



August 9<sup>th</sup>, 2022

The Honorable Joseph R. Biden Jr.  
President of the United States  
The White House  
1600 Pennsylvania Avenue NW  
Washington, D.C. 20500

Dear President Biden,

Thank you for your administration's efforts to lower costs for American families and your Housing Supply Action Plan. As Members of the New Democrat Coalition (NDC), we believe access to affordable housing is paramount to economic security and opportunity. Unfortunately, rising home prices and rents have kept home ownership out of reach for millions of Americans, squeezing household budgets, making it harder for people to save, and costing the United States trillions in gross domestic product (GDP). That is why the NDC called for policies to build more affordable housing, improve access to capital for homebuyers, and lower housing costs in our Action Plan to Fight Inflation. We write to urge your administration to take additional steps to increase affordable housing production and lower housing costs for Americans.

The Low-Income Housing Tax Credit (LIHTC) program is a critical tool to incentivize the development and preservation of affordable housing.<sup>i</sup> While legislation has been introduced in Congress to further enhance and expand LIHTC, we urge the administration, primarily through the Treasury and Internal Revenue Service (IRS), to take the following actions to maximize the potential of LIHTC now:

- Expedite the release of a final, workable rule for the average income minimum set-aside test in LIHTC. The final rule should address stakeholder concerns<sup>ii,iii</sup> that the IRS's proposed regulations<sup>iv</sup> increase investor risk, complicate implementation, and conflict with existing housing protections;
- Provide flexibility in determining appropriate deadlines for restoration when a LIHTC property suffers a catastrophic event so owners do not unfairly lose credits;
- Amend the Audit Technique Guide to allow tenant relocation costs that are incurred in connection with the rehabilitation of a building to be capitalized as part of the cost of the rehabilitation, consistent with the treatment of relocation costs for demolitions;
- Work to protect LIHTC under a final global minimum tax implemented under the Organization for Economic Co-operation and Development's (OECD) Pillar Two model rules; and
- Financial regulators, including the Federal Reserve, Office of the Comptroller of the Currency (OCC), and Federal Deposit Insurance Commission (FDIC), should ensure that proposed rules under the Community Reinvestment Act (CRA)<sup>v</sup> do not discourage equity

investment in affordable housing through LIHTC by addressing concerns that the changes to the evaluation methodology, including the weighting of community development and retail activity, pooling of debt financing and equity investments, and the expansion of qualifying activities would devalue the affordable housing credit.

Under your leadership, we enacted a historic bipartisan infrastructure package, the Infrastructure Investment and Jobs Act (IIJA), and the American Rescue Plan Act (ARPA), which both present significant opportunities for community development, including affordable housing, and we thank you for the work your administration has already done to incentivize affordable housing development through the funding in those laws. Building on that work, we urge the administration, primarily through the Department of Transportation (DOT) and Department of Housing and Urban Development (HUD) to take further actions to promote better zoning, planning, permitting, and affordable housing development:

- Prioritize IIJA grant funding for projects that demonstrate strong commitments to affirmatively further fair housing, equitably reform local zoning and planning laws that integrate housing and infrastructure development, promote housing affordability and density, and transit-oriented development;
- Finalize DOT's updated guidelines to increase financial support for Transportation Infrastructure Finance and Innovation Act (TIFIA) projects that include housing development;
- Quickly implement the recommendations of the Infrastructure Permitting Improvement Center (IPIC), and leverage the IPIC to coordinate between agencies to resolve issues and conduct concurrent permitting reviews where feasible;
- Continue to urge state and local governments to use unspent American Rescue Plan funding to scale up fair and affordable housing construction, invest in and preserve subsidized housing for low-income families, and modernize regional zoning plans to promote the availability of affordable housing in every neighborhood;
- Bolster Fixed Guideway Capital Investment Grant projects by establishing standards and guidance for local governments to carry out housing feasibility assessments, and by prioritizing funding for those projects that demonstrate a commitment or evidence of updating land use policies that allow greater density near planned transit stops;
- Partner with the private sector to identify and implement federal and industry actions to address workforce shortages and supply chain disruptions for building materials; and
- Update the Economic Development Administration's investment priorities to include planning or implementation projects that support affordable housing development and density.

We are also encouraged by the work your administration is doing to assess ways to support financing for developers and potential homeowners in order to promote more affordable housing development and density. We ask that the administration take the following actions:

- Finalize the Freddie Mac feasibility study to support manufactured housing lending, then implement those actions in a way that allows Freddie Mac to support product design and future loan purchase capabilities;
- Utilize the Federal Housing Administration and Federal Housing Finance Agency (FHFA) to evaluate how they can help lenders scale renovation and construction financing for accessory dwelling units, and evaluate the credit performance of those loans

to identify opportunities to amend existing loan programs to expand affordable financing options;

