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October 17, 2022

Clinton Jones, General Counsel
Attention: Comments/RIN 2590-AB21
Federal Housing Finance Agency
400 Seventh Street, SW.,
Washington, DC 20219
Via Email: RegComments@fhfa.gov

Re: Community comments: RIN 2590-AB21 2023-2024 Multifamily Enterprise Housing Goals

Dear General Counsel Jones,

California Reinvestment Coalition (CRC), Association for Neighborhood & Housing Development (ANHD), NYC Equitable Reinvestment Coalition, and the undersigned community, housing, and civil rights organizations, write in response to the FHFA's request for comment on the proposed rule for 2023-2024 Multifamily Enterprise Housing Goals.

We support the proposal's methodology that focuses on the percentage, not number, of affordable housing units financed by the Government Sponsored Enterprises (GSEs). However, we are concerned that the proposal fails to hold the GSEs to adequate lending standards and refine what counts as affordable housing units. Specifically, we are seeking policy reforms that will prevent the GSEs from financing loans that contribute to displacement and substandard living conditions for low-income tenants and tenants of color. We also object to FHFA goals being set at levels that are below recent performance by the GSEs.

We urge FHFA to address the growing problems of displacement and substandard living conditions in rental housing for low-income tenants and tenants of color by:

- enhancing anti-displacement due diligence at the GSEs and imposing tenant protection obligations on their lender partners,
- ensuring that loans are underwritten at current rent levels and at expense benchmarks consistent with what it takes to operate safe & decent housing, and that the proceeds from loan capital are used to address outstanding issues and poor conditions,
- refining the circumstances under which units will be deemed affordable for the purposes of the Multifamily Enterprise Housing Goals,
- developing a system to track and make transparent the beneficial owners of GSE borrower entities,



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- committing to proactively intervene in GSE financed properties where displacement, tenant harassment, and improper stewardship of the property is uncovered, and
- agreeing to meet with representatives of the undersigned to discuss these issues further.

We believe that FHFA and the GSEs not only have the authority to address these concerns and adopt these recommendations, but also the obligation to do so under their respective mandates.

Affordable housing goals should push the GSEs to go beyond recent performance. While we support the concept of representing affordable housing goals as a percentage of GSE activity instead of absolute unit counts, the GSEs must do more to finance affordable housing preservation. From 2018 to 2021 in California alone, the GSE's purchased 3,245 loans financing multifamily properties, but over half of these multifamily loans had zero affordable units, and only 7.5% of GSE purchased loans financed buildings that had majority-affordable units.¹ We are disappointed to see that the proposed goals are below past GSE performance.

The proposed rule misses the mark and avoids the key question of what counts. The proposal focuses narrowly on what the goal for affordable housing should be but proposes no changes to the rules governing whether units should count as “affordable.” In order to ensure that the GSEs are financing long-term affordable housing for low-income families and not displacing them, FHFA should revisit the current rules. The larger concern is that what FHFA counts as “affordable” may include units that appear affordable at a point in time, but in fact are vulnerable to eviction, rent increase, uninhabitability and other harm to the very low-income tenants this goal is meant to aid.

Lenders, the GSEs and FHFA are exacerbating displacement and tenant pressures. A significant flaw in the current approach by FHFA is to combine an apparent lack of any anti-displacement due diligence standards with a point-in-time consideration of “tenant and rental information as of the time of mortgage acquisition.”² At best, GSE lenders may be financing displacement and tenant harm without realizing it. At worst, GSE lenders are co-conspirators in the displacement of, and hardship experienced by, countless tenants.

Most landlords require financing to acquire and maintain properties. But many landlords also know that increasing their net income by displacing tenants through evictions or rent hikes is a way to be able to afford larger and larger mortgages that translate into quick profit at the expense of vulnerable tenants. The GSEs should not be involved in rewarding or encouraging displacement or tenant harm through their financing programs.

¹ CRC analysis of HMDA data, 2022.

² 12 CFR Section 1282.15(d)(4).



