March 30, 2023

The Honorable Sandra L. Thompson
Director
Federal Housing Finance Agency
400 Seventh Street SW
Washington, DC 20024

RE: Comprehensive Review of the Federal Home Loan Bank System

Dear Director Thompson:

The National Multifamily Housing Council ("NMHC") and the National Apartment Association ("NAA") (the "Associations"), and their members – owners, managers, developers, and financiers in the nation's multifamily housing industry. On behalf of the Associations, we provide these comments to the Federal Housing Finance Agency's ("FHFA") with respect to its efforts to conduct a comprehensive review of the Federal Home Loan Bank ("FHLB") system. The Associations appreciate and commend FHFA's ongoing commitment to review the 90-year history of the FHLB system and seek public input as it considers additional changes to be made to the current system in order to enhance the benefits each FHLB offers to communities nationwide, and in doing so, extend the reach of the applicable programs and initiatives to further the FHLB system's statutory mission.

The Associations appreciate the importance of the FHLB system to the current nationwide housing market. However, we recommend that the FHFA and FHLB system take additional steps to better incorporate *multifamily housing* as part of its housing and community development initiatives and affordable housing programs. Traditionally, the FHLB system has primarily focused on advancing *single family housing* for communities across the country; however, the current economic environment and FHFA's decision to conduct a review of the FHLB system provide the perfect opportunity for the FHFA and broader FHLB system to add additional and much-needed focus on multifamily housing efforts, and in doing so, advance its affordable housing and community development statutory mission in a more effective and efficient manner. The Associations stand ready to work with FHFA and FHLBs system to increase affordable housing.

(I) Background:

For more than 26 years, NMHC and NAA have partnered to provide a single voice for America's apartment industry. Their combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management, finance, and suppliers partners/service providers. NMHC represents the principal officers of firms that own, develop, manage, and finance apartments. As a federation of more than 145 state and local affiliates, NAA encompasses over 95,000 members, 141 affiliates, and more than 11.6 million apartment homes globally. The apartment industry today plays a critical role in housing this nation's households by providing apartment homes to 38.9 million residents, contributing $3.4 trillion annually to the economy.

The Associations recognize and appreciate that neither the FHFA, nor any of the FHLBs, are strangers to the affordable housing crisis facing communities around the country. Each year, more and more Americans are unable to afford rental payments for their homes due to the lack of supply, barriers to development, and regulatory burdens. In fact, the total share of cost-burdened households (those paying more than 30 percent of their income on housing) increased steadily from 28% in 1985 to 36.9% in 2021 and is growing, while others have been priced out of their applicable communities altogether.[1] Further, NMHC's January 2023 Quarterly Survey of Apartment Market Conditions[2] indicate the following troubling statistics:

- More than three-quarters of respondents (82%) reported declining sales volumes from three months prior;
- Nearly two-thirds (63%) indicated equity financing was less available; and
- Fully 60% said it was a worse time for mortgage borrowing compared to three months earlier.

The clear solution to solving the affordable housing crisis in the United States is to boost (i) affordable housing supply nationwide and (ii) related tax and other subsidies and incentives for public-private partnerships, developers, and other market participants. The Associations can and want to do more in coordination with the FHLB System.

The FHLB was created in part to boost the affordable housing supply. However, in the 90 year history of the FHLB system, individual FHLBs have often focused on building and implementing programs and initiatives that enhance single family housing or homeownership without an equal focus on multifamily housing. Respectfully, there has been a significant missed opportunity on the part of the FHLB system over the last 90 years when it comes to multifamily housing. Accordingly, the Associations respectfully urge FHFA and each FHLB to focus on and invest in multifamily housing efforts given the positive impacts such investments will have in helping to solve the nation's affordable housing crisis for all communities, particularly underserved, urban, and rural communities.

(II) Newfound Focus on Multifamily Housing Should Be an Integral Aspect of FHFA's "All Hands on Deck" Approach to Addressing the Affordable Housing Crisis:

The FHLB system's statutory mission is to support affordable housing and community development in several ways, most notably, by providing FHLB members with reliable sources of liquidity via advances for housing finance, community lending, and asset liability management needs. In addition, the FHLB system offers a number of affordable housing and community development programs and initiatives, including, most notably, the Affordable Housing Program ("AHP") and the Community Investment Program ("CIP"). As noted above, the traditional focus of FHLB advances and programs such as AHP and CIP have been on single-family housing and/or home ownership. As the FHFA seeks to assess the successes and failures of the FHLB system in meeting its statutory mission over the last 90 years, and what steps it can take to help the system better serve its statutory mission, the Associations strongly urge FHFA and the broader FHLB system to expand the reach of its programs and other efforts into the multifamily housing space to more effectively and efficiently serve underserved communities and satisfy its statutory mission.

The Associations offer the following suggestions for the FHLBs as part of the review:

- **Incentivize FHLB Members and Program Participants to Expand Their Products and Services in the Multifamily Housing Space**: Each FHLB contributes 10% of their annual profits to AHP, of

[1] NMHC tabulations of 1985 American Housing Survey microdata, U.S. Census Bureau; 2021 American Housing Survey, U.S. Census Bureau.

