March 7, 2024

The Honorable Joe Biden
President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear President Biden:

The undersigned national real estate associations represent a broad coalition of housing providers and lenders that are committed to working together with policymakers to promote sustainable and responsible solutions to address America's housing availability and affordability challenges. Today, we offer this letter in response to the Administration's recent Fact Sheets, "Biden-Harris Administration Announces New Actions to Boost Housing Supply and Lower Housing Costs," and "The Price Isn't Right: How Junk Fees Cost Consumers and Undermine Competition." Thank you for highlighting the need to find policy solutions for the current housing supply and affordability issues facing the country. We are committed to addressing the nation's pressing housing challenges and ensuring stability for the nation's renters. Yet serious obstacles continue to exist in addressing rising housing costs and delivering much-needed supply. We urge you to consider the impacts of new policies and regulations on necessary housing industry practices such as application and service fees, bulk broadband billing arrangements, and the preservation of manufactured housing.

The best way to help the nation's renters find affordable housing is to focus on increasing housing supply. Housing providers, developers, and lenders share the Administration's goals of providing more affordable housing and transparency to all Americans. We appreciate that the Administration has elevated the discussion of housing affordability and highlighted the importance of generating new housing supply. For example, bolstering the HOME Investment Partnerships program, which provides grants to state and local governments to create affordable housing for low-income households, promoting policies that increase financial assistance to renters, and sharing data across sectors to better track at-risk residents are all positive steps. However, we are concerned that some of the proposals outlined in these fact sheets create barriers to our shared goals of increasing housing supply, lowering the cost of housing, and ensuring household stability.

We share the Administration's commitment to protecting consumers. However, imposing additional federal regulation on top of what is already an overly complicated set of regulations and landlord-tenant laws at the state and local levels will only cause housing providers to leave the market (especially small "mom-and-pop" housing providers), create disincentives for investors, and further exacerbate the supply shortage, ultimately hurting our nation's renters. For example, HUD recommends adoption of good cause (also known as just cause) eviction policies. While a minority of states and a few dozen localities have good cause eviction requirements, the vast majority of jurisdictions do not mandate such requirements because they fundamentally interfere with lease contracts. In practice, these laws create an imbalance in the landlord-tenant relationship and can grant renters the option for tenancies in perpetuity unless their housing provider is successful in obtaining a court order to terminate the tenancy. These laws can effectively prevent housing providers' from appropriately operating and managing their

properties, while unilaterally providing renters' the ability to end their residency. Evictions are a troubling experience for all parties involved.

Private, public, and non-profit rental housing providers engage in the eviction process as their only legal remedy to remove a resident who has breached the lease, lawfully regain possession of their property and maintain the safety, peaceful enjoyment, and successful operation of their communities. While most eviction complaints are premised on non-payment of rent, other causes include lease violations and criminal activity. This process is particularly important for small property owners who rely on consistent, reliable rental payments to meet their financial obligations; limiting the ability to enforce lease terms has a disproportionately negative impact on those housing providers. Property owners often seek to mitigate evictions, most often by working with affected residents on payment plans and connecting them with social services.

As discussed below, even well-intended policy requirements can negatively impact housing production and exacerbate nationwide housing affordability and availability challenges.

Rental Housing Fees are Unlike Traditional Consumer Fees

We encourage federal policymakers to study the actual utility and function of fees in the housing market. We do not believe there is a data driven justification for the purported claims of consumer harm on a macro level relating to the imposition of fees in the rental housing industry. State and local laws comprehensively protect both parties in real estate transactions and address a variety of considerations applicable to the landlord-tenant relationship, such as what may constitute "rent;" security deposits, and fee regulations; and required lease disclosures including in the event of lease modifications.

The fees used in the housing industry are unlike others that the Administration focuses on. States' fee regulations are robust -- developed over time to balance the needs of renters, housing providers and local markets. A one-size-fits-all requirement would interfere with the breadth and differences in states' fee requirements that already cover limitations in amounts of specific types of rental housing fees, refundability, return and disclosure requirements, just to name a few. Housing providers use fees in rental transactions to facilitate necessary business practices and provide residents with concierge-type services. This allows for flexibility and changes in resident preferences throughout the lifecycle of the lease term. Therefore, as the Administration contemplates changes and/or the imposition of new regulations on these necessary fees, we strongly urge the Administration to avoid confusing, costly new provisions that will negatively affect residents and housing providers, hinder new housing supply, and ultimately result in even less affordable housing.

Preserve Broadband Bulk Billing

We are also concerned by the Administration's announcement proposing a ban on the broadband bulk billing arrangements. This misguided proposal which was included in the White House Announcement purportedly lays the groundwork for a rulemaking process at the Federal Communications Commission (FCC) aimed at boosting competition, yet it would actually do the opposite. Bulk billing arrangements are a way to provide residents with a bundled price for broadband services which is often cheaper, better, and faster and more reliable than apartment residents would typically be able to secure in the open market.

Banning bulk internet agreements will harm residents, and disincentivize investment in broadband service, especially in rural areas as well as low-income, smaller, and more-affordable rental communities who struggle the most to get connected. Bulk billing arrangements are pro-consumer and pro-renter and help support property operations like climate resilience and our shared, long-term goals of improving housing affordability. Policymakers should be looking for ways to support and elevate bulk billing arrangements to leverage historic federal resources to boost broadband access, not upend the residential broadband market and in turn, potentially disconnect millions of American families.

Preservation of Manufactured Housing Communities

As a part of its housing supply strategy, we commend the Administration for its recognition that boosting the supply and affordability of manufactured homes should be an important focus and we support the Administration's goal of preserving manufactured housing communities. To achieve these goals, it is critical that all sectors be involved – both for-profit and non-profit and resident owned manufactured housing communities. Just as for-profit affordable housing developers play a critical role in the Low-Income Housing Tax Credit program, for-profit manufactured housing community owners must be an essential component of the strategy to maintain affordable manufactured housing communities.

A good example of this is the recently announced U.S. Department of Housing and Urban Development (HUD) grants for the Preservation and Reinvestment Initiative for Community Enrichment (PRICE). HUD should clarify, as the underlying statute allows, that for-profit community owners are eligible for the grants, so that the grant competition is based only on merit and need. Because most manufactured housing communities were constructed in the 1960s and 1970s, many need significant infrastructure improvements, which existing owners may not have the resources to fund. Investor-owned land-lease community owners have had an integral role in buying these communities and providing the capital for such improvements. The great majority of such community owners have a strong commitment to serving residents and maintaining affordability and they should not be arbitrarily excluded from these critically important new HUD grants.

Conclusion

The health and stability of the rental housing sector is paramount to that of our overall economy. And, importantly, the sufficient supply of quality housing is necessary in ensuring the continued economic prosperity and household stability for Americans nationwide. Inherent in ensuring stability for our nation's renters, is maintaining the viability of the rental housing industry. We are committed to working with policymakers on addressing this nation's housing affordability challenges.

Sincerely,

CCIM Institute
Council for Affordable and Rural Housing
Institute of Real Estate Management
Manufactured Housing Institute
Mortgage Bankers Association
National Apartment Association
National Association of Home Builders
National Association of REALTORS®
National Leased Housing Association
National Multifamily Housing Council

cc: Domestic Policy Council
Federal Communications Commission
Federal Trade Commission
National Economic Council
United States Congress
United States Department of Housing and Urban Development
United States Department of Agriculture, Rural Housing Service