



**Hearing of the United States Senate Committee on Finance:
Tax Policy's Role in Increasing Affordable Housing Supply for Working Families**

Testimony of Denise Scott, President

March 7, 2023

Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

I thank you very much for the opportunity to speak with you today, at a time when the nation's affordable housing crisis continues to deepen, to discuss the critical role that federal tax policy plays in supporting the development and preservation of affordable rental and homeownership housing throughout the country. I recognize that the Committee has a broad jurisdiction and will be addressing many important issues this Congress, and I applaud you for your focus on affordable housing so early in this legislative session.

My name is Denise Scott, and I am the President of the Local Initiatives Support Corporation (LISC). LISC is a non-profit housing and community development organization and certified Community Development Financial Institution (CDFI) with offices in 38 cities throughout the country, and a rural network encompassing 146 partners serving 49 different states, the U.S. Virgin Islands and Puerto Rico. LISC's work supports a wide range of activities, including affordable housing, economic development, building family wealth and incomes, education, community safety, and community health. LISC and its affiliates raise and deploy well over \$2 billion annually in grants, loans and equity capital into distressed urban and rural communities. In 2022, this included over \$1.2 billion of equity capital deployed by our affiliates, the National Equity Fund (NEF) and the New Markets Support Company (NMSC), utilizing federal Low Income Housing Tax Credits (Housing Credits) and New Markets Tax Credits (NMTCs), respectively.

LISC believes that a safe, affordable home is one of the basic requisites of life -- a key to individual health, well-being and financial security. We also believe that investments in quality, affordable housing have benefits that extend beyond the walls of a home and the experience of the people who live there to the community at large. It can stimulate spending and employment in the local economy, revitalize and bring revenue to the community, and build community wealth.

In this testimony, I will discuss: (i) LISC's role in supporting affordable housing; (ii) the current state of the housing market; (iii) the unique and essential role of Housing Credits in increasing the supply of affordable rental housing, and steps Congress can take to strengthen the program;

(iv) the need for Congress to enact the Neighborhood Homes Investment Act; and (v) other actions Congress can take to spur responsible investments in affordable housing through the tax code.

I. LISC's Role in Supporting Affordable Housing

LISC provides support relating to all components of the affordable housing financing ecosystem. We raise capital and manage the assets of Housing Credit investment funds; provide training and technical assistance grants to non-profit housing developers; provide debt capital for multifamily housing projects; administer off balance sheet funds on behalf of municipalities, private sector organizations and foundations; support single family housing development and rehabilitation; and support rural housing initiatives, both single family and multifamily.

Housing Credit Investments

The National Equity Fund (NEF) is the largest non-profit syndicator of Housing Credits in the country. NEF serves as the bridge between developers and Housing Credit investors -- helping to place equity capital at tax credit properties throughout the country, managing investor funds, providing compliance monitoring services, and facilitating the transfers of properties to new ownership at the conclusion of the 15 year tax credit compliance period. Since its founding in 1987, NEF has invested more than \$22.7 billion, which represents 231,500 new affordable homes for individuals, families, and communities in need across the country. In 2022, NEF deployed \$2.1 billion in affordable housing investments, including \$1.2 billion in Housing Credit investments. NEF has also raised over \$130 million in committed Opportunity Zone investments to support multifamily affordable housing.

NEF is also an industry leader in creating targeted funds focusing on high needs populations. Its "Bring Them Homes" initiative provides veterans of the U.S. military with high quality affordable housing. Over the past decade, NEF has invested \$800 Million in 80 projects that provide a veteran's preference, alongside over \$9 million of grant funding to help provide on-site supportive services. These combined efforts created and/or rehabbed nearly 13,000 units of affordable housing, including 7,500 units targeting veterans and veteran families. And in 2021, NEF raised more than \$112 million to support its new Emerging Minority Developer Fund to empower the next generation of developers of color to overcome high barriers of access to housing credits.

Multifamily Housing

LISC provides a range of grants, loans, and equity for nearly every aspect of development, from planning and acquisition to construction and renovation, to both nonprofit and for-profit developers. We offer technical assistance, data, and mapping tools to community-based organizations working to improve the supply and condition of affordable housing in their neighborhoods, helping to equip developers and small businesses with the resources they need to grow and thrive. We are intentional in our efforts to bring these resources to communities and businesses overlooked by conventional financing channels.