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

which such funds are used by applicable members that work with housing developers, community organizations, credit unions, among others, to provide liquidity and other opportunities for expanding rental and/or homeownership opportunities as well as lowering costs for the same via support for down payments or rehabilitation costs with respect to the rehabilitation or purchase/rental of existing units.

- During the listening sessions hosted by FHFA related to its ongoing review of the FHLB system, many participants were community banks, credit unions, and community development financial institutions ("CDFIs") who participate in housing finance and mortgage finance, including the multifamily housing market. The Associations urge FHFA and the broader FHLB system to consider updates to AHP, CIP and other programs and initiatives related to affordable housing to incentivize more lenders, particularly community banks, credit unions, CDFIs, and small to mid-sized financial institutions, to engage in multifamily housing lending and other ways in which multifamily housing can be better served to tackle the nation's affordable housing crisis. For example, the Associations recommend that FHLBs extend the term of advances and other funding under CIP beyond five years to better meet the needs of multifamily borrowers. This will provide greater flexibility for housing market participants, while enabling multifamily housing borrowers to benefit from the CIP program more effectively and efficiently. In addition, CDFIs play an important role in providing mortgage loans for all types of affordable housing, including multifamily housing, as well as filling a market need for loans that may be too small for larger financial institutions. The Associations encourage FHFA and the FHLBs to consider innovative programs that would incentivize not only larger entities that are members of individual FHLBs, but also smaller institutions as well as CDFIs, to become more involved in the multifamily housing market.
- As part of this "all hands-on deck" approach, following finalization of Community Reinvestment Act ("CRA") regulations, FHFA and/or each FHLB should develop new and innovative programs that directly support increased investments in the multifamily housing space. For example, under the criteria underlying FHFA's annual Scorecard for Fannie Mae and Freddie Mac (collectively, the "Enterprises"), as well as pursuant to the Housing and Economic Recovery Act of 2008, FHFA and the Enterprises are required to focus the scope of certain programs on smaller affordable housing complexes, which typically are 5-50 units. Accordingly, their reach is limited in part due to the use of DUS and Optigo networks as well as a limited set of lending institutions that are involved with such efforts. In contrast, the FHLB system, including its 6,800 members, are not subject to such limitations, and therefore, have a far greater reach in terms of originating multifamily loans across communities nationwide. Increased direct support by FHLBs in the multifamily housing space will enable more families and communities to receive loans and other financial assistance to access such affordable housing units.

- **Potential Expansion of FHLB Membership Can Expand Financing Options for Multifamily:** Over its 90 year history the FHLB system has changed as the banking and finance industry has changed. As FHFA undertakes the review of the overall FHLB system, the state of the finance market, specifically for housing must be part of that evaluation. Today Independent Mortgage Bankers (IMB) are significant originators and servicers of both single-family and multifamily loans. The present membership structure of the FHLB prevents IMBs from becoming part of the FHLB system. Broadening the eligible FHLB membership to include IMBs could allow the system better to achieve its mission of serving affordable housing and community support. The IMBs could use the FHLB during time of economic stress when their traditional banking relationships may become impacted such as the recent SVB collapse. Additionally, the IMBs could originate and obtain financing on a collateralized basis for multifamily originations.

We recognize the importance of maintaining the safety and soundness of the FHLB system is a critically important step and should be carefully considered when allowing new members to enter the system. Existing membership evaluation will be required to include IMBs, but we believe it can be done in a manner that strikes an appropriate balance between safety and soundness and the entrance of new members. We also recognize that admitting new members may require legislative action by Congress.

- **FHLB Programs Should Encourage the Adaptive Reuse of Underutilized Commercial Properties into Multifamily Housing**: Given the nationwide affordable housing crisis, one solution under consideration by key stakeholders has been to rehabilitate and turn unused and underutilized commercial real estate buildings, including, but not limited to, offices, hotels, and retail spaces, into housing units. There are several benefits to this approach, including not only addressing the nationwide housing supply problem, but also supplementing property tax revenues as well as local jobs.

  Recent data indicates that there is strong potential for this approach to assist in improving the housing supply issue nationwide. 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."[3] Further, changing consumer preferences and online shopping in light of the COVID-19 pandemic have changed (potentially forever) the real estate market nationwide. For example, relevant statistics indicate between several hundred million and 1 billion square feet of surplus and obsolete retail space exists nationwide. This data indicates that the potential is strong for converting such unused or underutilized real estate into affordable housing units.

  However, there remain significant logistical and financial hurdles to achieving this goal, including, but not limited to, costs associated with property acquisition and conversion, including addressing structural building issues (e.g., beams, columns, ceiling heights, utilities, and floor layouts), as well as issues in connection with permitting and zoning rules, among other things. The FHLB system is uniquely equipped to help solve these issues by providing additional forms of liquidity and other support to developers, community organizations, and other market participants who are willing and/or can be incentivized to participate in such conversion efforts. While Congress also plays a role in this space via tax and other related fiscal proposals, the FHLB system can also step in and provide liquidity where it is lacking. The Associations strongly urge FHFA to consider new and innovative programs and initiatives in which the FHLBs can use their resources to directly support the conversion of unused or underutilized commercial real estate into housing units.