For lenders and the GSEs, financing problematic landlords can lead to reputational, credit and legal risk. CRC analysis reveals that Bank of the West originated 169 loans to Breckenridge Prop Fund 2016 LL and 8 loans to Breckenridge Property Fund 201, entities that are owned by or are affiliated with Wedgewood, LLC, a real estate firm that has been the subject of significant negative media attention and which was sued by the California Attorney General for egregious practices.³ Capital and Main documented the struggle of certain tenants in Koreatown and LA environs in properties owned by K3 Holdings which has 41 properties mortgaged with lenders including Opus Bank (which became part of Pacific Premier Bank in 2020), Luther Burbank Savings and Cathay Bank.⁴ Goldman Sachs and JPMorgan Chase⁵ have financed Veritas, an LLC that owns and/or operates a large number of rent controlled properties in San Francisco, Los Angeles and other communities, where rents might appear “affordable,” but where tenants have raised concerns about constructive evictions, Code violations, and fee gouging.⁶

Bigger landlords, more vulnerable tenants. Increasingly the housing market is composed of institutional investors, private equity firms, and large corporations, as fewer and fewer tenants are able to rely on mom-and-pop landlords for their housing stability.⁷

As corporate, private equity, Limited Liability Corporation (LLC), and institutional investor control of housing grows, so do problems for tenants. In Milwaukee, LLC ownership has been found to be correlated with numerous measures of housing disrepair. Parcel surveys conducted in Memphis, Tennessee, show that the majority of the most blighted properties in the city belong to LLCs.⁸ In many communities, tenants are routinely subjected to unjust eviction, displacement, harassment and health and safety violations at the hands of large corporate and LLC landlords. Many institutional owners have made evictions part of their business practice, using the filing of an eviction as a tool to extract higher fees from tenants, and shielded from liability, corporate landlords may not maintain their properties.⁹ Practices like neglecting maintenance, serial eviction filing, and housing voucher concentration are profitable. In distressed submarkets, eviction in particular is an endemic phenomenon, and many tenants have faced eviction multiple times at the hands of multiple landlords.¹⁰

³ <https://oag.ca.gov/system/files/attachments/press-docs/complaint%20%281%29.pdf>

⁴ See <https://capitalandmain.com/while-an-industry-feeds-on-the-destruction-of-rent-control-help-is-on-the-way> .

⁵ <https://www.sfchronicle.com/projects/2022/veritas-san-francisco-landlord/>

⁶ <https://www.sfweekly.com/news/another-68-veritas-tenants-sue-the-mega-landlord/>

⁷ <https://calreinvest.org/wp-content/uploads/2022/09/Beneficial-Owner-Transparency-Factsheet.pdf>

⁸ <https://shelterforce.org/2022/08/23/when-landlords-hide-behind-llcs/>

⁹ https://drexel.edu/~media/Files/nowak-lab/220923_InvestorHomePurchases_Final.ashx?la=en

¹⁰ THE PRACTICE OF LANDLORDING: A Sectoral Analysis of Lessors of Residential Buildings and Dwellings Industry (NAICS 53111) in Los Angeles County and California Prepared for: Alliance of California for Community Empowerment (ACCE) Bargaining for the Common Good. Prepared by: Alexander Ferrer Anastasia Tikhmyanova



LLCs, REITs and other investment vehicles own 67% of the rental housing in Los Angeles.¹¹ Corporate ownership is related to increased eviction and displacement; housing destabilization; extractive rents and gentrification; slum conditions; harassment and other unethical management practices; speculation; tax evasion; and vacancy.¹² While there are hundreds of thousands of proprietors in Los Angeles county, the largest 0.1% of landlords own over 21% of all rental units, and the top 1% own over 40% of all units. Two of the largest landlords in Los Angeles operate multiple affiliated LLCs and have been subject to anecdotal and documented evidence of problematic conduct, including health and safety code violations.¹³ Between 2001 and 2019, over 26,500 housing units were taken off the rental market and tenants were evicted in Los Angeles solely by landlords invoking the state’s Ellis Act, which many tenant advocates view as a way for landlords to circumvent tenant protection laws.¹⁴

Corporate consolidation of property ownership continues to grow. The top ten corporate residential landlords operating in California own or manage at least 184,000 units of housing in the state, have wealth totaling over \$55 billion, and have seen their wealth increase \$7.9 billion since mid-March 2020. These ten corporate landlords have amassed over \$191 billion in “cash on hand”— loans, cash and other funds from investors, banks, and financial firms — to purchase homes and companies active in the market, according to one report.¹⁵

The GSEs and private equity. In light of these trends, GSE lending programs should be focused on preventing displacement, harassment, and unsafe conditions, particularly among corporate entity borrowers. However, all indications are that the GSEs have engaged in lending to these corporate entities without considering protections for tenants. For instance, large

Anne Yoon Zhendong Long (Jayden) UCLA Luskin School of Public Affairs UP237A – Sectoral Analysis Instructor: Justin McBride Fall 2021.