Lending is an essential instrument in LISC’s community development toolkit. As one of the largest CDFIs in the nation, we work in partnership with local grassroots groups, for-profit developers and government agencies to finance programs and projects that will have a positive, long-term impact. LISC offers a wide range of loans, from pre-development to permanent financing, and we finance a variety of asset classes, from large affordable housing to community facilities to small business loans. In 2022, LISC closed over \$360 million in total loan commitments, providing \$131million to 62 affordable rental housing projects and 14 affordable home ownership projects, supporting a total of 5,200 affordable homes.

In addition, LISC’s Loan Fund Management (LFM) group is charged with designing, launching, and managing successful place-based impact funds and innovative capital vehicles across the country. Created in 2018 and operating under LISC’s Strategic Investments arm, LFM is currently managing 10 funds with \$865 million of assets under management and has closed close to 3,000 loans through the end of 2022. LFM is currently managing \$620 million of investments in four place-based affordable housing funds in the Bay Area, Charlotte, Dallas, and Detroit, which have collectively supported over 6,000 affordable housing units. LFM also invests in affordable housing projects through its national and regional funds, like the Black Economic Development Fund, which has supported over 1,000 units of affordable housing.

Single Family Housing

In addition to providing loans to support developers of single family homes in our communities, LISC has more recently developed a new product to support owner occupied home rehabs. Pioneered in 2015 by our Detroit LISC office, we are offering 10-year, interest free loans ranging from \$5,000 to \$25,000 to complete home repairs, fix structural defects and resolve health and safety issues such as lead, mold and asbestos contamination. The Detroit program has provided \$13.6 million in financing to 688 homeowners, 95% of whom are Black, and 71% of whom are low-income households. The loan fund structure draws upon three sources of financing -- CDBG funds, private loan capital and grant funding – and we are in the process of building out similar programs in Memphis and other cities across the country.

Rural Housing

LISC has a strong commitment to improving rural communities and in 1995, launched Rural LISC, a national program created to expand our reach beyond urban areas. Today, Rural LISC partners with 146 rural community-based organizations, including five financial intermediaries, helping each organization identify challenges and opportunities, and delivering the most appropriate support to meet those local needs. Over half of our partners provide housing assistance to the small towns they serve. LISC has renewed our commitment to rural communities through our Rural LISC Promise, our pledge to catalyze at least 20 percent of the community development impact that LISC makes, in any year, in rural communities.

Our experience supporting local nonprofit housing organizations working in rural communities has shown us the importance of federal affordable housing programs, including the Housing Credit. A recent survey of our Rural LISC partners indicated that Housing Credits are being utilized to finance 106 development projects in their pipelines, totaling more than 7,000 units.

Many of our partners utilize Housing Credits to preserve and recapitalize U.S. Department of Agriculture’s Section 515 multifamily housing properties and for USDA Section 514 and 516 farm labor housing. These resources are essential for preserving what is often some of the only affordable rental housing in small towns.

II. Challenges in the Affordable Housing Markets

In the past few years, our nation has experienced large swings in the housing market due to the economic impacts of the pandemic and consistent underproduction of housing supply. These impacts have been disproportionately felt by lower-income families and households of color, which experienced housing constraints before Covid. LISC has seen throughout our national footprint that the greatest housing challenges are primarily related to affordability, in both the multifamily and single family markets.

Multifamily Housing

The multifamily rental market has experienced historic rent growth, triggered by strong overall demand and low vacancy rates. Rents increased a record 11.6 percent at the end of 2021 and remained at an elevated pace during the first quarter of 2022.¹ This was the largest year-over-year increase in two decades and more than three times the 3.2 percent average annual rise in the five years preceding the pandemic.² For the first time, the median asking rent in the 50 most populous metropolitan areas is more than \$2,000.³ Rent growth has recently declined in response to the Federal Reserve’s efforts to slow inflation by raising interest rates. By the end of 2022, rents were up three percent although it would take far more declines to counteract the overall historic gains.⁴

These historic increases in rental housing costs have also occurred during years of higher multifamily construction costs, challenging affordable rental housing providers. The sector has experienced increased costs for construction materials, labor, insurance, and recently mortgage interest rates.⁵ The price of inputs to new residential construction (excluding capital, labor, and imports) was up 20 percent year over year in February 2022.⁶ LISC finances affordable rental housing projects across the country, and in markets of all types, and has seen firsthand the additional financing gaps created by these inflationary pressures. These can threaten the likelihood of a project going to completion if additional sources of scarce affordable housing funding can’t be secured.

