April 24, 2023

The Honorable Sherrod Brown
Chairman
Senate Committee on Banking, Housing and Urban Affairs

The Honorable Tim Scott
Ranking Member
Senate Committee on Banking, Housing and Urban Affairs

Dear Senator Brown and Senator Scott:

On behalf of the A Call to Invest in Our Neighborhoods (ACTION) Campaign, we appreciate the Banking Committee's work on affordable housing and applaud you for holding a hearing this week on building consensus to address housing challenges. The ACTION Campaign is a national, grassroots coalition of approximately 2,400 national, state, and local organizations and businesses that advocates for affordable housing production and preservation through the Low-Income Housing Tax Credit (Housing Credit).

America has been in the midst of a housing crisis for a long time, but never has the need been more acute than it is today. While the crisis is multifaceted, its biggest driver is the inadequate supply of affordable homes. Demand for housing far outpaces supply. Since the Great Recession when many developers left the industry, our nation has drastically under-produced rental housing and we are currently seeing the repercussions of the extreme mismatch between supply and demand.

The Housing Credit is the nation's most successful tool for encouraging private investment in the production and preservation of affordable rental housing and is responsible for nearly all of the affordable housing built and preserved since the program's authorization in the Tax Reform Act of 1986.

While the Housing Credit falls under the jurisdiction of the tax-writing committees, it is critical to the success of HUD programs that fall within your committee's jurisdiction, because these resources are so often leveraged with the Housing Credit to best reach extremely low-income households and those in hard-to-serve communities with exceedingly low area median incomes, such as rural and tribal areas.

To the extent that the Housing Credit may be a focus of the hearing this week, we want to note that one of the witnesses testifying has published articles which we believe unfairly distort the Housing Credit's reputation. We would like to proactively address some of these claims.

<u>The Housing Credit does not needlessly inflate the cost of housing.</u>

The primary cost drivers for housing production—both affordable and market rate, multifamily and single family—are land, labor, and materials. The economic fallout from covid-19 and resulting supply chain and workforce disruptions have made housing production across the board more expensive.

Some have criticized the Housing Credit by claiming that upfront costs for the program are higher than those for market-rate housing. However, a 2018 report by Abt Associates found that Housing Credit new construction between 2011 and 2016 averaged $190,804 per unit.[1] Data from Dodge Data and Analytics on the multifamily market as a whole over the same time period suggests that the average per-unit cost for new construction was approximately $188,710.[2]

While Housing Credit units were slightly more expensive, those differences are largely due to understandable factors. Housing produced with the Housing Credit and other governmental programs has certain upfront development costs that market-rate housing does not have. Unlike market-rate developers, Housing Credit developers do not make a profit by charging high rents or by selling a property once it has appreciated in value. Instead, they are compensated for their work by receiving a developer fee, which is factored into the total development cost of the project. Affordable housing financed with HUD programs may also be subject to prevailing wage and other requirements that can add to project cost.

State Housing Credit Agencies impose a number of different strategies to contain development cost. These include setting per unit or per property cost limits, limits on credit authority available to each property, and limits to developer and professional fees.

However, most important is what the government gets for its investment in Housing Credit production. The Housing Credit is a "pay for performance" model in which the private sector takes the upfront risk of developing housing rather than the taxpayer assuming that risk. Investors provide the capital to build or preserve these properties and do not begin to claim credits against their tax liability until these properties are completed, meet federal property standards, and rented to low-income households at affordable rents. Moreover, owners assume compliance and maintenance risk throughout the property's affordability period. Should there be maintenance needs or a casualty loss, it is the owner that must attend to those issues and not the taxpayer left on the hook.

<u>The primary beneficiaries of the Housing Credit are the low-income residents of these properties.</u>

Substantially all the net economic benefit of the Housing Credit program goes to the low-income residents of these properties in the form of lower rents and an increased

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[1] *Variations in Development Costs for LIHTC projects*, Abt Associates, 2018.

[2] *Historical Starts Information: Multifamily Starts – US Summary, Annual Totals*, Dodge Data and Analytics, August 2018.

supply of affordable housing. According to a recent analysis by Freddie Mac, the average Housing Credit rent payment was 38 percent lower than the market-rate rent for a comparable apartment in the 9 metropolitan areas studied.[3]

Affordable rents, coupled with quality housing created by the Housing Credit, provide residents with the stability they need to build assets and improve their lives. A recent Terner Center for Housing Innovation report highlights the positive impact living in a Housing Credit property has on resident's economic mobility.[4]

Other studies have found that low-income housing development in the poorest neighborhoods is associated with significant reductions in violent crime;[5] growing up in Housing Credit properties has a large positive effect on educational attainment and future earnings;[6] and Housing Credit properties significantly reduce homelessness at the county level.[7]

<u>The affordable housing crisis cannot be fixed with demand subsidies alone.</u>

Demand-side programs, such as Housing Choice Vouchers, and supply side programs, like the Housing Credit, play different and complementary roles in meeting affordable housing needs. Increasing and preserving the supply of affordable housing is necessary and appropriate to address the affordable housing crisis, which cannot be done with rental assistance alone.