¹¹ Alexander Ferrer, “Beyond Wall Street Landlords: How Private Equity in the Rental Market Makes Housing Unaffordable, Unstable, and Unhealthy,” SAJE, March 2021, available at:

https://www.saje.net/wpcontent/uploads/2021/03/Final_A-Just-Recovery-Series_Beyond_Wall_Street.pdf

¹² https://www.saje.net/wp-content/uploads/2021/03/Final_A-Just-Recovery-Series_Beyond_Wall_Street.pdf

¹³ THE PRACTICE OF LANDLORDING: A Sectoral Analysis of Lessors of Residential Buildings and Dwellings Industry (NAICS 53111) in Los Angeles County and California Prepared for: Alliance of California for Community Empowerment (ACCE) Bargaining for the Common Good. Prepared by: Alexander Ferrer Anastasia Tikhmyanova Anne Yoon Zhendong Long (Jayden) UCLA Luskin School of Public Affairs UP237A – Sectoral Analysis Instructor: Justin McBride Fall 2021.

¹⁴ See Anti Eviction Mapping Project and Corporation for Economic Survival at

<http://www.cesinaction.org/MapofEllisActEvictions.aspx> analyzing data obtained from the Los Angeles Department of Housing and Community Development.

¹⁵ Bargaining for the Common Good, the Institute for Policy Studies, and Americans for Financial Reform Education Fund. “Cashing in on Our Homes: Billionaire Landlords Profit as Millions Face Eviction,” March 2021, available at <https://ips-dc.org/wp-content/uploads/2021/03/Cashing-in-on-Our-Homes-FINAL-revised.pdf>



private equity firms accounted for 85% of Freddie Mac's 20 biggest deals financing apartment complex purchases by a single borrower.¹⁶ Americans for Financial Reform in its comments on the Duty to Serve and GSE financing of private equity-owned manufactured housing noted, "There is clear evidence that private equity owners of multifamily housing raise rents, impose new fines and fees, skimp on upkeep, and aggressively use the court system to evict residents."¹⁷ In its comments, MHA Action noted, "Private equity investors and major corporate landlords have driven up prices, using inflation as an excuse, and maximized profits."¹⁸

Case Study: Freddie Mac and Emerald Equity. In New York City, the case of private equity backed landlord Emerald Equity Group highlights the problem of GSE lending to corporate actors. In 2016, Emerald Equity Group acquired close to \$500 million in rent-regulated housing across more than 80 buildings in working class neighborhoods of color in the Bronx and East Harlem. By 2017 Emerald's portfolio was fully refinanced through Freddie Mac's Small Balance Loan (SBL) program at a total of over \$320 million. The Bronx portfolio was refinanced by SBL for almost \$35 million more than the acquisition financing, which allowed Emerald to profit immensely, recouping nearly their entire equity investment in just over a year.¹⁹

According to Freddie Mac itself, the SBL program is meant to provide liquidity to stabilize unsubsidized, de-facto affordable housing in underserved markets.²⁰ Yet despite the hundreds of millions provided to Emerald Equity Group, tenants in these properties have suffered immensely. Since 2016, Emerald Equity Group has become well-known for displacement, harassment, and illegal tactics in New York City. Reporting about their East Harlem portfolio details unbearable living conditions for low-income tenants, including rat infestations, lack of gas and hot water due to illegal renovations on vacant apartments, aggressive buyout offers accompanied by threats to report undocumented households, and more. In yet other instances, Emerald Equity was caught trying to illegally deregulate units in the Bronx in order to raise rents exorbitantly on working class tenants of color.²¹ They have also been caught illegally siphoning off money from tenants' security deposits.²²

¹⁶

https://www.propublica.org/article/when-private-equity-becomes-your-landlord?utm_medium=social&utm_source=twitter

¹⁷ <https://ourfinancialsecurity.org/2022/08/letters-to-regulators-letter-to-fhfa-on-duty-to-serve-plans/>

¹⁸ <https://mhaction.org/wp-content/uploads/2021/05/MHAction-DIsplacement-Inc-English.pdf>