High rent burdens contribute to housing instability for underserved families. In no state, metropolitan area, or county in the U.S. can a worker earning the federal or prevailing state or local minimum wage afford a modest two-bedroom rental home at fair market rent by working a

¹ Harvard University. *State of the Nation’s Housing*. <https://www.jchs.harvard.edu/state-nations-housing-2022>

² Ibid

³ National Low Income Housing Coalition. *Out of Reach*. https://nlihc.org/sites/default/files/oor/2022/OOR_2022_Mini-Book.pdf

⁴ Dr. Christopher Herbert. *Senate Banking Committee Testimony*. <https://www.banking.senate.gov/download/herbert-testimony-2-9-23>

⁵ Fannie Mae. *Covid-19 and Multifamily Construction Costs*. <https://multifamily.fanniemae.com/news-insights/multifamily-market-commentary/covid-19-and-multifamily-construction-costs>

⁶ Harvard University. *State of the Nation’s Housing*. <https://www.jchs.harvard.edu/state-nations-housing-2022>

standard 40-hour work week.⁷ In addition, nearly half of all renters are now considered cost-burdened since they spend at least 30 percent of their income on housing.⁸ The unaffordability of the rental market also disproportionately harms Black and Latino households because they earn disproportionately less income than White renters and are more likely to be renters. Thirty percent of White households are renters, compared with 58 percent of Black households and 46 percent of Latino households.⁹

While the most severe affordability challenges continue to be at the lowest end of the income spectrum, there have been growing challenges felt by middle income households, particularly in high-cost markets. Our nation's underproduction of housing is increasing housing affordability challenges for teachers, firefighters, nurses, and others. City leaders from across the country have shared with LISC their struggles with housing their municipal workforce, and related challenges in attracting talent to both public and private sector jobs due to inadequate supply of quality affordable housing. Renter cost burdens increased across all income levels in 2021, although they were the largest among middle-income groups.¹⁰ It is estimated that our nation has underproduced on almost 3.8 million units of housing, which drives up housing costs and contributes to inflationary pressures for low- and moderate-income families.¹¹

Relatedly, LISC is supportive of local efforts to reduce land use and regulatory barriers which restrict housing supply for low- and middle-income families and has seen these efforts in some of our local office markets, including Charlotte, Twin Cities, our offices in California and others.

Lastly, we've also seen firsthand how increases in natural disasters fueled by climate change are impacting affordable housing properties and creating housing instability for low-income families. Research has shown that our nation's affordable housing stock is at higher risks from disasters compared to other housing types.¹² These disasters are also reducing our nation's affordable housing supply and displacing residents from their communities.¹³ It can be difficult for owners to rebuild due to inadequate insurance and reserves, while low-income tenants have fewer financial resources to cope with the loss of their homes.¹⁴

Single Family Homes

Similar to the rental housing market, single family homes have experienced historic price increases since the pandemic. Home price appreciation nationwide hit 20.6 percent in March 2022—topping the previous high of 20.0 percent in August 2021 and marking the largest jump in three decades.¹⁵ Home price increases have cooled since the Federal Reserve began raising interest rates, although prices generally remain high, and elevated interest rates make it more difficult for first time homebuyers to purchase a home. Just 42.2 percent of new and existing

⁷ National Low Income Housing Coalition. *Out of Reach*. https://nlihc.org/sites/default/files/oor/2022/OOR_2022_Mini-Book.pdf

⁸ Joint Center on Housing Studies Blog. <https://www.jchs.harvard.edu/blog/number-renters-burdened-housing-costs-reached-record-high-2021>

⁹ National Low Income Housing Coalition. *Out of Reach*. https://nlihc.org/sites/default/files/oor/2022/OOR_2022_Mini-Book.pdf

¹⁰ Christopher Herbert. Senate Banking Committee Testimony. <https://www.banking.senate.gov/download/herbert-testimony-2-9-23>

¹¹ <https://upforgrowth.org/apply-the-vision/housing-underproduction/>

¹² <https://preservationdatabase.org/wp-content/uploads/2021/06/Taking-Stock.pdf>

¹³ <https://www.bisnow.com/national/news/affordable-housing/disasters-like-ian-punish-affordable-housing-stock-especially-hard-115855>

¹⁴ <https://shelterforce.org/2023/02/17/how-the-inflation-reduction-act-can-protect-low-income-renters-from-climate-change/>

¹⁵ Harvard University. *State of the Nation's Housing*. <https://www.jchs.harvard.edu/state-nations-housing-2022>

homes sold between the beginning of July and end of September 2022 were affordable to families earning the U.S. median income of \$90,000.¹⁶ This was the second consecutive quarterly record low for housing affordability since the Great Recession.

