



August 21, 2020

Sent via e-mail

The Honorable Sonny Perdue
U.S. Department of Agriculture
1400 Independence Avenue
Washington, D.C. 20250

Re: USDA Must Act Now to Protect Tenants

Dear Secretary Perdue,

The National Housing Law Project (NHLP) and the National Low Income Housing Coalition (NLIHC) write to urge the Department of Agriculture (USDA) to enact an eviction moratorium immediately to protect renters in Rural Development housing during the global pandemic that is affecting residents across the entire country. **USDA has the legal authority to enact an eviction moratorium and must do so to protect families residing in its rental housing.**

More than 10 million people, including nearly a million people living in Rural Development financed and guaranteed housing, previously covered by the evictions moratorium in the CARES Act lost protections against evictions on July 24th. We are aware that the President's August 8th Executive Order (EO) was directed only at HUD, HHS and CDC. Notwithstanding, we believe that USDA can and must take independent action to stop the devastating impact evictions will have on residents in its rental housing and on rural communities that were hit hardest by the pandemic.

USDA Must Act on the President's Executive Order

We believe that the exclusion of USDA from the President's EO was inadvertent and that it was not intended to be limited to HUD housing and housing administered by the Treasury. In any case, the EO does nothing to expand protections previously enacted by the CARES Act or bar evictions from moving forward. Landlords, courts, and owners of RD housing can seek to evict tenants. For the EO to be meaningful, USDA must enact an eviction moratorium.

The EO requires HUD to *"...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 . . . affordable housing owners, landlords, and recipients of Federal grant funds in minimizing evictions and foreclosures."* Section 3(c).

In order for the Order to be meaningful, HUD must take steps to protect tenants by enacting an eviction moratorium. There is no reason that USDA cannot take similar action with respect to its housing programs. USDA has the legal authority to enact an eviction moratorium that protects families from

homelessness and housing instability. Such action will put an end to residents' fear as the CARES Act eviction moratorium expires.

USDA Can Enact a Moratorium Immediately Under the CARES Act

The CARES Act provides USDA with broad authority to waive statutes and regulations related to its programs, except fair housing, nondiscrimination, labor standards, and environmental requirements. USDA can and should use this unprecedented authority to immediately enact an eviction moratorium, even in the absence of additional legislation from Congress.

USDA Can Enact an Eviction Moratorium Even if the CARES Act Expires

USDA has authority to enact an eviction moratorium in light of the declared public health emergency and in the absence of additional legislation from Congress. The Department 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 governing any of the RD housing programs that specifically mandates the eviction of tenants by owners of RD financed housing. Therefore, even at the expiration of the CARES Act, USDA has the power to protect residents by temporarily changing the regulatory 'good cause' definition to prohibit evictions for nonpayment of rent in all of its programs. Without such action, tenants are vulnerable to housing instability, evictions, and homelessness.

Thank you for your consideration of these recommendations. Please contact Gideon Anders (ganders@nhlp.org) with any questions.

Sincerely,



Shamus Roller
Executive Director
National Housing Law Project



Diane Yentel
President & CEO
National Low-Income Housing Coalition