TESTIMONY BY
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ON BEHALF OF THE
NATIONAL MULTIFAMILY HOUSING COUNCIL
AND THE
NATIONAL APARTMENT ASSOCIATION

BEFORE THE
HOUSE COMMITTEE ON FINANCIAL SERVICES

FOR A HEARING ENTITLED
"PROTECTING RENTERS DURING THE PANDEMIC:
REVIEWING REFORMS TO EXPEDITE EMERGENCY
RENTAL ASSISTANCE"

SEPTEMBER 10, 2021

Chairwoman Waters, Ranking Member McHenry and members of the Committee, it is my privilege to appear before you today to speak on behalf of the multifamily rental housing industry, the National Multifamily Housing Council (NMHC), the National Apartment Association (NAA) and our nation's 40 million apartment households regarding critical reforms needed to the Emergency Rental Assistance Program (ERAP).

My name is David Schwartz, and I am the CEO & Chairman of Waterton, headquartered in Chicago, Illinois with regional offices throughout the United States. I am also the current Chair of NMHC.

Waterton is a real estate investment and property management company with a focus on U.S. multifamily properties. Founded in 1995, Waterton executes value-add strategies and manages a national portfolio of properties on behalf of institutional investors, financial institutions and family offices. Waterton's portfolio includes approximately $7.7 billion in real estate assets with over 24,000 multifamily units in 20 markets across the United States.

For more than 25 years, NMHC and NAA have partnered to provide a single voice for America's apartment industry. Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management and finance. NMHC represents the principal officers of the apartment industry's largest and most prominent firms. As a federation of more than 149 state and local affiliates, NAA encompasses over 93,000 members representing nearly 10.5 million apartment homes globally. One-third of all Americans rent their housing, and 40 million of them live in an apartment home.

I appreciate the opportunity to provide an overview of what is needed to stabilize the multifamily industry and millions of American renters through reforms of ERAP. As the Committee evaluates potential tools to ensure ERAP delivery to those in need and remove barriers to success in many communities across the country, we believe it is imperative to understand the gravity of the challenge we are facing, its impact on addressing long-term housing affordability and the significant role rental property owners — of all sizes and scale — play in achieving both.

Overview: State of the Industry

The apartment industry plays a critical role by providing apartment homes to 40.1 million residents, contributing $3.4 trillion annually to the economy while supporting 17.5 million jobs.[1] At the same time, the supply of housing is insufficient to meet the nation's housing needs. For decades, America has witnessed the escalating challenge created by demographic shifts, public policy decisions and economic factors culminating in the inability of families to rent, buy or maintain stable, affordable and safe homes. Today, in more and more communities, many hard-working Americans are unable to purchase or rent homes due to skyrocketing costs driven by a lack of supply, barriers to development and regulatory burdens. Working families are increasingly spending more than 30 percent of their incomes on housing costs or are priced out of their communities altogether. Meanwhile, the COVID-19 pandemic has made the housing affordability crisis substantially worse and further exposed the necessity of immediate, direct action. Comprehensive COVID-19 relief legislation provided a life preserver for the countless Americans facing financial hardship, but additional focus is needed to ensure the continued stability of America's renters and housing providers across the nation.

COVID-19 and Multifamily Rental Housing

[1] https://www.weareapartments.org/

Our country has faced unprecedented challenges due to the pandemic over the past 18 months—creating significant hardships for America's renters and jeopardizing the affordability, availability and overall stability of the rental housing supply nationwide. The apartment industry knows better than anyone the importance of providing a safe, secure place to call home, and it's a responsibility we do not take lightly.

From the start of the pandemic, apartment firms have been committed to keeping residents in their homes, while providing individuals and families with a safe and healthy environment to live, work and learn. Rental housing owners and operators have continuously worked to address the needs of our residents, employees and communities, deploying a variety of assistance and resources, despite financial uncertainty and economic losses in their businesses.

Still, the pandemic has led to levels of debt that individuals and businesses may never be able to repay, threatening the very stability of the rental market, straining the industry's ability to manage hundreds of thousands of homes and jeopardizing the employment of millions of workers who make significant contributions to the economy. This is why our industry has worked tirelessly with policymakers at all levels of government to craft and enact solutions that promote housing security for renters and robust economic support and recovery for us all.

Multifamily Housing Operators Commitment to their Residents

At the onset of the COVID-19 pandemic, NMHC and NAA called on their members to work directly with residents in need. The industry set to work in supporting renters, which has come in many forms. For those residents hard hit financially by the pandemic, apartment firms have taken an active role in both connecting residents with social services and financial assistance opportunities and facilitating the rental assistance application process where allowable. And regardless of our residents' economic situation, apartment firms have worked to provide quality housing to our residents and their families through the pandemic and beyond, giving them refuge to remain safe and healthy at home.