Homeownership disparities between racial and ethnic groups stubbornly persist. In the second quarter of 2022, the homeownership rate for White households was 75 percent compared to 45 percent for Black households, 48 percent for Hispanic households, and 57 percent for non-Hispanic households of any other race.¹⁷ These gaps in homeownership rates have changed little over the last three decades. In fact, the Black-White gap in homeownership rates was the same in 2020 as it was in 1970, just two years after the passage of the Fair Housing Act of 1968, which sought to end racial discrimination in the housing market.¹⁸ These disparities limit the ability of families of color to achieve their homeownership goals and limits asset building opportunities, contributing to our nation’s racial wealth gap.

Many communities have also been significantly impacted by real estate investors purchasing single family housing properties for rental housing. Increases in investor-owned properties are associated with rising rental prices, particularly in the most affordable segment of the housing market. These investor purchases reached a record high in 2021¹⁹, are geographically concentrated in the South and Southwest sections of the nation and are primarily in low cost, neighborhoods with a majority households of color.²⁰ Between 2010 and 2021, the share of homes purchased by investors in majority Black zip codes has increased from 13% to 30%; compared to increases from 7% to 12% in other zip codes.²¹ LISC has seen the impacts of these practices in several of our local office markets, including Atlanta, Charlotte, Jacksonville, Phoenix, Detroit and others. Increased investor activity has been linked with troubling property management practices and, as critically, it limits the ability of first time and minority families to purchase homes and build wealth.²²

III. Affordable Housing Tax Credits

Overview

The Housing Credit is the nation’s most successful tool for the production and preservation of affordable rental housing, responsible for nearly all of the affordable housing built and preserved since the program’s creation in the Tax Reform Act of 1986. There are two types of housing credits: those allocated by state agencies from their annual Housing Credit volume cap (the “9

16 <https://www.nahb.org/news-and-economics/press-releases/2022/11/housing-affordability-falls-to-more-than-10-year-low-as-rising-interest-rates-take-a-toll>

17 <https://home.treasury.gov/news/featured-stories/racial-differences-in-economic-security-housing#:~:text=housing%20equity%20wealth,-,Homeownership,households%20of%20any%20other%20race.>

18 Ibid.

19 Schaul, Kevin and O’Connell, Jonathan. “Investors bought a record share of homes in 2021. See where”. Washington Post. February 16, 2022.
20 Dr. Desiree Fields, Senate Banking Hearing: How Private Equity Landlords are Changing the Housing Market. <https://www.banking.senate.gov/download/fields-testimony-10-21-21>

21 Schaul and O’Connell

22 Frankel T and Keating D (2018) Eviction filings and code complaints: *What happened when a private equity firm became one city’s biggest homeowner*. The Washington Post. https://www.washingtonpost.com/business/economy/eviction-filings-and-code-complaints-what-happened-when-a-private-equity-firm-became-one-citys-biggest-homeowner/2018/12/25/995678d4-02f3-11e9-b6a9-0aa5c2fcc9e4_story.html

percent” Credit); and those that are utilized by states to accompany projects funded by multifamily Housing Bonds (the “4 percent” Credit).

The power of the program is that it is a private sector affordable housing development program, subsidized with federal tax credits and administered by state housing finance agencies. Through each state’s credit allocation process, developers are awarded federal tax credits based on their ability to satisfy the affordable housing priorities identified by the state in its Qualified Allocation Plan. The public policy benefit of this approach is that it enables states to address their affordable housing needs by setting up a competition for the award of credits, ensuring that only the most capable developers (both for-profit and nonprofit) are selected.

