae Spring 2023, Equitable Housing Finance Plans, FHFA's Strategic Plan: Fiscal Years 2022-2026, Short-Term Rental Projects, Strategic Plan: Fiscal Years 2018-2022, and Strategic Plan: Fiscal Years 2021-2024.

<sup>5</sup> FED. HOUS. FIN. AGENCY, 2022 DTS AFFORDABLE HOUSING PRESERVATION: REQUEST FOR INPUT (JUL. 2022)  
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