---

[3] 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

- **FHLB Programs Should Promote the Rehabilitation of Multifamily Housing Located Near Transit**: The Associations urge the FHLBs to target programs and initiatives to housing supply opportunities located near public transportation for the purposes of enhancing community development and ease of access thereof, particularly in underserved, rural, and urban areas. FHLB funding and other programs should incentivize developers, community organizations, and other market participants to target rehabilitation and development efforts related to multifamily housing units near public transportation stations, which are older, and need public infrastructure upgrades and/or pertain to rent-restricted housing. This targeted strategy would have significant positive impacts on community development and affordable housing, and in doing so, help advance the FHLBs statutory mission.

- **FHLBs Should Focus on Reducing Regulatory Hurdles**: According to research released by NMHC and the National Association of Home Builders ("NAHB"), regulatory, administrative, and political hurdles at all levels of government can account for an average of 40.6% of multifamily development costs further impacting affordability.[4] While some form of regulation is needed to ensure the health and well-being of all Americans, NMHC-NAHB research clearly demonstrates that the current levels of regulations at the local, state, and federal levels ultimately impose costly requirements on housing developers and other market participants, all of which ultimately forces housing costs to rise. In addition, FHLB-specific programs like AHP also have certain regulatory and process burdens that disincentivize certain housing developers from participation. The Associations urge FHFA and the FHLB system to focus on reducing regulatory burdens on all parties so that less time is spent on compliance thereof and more time is focused on developing, financing, and ultimately completing more housing units nationwide. In particular, the Associations recommend that FHFA and the FHLB system focus on the following efforts:
  - Reduce barriers to housing production and rehabilitation;
  - Streamline the approval process with respect to FHLB programs and initiatives.
  - Provide incentives for developers to include workforce units in their properties that are financed by FHLB funds; and
  - Encourage higher density development near jobs and transportation.

- **FHLB Programs Should Reduce Rising Construction Costs and Delays**: During the COVID-19 pandemic and as the country moves forward, there have been significant pressures on apartment development and construction due to supply chain instability, staffing constraints, and rising product costs. In fact, 84% of respondents reported construction delays in NMHC's December 2022 Quarterly Survey of Apartment Construction and Development Activity. Further, 57% reported experiencing repricing increases in projects at an average rate of 8%. In addition, the availability of construction financing, or lack thereof, continues to be a significant concern, as 29% of respondents cited this as a contributing factor to delayed starts; while 30% of respondents attributed delays to materials sourcing and delivery challenge.[5] The Associations urge FHLBs to design new programs and/or update existing

---

[4] 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

[5] https://www.nmhc.org/research-insight/nmhc-construction-survey/quarterly-survey-of-apartment-constructiondevelopment-

programs to focus on easing the burdens related to construction costs and delays on developers and other housing market participants.

- **<u>FHLBs Should Complement and Serve as a Key Aspect of the Biden Administration's Housing Supply Plan</u>**: As you know, the Biden administration released its Housing Supply Action Plan in May 2022, which contains several goals and policy priorities, including, but not limited to:
    - Rewarding jurisdictions that have reformed zoning and land-use policies with higher scores in certain federal grant processes, for the first time at scale;
    - Deploying new financing mechanisms to build and preserve more housing where financing gaps currently exist;
    - Expanding and improving existing forms of federal financing, including for affordable multifamily, development and preservation; and
    - Coordinating with the private sector to address supply chain challenges and improve building techniques.

The Associations believe there are some important opportunities that the Biden administration can help create as part of its Housing Supply Action Plan.[6] The Associations urge FHFA and the FHLBs to partner with the Administration with respect to implementation of the Housing Supply Action Plan, and in particular, ensure that any such efforts incorporate and focus on promoting the multifamily housing sector.

(III) <u>Conclusion</u>:

On behalf of the Associations, we applaud FHFA's efforts to review the successes and failures of the FHLB system, and determine what steps can be taken to improve the effectiveness and efficiency of the system's programs going forward. As noted in this comment letter, multifamily housing has traditionally not been a major focus of the FHLB system. Given the fact that the increased supply of multifamily rental housing at all price points in all markets will play a vital role in promoting economic growth and encouraging household stability for all American households, the Associations strongly urge FHFA and the broader FHLB system to consider incorporating the multifamily housing sector into its various programs and initiatives. As the FHLBs consider this newfound focus on the multifamily housing sector, the Associations stand ready to work with the FHFA, FHLBs, Congress, and other stakeholders, to further these efforts in an effective manner.

The multifamily industry is interested in working with Congress on this type of proposal but would like to see it modified to enable other types of commercial properties (e.g., shopping centers and hotels) to qualify for the tax incentive, as well as to ensure REITs could utilize the benefit.

Sincerely,

---

activity-december-2022/

[6] https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/16/president-biden-announces-new-actions-to-ease-the-burden-of-housing-costs/

Robert Pinnegar
President & CEO
National Apartment Association

Sharon Wilson Géno
President
National Multifamily Housing Council