- Swiftly finalize Fannie Mae and the FHFA's consideration of the feasibility of purchasing Construction to Permanent multifamily loans to support stable and low-cost sources of capital for multifamily housing development;
- Quickly implement HUD's commitment through the Federal Financing Bank's Risk Sharing Program to increase loans for state and local Housing Finance Authorities and develop a permanent financing mechanism for these loans to support the participation of Housing Finance Authorities;
- Finalize HUD updates to guidance on the "Use of Community Development Block Grant Programs Funds in Support of Housing" to promote housing development, the conversion of existing structures into housing, and encourage local acquisition of housing units by owner-occupants and mission-driven entities;
- Increase protections for tenants in manufactured housing communities (MHCs) by supporting longer-term leases, eviction protections, tenant's right of refusal to buy their MHC, aligning Duty to Serve credit requirements with the level of protection for tenants, and by publishing a public list of MHCs covered by Tenant Lease Protections (TSLPs) under federally backed financing.
- Encourage HUD to release clear guidance for outlining what information is needed to qualify for the HOME program's down payment assistance program to support low-income individuals successfully achieving and maintaining homeownership;
- Increase the HUD Title I loan limit to reflect market prices, and institute a process for annual increases in line with home price appreciation, as is the case for Federal Housing Administration (FHA) forward mortgages required by law; and
- Update HUD regulations to allow Title I issuers who participate in Ginnie Mae's Manufactured Housing Program to conform to the lower net worth requirements of other Ginnie Mae issuers.

Congress and the administration have taken strong steps to address economic issues like inflation, supply chain congestion, and shortages. As we look to build a more resilient economy that serves the needs of our constituents, we must build more affordable homes to meet the scale of our housing demand. In a report published by the NDC in the 115<sup>th</sup> Congress, Members determined there were four major drivers of the housing shortage: funding and financing; land, zoning, planning, and permitting; labor shortages; and costs and availability of materials. To truly address our affordable housing shortage, we will need to advance solutions in all of these buckets. We recognize that administrative action alone is not enough to address the scope of the housing crisis, particularly for those with the lowest incomes, but the actions we urge today are important first steps that the administration can take immediately. New Dems stand ready to work with the administration as we build back better from the pandemic, tackle inflation, and ensure that all Americans can achieve the dream of secure and affordable housing.

Sincerely,



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Rep. Carolyn Bourdeuax  
Co-Chair, Infrastructure Task Force  
New Democrat Coalition



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Rep. Norma Torres  
Co-Chair, Infrastructure Task Force  
New Democrat Coalition



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Rep. Suzan DelBene  
Chair  
New Democrat Coalition



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Rep. Scott Peters  
Vice Chair  
New Democrat Coalition



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Rep. Sharice L. Davids  
Vice Chair  
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Rep. Ann McLane Kuster  
Vice Chair  
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Rep. Ami Bera M.D.  
Vice Chair  
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Rep. Chrissy Houlahan  
Whip  
New Democrat Coalition



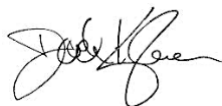
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Rep. Bradley S. Schneider  
Leadership Member  
New Democrat Coalition



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Rep. Stacey E. Plaskett  
Leadership Member  
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Rep. Derek Kilmer  
Chair Emeritus  
New Democrat Coalition

Rep. Pete Aguilar  
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Rep. Cindy Axne  
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Rep. Donald S. Beyer Jr.  
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Rep. Lisa Blunt Rochester  
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Rep. Anthony G. Brown  
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Rep. Shontel Brown  
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Rep. Cheri Bustos  
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Rep. Jim Costa  
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Rep. Charlie Crist  
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Rep. Madeleine Dean  
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Rep. Marilyn Strickland  
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Rep. David Trone  
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Rep. Debbie Wasserman-Schultz  
Member of Congress  
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Rep. Susan Wild  
Member of Congress  
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Rep. Nikema Williams  
Member of Congress  
New Democrat Coalition

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<sup>i</sup> *Low Income Housing Tax Credit: Financing Solutions for Developers and Investors*. Nixon Peabody. Retrieved from: [https://www.nixonpeabody.com/-/media/Files/Alerts/172619\\_Low\\_Income\\_Tax\\_Credit\\_23APR14.ashx](https://www.nixonpeabody.com/-/media/Files/Alerts/172619_Low_Income_Tax_Credit_23APR14.ashx)

<sup>ii</sup> *Recommendations for 2022-2023 Priority Guidance Plan*. The ACTION Campaign. Retrieved from: <https://drive.google.com/file/d/1pA6ZNDwvVYaxWXpldesnJtgUnWbWd0ZE/view>

<sup>iii</sup> *Letter to IRS dated Dec. 2, 2021*. National Coalition of State Housing Agencies. Retrieved from: <https://www.ncsha.org/wp-content/uploads/Housing-Credit-Industry-Sign-On-Letter-on-Average-Income-Test-12.2.21.pdf>

<sup>iv</sup> Reg-104591-18, Section 42, Low-Income Housing Credit Average Income Test Regulations Proposed Treasury Regulation Section 1.42-19 (Guidance)

<sup>v</sup> Community Reinvestment Act Notice of Proposed Rulemaking. Retrieved from: <https://www.federalreserve.gov/consumerscommunities/files/cra-npr-fr-notice-20220505.pdf>