¹⁹ For a detailed account, see:

https://www.jjay.cuny.edu/sites/default/files/contentgroups/economics/working_paper_-_housing_financialization_rent_control_ju_feb2020_002.pdf

²⁰ https://mf.freddiemac.com/docs/small_balance_loans.pdf

²¹ <https://bronx.com/hundreds-of-bronx-tenants-win-new-york-state-decision-to-keep-their-apartments-rent-stabilized/>

²² <https://therealdeal.com/2021/02/23/emerald-equity-siphoned-security-deposits-at-now-bankrupt-buildings/>



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Loans for landlords, decrepit conditions for tenants. In addition to financing that encourages displacement, mortgage loans can often negatively impact tenants' living conditions, through both underwriting practices that lock in substandard conditions and the lack of any requirements that loan proceeds are used to address outstanding maintenance issues. This type of financing is prevalent among the GSEs and private financial institutions alike and creates a situation whereby rental housing properties that house low-income tenants of color can be both highly valued and receive ever larger mortgages at refinance on the one hand, and also sites where tenants are left to deal with unsafe and unhealthy apartments on the other.

An analysis of available data on the operations of buildings financed by Freddie Mac's SBL program shows that across the United States, SBL loans are underwritten in ways that assume extremely low expense levels and extremely high debt service levels.²³ For instance, as of June 2021, operating expenses at the time of underwriting for Freddie Mac financed properties in New York, Brooklyn, and the Bronx were 31%, 26%, and 39% of rental income respectively, whereas debt service was at 56%, 59%, and 48% of rental income respectively. What this means is that the majority of rental dollars are going to pay debt service, leaving relatively little left over to operate the property safely. In contrast, preservation-minded operators like non-profit CDCs often believe that expense-to-income ratios must be much higher in order to ensure adequate levels of maintenance in the types of buildings that the SBL program finances. This is not just a New York City phenomenon. According to Freddie Mac data, in cities like Los Angeles, Chicago, Seattle, Philadelphia and more, expense-to-income ratios for SBL financed properties hover at around 35%, whereas debt service is more than 50% of rental income.

One might imagine that the loan capital that is supported by high debt service levels is used for reinvestment to make up for these low operating expense figures, but in fact all signs point to the contrary. According to recent research conducted by the Local Initiatives Support Corporation (LISC) and University Neighborhood Housing Program (UNHP), high amounts of additional loan capital in NYC rental housing are statistically associated with significantly worse living conditions, measured by housing code violations.²⁴ Far from being about reinvestment, then, this is evidence that mortgages to rental housing are often *extractive*, pulling money away from operations to pay for ever greater debt service amounts to cover mortgages through which landlords have not reinvested but rather cashed out. Moreover, Freddie Mac and Fannie Mae financed borrowers in New York City, despite being provided millions of dollars in mortgage proceeds, still seem to frequently operate buildings at substandard levels. According to UNHP's Building Indicator Project, a database of physical and financial distress in multifamily rental

²³ Data used for this analysis is publicly available via Freddie Mac's investor portal: <https://fm-msia.com/>

²⁴ <https://www.lisc.org/our-resources/resource/gambling-homes-or-investing-communities/>



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housing in New York City, Freddie Mac and Fannie Mae financed properties are more likely to be in physical distress than average, with almost 30% of the 3,000 properties they have financed in NYC having at least one open housing code violation per unit.²⁵

Simply put, the GSEs fall short of their mission to preserve affordable housing when they do not ensure that the use of loan proceeds goes to rehabilitation and to improving conditions for tenants who live with hazards to their health and safety. And when the GSEs then underwrite loans at debt service levels that all but ensure under-investment in properties they fully abdicate that mission, by serving as partners in a financing system that enriches landlords while their tenants languish in indecent and unsafe apartments.

Who owns our neighborhoods? The need for Beneficial Ownership transparency. Merely identifying, let alone holding accountable, problematic landlords can be near impossible in light of the reliance by most corporate landlords on LLC and similarly opaque legal structures. Property law and recordation requirements have been on the books for many years, with the goal of ensuring transparency and clarity of ownership and property rights.

But the dramatic rise in the use of LLCs to acquire properties has made opaque a system that was meant to be transparent. The extensive use of LLCs has frustrated attempts by tenants, local code enforcement officials, and local and state policy makers to address violations of tenant protection, code enforcement, rent stabilization, anti-harassment, and fair housing laws. Whereas in 1991, the Census Bureau reported that 92% of all rental properties were owned by named individuals, today, anonymous shell companies own 18 million out of 48 million rental units nationwide, nearly 40% of the market.²⁶

This point was made plain in a just-released analysis by the San Francisco Chronicle of property ownership in the San Francisco Bay Area. After a year-long analysis of 7 million records that required use of Machine Learning methods, the reporters could still not be certain as to the accuracy of their findings. “Quickly, we learned it wasn’t so simple. California doesn’t have hard-and-fast rules on how property owners identify themselves; large corporations, hedge funds and even wealthy families often purchase multiple homes through shell companies or trusts, shielding their names from ownership records. It’s only by carefully tracing (how) networks of SF Bay Area housing market is shaped by these secret power players that one can start to grasp how much property an entity actually has.”²⁷

²⁵ <https://unhp.org/projects/bip-hood-mac>

²⁶ D. VICTORIA BARANETSKY, “You should have the right to know your landlord’s name,” LA Times Op-Ed, February 24, 2021, at: <https://www.latimes.com/opinion/story/2021-02-24/rental-housing-shell-companies-landlords>

²⁷ <https://www.sfchronicle.com/projects/2022/bay-area-housing-power-players/>



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“This just goes to show how hard it is to the answer the very basic question of who owns the home you’re renting, and as long as that’s the case we are just going to continue to see more legal disputes and more controversy over how this is all impacting renters in one of the country’s most expensive places to live.”²⁸ The Chronicle report noted that a number of the largest property owners in the Bay Area were subject to allegations of undue evictions, displacement, fee gouging, health and safety violations, or in one case, unlawful bid rigging.

There is slow progress in providing transparency through beneficial ownership reporting. The Treasury Department just finalized federal rules under the Corporate Transparency Act, though beneficial ownership information is only accessible for law enforcement purposes.²⁹ Helpful and important beneficial ownership statutes and ordinances have been passed in New York, Philadelphia, and Washington D.C.³⁰ Several European countries, including Great Britain, have adopted beneficial ownership regimes.³¹ In Congress, Senator Warnock has introduced a bill to increase data collection on rental property, including ownership and habitability issues.³² But in the absence of any broad, public and transparent beneficial ownership registry in place, it is incumbent upon FHFA and the GSEs to act. The GSEs should know their customers by running checks on the beneficial owners of their borrowers to see what other properties are owned by the same beneficial owners, and how these owners are operating all of their properties.

The GSEs have the authority and the responsibility to ensure they are not financing displacement. FHFA’s Strategic Plan for fiscal years 2022-2026 calls on FHFA to advance equity in housing finance, including through compliance with fair lending laws and regulations.³³ But FHFA cannot accomplish its mission and these objectives if it allows the GSEs to finance problematic landlords that make more inequitable and precarious the housing situations of tenants who are disproportionately people of color, families, seniors, Limited English Proficient residents, persons with disabilities and other community members who are protected by fair housing and fair lending laws.

²⁸ Reporter Lauren Hepler, interviewed on “Who Owns All the Housing in the Bay Area?” Fifth & Mission podcast, at: <https://podcasts.apple.com/us/podcast/who-owns-all-the-housing-in-the-bay-area/id1457274965?i=1000580078907>

²⁹ <https://thefactcoalition.org/the-fact-coalition-welcomes-first-final-rule-to-implement-landmark-corporate-transparency-act/>

³⁰ <https://www.latimes.com/opinion/story/2021-02-24/rental-housing-shell-companies-landlords>

³¹ <https://sgp.fas.org/crs/misc/R45798.pdf>

³²

[https://www.congress.gov/bill/117th-congress/senate-bill/4737?loclr=cga-bill&utm_source=NLIHC+All+Subscribers&utm_campaign=ab42aee44b-memo_082922&utm_medium=email&utm_term=0_e090383b5e-ab42aee44b-291636077&ct=t\(memo_082922\)](https://www.congress.gov/bill/117th-congress/senate-bill/4737?loclr=cga-bill&utm_source=NLIHC+All+Subscribers&utm_campaign=ab42aee44b-memo_082922&utm_medium=email&utm_term=0_e090383b5e-ab42aee44b-291636077&ct=t(memo_082922))

³³ https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/FHFA_StrategicPlan_2022-2026.pdf



The Freddie Mac Equitable Housing Finance Plan is more explicit in noting that it will consider the need to preserve and not displace communities intended to benefit from new investments.³⁴ “The risk of lost affordability and displacement is particularly acute for Black and Latino renter households, which are disproportionately represented in NOAH and LIHTC properties. As of 2019, more than 30 percent of LIHTC households were Black and 15.5 percent were Latino, compared to 27.7 percent being white...McKinsey research from 2020 shows that 62 percent of NOAH units in Los Angeles County are in “zip codes where more than half of residents are people of color... *Too often, those motivated to purchase at-risk affordable housing and keep it affordable must compete with buyers whose intention is to increase rents.* Additional and deliberate preservation efforts leveraging private capital are necessary to address this issue.”³⁵

But are deliberate preservation efforts being undertaken to address this issue, and are FHFA and the GSEs doing enough to ensure they are not financing “buyers whose intention is to increase rents?” We do not think so.

There is precedent for FHFA to qualify the definition of what counts to satisfy the Affordable Housing Goal. FHFA created two new single family affordable housing subgoals - A Minority Census Tracts Home Purchase Subgoal and a Low Income Census Tracts Home Purchase Subgoal,³⁶ perhaps in response to similar concerns that GSE single-family financing was fueling displacement.³⁷ In the manufactured housing context, the GSEs are now insisting that borrowers honor Tenant Site Lease Protections³⁸ in response to concerns from manufactured home residents. Additionally, though quite limited, the banking regulators in revising the Community Reinvestment Act rules are proposing to qualify what counts as community development under the CRA in order to screen out investments which could lead to displacement.³⁹

Models exist, but the GSEs should be leading. Advocates throughout the country have made noteworthy progress in bringing transparency and accountability to problematic landlords and

³⁴ <https://www.freddiemac.com/about/pdf/Freddie-Mac-Equitable-Housing-Finance-Plan.pdf> p. 16.

³⁵ <https://www.freddiemac.com/about/pdf/Freddie-Mac-Equitable-Housing-Finance-Plan.pdf> p. 72.

³⁶

<https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Finalizes-2022-2024-Single-Family-and-2022-Multifamily-Housing-Goals-for-Fannie-Mae-and-Freddie-Mac.aspx#:~:text=The%20single%2Dfamily%20home%20purchase,financing%20in%20communities%20of%20color>

³⁷

<https://calreinvest.org/press-release/over-130-organizations-call-on-fhfa-to-review-policies-that-are-fueling-displacement/>

³⁸

<https://multifamily.fanniemae.com/financing-options/specialty-financing/manufactured-housing/tenant-site-lease-protections-pricing-initiative>

³⁹ <https://www.federalreserve.gov/consumerscommunities/files/cra-npr-fr-notice-20220505.pdf> (see Question 15 and related discussions about displacement).



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their lender financiers through corporate and policy campaigns. In 2021, the JustFix team and the Right to Counsel NYC Coalition released a data-driven list of New York landlords who had sued the most tenants for eviction during the COVID-19 crisis, and “had banks listed as lenders for some landlords reach out to us as they used data to gauge reputational risk—to decide whether it’s unsafe to provide funding for these landlords on the list.”⁴⁰

The Association for Neighborhood & Housing Development has developed Multifamily Lending Best Practices⁴¹ that have informed New York Department of Financial Services guidance,⁴² as well as the city’s worst landlords list⁴³ and the worst lenders list.⁴⁴ Meanwhile, the California Reinvestment Coalition has developed an Anti-Displacement Code of Conduct,⁴⁵ endorsed by over 100 groups, to encourage lenders to enhance due diligence and know their customers in order to mitigate displacement pressures and impacts.

But the GSEs must do more to prevent the financing of displacement, uninhabitable living conditions, and other tenant harm, for the sake of their mandates and for the sake of the low-income families they are meant to support.

