Freefall: Why Our Housing Safety Net Is Failing the Lowest-Income Renters During COVID-19

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I. Introduction

President Roosevelt famously described "one third of a nation ill-housed" in his 1937 inaugural address following his re-election[1] and later that year championed legislation that created a federal public housing program.[2] Eight decades later, while much progress has been made in expanding the nation's access to safe and affordable housing, only one in three of our nation's 11.2 million extremely low income renters has access to an affordable home.[3] These shortfalls have only grown as a result of the COVID-19

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1. President Franklin D. Roosevelt, Second Inaugural Address (Jan. 20, 1937), *available at* http://www.fdrlibrary.marist.edu/_resources/images/msf/msf01059.

2. United States Housing Act of 1937, ch. 896, 50 Stat. 888 (1937).

3. Andrew Aurand, et al., Nat'l Low Income Hous. Coal., The Gap: A Shortage of Affordable Homes 2 (2018), https://nlihc.org/sites/default/files/gap/Gap-Report_2018.pdf.

pandemic, with record unemployment rates impacting low-wage renters the hardest.[4]

More than twenty million renters live in households that have experienced COVID-related job losses.[5] And a recent review of research on the pandemic's impacts on renters found that between twenty-nine and forty-three percent of renter households—between thirty and forty million households—could be at risk of eviction by the end of 2020.[6] Following patterns well documented before the pandemic, people of color will be hit hardest by these evictions.[7] In addition, COVID-impacted households are more likely to live in small mom-and-pop rentals, leaving these landlords at a graver risk of foreclosure, potentially exacerbating the shortfall of affordable rental properties.[8]

In response to COVID-19 and the ensuing eviction crisis, new housing policies and programs have popped up to support renters across the country focused on short-term relief such as eviction moratoria and one-time rental assistance. These interventions, however, do not address the systemic, gaping holes in our country's housing safety net for renters who remain unemployed or are employed in poverty-level jobs. Unless bold action is taken to shore up the country's housing safety net, evictions and homelessness are likely to skyrocket with harsh, long-lasting impacts. To respond, we will need to understand the reasons that we have so few options in place for these households today.

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4. Whitney Airgood-Obrycki, *Pandemic Will Worsen Housing Affordability for Service, Retail, and Transportation Workers*, Joint Center for Housing Studies of Harvard University: Housing Perspectives (Mar. 30, 2020), https://www.jchs.harvard.edu/blog/pandemic-will-worsen-housing-affordability-for-service-retail-and-transportation-workers.

5. Sarah Strochak, et al., *How Much Assistance Is Needed to Support Renters Through the COVID-19 Crisis?*, Urban Institute (June 2020), https://www.urban.org/sites/default/files/publication/102389/how-much-assistance-is-needed-to-support-renters_1_1.pdf.

6. Emily Benfer, et al., *The COVID-19 Eviction Crisis: An Estimated 30–40 Million People in America Area at Risk*, Aspen Inst. (Aug. 7, 2020), https://www.aspeninstitute.org/blog-posts/the-covid-19-eviction-crisis-an-estimated-30-40-million-people-in-america-are-at-risk.

7. *See, e.g.*, David Robinson & Justin Steil, Evictions in Boston: The Disproportionate Effects of Forced Moves on Communities of Color (2020), https://www.bostonevictions.org (documenting how communities of color, particularly those with a large share of Black residents, are disproportionately affected by eviction filings in Boston); U.S. Census Bureau, