

July 24, 2023

Chairman Raphael Warnock
Senate Banking, Housing, and Urban Affairs
Subcommittee on Financial Institutions and
Consumer Protection
534 Dirksen Senate Office Building
Washington, D.C. 20510

Ranking Member Thom Tillis
Senate Banking, Housing, and Urban Affairs
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534 Dirksen Senate Office Building
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Dear Chairman Warnock and Ranking Member Tillis,

On behalf of the nearly 100,000 combined members of the National Multifamily Housing Council (NMHC)¹ and the National Apartment Association (NAA)², we are writing in advance of the hearing titled, “Taking Account of Fees and Tactics Impacting Americans’ Wallets” to share the perspective of the multifamily housing industry. NMHC and NAA member firms are acutely aware of the impact of housing costs on renters and strive to improve housing affordability every day and are committed to working with their residents in the most equitable and transparent manner.

NMHC and NAA members work tirelessly to provide consumers with housing that is affordable and have championed many efforts to expand the housing market, to provide more options for consumers. As part of this work, NMHC and NAA members believe that transparency in the cost of rental housing is positive for renters and housing providers alike. It is disappointing, however, that the industry’s use of and relationship to fees continues to be mischaracterized. Federal policymakers have recently suggested that rental housing residents are pervasively being taken advantage of by housing providers. In reality, housing providers use fees in rental housing transactions to facilitate necessary business practices and to provide residents concierge-type services or benefits like reserved parking. NMHC and NAA are not aware of any data-driven support, or opportunity for public comment for all stakeholders, regarding the role of fees in the housing industry. We encourage policymakers to study the utility of fees in the housing market in

¹ Based in Washington, D.C., NMHC is a national nonprofit association that represents the leadership of the apartment industry. Our members engage in all aspects of the apartment industry, including ownership, development, management and finance, who help create thriving communities by providing apartment homes for 40 million Americans, contributing \$3.4 trillion annually to the economy. NMHC advocates on behalf of rental housing, conducts apartment-related research, encourages the exchange of strategic business information and promotes the desirability of apartment living.

² The NAA serves as the leading voice and preeminent resource through advocacy, education, and collaboration on behalf of the rental housing industry. As a federation of 141 state and local affiliates, NAA encompasses over 93,000 members representing more than 11 million apartment homes globally. NAA believes that rental housing is a valuable partner in every community that emphasizes integrity, accountability, collaboration, community responsibility, inclusivity and innovation.

a meaningful way, rather than labeling actions that cover valid operational and management expenses as “junk fees.”

NMHC and NAA members are focused on creating positive outcomes for renters and have demonstrated their commitment to working with a variety of communities to make housing options better. NMHC and NAA have been clear that if there are bad actors who are taking advantage of applicants or residents, they should be dealt with through the appropriate housing, consumer or other laws. As the recent White House announcement focused on rental housing fees highlights, the relationship between a housing provider and a resident is already largely and appropriately regulated at the state and local levels, which consider the unique needs of local communities and their housing markets.

Residents are the customers of the rental housing industry; thus, the professionally managed apartment industry is, by definition, resident centered. The relationships between housing providers and residents, the community and the broader housing market are governed by layers of statutes, case law, regulations, and private contractual agreements, all of which provide specific protections and responsibilities. This includes renter protections in the application process, in building codes, contracts, fair housing, eviction, consumer reporting and debt collection laws, as well as enforcement provisions. Lease agreements outline the rights and responsibilities between residents and housing providers and are enforced by state and local courts.

NMHC and NAA members, like every other business in the country, as well as the federal government itself, must account for operational costs in order to continue operating and providing housing services. This is especially true given the current confluence of high interest rates, stubborn inflation and soaring operational costs, like insurance and property taxes.

These types of fees are needed for a variety of reasons, including application fees needed for resident screening. The Secretary of the United States Department of Housing and Urban Development (HUD) sent a letter targeting certain fees, such as application fees, yet they serve a legitimate business purpose. Resident screening serves as a critical part of property management and operations and is often required by the Federal government at HUD and other government supported housing communities. It allows housing providers to evaluate whether a potential resident is capable of and likely to fully comply with the terms of their lease. These foundational measures include evaluation of an individual’s ability to make timely and consistent rental payments, whether an applicant poses a foreseeable safety risk, and whether an applicant may infringe upon other residents’ rights or interfere with property operations. Moreover, screening helps identify and counter the increasing risk of rental fraud – including the evolving threat of synthetic fraud.

Overall, this practice ultimately benefits all residents, but there are costs associated with screening that must be covered in some way. A narrow focus on certain fees in certain industries is a misguided approach to consumer protection that overlooks the larger picture of ensuring a vibrant marketplace that creates housing opportunities and options for consumers.

As such, it is a mischaracterization that all fees are “junk fees.” These broad accusations made about “junk fees” and the claims of abusive behavior, in no way acknowledges the overwhelmingly positive work done by NMHC and NAA members and rental housing operators to serve their residents. This rhetoric comes on the heels of dozens of new proposals from federal agencies in the past two years, which would make it more costly to provide housing and to adequately address the needs in our communities and of our residents. Unfortunately, we are already seeing evidence of the negative impact of current market conditions on multifamily housing finance.

NMHC and NAA members are reporting that current economic and regulatory challenges are causing them to cut back significantly on development activities, in some cases, by as much as 50 percent. This slowdown has long-term implications. NMHC’s July 2023 Quarterly Survey of Apartment Market Conditions also indicates the following troubling statistics:

- Over a third of respondents (35%) reported lower sales volume from three months prior.
- 57% of respondents reported equity financing to be less available than three months ago, marking the sixth straight quarter of less availability; and
- 67% said it was a worse time for mortgage borrowing compared to three months earlier, the eighth consecutive quarter in which debt financing became less available.

In May 2023, given the housing affordability challenges facing communities throughout the nation, [NMHC and NAA joined with 17 other national real estate associations](#) in calling on Congress to work with the Biden Administration, housing providers, lenders and other stakeholders to pursue bipartisan solutions to increase the supply of housing in all markets and at all price points. NMHC and NAA asks Congress to focus on these types of solutions that will expand housing opportunity for all rather than exacerbate today’s crisis by promoting additional regulatory proposals that make it more difficult to build and operate the rental homes we need and ultimately, increase costs for renters.

We look forward to continuing to work with policymakers on balanced and sustainable housing policies to resolve the nation’s housing crisis, including supporting the creation of more housing and improving housing affordability and availability. Thank you for your attention to these concerns.

Sincerely,



Sharon Wilson Géo
President
National Multifamily Housing Council



Robert Pinnegar
President & CEO
National Apartment Association