As the pandemic emerged, NMHC issued principles calling on its members to work with their residents to help them face the unprecedented hardships they were encountering. NMHC members remained committed to their residents and communities, working with individuals and families to find solutions that were right for them. And in June 2021, as the country transitioned away from COVID-19 emergency measures, NMHC again asked members to continue their efforts to work with residents during the wind-down period.

Many NAA member firms implemented similar policies and more, including rent forgiveness, flat renewal increases and even creating internal rental assistance programs months before the federal government created the ERAP. Others provided ongoing technical support and created pop-up computer labs to help their residents navigate ERAP-funded programs. Moreover, they often worked as a bridge to local non-profit service providers to assist with meeting critical needs beyond just rental assistance.

While there is no one-size-fits-all approach, a recent NMHC survey of apartment owners and managers shows that 100 percent of multifamily firms surveyed offered solutions to residents facing financial hardships since the onset of the COVID-19 crisis. [2]

[2] https://www.nmhc.org/research-insight/survey/the-nmhc-pulse-survey-on-eviction-mitigation-practices/

Among the multifamily firms surveyed, the most widely offered assistance options included:

- Payment plans – 100%
- Waived late fees – 96%
- Deferred payments – 78%
- Extended, shortened or other changes to lease terms – 58%
- Cash for keys – 54%
- Fee-free ability to charge rent on a credit card – 50%

The survey also asked what additional steps firms took to support residents during the pandemic:
- Increased cleaning and sanitation – 95%
- Connecting residents with food banks, charities and other local support resources – 86%
- Informing residents of healthcare protocols and best practices – 86%
- Hosting virtual social or exercise events – 57%
- Creating on-site services at communities to support residents – 50%
- Made it easier to work from home – 49%

The full survey results are available here.

Extended Eviction Moratoriums Are Unsustainable and Risk Long-term Damage

From the beginning of the pandemic, NMHC and NAA maintained that a one-size-fits-all, nationwide eviction moratorium was not the right solution for addressing the housing hardships caused by COVID-19. Long-term eviction moratoriums only serve to place insurmountable levels of debt on households and jeopardize the stability of housing providers harmed by revenue losses and who may be struggling to pay their mortgages, finance property operations and meet their own financial obligations.

Moratoriums unreasonably shift the economic hardships of the pandemic to the backs of housing providers. Instead, it has become clear that the best way to keep people in their homes and ensure a functioning rental market is to provide residents with the resources necessary to meet their housing obligations. To that end, NMHC, NAA and our coalition partners urged Congress to create a federal rental assistance program, which ultimately resulted in a historic investment in housing stability for America's renters and the provision of almost $50 billion in rental assistance[3]. It is critically important that policymakers move beyond emergency housing measures and instead focus on implementing workable solutions for renters and housing providers facing barriers and delays in the distribution of rental assistance.

Apartment owners depend on rental revenue to keep the doors open for residents. They rely on rent receipts to pay their mortgages, property taxes, employee salaries, insurance, utilities and maintenance. Additionally, these funds are critical to ensure housing providers have adequate reserves to prepare for capital improvements and maintain the long-term structural integrity and quality of their housing.

According to a recent survey by the Harvard Joint Center for Housing Studies (Harvard Joint Center

[3] https://www.congress.gov/116/bills/hr133/BILLS-116hr133enr.pdf

Survey), 31 percent of landlords reported deferring property maintenance in 2020 compared to only 5 percent in 2019.[4] Further, owners with 20 or more units were more likely to have seen at least a 10 percent decline in revenues. However, small- and mid-sized landlords, who had higher exposure to non-payment prior to the pandemic, were more likely to have seen rental revenues drop by more than 50 percent.

Rental Shortages Cascade Through the Economy and Our Communities

According to data from NAA on where a dollar of rent goes:[5]

- 38 cents of every $1 in rent goes to pay the property's mortgage.
- 16 cents of every $1 pays for operating expenses such as property and liability insurance, utilities, ongoing maintenance and the like.
- 14 cents of every $1 in rent goes to property taxes, totaling $58 billion in property taxes paid by apartment firms every year.
- 12 cents of every $1 is spent on capital expenditures, including roof and HVAC replacement and other important repairs.
- 10 cents of every $1 in rent covers payroll, supporting nearly 700,000 apartment industry jobs.
- Just 10 cents of every dollar are returned to the owner.

Eviction moratoriums also threaten to exacerbate the affordable housing shortage we already had pre-pandemic by discouraging new rental housing development and renovation and forcing some owners to sell properties—depriving an already under-supplied rental market of much-needed housing units. The Harvard Joint Center Survey also noted that the share of owners who listed at least one property for sale increased more than fourfold from 2019 to 2020 (3 percent to 13 percent).

To address many common misconceptions about evictions and to detail the process step-by-step, NMHC issued an eviction primer which can be found here.

We cannot stress enough the fact that throughout the pandemic, rental housing providers have worked to both help our residents resolve their hardships and to advance policies to provide renters with essential resources to meet their housing needs. Housing providers are continuing to help our residents avoid eviction with rent repayment arrangements, deferments, offering extended or flexible lease periods, waiving fees and connecting them with social services and financial assistance.

The best way to help struggling renters is for the Administration to work with Congress, states, and localities to help disburse rental assistance funds to residents and housing providers in need. That is why this hearing today is so critical. It is imperative that Congress, the Administration, advocates, industry stakeholders and states and localities work together to expedite the distribution of the rental assistance funds to the residents and property owners in need.

Addressing Renter's Underlying Financial Distress: Enactment of Emergency Rental Assistance Program

4 https://www.jchs.harvard.edu/blog/how-has-pandemic-affected-landlords
5 https://www.naahq.org/news-publications/explaining-breakdown-one-dollar-rent

From the start of the pandemic, NMHC and NAA were at the forefront of calling on policymakers to pass legislation providing assistance to residents and property owners, including rental assistance. As the pandemic's economic toll began to deepen in Spring of 2020, NMHC and NAA called on lawmakers to enact a number of provisions that would provide assistance to renters and property owners affected by financial hardships as a result of the COVID-19 outbreak. Many of our proposals were incorporated into relief initiatives—including the CARES Act, the Consolidated Appropriations Act of 2021, and the American Rescue Plan Act of 2021. These packages delivered desperately needed support for residents and housing providers and helped maintain the stability of the industry as well as provide critical support for the broader economy.

The American Rescue Plan Act of 2021 capped off a year of dedicated COVID advocacy efforts to support the hard-hit rental housing sector. This Committee's work to provide $40 billion in support to a variety of existing rental housing programs across the federal government -- in addition to the nearly $50 billion in funding provided by Congress for ERAP -- represents a deeply needed and unprecedented investment in our nation's housing and its renters. We remain deeply appreciative of the bipartisan leadership of this Committee in remaining steadfast in their support of our nation's renters and the rental housing sector during such a challenging time in our nation's history.

Unmet rental payments have caused extreme hardship for many property owners who have not had the resources to continue to meet their financial obligations through the prolonged health crisis. As leaders of the apartment industry, NMHC and NAA members have worked with their residents to apply for rental assistance, modify rental agreements, and otherwise support their apartment communities throughout the pandemic.

Industry's Commitment to Helping Residents Secure ERAP Funds

It is important for the Members of the Committee to understand the critical role that many in the industry are playing to help execute the rental assistance program and to assist their residents. Apartment firms have taken an active role in both connecting residents with social services and financial assistance opportunities and facilitating the application process where allowed. Given the widely varying nature of rental assistance programs and the multi-jurisdictional footprint of many apartment firms, this necessitates a significant commitment of resources and staff to vet dozens or even hundreds of programs with differing eligibility, application, and distribution policies.

The following snapshots represent a cross-section of the industry, both affordable and conventional housing operators. The obstacles they have faced in securing ERAP funds are common barriers that housing providers of all sizes and scale report across the nation and why reform of the program is needed so urgently. Provided below are company specific ERAP Industry Snapshots:

BH Management

BH Companies manages over 100,000 units and operates in 27 states.

"At BH, we believe our residents should have a comfortable place to call home. We've worked hard throughout the pandemic to make a positive impact in our communities. From providing flexible payment plans to connecting residents with available rent assistance funds, BH has remained committed to helping families stay in their homes. We continue to work closely with federal, state, and local organizations to help our residents secure available rental assistance. To date, our teams have assisted more than 8,000 residents obtain just under $36 million in rent assistance funds."

- **Total delinquency during the pandemic:** $47,145,840, with rental assistance received, current delinquency is $22,072,980
- **Total current number of units/ total delinquent units:** 7,245
- **Average outstanding balance:** $3,047
- **Total amount of rental assistance applied for:** $32,733,560
- **Total federal assistance approved:** $28,516,665.91 (this number includes all rent assistance, including Federal)
- **Total federal assistance received directly:** $7,660,700 (approved but not yet received) and $25,072,860 received

The Bozzuto Group

In 1998, founding partners Tom Bozzuto, John Slidell, and Rick Mostyn formed The Bozzuto Group with the mission to build and manage unique homes while being sensitive to the environment. Thirty years later, Bozzuto has grown to more than 2,700 employees who carry out the mission of creating sanctuary for all through innovative multifamily development, construction, management, and homebuilding.

Bozzuto Management Company has grown its portfolio to over 85,000 units and over three million square feet of retail across 275 properties. Bozzuto's commitment to creating extraordinary living experiences has garnered notable acknowledgment within the industry. Recognized as the nation's #1 property management company by the National Association of Home Builders (NAHB) in 2021 and 2018 and ranked #1 property management company for online customer satisfaction in the ORA Power Rankings by J Turner Research for the seventh year in a row, Bozzuto demonstrates its mission with every property within the portfolio.