Recommendations: In light of these concerns, we urge FHFA to:

- Conduct an analysis of prior Multifamily Enterprise Housing Goal performance in order to ascertain what percentage of those units are still affordable today, were suffered no code violations, did not result in tenant evictions, and were not subject to litigation or enforcement agency actions alleging non-compliance with consumer protection, habitability, Code Enforcement, rent stabilization, anti-harassment, fair housing, and related laws. In other words, FHFA should conduct an analysis to see if units FHFA deemed “affordable” a few years ago are still affordable and occupied by the same families. FHFA should identify which lenders and landlords are disproportionately responsible, if any, for problematic conduct. FHFA must make this data analysis public.
- Finalize a rule where affordable housing goals are set at a percentage of all financed units that exceeds past performance, and that also clarifies and further defines what counts as “affordable” for the purpose of satisfying Multifamily Enterprise Housing Goals. The rule must tie affordable housing goals to additional requirements, such as the development of due diligence policies consistent with ANHD’s Multifamily Best

⁴⁰ <https://shelterforce.org/2022/08/29/can-we-prevent-slumlords-from-buying-more-buildings/>

⁴¹ https://anhd.org/wp-content/uploads/2017/06/ANHD_Best-Practices-in-Multifamily-Lending.pdf

⁴² <https://www.dfs.ny.gov/system/files/documents/2020/03/il141204.pdf>

⁴³ <https://landlordwatchlist.com/landlords>

⁴⁴ <https://patch.com/new-york/prospectheights/these-banks-finance-citys-worst-landlords>

⁴⁵ <https://calreinvest.org/about/code-of-conduct/>



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Practices⁴⁶ or CRC's Anti-Displacement Code of Conduct,⁴⁷ as well as tenant protections such as just cause eviction and rent control, in order to ensure there is community benefit, not displacement.

- Promote transparency by publicizing newly required (by FHFA) and adopted (by the GSEs) due diligence standards and make data public on GSE multifamily housing borrowers as well as those borrowers and projects accounting for affordable housing goal credit. These standards should address loan underwriting, tenant protections, use of loan proceeds, and clear processes for intervening in properties where issues like harassment, displacement, or building neglect arise.
- Commit to address the issue of Beneficial Ownership by developing an FHFA Beneficial Owner borrower registry that is public. Beneficial ownership reporting and disclosure requirements should focus on all opaque legal entity structures used by landlords (such as Limited Liability Corporations, Limited Partnerships, Trusts, REITs, etc.), should result in the identification of the natural person or persons who own 25% or more of the property, should ultimately cover multifamily and single-family properties, and should constitute a public, searchable database.
- Agree to meet with representatives of organizations endorsing this letter, in order to discuss these issues further.

We believe that in order for FHFA and the GSEs to meet their responsibility to low-income households, FHA and the agencies must adopt the above recommendations.

Thank you for your consideration of our views. If you have any questions about this letter, or to arrange for further discussion, please feel free to contact Kevin Stein (kstein@calreinvest.org) or Jacob Udell (judell@unhp.org).

Very Truly Yours,

Jyotswaroop Bawa
Chief of Organizing and Campaigns

Jamie Buell
Research Analyst

Kevin Stein
Chief of Legal and Strategy

⁴⁶ https://anhd.org/wp-content/uploads/2017/06/ANHD_Best-Practices-in-Multifamily-Lending.pdf

⁴⁷ <https://calreinvest.org/about/code-of-conduct/>



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Endorsing organizations:

1. Alliance for Housing Justice
2. Americans for Financial Reform Education Fund
3. Association for Neighborhood and Housing Development (ANHD)
4. California Coalition for Rural Housing
5. California Reinvestment Coalition (CRC)
6. Center for Responsible Lending
7. Community Economics, Inc.
8. Council of Community Housing Organizations
9. Crenshaw Subway Coalition
10. Disability Community Resource Center
11. East LA Community Corporation
12. Esperanza Community Housing Corporation
13. Fair Housing Council of the San Fernando Valley
14. Housing Rights Committee of SF
15. Lienhard & Grumbach PLLC
16. Mountain State Justice, Inc.
17. Mutual Housing California
18. National CAPACD- National Coalition for Asian Pacific American Community Development
19. National Community Reinvestment Coalition
20. National Fair Housing Alliance
21. National Housing Law Project
22. NYC Equitable Reinvestment Coalition
23. Public Advocates
24. Reinvent South Stockton Coalition, a CRC Member
25. Sacramento Environmental Justice Coalition (SACEJC)
26. Sacramento Homeless Union
27. Sacramento Tenants Union
28. Sandra McNeill Consulting
29. Sonoma Valley Housing Group
30. Strategic Actions for a Just Economy (SAJE)
31. Thai Community Development Center
32. The Central Valley Urban Institute
33. The Greenlining Institute
34. University Neighborhood Housing Program
35. Urban Habitat