Critics of the Housing Credit have claimed—usually by citing extremely outdated data sources—that vouchers are more cost efficient than the Housing Credit, and thus the federal response to the affordable housing crisis should center on demand-side programs. The report most commonly cited to make this case is a U.S. Government Accountability Office report that is more than two decades old.[8] The cost of rent and the assumptions about rent increases made in that report have no bearing on reality today. Indeed, its assumptions on an appropriate discount rate and annual rent growth did not turn out to be accurate. In fact, the average annual cost of a housing voucher has increased by 90 percent since this GAO report was written.[9]

The argument that rental assistance is less expensive than the Housing Credit, and thus should be the only federal response, does not consider the multifaceted aspects of the crisis we face and sets up a false dichotomy. Especially in areas with tight supply,

[3] *How Big a Difference Do Restricted Rents Make*, Freddie Mac, 2018

[4] *The Links Between Affordable Housing and Economic Mobility: The Experience of Residents Living in Low Income Housing Tax Credit Properties*, The Terner Center for Housing Innovation at the University of California Berkeley, 2018

[5] *Low-Income Housing Development and Crime*, Journal of Urban Economics, Freedman and Owens, 2011.

[6] *Does Growing Up in Tax-Subsidized Housing Lead to Higher Earnings and Educational Attainment?*, Derby, 2021.

[7] *Do Increases in Subsidized Housing Reduce the Incidence of Homelessness? Evidence from the Low-Income Housing Tax Credit*, Jackson and Kawano, 2015.

[8] *Federal Housing Assistance: Comparing the Characteristics and Costs of Housing Programs*, U.S. Government Accountability Office, January 2002.

[9] The average cost of a Housing Choice Voucher in 2002 was $7,308. In 2023 it is $13,909.

it can be difficult for voucher holders to find affordable available units with willing owners, particularly when Fair Market Rents lag behind actual rent increases.

Unlike the Housing Credit, rental assistance programs are not intended to address challenges such as expanding housing supply, producing housing for households with special needs, building properties in areas experiencing job growth, recapitalizing and preserving aging properties, and revitalizing communities. Furthermore, given that Housing Credit properties must accept voucher holders, increasing affordable rental housing supply through the Housing Credit makes it more likely voucher holders will find housing, illustrating the complementary nature of the programs.

The Housing Credit does not contribute to concentration of poverty.

Some critics of the program maintain that it concentrates poverty and leads to racial segregation, but data does not support this case when new construction properties are considered separately from the preservation of existing developments, which may be located in higher poverty areas. Moreover, zoning and land use laws often prevent Housing Credit properties from being built in many low-poverty communities.

Research shows that as many new construction Housing Credit properties are located in low-poverty neighborhoods as in high-poverty neighborhoods.[10] Other studies found that, “increases in the use of tax credits are associated with declines in racial segregation at the metropolitan level”[11] and that introducing a Housing Credit property “leads to decreased segregation in lower income areas.”[12]

The Housing Credit has an exceedingly high rate of compliance.

A recent report by the Treasury Inspector General for Tax Administration (TIGTA) has resulted in claims by program critics that there is a high rate of noncompliance and errors that add to program cost. This argument was made in a recent publication authored by a witness from whom the Committee will hear this week. However, we would like to proactively provide some context to the TIGTA report.

The report itself notes that federal audit activity of Housing Credit owners “has not identified significant noncompliance” and that “for those [tax returns claiming the credit] examined, most resulted in no additional tax assessment (no-change). This examination no-change rate is significantly higher than the average examination of similar taxpayers.”[13]

[10] *Poverty Concentration and the Low-Income Housing Tax Credit: Effects of Siting and Tenant Composition*, Journal of Housing Economics, Ellen, Horn, and O’Regan, 2016.

[11] *The Low-Income Housing Tax Credit and Racial Segregation*, Horn and O’Regan, 2011.

[12] *Who Wants Affordable Housing in their Backyard? An Equilibrium Analysis of Low-Income Property Development*, Diamond and McQuade, 2017.

[13] *Oversight of the Low-Income Housing Tax Credit Program Can Be Improved*, Treasury Inspector General for Tax Administration, 2022.

Unfortunately, the TIGTA report does not put many of its findings in context. For example, it calls out 61 errors among Forms 8609 for lacking Zip Codes or placed in service dates. However, in another section of the report, it states that these are among 44,831 total records, meaning these records are correct 99.9 percent of the time. Similarly, the report notes errors in Form 8610-A and 8823, but when those errors are put in the context of the total number of these forms filed, 98.7 percent did not have errors.

The Housing Credit program has long enjoyed and deserves strong bipartisan support. We appreciate the opportunity to set the record straight.

Sincerely,

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ACTION Campaign Co-Chair

Jennifer Schwartz
National Council of State Housing Agencies
ACTION Campaign Co-Chair