We currently operate properties in Maryland, Virginia, Delaware, Washington DC, Pennsylvania, New Jersey, Connecticut, New York, Massachusetts, Rhode Island, New Hampshire, Illinois, Wisconsin, Florida, Washington, and California.

"Bozzuto Management continues to experience significant delinquency balance growth each month. Delinquency at month-end of August 2021 was in excess of $31m, up over $11m from August 2020 and over $20m more than June 2019 pre-COVID. These balances have been largely protected from collection efforts and eviction through local and national moratoriums, backlogs in the landlord tenant courts, and prohibitive legislation, both local and national. As a company, we continue to focus on contacting every resident with delinquent balances, where allowed by law, to offer customized payment plans, providing proactive assistance and education with the ERAP process, and allowing early lease terminations without penalty. The inconsistent deployment of the federal relief funds remains a challenge in many states where we are operating."

- **Total amount of delinquency on books:** $44,803,360.57
- **Total number of delinquent units:** 17,446
- **Average outstanding balance:** $2,816.93
- **Total number of payment plans:** 1,066

- **Total delinquency amount on payment plan:** 212,328.41
- **What percent of delinquency are not on a payment plan?** 99%
- **Total amount of Federal Rental Assistance received:** 4,039,026.08
- **Number of units that have received Federal rental assistance:** 418

Waterton

Waterton is a real estate investment and property management company with a focus on U.S. multifamily properties. Founded in 1995, Waterton manages a national portfolio of properties on behalf of institutional investors, financial institutions and family offices. Waterton's portfolio includes approximately $7.7 billion in real estate assets with over 24,000 multifamily units in 20 markets across the United States. Waterton has over 600 employees who manage our communities through Resitality®, our hospitality-inspired service culture.

Presently, and throughout the pandemic, Waterton utilizes several methods of communication with residents in order to offer payment plans, rent deferrals, fee breaks, CDC forms and access to local resources. Further, Waterton offers phone calls and in-person or virtual meetings to assist residents who need additional help. Waterton trains and designates emergency rent relief liaisons within its community operating teams who work with residents and also local agencies to ensure that the lines of communication are open and that residents are able to apply for rent relief.

- **Total amount of delinquency on books:** $8,450,437
- **Total number of delinquent units:** 1,698
- **Average outstanding balance:** $4,977
- **Total amount of Federal rental assistance applied for:** $7,490,811
- **Number of units that have applied for Federal rental assistance:** 694 (For reference, this number is only tracked in jurisdictions where we can determine application status.)
- **Total amount of Federal Rental Assistance received:** $4,642,650
- **Number of units that have received Federal rental assistance:** 534

Avenue 5

Avenue5 is a private, third-party property management company providing solutions-based portfolio management services for the multifamily industry. Avenue5 began managing a 6,500-unit portfolio in 2014, and expanded our third-party management services for a broad range of multifamily owners in November of 2015.

At Avenue5, we leverage our extensive expertise to effectively manage more than $20 billion in assets nationwide, including 400 properties with more than 80,000 units in 13 states and Washington, DC.

Our company is headquartered in Seattle, and has offices in Orange County, Phoenix, Portland, Salt Lake City, Spokane, and greater Washington, DC. In addition, Avenue5's local experts are based in key markets including Northern California, Los Angeles, San Diego, Reno, Las Vegas, Colorado Springs, Denver, Austin, San Antonio, Dallas, Houston, Baltimore, and Charlotte. We employ about 2,000 associates nationwide. Our local market presence allows us to efficiently and effectively manage properties nationwide.

"Avenue 5 has taken the following measures to communicate with non-communicative residents:

- Constant and consistent communication with residents including:
  - Email
  - Texting
  - Calling from different phone numbers
  - Knocking doors
  - Comprehensive letter system:
    - Letter 1 asks them to please contact us if they are in need of resources or a payment plan,
    - Letter 2 offers a payment plan and options to discuss or change,
    - Letter 3 offers resources again and checks if they are still living there,
    - Letter 4 is an occupancy check.
- Hosting resident specific "rent relief parties" where we provide food and drinks to come in and discuss relief options
- Provision of comprehensive list of resources throughout the state that we're able to share with our residents to find resources and support."

- **Total rent billed April 2020 through 09/08/2021:** $1,492,081,827
- **Total resident rent delinquency:** $48,582,947
- **Total number of delinquent units:** 18,100
- **Average rent delinquency:** $1,525
- **Total number of payment plans outstanding:** 299
- **Total delinquency amount on payment plan:** $2,266,959
- **Federal and local funds applied for:** $26,870,010
- **Federal and local funds approved for:** $14,882,293
- **Federal and local funds received:** $13,846,469
- **Number of units that have received Federal rental assistance:** 2,551
- **Percent of delinquent non-communicative residents:**
  - California – varies city by city
  - Oregon – 20%
  - Washington – varies city by city
- **Percent of residents not eligible for the assistance due to income restrictions:**
  - California – 30%
  - Oregon - 5%
  - Washington – 50%

Our members have worked tirelessly to help our residents secure rental assistance funds; but despite best efforts by property owners and managers, and many others in the housing community, including housing advocates, social services providers, grantors and many others, many qualified applicants have yet to receive the emergency rental assistance funds that we all worked so hard to enact.

