August 10, 2015

Mr. Tony Hernandez, Administrator
Rural Housing Service
United States Department of Agriculture
Room 5014, Mailstop 0701
1400 Independence Avenue, S.W.
Washington, DC 20250

Dear Administrator Hernandez:

We are writing to you on behalf of residents and owners of Rural Development (RD) financed and subsidized rural multifamily housing. Recently, some property owners whose Rental Assistance contracts will be exhausted prematurely have received letters from your office stating that their Rental Assistance ("RA") agreements are not eligible for renewal during the current fiscal year. A redacted copy of such a letter is enclosed. We are aware that Congress, in response to the Administration's Budget request, included language in the Consolidated and Further Continuing Appropriations Act, 2015 ("FY 2015 Act"), that prohibits the renewal of Rental Assistance contracts entered after December 16, 2014 during the contract's 12-month term. We, however, do not believe that the Rental Assistance shortages faced by these developments are caused by the prohibition on renewals during the contract term. Instead, they are caused by RD's failure to adequately fund Rental Assistance contracts during this fiscal year.

The Fiscal 2015 Appropriations Act does more than simply preclude RD from renewing Rental Assistance contracts. It also obligates the agency to fund RA contracts for one full year. This is clear from the act's language, which provides in relevant part:

> **Provided, That rental assistance agreements entered into or renewed during the current fiscal year *__shall__* be funded for a 1-year period**: Provided further, That rental assistance contracts will not be renewed within the 12-month contract period: Provided further, That any unexpended balances remaining at the end of such 1-year agreements may be transferred and used for the purposes of any debt reduction; maintenance, repair, or rehabilitation of any existing projects; preservation; and rental assistance activities authorized under title V of the Act.[**emphasis added**].

The emphasized text makes clear that RD must fund all RA contracts during FY2015 for one full year. Any significant shortfalls are due to the agency's reliance on a faulty method of calculating the amount of RA needed by developments and constitutes a failure to adhere to its statutory obligation to fund contracts for one year. We understand that RD estimates that about 50 properties will be adversely impacted during the next 90 days and estimates range from another 20,000 to another 125,000 units will be shorted rental assistance in FY2016. The lack of transparency from RD makes the exact extent of this problem difficult to pinpoint, but what is clear is that it is a major problem. This will have a devastating impact on households and developments, particularly those that have non-RD funding sources. Ironically, these disastrous events will occur notwithstanding the fact that RD will have ample RA funds to assist all currently assisted developments.

The form letters that owners are currently receiving state that the re-renewal ban has created problems that are outside of RD's control. We disagree. RD asked for the rerenewal restrictions in both the FY 2015 and 2016 budgets. Moreover, these problems have not arisen because of the prohibition on re-renewals but rather by RD's arbitrary determination that RA contracts should be funded based on the average state-wide cost of operating a RA unit over the past three years and not on the actual cost of operating individual developments. In your August 8, 2014 letter, also attached, you stated that there are no state-wide averaging limits. Yet RD offices are reporting to owners that rents are being limited by arbitrary applications of state-wide averages.

The RA funding problem is not only within RD's control but also its obligation to address. The half measures included in RD's form letter, such as deferring mortgage payments, suspending reserve deposits, and using reserve funds for operations do not address the issue. At best, these will materially compromise the financial stability of many apartment complexes and at worst, cause massive resident displacement, borrower defaults, and foreclosures. We suggest that RD correct the crisis that it has created by amending or modifying contracts to reflect the actual needs of each development.

We look forward to working with you to resolve this issue as quickly as possible so that there is minimal disruption to the properties and the residents who live in these properties. Should you or your staff have any questions or wish to discuss the concerns raised by the undersigned organizations, please feel free to contact Colleen M. Fisher, Executive Director at the Council for Affordable and Rural Housing. Ms. Fisher can be reached at (703) 837-9001 or at cfisher@carh.org.

Sincerely,

Avesta Housing
California Housing Partnership
Cascade Management, Inc.
Coalition on Homelessness and Housing in Ohio (COHHIO)
Community and Shelter Assistance Corporation
Community Housing Partners
Council for Affordable and Rural Housing (CARH)
Housing Action Illinois
Housing Advisory Group
Housing Assistance Council (HAC)
Institute for Responsible Housing
Institute of Real Estate Management

Klamath Housing Authority
Mercy Housing
Minnesota Housing Finance Agency
National Affordable Housing Management Association (NAHMA)
National Apartment Association
National Association of Home Builders
National Council of State Housing Agencies (NCSHA)
National Housing Law Project
National Housing Trust
National Leased Housing Association
National Low Income Housing Coalition
National Multifamily Housing Council
Network for Oregon Affordable Housing
Ohio Capital Corporation for Housing
Rental Housing Information Network in Ohio