



July 20, 2020

**Sent via e-mail**

The Honorable Benjamin S. Carson, Sr. M.D.  
U.S. Department of Housing and Urban Development  
451 7th Street S.W.  
Washington, D.C. 20410

Re: Expiration of the CARES Act Eviction Moratorium

Dear Secretary Carson,

The National Housing Law Project (NHLP) and the National Low Income Housing Coalition (NLIHC), joined by 168 undersigned organizations, write to provide policy recommendations to the Department of Housing and Urban Development (HUD) to address the expiration of the CARES Act eviction moratorium on July 24. **HUD has the legal authority to enact its own eviction moratorium and should do so to protect low-income renters.** HUD must be prepared to act both in the absence of additional legislation from Congress and if there is a gap between CARES Act coverage and renewed tenant protections in subsequent legislation. It is HUD's duty to protect tenants during this unprecedented global pandemic.

**HUD Has the Authority to Enact an Eviction Moratorium**

HUD has the legal authority to enact an eviction moratorium for its residents and the moral obligation to do so should the CARES Act eviction moratorium expire with no additional action by Congress. Congress has authorized the HUD Secretary to "make such rules and regulations as may be necessary to carry out his functions, powers, and duties." 42 USC Sec. 3535(d). In light of the declared public health emergency, HUD thus has the plenary power to declare a moratorium on eviction for all of its programs for the duration of the emergency. There is no statute for either the public housing or various HUD-assisted programs that specifically mandates the eviction of tenants by housing authorities or owners.

For public housing, Sec. 6 of the United States Housing Act requires a public housing Annual Contributions Contract (ACC) to establish "...satisfactory procedures designed to assure the prompt payment and collection of rents and the prompt processing of evictions in the case of nonpayment of rent." 42 USC Sec. 1437d(c)(4)(B). Section 6(l) also requires public housing leases to permit (but not mandate) evictions for certain specified "good causes." 42 USC Sec. 1437d(l)(5) to (9). For HUD-assisted multifamily properties (and enhanced vouchers), Congress has mandated that HUD "assure that ... leases approved by the Secretary provide that tenants may not be evicted without good cause." 12 USC Sec. 1715z-1b(b)(3). For Housing Choice Vouchers, Congress has required that the HAP contracts "provide that during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause." 42 USC 1437f(o)(7)(C).

The public housing, HUD Multifamily, and voucher statutes create no mandate nor any right to evict and thus impose no bar to a moratorium. The above provisions also leave sufficient flexibility for HUD to impose an eviction moratorium during a public health emergency, because the various referenced "good cause" eviction provisions are defined by HUD regulations. Thus HUD can redefine good cause by rule in light of the emergency or waive (for "good cause," i.e., the declared public health emergency, per 24 CFR Sec. 5.110) any contrary regulatory eviction provisions or "good cause" definitions, since any right to evict is not mandated by statute.

Should Congress fail to provide additional protections for renters, HUD should prohibit the filing of any eviction actions based on notices to vacate that were served for a period (such as one year) following the expiration of the 30-day notice period in the CARES Act.

### **HUD Must Protect Tenants if There is a Gap in Federal Eviction Protections**

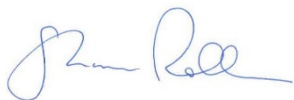
HUD must prepare for a gap between CARES Act eviction protections and an extension of the eviction moratorium and/or emergency rental assistance in the HEROES Act. Any gap in coverage, even a few days, will leave tenants vulnerable to housing instability, evictions, and homelessness. Surely, Congress' intent in passing additional legislation will be to bridge the important tenant protections from the CARES Act to tenant protections in subsequent legislation.

In the event that there is an extended moratorium in the HEROES Act, upon expiration of the CARES Act eviction moratorium, HUD should prohibit the filing of any eviction actions based on notices to vacate that were served after the expiration of the CARES Act but before enactment of the extended moratorium.