Urgent Need for Reforms of the Emergency Rental Assistance Program (ERAP)

Despite the best efforts of Congress and the Biden Administration, state and local governments and administering entities have bogged the ERAP eligibility and distribution process down with needless red tape, restrictive eligibility criteria, regulatory barriers, unrelated mandates on housing providers and other significant delays. The result is that just over 10 percent of federal rental assistance funds have been distributed to renters and property owners as of the end of July, which is why we join this Committee in calling for urgent reform to ERAP.

We applaud this Committee's focus on reforming the program and appreciate that H.R. 5196, the Expediting Assistance to Renters and Landlords Act of 2021 and H.R. 3913, the Renter Protection Act of 2021 begins to address many of our concerns. Although we agree that changes are needed to maximize the reach of ERAP funds to renters and housing providers and to ensure greater consistency across programs, we encourage the Committee to focus on efforts to break down barriers that unnecessarily complicate getting program funds into the hands of struggling renters and housing providers—rather than implementing further roadblocks or unnecessary rules changes that could unintentionally slow disbursement of ERAP. Specifically, as final legislation is considered, we encourage the committee to:

1) **Reject eviction moratorium provisions.** H.R. 5196 includes a 4-month eviction moratorium upon acceptance of ERAP funds, with no guarantee of assistance to cover any potential unpaid rent. This puts the renter and the housing provider in an untenable situation with the renter again incurring debt they may not be able to repay. NMHC and NAA do not support any additional eviction moratorium. Such a proposal only exacerbates the problems that this bill seeks to address. Moreover, this additional blanket eviction moratorium is even wider than current moratoriums and would hurt already struggling small housing providers and result in additional arrears for renters who are already struggling to pay rent.

2) **Streamline documentation requirements.** H.R. 5196 essentially creates a separate set of rules for small (one- to four-unit owners) vs. larger owners as it relates to documentation requirements. Mom-and-pop/small is an arbitrary term and having grantees distinguish between two different types of properties is not conducive to streamlining and expediting disbursement and fails to acknowledge that a renter in need is a renter in need—regardless of the size of the building they live in or the size of the company that owns the property. A requirement like this will certainly cause confusion on the ground and pose a significant implementation challenge for ERAP grantees.

3) **Oppose debt/rent cancellation.** H.R. 5196 requires housing providers to satisfy a resident's outstanding balance/debt in its entirety upon receiving some ERAP payments, even if the amount received is less than what is owed. Partial ERAP payments should not be considered full satisfaction of back rent owed or removal of the contractual obligation of a non-responsive/non-cooperative resident. Program barriers like these imposed by grantees across the country were reported as one of the major reasons why some housing providers, especially small owners, opted to not participate/accept ERAP funds.

Without action to improve disbursement of ERAP funds and increase participation in the program, renters are faced with further uncertainty and a mounting debt cliff, while rental property owners move closer to foreclosure, bankruptcy, or a forced sale of the property. This puts the overall stability of the rental housing sector and broader real estate market in peril.

In addition to the specific legislative provisions outlined above, on August 18, NMHC and NAA led a broad coalition of national real estate trade organizations that represent for-profit and non-profit owners, developers, managers, housing cooperatives and housing agencies involved in providing affordable rental and cooperative housing in sending a letter to the Biden Administration calling for critical reforms to

ERAP to accelerate the distribution of federal funds to renters and housing providers in need.

Together, we encourage Congress and state and local rental assistance grantees to support housing providers by prioritizing the timely and efficient distribution of rental assistance funds and providing real solutions to the nation's pressing housing needs. In particular, we support efforts to help jurisdictions ramp up delivery of rental assistance benefits, including focusing on the distribution of rental assistance while eschewing efforts to extract policy concessions from housing providers, streamlining onerous application and documentation requirements, expanding eligibility where possible, leveraging housing provider capabilities to assist with the resident application process and embracing practices and technologies with proven operational success.

NMHC and NAA strongly believe that continued monitoring of program administration and results is essential to gauging and promoting best practices and the most successful strategies. However, we caution against the use of backwards-looking or obfuscating metrics, such as eviction filing statistics, in assessing the effectiveness of rental assistance programs. Eviction filings do not reflect ultimate eviction outcomes and fail to account for mitigation measures offered by property owners or others that reduce actual displacements. Further, filing numbers neglect to convey important elements like the underlying cause of the eviction action—financial versus non-financial.

