July 27, 2023

To: Federal Housing Finance Agency (FHFA)
Re: Tenant Protections for Enterprise-Backed Multifamily Properties Request for Input

Dear Director Thompson and FHFA colleagues:

As academics and researchers focused on safeguarding communities against the threats of climate change, we are acutely aware of the need for federal housing policies that protect families and our changing planet. With this in mind, we are submitting a response today to the Request for Information on Tenant Protections that the FHFA has issued.

Housing injustice and climate injustice are inextricably linked, and at its most fundamental level, these crises prevent people from living safe lives. Decarbonizing our economy to safeguard against the worst of climate change will require a fundamental shift in land use and housing practices, and the federal government has an invaluable role to play. While the Biden Administration has taken needed steps to fund decarbonization efforts, a lack of complementary tenant protections mean that these policies could lead to mass displacement and gentrification of communities on the frontlines of the climate crisis. The Biden Administration’s Justice40 commitment will only be fully realized if rent regulations and tenant protections are in effect. Furthermore, given the threat of climate change on the housing real estate market, tenant protections and rent regulations will help promote the safety and soundness of Government Sponsored Enterprises (GSEs) lending practices and the larger economy in the years to come. The FHFA has a historic opportunity to address the co-occurring housing and climate crises by imposing rent regulations for over 12 million households, and we urge you to use your authority to pursue tenant protections.

Question A-1: How should the Enterprises protect tenants in multifamily rental housing? What role should the Enterprises play in providing tenant protections at Enterprise-backed multifamily properties?

The Enterprises should protect tenants in multifamily rental housing by imposing limits on rent hikes for landlords receiving GSE financing, establishing eviction protections for renters, and mandating that landlords follow clear habitability and safety guidelines at their properties.

A combination of historically racist real estate practices, like redlining and exclusionary zoning – combined with the short supply of affordable housing in communities across the country –
forces Black, brown and lower-income households to live in more climate change prone areas.\textsuperscript{1,2} Furthermore, these households are more likely to live in older housing that, absent building retrofits, is often physically deteriorated and more vulnerable to heat waves, hurricanes, and other climate change-intensified disasters.\textsuperscript{3,4,5}

What’s more, we are currently losing affordable housing at a rate faster than we can replace it, in large part due to rent hikes. Recent research shows the supply of low-cost housing units declining consistently over the last decade.\textsuperscript{6} And as climate risks increase, we will see more “naturally occurring” affordable housing lost to disasters; for example, the number of affordable housing units in the U.S. at risk of coastal flooding alone is projected to triple over the next thirty years.\textsuperscript{7} Together, unregulated rent hikes and increasingly severe disasters pose an immense threat to people’s ability to stay safely housed.\textsuperscript{8} Preserving affordable housing in climate-safe communities by limiting rent increases and establishing habitability standards will be immensely important for supporting renters today and the larger real estate market in the years to come.

Further, federal investments themselves are at risk of driving residential displacement at the household and neighborhood level. The Inflation Reduction Act stands to invest upwards of $36.5 billion in housing-related tax credit provisions, aimed predominantly at decarbonizing buildings. This gives landlords the opportunity to make important upgrades to their buildings to make them energy-efficient, climate resilient, and more cost effective. However, without limits to rent increases in place, these government-subsidized investments could be used as an excuse to hike rents beyond what is fair and reasonable for tenants. In this sense, the tenants living in the worst conditions who argue have the most to gain from these changes to their residences, will be left housing insecure. At the neighborhood-level, research has documented how land use changes to promote climate resilience – like greening efforts, parks creation, and mitigation efforts – lead to gentrification and displacement of Black and brown communities.\textsuperscript{9} In

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Pennsylvania, the state just established the Whole Home Repairs Act, which both helps repair and weatherize homes in the state, with specific stipulations around rent hikes – offering a clear connection between keeping rent affordable and providing critical repairs to make houses liveable in a changing climate. The program has already received overwhelming excitement and support.10 The Biden Administration’s commitment to Justice40 environmental justice efforts would be severely undermined if we continue with the status quo of an unregulated real estate market, and the GSEs have an important role to play in setting standards for limiting rent hikes in this process.

