

September 13, 2021

The Honorable Richard Neal
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Neal:

The below signed organizations wish to express our strong support for provisions related to the Low-Income Housing Tax Credit (Housing Credit) contained in the reconciliation legislation the Ways and Means Committee will mark up tomorrow. We believe this to be the most important piece of legislation the Committee has considered in decades for combating our nation's severe and growing affordable housing crisis. We applaud your leadership, not only for recognizing the success of the Housing Credit and expanding its resources, but also for ensuring that the taxpayer and Congress get what they pay for when they invest federal resources in the Housing Credit: *affordability restrictions and tenant protections for no less than 30 years*.

In particular, we are grateful for your inclusion of provisions that would close the "qualified contract" loophole and protect nonprofits seeking to ensure the ongoing affordability of the Housing Credit properties they have developed by exercising their Right of First Refusal (ROFR), sections 135505 and 135506, respectively.

The tax code calls for Housing Credit homes to be affordable for no less than 30 years, yet because of loopholes and lack of clarity in the tax code used by those who value profit over ongoing affordability we are losing tens of thousands of rental homes after as few as 15 years. These two provisions will stem those losses substantially.

Due to the use of qualified contracts, as of the end of 2020, well over 93,000 Housing Credit homes had been lost to the affordable housing inventory nationwide, with thousands more lost every year.¹ Your bill would effectively stop this practice by repealing the qualified contract option as an early opt-out for newly financed properties and correcting the statutory price for purchase of existing properties so that it is based on fair market value of the property as affordable housing.

Mission-driven nonprofit sponsors of Housing Credit developments in recent years have too often been prevented from exercising their statutorily given ROFR because outside investors are disputing the transfer of property in order to extract unanticipated residual value from affordable housing properties. Recognizing that nonprofit general partners often do not have the resources to litigate these issues in court, these investors leverage a profitable cash payment or the sale of the affordable property in return for leaving the partnership, undermining the long-term viability of the properties. Your bill would make it far more difficult for these outside investors to continue this practice by changing the ROFR to a simple purchase option for newly financed properties and clarifying, for existing properties, the ROFR applies to all partnership interests and that the nonprofit may exercise its

¹ Data collected from state Housing Credit Agencies by the National Council of State Housing Agencies.

ROFR with or without the approval of the limited partner and in response to any offer, including an offer by a related party.

Not only are these provisions the best policies for protecting residents and long-term affordability, but they would also save the federal government money. The Joint Committee on taxation scores closing the qualified contract provision as raising \$466 million in revenue over ten years and reforming the ROFR provision as raising \$751 million in revenue over ten years.²

It is not enough that we build more affordable housing. We must also protect the investments we have made already in affordable housing properties and stop premature losses. We thank you for your commitment to low-income households who desperately need affordable homes and for ensuring that owners and investors maintain their commitments to long-term affordability. We urge the Ways and Means Committee to pass and ensure the enactment of these Housing Credit provisions in the final reconciliation package.

Sincerely,

Cinnaire
Community Economic Development Assistance Corporation
Council of Large Public Housing Authorities
Enterprise Community Partners
Florida Housing Coalition
Klein Hornig, LLP
Housing Partnership Network
LeadingAge
Local Initiatives Support Corporation/National Equity Fund
Low Income Investment Fund
National Affordable Housing Management Association
National Affordable Housing Trust
National Association of Affordable Housing Lenders
National Association of Housing and Redevelopment Officials
National Association of Local Housing Finance Agencies
National Association of State and Local Equity Funds
National Council of State Housing Agencies
National Housing Conference
National Housing Law Project
National Housing Trust
National Low Income Housing Coalition
National NeighborWorks Association
Preservation of Affordable Housing, Inc.
Public Housing Authorities Directors Association
Retirement Housing Foundation
Stewards of Affordable Housing for the Future
Supportive Housing Network of New York

² Estimated Budgetary Effects of the Revenue Provisions of Subtitles F, G, H, and J of the Budget Reconciliation Legislation Recommendations Related to Infrastructure Financing, Green Energy, Social Safety Net, and Drug Pricing, Joint Committee on Taxation, September 11, 2021

The Community Builders
Wesley Housing Development Corporation