The results are impressive. The Housing Credit has produced just under 4 million affordable homes, serving more than 8 million households, supporting approximately 6 million jobs annually, and generating approximately \$250 billion in taxes and \$700 billion in wages and business income. The Housing Credit has been critical in helping approach the end of veterans homelessness, it has enabled the redevelopment of distressed public housing, has been a critical source of funding for elderly housing, and provided critically needed housing for the disabled. What’s more, properties financed with the Housing Credit must remain affordable for a period of at least 30 years, and longer in certain states.

The success of the Housing Credit program can be measured not only by the number of units of affordable housing it has produced, but also by the financial strength of the properties developed. According to periodic analysis by the national accounting firm CohnReznick, the cumulative rate of foreclosure on Housing Credit properties is lower than any other real estate asset class, well below 1%. This is a tribute to the quality of underwriting at the original financing as well as the multiple eyes on the development by the state housing finance agency, local governments, lenders, equity providers and developers.

While development deals are complex, the essence of the Housing Credit is actually quite simple. Federal tax credits enable developers to raise equity capital from investors. Because the investor’s return is generated primarily through the tax credits and associated losses, as opposed to income generated from the property, the developer can take on significantly less debt and thereby offer much lower rents. The federal statute requires all subsidized Housing Credit units to be rented to tenants with incomes at or below 60% of area median income (AMI), with limited reach to tenants up to 80% of area median income (provided the overall average of the development is still at or below 60% of AMI), and the rents charged may not exceed 30 percent of the applicable median family income.

In practice, however, a significant percentage of Housing Credit units are rented and affordable to tenants with considerably lower incomes. According to recent HUD data on Housing Credit resident demographics, 53 percent of all households living in Housing Credit apartments are extremely low-income, meaning they earn 30 percent of AMI or less; and another 31 percent of households are classified as very low-income (earning less than 50 percent of AMI). This deep targeting is in large part due to the requirements in federal law that creates a preference for developments that commit to deeper income targeting. The Housing Credit is best able to reach the poorest households when rental assistance is available, as the rents these families can afford

to pay often cannot support basic operating costs, let alone debt service. LISC is supportive of efforts to increase rental assistance since only one out of four eligible households receive it, and since these resources are so critical for housing extremely low-income families.²³

Current Challenges to Tax Credit Development

In spite of its tremendous successes over a period approaching four decades, the Housing Credit program faces serious challenges as the affordable housing community seeks to respond to the overwhelming shortage of affordable housing. In almost all areas of the nation, we face a substantial supply-demand imbalance. As noted earlier, there is simply not enough affordable housing to serve families in need.

This supply imbalance has been exacerbated by sharp increases in development costs throughout the United States. In a report issued last fall, the National Council of State Housing Agencies examined a number of their member housing finance agencies (HFAs) and found average construction cost increases of approximately 30% since the pandemic. This problem has been compounded by higher debt costs, which further exacerbate financing gaps. Because cost increases have been so rapid and unexpected across the board, a significant number of affordable housing deals had to be put on pause last year after developers received their credit allocations.

Recommendations for the Committee

1. Restore the 12.5% increase to the formula for the 9% credit allocation. In 2018, to help address the growing affordable housing shortage, Congress enacted on a bipartisan basis a 12.5 percent increase in the state allocation formula for the 9% Credit. This provision expired at the end of 2021, meaning that at a time when rents are skyrocketing and supply is limited, we are actually experiencing a *cut* to affordable housing production. At least 55,000 shovel ready affordable homes are expected to remain unbuilt unless this provision is restored.

2. Enact the Affordable Housing Credit Improvement Act (AHCIA). This legislation was sponsored by Senators Cantwell and Young in the last Congress (S.1136), and we anticipate will be reintroduced shortly. The legislation garnered 43 Senate cosponsors in the last Congress, including 15 from the Finance Committee. We strongly support all two dozen of the provisions in that legislation, including:

- *Increasing the 9% formula allocation by an additional 50% over the 2021 baseline figure, adjusted for inflation.* This additional allocation would increase affordable rental housing production and preservation by about 300,000 more homes over a ten-year period.
- *Lowering the threshold for the minimum amount of multifamily private activity bonds that must be used to finance a property to be eligible for the 4% housing tax credit.* The legislation would reduce the minimum threshold from 50% of development costs to 25%. This would both facilitate property development and have the indirect effect of expanding the private activity cap by requiring less of it to be used for each Housing Credit development.