HUD must also ensure that an eviction moratorium is in place up until the time that tenants can access emergency rental assistance. Even if the House version of the HEROES Act is passed by Congress, Sec. 110201 requires HUD to disburse emergency rental assistance via the ESG program beginning within 30 days of enactment, with a second tranche disbursed within 75 days. State and local jurisdictions will then need even more time to disburse funds on behalf of tenants. Thus, the total gap to when funds can actually flow on behalf of tenants could easily be at least 60 days after enactment of expanded assistance. Tenants protected under the CARES Act are subject to 30 day-notice at the end of the moratorium, leaving them vulnerable to an eviction on August 24, 2020. Without extension of the eviction moratorium to cover that gap, rental assistance alone will not prevent massive displacement.

Thank you for your consideration of these recommendations. Please contact NHLP's Deputy Director, Deborah Thrope (dthrope@nhlp.org), with any questions.

Sincerely,



Shamus Roller  
Executive Director  
National Housing Law Project



Diane Yentel  
President & CEO  
National Low-Income Housing Coalition

## **National Organizations**

ACCESS  
American Association of Service Coordinators  
American Civil Liberties Union  
Autistic Self Advocacy Network  
Black Women's Health Imperative  
Bodaken and Associates  
Center for Community Progress  
Center for Disability Rights  
Center for Responsible Lending  
Coalition of Labor Union Women  
Consortium for Citizens with Disabilities  
Housing Task Force  
Corporation for Supportive Housing  
Disability Rights Education & Defense Fund (DREDF)  
Equal Rights Center  
Freedom Network USA  
Funders Together to End Homelessness  
Grounded Solutions Network  
Health Justice Innovations, LLC  
Hip Hop Caucus  
Housing and Homelessness Committee of the National Lawyers Guild  
Housing Assistance Council  
Housing Justice Center  
Klein Hornig LLP  
Low Income Investment Fund  
Minnesota Housing Partnership  
MomsRising  
NAACP Legal Defense and Educational Fund, Inc (LDF)  
National Action Network  
National Alliance for Safe Housing  
National Alliance of Community Economic Development Associations  
National Alliance of HUD Tenants  
National Alliance on Mental Illness  
National Association for the Advancement of Colored People  
National Association for County Community and Economic Development  
National Association for Latino Community Asset Builder  
National Association of Local Housing Finance Agencies

National Coalition for a Civil Right to Counsel  
National Coalition for Homeless Veterans  
National Coalition for the Homeless  
National Community Development Association  
National Employment Law Project  
National Equality Action Team (NEAT)  
National Fair Housing Alliance  
National Health Care for the Homeless Council  
National Housing Trust  
National Multiple Sclerosis Society  
National NeighborWorks Association  
National Network to End Domestic Violence  
National Women's Law Center  
Natural Resources Defense Council  
People's Action  
PFLAG National  
Poverty & Race Research Action Council  
RESULTS  
SPLC Action Fund  
Technical Assistance Collaborative  
The Arc of the United States  
The National Resource Center on Domestic Violence  
The United Methodist Church - General Board of Church and Society  
Union for Reform Judaism  
Woodstock Institute

## **California**

California Housing Partnership  
Disability Rights California  
Disability Services and Legal Center  
Disability Services and Legal Center  
Eviction Defense Collaborative  
Eviction Defense Collaborative  
Family Violence Appellate Project  
Housing California  
Housing Leadership Council of San Mateo County  
Law Foundation of Silicon Valley  
Legal Aid of Sonoma County  
Progress Noe Valley  
Public Counsel  
Western Center on Law & Poverty

**Colorado**

B-Konnected, LLC  
Colorado Children's Campaign  
Colorado Coalition for the Homeless  
Golden United  
Growing Home  
Jefferson Unitarian Church Community Action Network (JUC CAN)  
Lutheran Advocacy Ministry-Colorado  
Mental Health Colorado  
Rodfei Tzedek, social justice team of Congregation Rodef Shalom  
Together Colorado  
Violence Free Colorado

**Connecticut**

Connecticut Legal Services, Inc.  
New Haven Legal Assistance Association

**Delaware**

Delaware Coalition Against Domestic Violence  
Housing Alliance Delaware  
National Council on Agricultural Life And Labor Research Fund (NCALL)

**District of Columbia**

Coalition for Nonprofit Housing and Economic Development  
Legal Aid Society of the District of Columbia