Residents also have a role to play in securing assistance that will protect their financial standing. Rent relief funds are not self-executing. Residents must take certain steps to establish eligibility and avail themselves of the benefits—efforts that can occur after a filing is made. Therefore, we urge a renewed focus on communication and measures to allow housing providers and ERAP grantees to overcome the challenge of renters who, for any number of reasons, do not engage, refuse to pursue assistance or are simply uncommunicative. Residents and property owners alike can benefit from increased efforts to provide information about the availability of rental assistance programs and encourage participation by those in need.

While many jurisdictions are successfully increasing their ERAP disbursement, too many others remain fraught with significant application processing and payment delivery delays. These are largely attributable to grantees' self-imposed fraud prevention measures, mandates that deter housing provider participation, misapplication of statutory requirements and lack of engagement from some eligible residents. We encourage the Committee to build upon the reforms included in H.R. 5196 and H.R. 3913 and work with the Biden Administration and ERAP grantees at the state and local levels to support the detailed recommendations outlined below to remove these barriers and to facilitate expedited processing and distribution of the rental assistance payments:

1. **Align ERAP income restrictions with the eligibility requirements of the previous federal Eviction Moratorium.** Under the previous Centers for Disease Control and Prevention (CDC) Order, an individual earning up to $99,000 in annual income, or if filing jointly, $198,000, qualified for eviction protections. Under the statutory ERAP requirements, priority for rental assistance is given to renters earning up to 50 percent of area median income (AMI), and assistance is limited to renters earning up to 80 percent of AMI. Problematically, some administering entities are far too narrowly limiting their eligibility criteria and are not allowing renters who earn up to 80 percent of AMI to apply. Moreover, the delta between those who qualified for CDC Order protection and those eligible for rental assistance even at the 80 percent level is

significant. This difference prevents residents above this income limit who are experiencing housing instability and previously submitted a CDC Declaration from receiving rental assistance. These renters are left burdened with significant debt, while providing no recovery for property owners who supplied housing throughout the moratorium period. Jurisdictions should be required to expand eligibility for ERAP and to serve renter households in need up to 80 percent AMI.

2. **Avoid the imposition of program requirements or proscriptions unrelated to the provision of rental assistance.** These include: prohibiting a housing provider from applying on behalf of the resident; requiring housing providers to accept rental assistance payments that do not fully cover renters' outstanding balances; imposing additional eviction restrictions – particularly those that interrupt the eviction process and leave housing providers without an outlet for relief when continued nonpayment of rent, noncompliance with payment plan terms or other lease violations remain ongoing; requiring waiver of late fees; imposing rent freezes; added notice procedures that complicate leasing; restrictions on resident screening and consumer reporting; and requiring that owners provide sensitive financial information to residents such as W-9 forms that may include social security numbers (i.e. Social Security numbers routinely serve as tax identification numbers for smaller property owners). While H.R. 5196 attempts to remove many barriers preventing housing providers and renter participation in ERAP, several included provisions mirror programmatic barriers we have seen ERAP grantees impose at the state and local levels that have deterred participation and slowed disbursement of these critical relief funds. While well-intentioned, many of these requirements will ultimately harm the very population of vulnerable renters that this Committee is trying to help.

3. **Prioritize arrearages and remove 18-month limit.** Renters and property owners who have been hard hit by the pandemic receive the greatest benefit from having current rent due paid and rent arrearages paid. Similar to the language included in H.R. 3913, we believe Congress should require grantees to address any and all rental arrearages for households in need before any future payments of rent or other services are made in order to keep families stably housed. Additionally, similar to the language included in H.R. 5196, given the current state of the pandemic and prolonged economic uncertainty faced by millions of renters, we believe the current 18-month limitation on assistance should be removed to avoid interfering with grantees' ability to provide critical rental arrearage and future rental assistance to those in need.

4. **Direct grantees to allow housing providers to apply on behalf of residents and establish a safe harbor for those attempting to obtain documentation from uncommunicative residents to support those applications.** Despite explicit statutory language and guidance from the Biden Administration that a rental housing provider may apply for assistance on behalf of its residents, some jurisdictions have erected barriers to this directive. Further, some residents are entirely uncommunicative and will not provide required information or take necessary action to move applications forward. H.R. 5196 takes positive steps forward in allowing housing providers to apply on behalf of non-communicative residents, but the legislation includes several worrisome provisions that would deter housing provider participation or unnecessarily delay payment, such as: (1) mandating rent cancellation if any amount of ERAP funding is received, even if it does not satisfy the outstanding amount owed; and (2) placing a lesser priority on the processing of landlord only applications for ERAP. There should be no barriers to apply for or receive ERAP funds for housing providers who, in good faith, attempt to collect required

information from residents and apply on their behalf. The proposed safe harbor should be for those who have notified their residents of their intent to apply for assistance if they cannot obtain consent. Documentation of unpaid back rent or submission of a previous CDC eviction order declaration of COVID-impact should suffice to move these applications forward.

