



August 21, 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: HUD Must Act Now to Protect Tenants

Dear Secretary Carson,

The National Housing Law Project (NHLP) and the National Low Income Housing Coalition (NLIHC) write to urge the Department of Housing and Urban Development (HUD) to respond to the President's Executive Order and enact an eviction moratorium immediately to protect renters during the Coronavirus pandemic. **HUD has the legal authority to enact an eviction moratorium and must do so immediately to protect low-income families who access HUD programs.**

Time is running out. More than 10 million people previously covered by the eviction moratorium in the CARES Act lost protections on July 24th, and tens of millions more Americans in private rental markets are vulnerable to evictions. Local and state moratoriums are expiring and the economic devastation of the pandemic continues to wreak havoc. HUD can curb the devastating impact evictions will have on communities, particularly those that were hit hardest by Covid-19.

The President's Executive Order Requires HUD to Take Action

On August 8, President Trump issued an Executive Order, [*Fighting the Spread of Covid-19 by Providing Assistance to Renters and Homeowners*](#). The Order itself does nothing to expand protections previously enacted by the CARES Act or bar evictions moving forward. Landlords, courts, public housing authorities, and other entities can still seek to evict tenants. For the Order to be meaningful, HUD must take the steps necessary to protect families from housing instability and homelessness, including enacting a nationwide eviction moratorium. The Order requires that HUD

"...take action, as appropriate and consistent with applicable law, to promote the ability of renters and homeowners to avoid eviction or foreclosure resulting from financial hardships caused by COVID-19. Such action may include encouraging and providing assistance to public housing authorities, affordable housing owners, landlords, and recipients of Federal grant funds in minimizing evictions and foreclosures." Section 3(c).

The Order clearly directs HUD to act. And yet, HUD has not responded to the Order. In fact, to date, **HUD has not mandated that housing providers change a single policy to protect tenants in the wake of the Coronavirus.** All of HUD's guidance has been discretionary, leaving tenants vulnerable and confused as they try to navigate a patchwork of local rules. HUD should implement an eviction

moratorium, effective immediately, that applies to all of its properties. This one act will put an end to residents' fear as the CARES Act eviction moratorium expires.

HUD Can Enact a Moratorium Immediately Under the Cares Act

The CARES Act provides HUD with broad authority to waive statutes and regulations related to its programs, except fair housing, nondiscrimination, labor standards, and environmental requirements. HUD can and should use this unprecedented authority to immediately enact an eviction moratorium, even in the absence of additional legislation from Congress. The Executive Order requires HUD to take actions under existing law, and the CARES Act provides HUD with the statutory and regulatory flexibility to bar evictions in all of its programs.

HUD Can Enact an Eviction Moratorium Even after the CARES Act Expires

As explained in [our letter dated July 14, 2020](#), signed by 170 organizations, HUD has the independent legal authority to enact its own eviction moratorium in light of the declared public health emergency. HUD 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. Therefore, even at the expiration of the CARES Act, HUD has the power to protect residents by prohibiting evictions. Without coverage, tenants are vulnerable to housing instability, evictions, and homelessness.

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

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 Assistance 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
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