**Florida**

Jacksonville Area Legal Aid, inc.  
Florida Housing Coalition

**Georgia**

Georgia Advancing Communities Together, Inc.  
Georgia Coalition Against Domestic Violence

**Illinois**

Access Living of Metropolitan Chicago  
Alliance to End Homelessness in Suburban Cook County  
Beds Plus Care  
Chicago Area Fair Housing Alliance  
Chicago Lawyers' Committee for Civil Rights  
Chicago Rehab Network

Coalition for Equitable Community Development  
Housing Action Illinois  
Housing Choice Partners  
Housing Choice Voucher Working Group  
Lawyers' Committee for Better Housing  
Legal Aid Society of Metropolitan Family Services  
Together We Cope  
North/Northwest Suburban Task Force on Supportive Housing for Individuals with Mental Illness  
ONE Northside  
State Representative Michelle Mussman  
Supportive Housing Providers Association  
WINGS Program Inc.  
The Statewide Independent Living Council of Illinois

**Indiana**

Prosperity Indiana

**Iowa**

Iowa Coalition Against Domestic Violence

**Kentucky**

Homeless and Housing Coalition of Kentucky

**Louisiana**

Louisiana Fair Housing Action Center

**Maryland**

Disability Rights Maryland  
Homeless Persons Representation Project, Inc.  
Public Justice Center

**Massachusetts**

Greater Boston Legal Services  
New England Housing Network

**Michigan**

The Community Economic Development Association of Michigan (CEDAM)

**Minnesota**

Mid-Minnesota Legal Aid

**Missouri**

Empower Missouri  
Missouri Coalition Against Domestic and Sexual  
Violence

**Nebraska**

Nebraska Housing Developers Association

**New Hampshire**

New Hampshire Coalition Against Domestic and  
Sexual Violence

**New Jersey**

Fair Share Housing Center of New Jersey  
Housing and Community Development Network  
of New Jersey  
Occupy Bergen County

**New Mexico**

New Mexico Coalition to End Homelessness

**New York**

Community Service Society of New York  
New Destiny Housing Corporation

**North Carolina**

North Carolina Housing Coalition

**Ohio**

Applied Information Resources  
Caracole, Inc.  
Cincinnati for Affordable Housing, Inc.  
Coalition on Homelessness and Housing in Ohio  
Legal Aid Society of Southwest Ohio LLC  
LSS CHOICES for Victims of Domestic Violence  
Ohio Capital Corporation for Housing  
Ohio CDC Association  
Ohio Domestic Violence Network

**Oklahoma**

Mental Health Association Oklahoma

**Oregon**

Network for Oregon Affordable Housing  
Oregon Housing Alliance

**Pennsylvania**

Community Legal Services  
HELP: MLP  
Mifflin - Juniata Regional Services Corporation

**Rhode Island**

Housing Network of Rhode Island  
Rhode Island Coalition for the Homeless  
Rhode Island Coalition Against Domestic  
Violence  
Rhode Island Homeless Advocacy Project

**South Carolina**

South Carolina Appleseed Legal Justice Center

**Texas**

Texas Housers

**Vermont**

Vermont Legal Aid, Inc.

**Virginia**

Legal Aid Justice Center  
Piedmont Housing Alliance  
RVA Eviction Lab  
Shelter House, Inc.  
Virginia Poverty Law Center

**Wisconsin**

End Domestic Abuse Wisconsin  
New Day Advocacy Center

Cc: Brian Montgomery, Deputy Secretary  
Len Wolfson, Acting Assistant Secretary for Housing - Federal Housing Commissioner  
John Garvin, General Deputy Assistance Secretary for Housing  
Hunter Kurtz, Assistant Secretary for Public and Indian Housing  
Lamar Seats, Deputy Assistant Secretary for Multifamily Housing  
Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing  
Danielle Bastarache, Deputy Assistance Secretary for Public Housing and Voucher Programs  
Steve Durham, Director, Housing Voucher Programs  
Todd Thomas, Director, Public Housing Program  
Tobias Halliday, Director, Office of Multifamily Asset Management and Portfolio Oversight  
Bob Iber, Office of Multifamily Housing Programs Senior Advisor