²³ <https://www.cbpp.org/research/housing/families-wait-years-for-housing-vouchers-due-to-inadequate-funding>

According to a 2021 estimate, lowering the bond financing threshold from 50 percent to 25 percent could produce or preserve about 1.5 million additional affordable rental homes over a ten-year period.

- *Creating additional basis boost.* We support provisions adding additional eligibility for more credits for units in projects targeting extremely low-income families, for rural projects, for projects serving Native American communities, and also for certain 4% projects.
- *Reducing regulatory and cost burdens on affordable housing development by taking away the ability of local and other elected officials to effectively veto affordable housing development.* There is bipartisan concern across the country that local and state governments impose a variety of regulatory burdens that impede housing development and add unnecessary costs that price people out of rental markets.
- *Simplifying and clarifying rules relating to resyndication of LIHTC properties.* In order to preserve older Housing Credit properties, HFAs will sometimes provide a new allocation of tax credits (called resyndication) so that the property can undergo substantial rehabilitation and be put into a new 30 year affordability restriction. The statute needs to be amended so that investors that may have participated in the original syndication of the credits will not be precluded from providing new tax credit investments at the time of resyndication.

3. Adopt policies to prevent the loss of existing affordable housing properties and resources.

There are two issues with the Housing Credit program that we believe are critical for Congress to address, although they were not included in the AHClA in the last Congress. These issues have been before Congress for several years, but enactment has been elusive in spite of the efforts of Chairman Wyden, most recently in the Decent, Affordable, Safe Housing for all Act, the DASH Act. The first issue is the Right of First Refusal in section 42(i)(7) of the Code. The second issue is the Qualified Contract provision in section 42(h)(6)(E)(i)(II).

Right of First Refusal. Current law permits Housing Credit limited partnership agreements to include a right of first refusal (ROFR) in the name of a qualified nonprofit organization, typically the sponsor of the property development. Because of ambiguities in the law, further reflected in imprecise language in partnership agreements, numerous legal disputes have arisen across the country, several resulting in drawn out litigation. This situation has been driven not by initial Housing Credit investors, but rather by outside capital that has come into the industry by buying up control of syndication funds and individual investor partnerships. The business purpose of these entities is to generate revenues by insisting on back-end cash payments from non-profits as a condition to leaving the partnership. These legal disputes over the meaning of right of first refusal language have resulted in the unintended transfer of hundreds of millions of dollars from affordable housing properties, nonprofit affordable housing sponsors, and residents (subject in some cases to higher rents).

We strongly urge the Committee to pass legislation to address this issue, by permitting nonprofits to have a simple purchase option covering all of the assets of the partnership.

Qualified Contracts: Under the Qualified Contract provision in section 42, owners are permitted to approach the HFA after year 14 and give the agency 12 months to find a buyer for the property at a price established in the statute. Since the statutory price is so high and bears no relationship to the fair market value of the property with the rent restrictions, HFAs are rarely able to secure a buyer -- which then permits the owners to convert their Housing Credit properties to market rents after as little as 15 years of affordability. This loophole burdens low-income renters and frustrates congressional intent. While most HFAs require developers to waive their right to utilize a Qualified Contract at the time credits are awarded, too many do not require such waivers, especially in the 4% credit program.

According to the National Council of State Housing Finance Agencies, more than 100,000 affordable housing units have been lost as a result of this. Closing the qualified contract loophole would not only protect lower-income residents, but it would also save the federal government money. According to the Joint Committee on Taxation, the provision in the Build Back Better bill would raise \$468 million over ten years. We urge Congress to repeal the Qualified Contract provision as soon as possible.

4. Exempt from a state's Private Activity Bond cap any bond authority used for the recapitalization and resyndication of Housing Credit developments. Each year, states receive a finite amount of tax-exempt Private Activity Bond (PAB) authority to be used for certain eligible activities, including multifamily housing, lower rate mortgages for low- and moderate-income home buyers, industrial development, student loans, and other uses. In most states due to the significant need for affordable rental housing, a large majority of PAB authority is dedicated to multifamily housing bonds.

Recently, more and more states have become bond cap-constrained, meaning that they have far more need for bond authority than what they have available to them under the PAB cap. Nearly half of states report being bond cap constrained, and others report that if trends continue as they have in recent years, they too soon will be bond cap constrained.