With climate change, the cost of being a renter is increasing. While most of the housing crisis discussion focuses on the cost of rent itself, ancillary costs like utility bills during increasingly hot summers and air purification systems during increasingly frequent wildfire smoke exposures are forcing renters to pay more monthly costs than before.11 Federal assistance programs fall woefully short of the scale needed.12 Without government intervention in the U.S. rental market, the cost of being a renter will continue to increase, forcing renters to face even steeper rent burdens.

With this in mind, we believe it is of the utmost importance that the Enterprises condition GSE loan financing on a set of bold and mandatory tenant protections. This includes issuing universal rent regulations that protect tenants from and limit egregious rent hikes, especially in the age of the climate crisis. It should also include conditioning federally backed mortgages on good cause eviction and ensuring tenants have a right to renew their leases. Lastly, tenant protections should extend to the establishment of habitability standards and mandating that landlords keep their properties in safe, accessible condition.

Questions D-5 and D-6: Should the Enterprises define safety and if so, how? Should the Enterprises define housing habitability and if so, how?

The Enterprises should define safety and housing habitability to ensure that no rental property that receives federal financing dollars is threatening the health or safety of tenants. A safe and habitable home is a home where a person can live without the fear of disasters or environmental pollutants. Recognizing that GSE borrowers have an important role to play in safeguarding against the climate crisis, the FHFA should require, to the greatest extent possible, that borrowers are building and renting out energy-efficient, climate safe residences for tenants. Other federal agencies have developed safety and habitability standards that the FHFA can look to in

10 Aaron Moselle. March 2023. “New Pa. program will send millions to Philly area for home repairs and weatherization.” WHYY.
12 Wolfe, Mark. 2022. “Opinion: The heat waves are a wake-up call: The government needs to help low-income families.” CNN.
developing these recommendations, including the U.S. Department of Housing and Urban Development’s Housing Quality Standards for the Housing Choice Voucher program\textsuperscript{13} and the U.S. Department of Health and Human Services Healthy Home Checklist.\textsuperscript{14} The FHFA should build upon these requirements by additionally incorporating standards for the removal of health toxins such as unhealthy levels of mold or pollutants, as well as the installation of appliances needed to safeguard against climate change, such as energy-efficient HVAC systems. Furthermore, where it is safe to live will change with the climate crisis. The FHFA should also include safety measures so that houses are either able to withstand or will not be exposed to extreme weather like hurricanes, extreme heat, wildfires, and floods— all increasing with the onset of the climate crisis.

Loan agreements should include clear enforcement mechanisms and recourse measures should landlords fail to comply with safety and habitability standards set forth by the GSEs. The FHFA should prohibit the GSEs from making future loans to entities that fail to comply with these important safety and habitability standards. Lastly, following many of the recommendations from organizations and experts who submitted comments to the FHFA’s Climate and Natural Disaster Risk Request for Input in 2021, the FHFA should review climate exposures in its analyses of GSE-securitized loans and habitability standards, while ensuring that its lending or standards do not exacerbate climate gentrification.\textsuperscript{15}

Signed,

Daniel Aldana Cohen  
Assistant Professor of Sociology  
University of California Berkeley

Sarah Knuth  
Associate Professor of Geography  
Durham University

Michael Esposito  
Assistant Professor of Sociology  
University of Minnesota

\textsuperscript{13} U.S. Department of Housing and Urban Development Inspection Form: https://www.hud.gov/sites/dfiles/OCHCO/documents/52580A.PDF  
Nick Graetz  
Postdoctoral Research Associate  
Princeton University

Mark Paul  
Assistant Professor  
Rutgers University

Raj Patel  
Research Professor  
Lyndon B Johnson School of Public Affairs, University of Texas at Austin

Nikki Luke  
Assistant Professor  
University of Tennessee, Knoxville

Olúfěmi O. Táiwò  
Associate Professor  
Georgetown University

Alyssa Battistoni  
Assistant Professor  
Barnard College

Emily Grubert  
Associate Professor  
University of Notre Dame

Billy Fleming  
Wilks Family Director, Ian McHarg Center  
University of Pennsylvania

Nate Millington  
Senior Lecturer  
University of Manchester

John Stehlin  
Assistant Professor  
University of North Carolina at Greensboro
Malini Ranganathan  
Associate Professor  
American University