5. **Allow ERAP to reimburse rental property owners even if the renter has moved, and prohibit program requirements that force housing providers to return payments when residents move out.** Since the beginning of the pandemic, rental property owners have been encumbered with providing housing without payment. While the previous CDC Order made it clear that individuals were not relieved of their obligation to pay rent, ERAP administrators have prevented housing providers from obtaining rental assistance on behalf of residents who terminated their lease early or abandoned their unit, leaving housing providers without a mechanism to obtain relief. With the end of the federal eviction moratorium, these renters may still face eviction due to nonpayment of rent. Furthermore, renters who leave housing providers with unpaid balances are taken to collections, affecting their credit and housing choice in the future.

   To avoid such consequences, rental property owners should be allowed to apply for ERAP to cover rent arrears even after a renter has moved or if the renter has a judgment entered against them. In the same vein, ERAP administrators should not require housing providers to return rental assistance payments that pay for outstanding balances if the resident moves out. Housing providers must be made whole from debts that renters leave behind. These funds are critical for housing providers to continue managing property operations and maintaining the housing for their residents overall. H.R. 5196 takes positive steps to assist in this area but includes worrisome provisions that prohibit property owners from securing ERAP for units left vacant due to eviction. This presents a challenge where the action was necessary for issues outside of non-payment of rent, like criminal activity/endangering other residents, etc. or where the eviction was processed in a jurisdiction that allowed it. Both instances leave the property owner with unrecoverable debt, do not address concurrent financial obligations, and threaten the overall viability of a property and the long-term affordability of rental housing.

6. **Require residents to demonstrate eligibility for rental assistance through an affidavit or self-attestation.** For those who participate in the program, a certification or affidavit of need should be sufficient to apply for ERAP funds. The income verification process is time consuming for both the renter applying for assistance as well as the agency tasked with deploying the rental assistance. Currently, there is no consistency among state and local governments to allow for "self-attestations" or declarations of income. Some agencies allow for self-attestations while other agencies only allow for income self-attestation as a last resort. These inconsistencies by ERAP grantees significantly slow the application process. H.R. 5196 takes positive steps to assist in this area.

7. **Clarify that renter eligibility is not contingent on having a COVID-19 diagnosis.** There continues to be misconceptions among renters that they, or an immediate family member, need to prove a COVID-19 diagnosis to qualify for rental assistance. Some grantees' renter eligibility information and application processes perpetuate this mistaken belief. The Treasury's FAQs state:

"While grantees relying on clause (ii) in ERA1 must show financial hardship "due, directly or indirectly, to" COVID-19, grantees in ERA2 are also permitted to rely on financial hardship "during" the pandemic," however grantees must make clear that renter eligibility is only contingent on financial impact during the pandemic. H.R. 5196 takes positive steps to assist in this area.

8. **Require state and local grantees to facilitate bulk processing of applications and payments.** While Treasury's most recent ERAP guidance does encourage grantees to obtain information in bulk from housing providers regarding eligible residents and to engage in bundling assistance payments, few, if any, program administrators have implemented these processes. Bulk processing will help streamline the process. It is imperative that bulk processing be required for grantees.

9. **Provide Technical Assistance and Technology Solutions to Aide Struggling Grantees.** Despite Congressional and Administration efforts, some jurisdictions continue to struggle to get ERAP funds to renters and property owners in need. NMHC and NAA believe that funds should be allocated to Treasury to provide technical assistance, information and technology solutions to grantees who have been unable to efficiently disburse rental assistance. H.R. 5196 takes positive steps to assist in this area.

10. **Enhance ERAP Outreach.** NMHC and NAA support additional outreach by federal, state and local governments to increase awareness of ERAP eligibility amongst renters and rental property owners. These efforts, carried out by mail, social media and public relations campaigns will complement the work of the multifamily industry in promoting ERAP and housing providers' work to assist renters in applying for help. H.R. 5196 takes positive steps to assist in this area.

By making the reforms outlined above and called for by our real estate coalition, policymakers can address the financial distress faced by renters, ensure they are able to remain stably housed and prevent continued disruption and instability in the rental housing market. NMHC and NAA call upon the Committee to work in bipartisan fashion to address the critical reforms that are needed to improve the distribution and administration of ERAP.

NMHC and NAA's Industry Response to COVID-19

NMHC and NAA's work throughout the pandemic has gone far beyond the policy realm and includes many industry initiatives and public-private partnerships to protect our nation's renters and enable a comprehensive response to COVID-19. These build upon the daily work, multifamily owners and operators do on a daily basis to assist renters during this trying time. For example:

- NMHC and NAA published a series of industry resources to enhance communication with residents, such as customizable templates promoting ERAP and highlighting owners' commitment to renters, and resources promoting rent payment flexibility.