With bond resources inadequate to meet the need, states are forced to make difficult decisions. One such decision is how much bond authority to commit to resyndication of older Housing Credit properties, as the more authority that is used for resyndication, the less that is available for new construction, for preservation of other aging affordable housing projects originally funded with legacy HUD programs, and for conversion of distressed public housing projects into privately managed housing under HUD's Rental Assistance Demonstration (RAD) program.

Given the need to rehabilitate older Housing Credit properties, and the public benefits associated with resetting the long-term affordability requirements of properties aging out of affordability restrictions, an exemption from the private activity bond cap should be enacted for multifamily bonds used to rehab existing Housing Credit properties.

Notably, there is precedent for excluding certain activities from the PAB cap. Under current law, private activity bonds not subject to cap include bonds issued by 501(c)(3) institutions; as well as bonds used to finance airports, docks and wharves, government owned solid waste disposal facilities, highway or surface freight transfers facilities, among other priority investments.

Rehabilitation of affordable housing should also be a priority investment that is exempt from the private activity bond cap.

IV. Neighborhood Homes Investment Act

LISC, along with over two dozen other national organizations and trade associations focused on housing and community revitalization, is calling for the enactment of the Neighborhood Homes Investment Act (“Neighborhood Homes”), to be introduced in the 118th Congress by Senators Ben Cardin and Todd Young. This legislation has wide bipartisan support. Similar legislation introduced in the Senate last year was cosponsored by 24 Senators, including 7 Members of the Finance Committee. The companion bill in the House was cosponsored by 109 Representatives in the 117th Congress.

Neighborhood Homes addresses the need for revitalization and repopulation in rural and urban communities suffering from home foreclosures and vacant properties. Vacant properties inflict heavy costs on American communities: blight, crime, lowered home values, and decreased property tax revenue. There are mounting costs and difficulties associated with vacant and abandoned properties, especially when concentrated within neighborhoods. These neighborhoods are trapped in a cycle where low property values prevent the construction of new homes and the renovation of existing homes, and where the absence of these investments keeps property values unsustainably low.

Similarly, rural communities that don’t have a decent stock of single family homes have difficulty attracting employers to their region, creating additional headwinds for economic development and leading to further decline in population and home values.

Neighborhood Homes is designed to attract private capital to support investments in single family homes in these communities -- where the costs of developing and rehabilitating homes exceed the value of the home. Neighborhood Homes would provide the developer or investor with a tax credit to cover this “value gap.” The tax credit would work as follows:

- State allocating agencies (most likely the same state HFAs that administer the Housing Credit) would be provided with a per capital formula allocation Neighborhood Homes Tax Credits, with smaller states receiving a minimum allocation.
- The credits would be awarded by the state agencies to eligible entities through an annual competition. The eligible entity would identify a strategy for developing or rehabilitating properties in eligible communities, either for new homes, existing owner-occupied homes, or for homes that are vacant and will be brought to market.
- States would allocate only the tax credits reasonably needed for financial feasibility, determined both at the time of application and again when homes are sold or owner-occupied rehabilitations are completed.
- The maximum value of the credit would be 35% of construction, substantial rehabilitation, and building acquisition and demolition costs in the case of for sale homes; and 50% of eligible project costs in the case of owner-occupied rehabs.

- The maximum home sales price could not exceed four times the area’s median family income.
- The eligible entities would have five years to complete the homes, and investors cannot claim the credits on a home until the construction is completed and the home is occupied by an eligible homeowner.

Neighborhoods characterized by some combination of high poverty, low median family income and low home values would be eligible for investments. Neighborhood Homes Credit agencies would also have additional flexibility to serve rural communities, as well as communities impacted by natural disasters, that may not otherwise have qualified based on the initial Neighborhood Homes requirements.

As noted above, Neighborhood Homes would fill the gap between the cost of construction and the value of the property, with the private market bearing construction and marketing risks – much as is done with the Housing Credit. However, the Housing Credit, which was designed to create affordable rental housing for low- and very-low-income families, cannot readily be utilized to support homeownership housing. And while tax exempt private activity bonds and mortgage credit certificates (MCCs) do support homebuyers by reducing mortgage interest costs, these incentives do not address supply-side development cost gaps.