Beki McElvain  
PhD Candidate  
University of California, Berkeley

Mijin Cha  
Assistant Professor  
University of California, Santa Cruz

Dillon Mahmoudi  
Assistant Professor  
University of Maryland Baltimore County

Fayola Jacobs  
Assistant Professor  
University of Minnesota

Peter Hepburn  
Assistant Professor  
Rutgers University - Newark

Richard Nisa  
Special Faculty in the IDeATe Program  
Carnegie Mellon University

Miriam Greenberg  
Professor of Sociology  
University of California, Santa Cruz

David Wachsmuth  
Associate Professor  
McGill University

Liz Koslov  
Assistant Professor of Urban Planning, Environment and Sustainability, and Sociology  
University of California, Los Angeles
Desiree Fields
Associate Professor of Geography and Global Metropolitan Studies
University of California, Berkeley

Karen Chapple
Professor Emerita
University of California, Berkeley

sage ponder
Assistant Professor
Florida State University

Akira Drake Rodriguez
Assistant Professor
University of Pennsylvania

Mark Kear
Assistant Professor
University of Arizona

Stefan Bouzarovski
Professor of Human Geography
University of Manchester

Philip Ashton
Associate Professor of Urban Planning and Policy
University of Illinois Chicago

Zac Taylor
Assistant Professor, Management in the Built Environment
Delft University of Technology

Savannah Cox
Assistant Professor
University of Sheffield

Fritz-Julius Grafe
Postdoctoral Researcher
University of Zurich
Caitlin McMurtry  
Assistant Professor  
Washington University in St. Louis

Joshua Long  
Professor of Environmental Studies  
Southwestern University

Kenton Card  
PhD Candidate  
University of California, Los Angeles

Melissa Fernandez Arrigoitia  
Senior Researcher  
Bristol University

Patrick Bigger  
Research Policy Analyst  
University of California, Berkeley

Emma Colven  
Assistant Professor  
University of Oklahoma

Jared Margulies  
Assistant Professor  
University of Alabama

Elizabeth Wrigley-Field  
Associate Professor of Sociology  
University of Minnesota, Twin Cities

Keith Woodward  
Professor of Social Theory  
University of Wisconsin-Madison

Michael Goldman  
Professor  
University of Minnesota-Twin Cities
Eric Seymour  
Assistant Professor  
Rutgers  

Charles Fogelman  
Assistant Teaching Professor  
University of Illinois Urbana-Champaign  

Guy Crawford  
Lecturer in Global Development & Culture  
Bader College, Queen's University  

Panagiota Kotsila  
Senior Researcher (postdoctoral)  
ICTA-UAB, UNIVERSITAT AUTONOMA DE BARCELONA  

Manuel B. Aalbers  
Professor of Urban and Economic Geography  
KU Leuven, Belgium  

Melissa Garcia-Lamarca  
Marie Skłodowska-Curie Research Fellow  
Polytechnic of Turin  

Dawn Biehler  
Associate Professor  
University of Maryland, Baltimore County  

Lauren Gifford  
Associate Director, Soil Carbon Solutions Center  
Colorado State University  

Eric Nost  
Assistant Professor  
University of Guelph  

Mohammed Rafi Arefin  
Assistant Professor  
University of British Columbia  

Jerome Whittington
Clinical Assistant Professor
New York University

**Hillary Angelo**
Associate Professor
University of California Santa Cruz

**gianpaolo baiocchi**
Director, Urban Democracy Lab
New York University

**Joseph Nevins**
Professor of Geography
Vassar College

**Tammy Lewis**
Professor
City University of New York

**Hugh Deaner**
Adjunct Professor

**Kathleen McAfee**
Professor
San Francisco State University

**Ken Gould**
Professor
City University of New York

**JP Sapinski**
Associate Professor of Environmental Studies
Université de Moncton

**Julia Wagner**
PhD Candidate
Clark University
Melissa Checker  
Professor  
City University of New York

David Madden  
Associate Professor of Sociology and Co-Director, Cities Programme  
London School of Economics

Margaret Wilder  
Professor of Geography and Environment  
University of Arizona

Rachel Weber  
Professor  
University of Illinois at Chicago

Antonella Pietta  
Professor  
University of Brescia

Kian Goh  
Associate Professor of Urban Planning  
UCLA

Lucia Volk  
Professor  
San Francisco State University

Carrie Mott  
Assistant Professor  
University of Louisville

Juanita Darling  
Professor, International Relations  
San Francisco State University