- NMHC launched a Rent Payment Tracker (RPT) as a public benefit during the pandemic, allowing policymakers, the media and public to understand what was happening across a large segment of the rental housing market. NMHC's RPT is coordinated with five of the largest property management software providers of professionally managed apartments. The latest RPT report found 93.7

percent of apartment households made a full or partial rent payment for the full month of August in its survey of 11.7 million units of professionally managed apartment units across the country. This marks a decrease from the 94.5 percent of apartment households who paid rent by the end of August 2020 and 95.8 percent who paid in August, 2019. This data encompasses a wide variety of market-rate rental properties across the United States, which can vary by size, type and average rental price.

- NMHC is participating as a user advocate in the Census Bureau/Consumer Financial Protection Bureau's (CFPB's) "Tech Sprint" program. The goal of the program is to work with several software developer teams to quickly develop fully deployable programs that will help low-income renters obtain financial assistance quickly. More information about this program can be found here.

- NMHC created and promoted a Renter Resource Center to provide information on ERAP and other forms of assistance for renters in need.

- NMHC and NAA partnered with the Biden Administration and the CFPB to promote its new consumer-facing tool in a Call to Action to promote the availability of ERAP and housing stakeholders via social media and email campaigns.

Housing Affordability Crisis: Looking Beyond COVID and Addressing the Housing Affordability Challenge

As the Financial Services Committee and Congress look beyond the COVID-19 recovery to expanding housing access and ensuring housing affordability for all Americans, it is critical to recognize that even prior to the pandemic, the country was facing a nationwide housing affordability challenge and a historic unmet demand for rental housing. Beginning in the mid-2000s, the nation experienced the greatest renter wave in its history, as the number of households who rent rose by more than 7 million.[6] Fueled by this extraordinary demand for apartment homes, recent NMHC and NAA research finds that we need to build an average of 328,000 new apartments every year through 2030.[7] Yet our industry faced significant challenges to new apartment construction, development and renovation before this crisis, and we have only hit that mark four times since 1989.[8]

The multifamily industry has long been at the forefront of addressing housing affordability. NMHC published its Housing Affordability Toolkit with HR&A Advisors in 2018 with the goals of both providing background on the underlying causes of the apartment industry's affordability crisis and providing specific tools that could be used to help defray the cost of building new apartments, allowing more units to be built at a variety of price points.[9]

We cited three main reasons for the worsening affordability conditions: (1) a chronic demand/supply imbalance; (2) a rise in the "lifestyle" renter (or renter by choice); and (3) an increase in overall development costs including materials and regulatory compliance. Together, these factors created a scenario that put the brakes on affordable housing production. It became increasingly challenging to buy land and

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[6] U.S. Census Bureau, Various Surveys.

[7] Hoyt Advisory Services; NMHC and NAA, "U.S. Apartment Demand – A Forward Look", May 2017.

[8] U.S. Census Bureau, New Residential Construction, updated 4/2021.

[9] https://housingtoolkit.nmhc.org/

build a property at rates that were broadly affordable. Furthermore, it was exceedingly difficult for lower-income renter households to find an apartment without becoming cost-burdened. In the time since the publication of the Affordability Toolkit, there has been a pandemic-induced economic downturn, one that put lower-income apartment residents particularly at risk financially.[10]

The multifamily industry wishes to work with Congress and the Biden Administration to address these challenges. To this end, we applaud the Administration for their announcement on September 1, 2021, that they will begin taking a number of steps to "create, preserve, and sell to homeowners and non-profits nearly 100,000 additional affordable homes for homeowners and renters over the next three years, with an emphasis on the lower and middle segments of the market." NMHC and NAA strongly believe that breaking down barriers that prohibit the preservation and creation of new housing is critical to increasing housing affordability and we applaud the Biden Administration for their focus on this important issue.

To build upon the Administration's efforts, we strongly urge Congress to pass a comprehensive infrastructure plan that reinvests in America's infrastructure, creates good-paying jobs and addresses the nation's pressing housing needs. Put simply, housing is infrastructure. Moreover, both the existing supply of apartments and new apartment development are directly dependent on the condition and availability of suitable transportation options, reliable water and utility infrastructure, and broadband and telecommunications services. Successful new housing development relies on sustained funding for infrastructure and the modernization of infrastructure assets.

Conclusion

We applaud the Committee for engaging stakeholders to identify reforms and workable solutions to improve ERAP. We remain encouraged that Congress and the Administration are working to address the root causes of housing instability and are committed to efforts that would deliver housing assistance to renters, increase housing provider participation in federal housing programs, break down barriers to long-term housing affordability and increase housing choice for renters. We look forward to working with the House Financial Services Committee to effect positive changes to the distribution of rental assistance funds and to ensure the availability and affordability of rental housing nationwide.

[10] https://www.nmhc.org/research-insight/research-notes/2020/which-apartment-residents-are-most-affected-by-job-losses/