Neighborhood Homes would therefore fill a missing void in our affordable housing tax financing ecosystem, providing an effective and necessary tool for revitalizing communities and providing affordable homeownership opportunities for first time and minority homebuyers. Over the next ten years, it is projected that Neighborhood Homes will result in:

- 500,000 homes built or substantially rehabilitated
- \$125 billion of total development activity
- 861,000 jobs in construction and construction-related industries
- \$56 billion in wages and salaries
- \$26 billion in federal tax revenue
- \$12 billion in state and local government revenue

We therefore strongly urge Congress to pass the Neighborhood Homes Investment Act and thank Senators Cardin and Young for their leadership on this very important legislation.

V. Other Related Tax Items the Committee Should Consider

In addition to the recommendations above pertaining to the Housing Credit and to Neighborhood Homes, LISC recommends that the Committee consider other actions that can be taken to ensure portions of the tax code are better aligned to support affordable housing, including:

1. Making the New Markets Tax Credit (NMTC) Program permanent.

NMTCs are predominantly used to support commercial revitalization, businesses and community facilities in lower income communities, and are one of the most effective of all federal economic

and redevelopment programs – spurring over \$120 billion of investments in distressed communities and creating over 1 million jobs to date. LISC has deployed over \$1 billion in NMTC financing since the program’s inception, and we have seen first-hand how our investments in businesses, commercial real estate and community facilities have complemented our housing work and improved the lives of residents in our communities.

Though NMTCs cannot be used to support residential rental properties, some NMTC investments have nonetheless supported housing activities -- principally through investments in mixed-use commercial redevelopment projects that include on site housing, and to a lesser extent, homeownership activities. According to the Treasury Department, NMTCs have helped to finance over 18,000 affordable homes.

The NMTC Program is set to expire in 2025. Congress needs to enact the New Markets Tax Credit Extension Act of 2023 (S.234), which was introduced by Senators Cardin and Daines last month and already has 10 other co-sponsors, including six others from the Finance Committee. This legislation would make the NMTC Program permanent at \$5 billion per year with annual inflation adjustments, and also allow it to be used to offset the Alternative Minimum Tax.

2. Including restrictions to Opportunity Zone funding so that it doesn’t support luxury housing or displacement of community residents.

LISC supports the bi-partisan Opportunity Zones Transparency, Extension and Improvement Act (S. 4065) introduced by Senators Corey Booker and Tim Scott in the 117th Congress. We particularly appreciated the sunseting of certain higher income census tracts, the requirement that Qualified Opportunity Funds report richer data to the Treasury Department, and the establishment of the State and Community Dynamism Fund. We welcome all of these improvements.

However, we believe any future version of this legislation should also include guardrails to prevent Qualified Opportunity Funds from supporting luxury housing. High end housing doesn’t need federal subsidies and may in some instances lead to the displacement of long-time community residents who deserve to be able to stay in the community to enjoy the benefits of redevelopment. We would therefore encourage Congress to include affordability restrictions on multifamily housing properties financed by Opportunity Funds (for example by requiring that at least 50% of the units must be affordable to low-income families, and that the remaining units must be affordable to families making less than 120% of AMI); and to incentivize localities to develop anti-displacement strategies in their Opportunity Zones, including through the submission of requests for funding under the State and Community Dynamism Fund.

Conclusion

There can be little doubt we are currently in an affordable housing crisis. Rents have been rapidly climbing, supply has been tightening, costs of construction have been increasing, and we have underproduced roughly 3.8 million homes. On the single family side, home prices have cooled of late but still remain historically high, and elevated interest rates make it even more difficult for first time homebuyers to purchase a home. And sadly, homeownership disparities

between racial and ethnic groups stubbornly persist, with little gains made over the past three decades.

The good news is that solutions are out there, and they have wide bipartisan support in Congress. Restoring the lapsed 12.5% increase to the formula allocation for the 9% housing credits and passing the Affordable Housing Credit Improvement Act will create 2 million additional affordable rental homes over the next decade than would otherwise be built, while also supporting nearly 3 million jobs and bringing in \$120 billion in additional tax revenue. Enacting the Neighborhood Homes Investment Act will create 500,000 new starter homes, providing homeownership opportunities for first time and minority homebuyers while simultaneously repopulating and revitalizing under-resourced rural and urban communities.

I thank you again for this opportunity to testify. I hope that the conversations we have today will bring us closer to enacting these critical housing bills and put us on a path to ensuring that all families in this country will be able to enjoy the health, well-being and financial security that an affordable home provides.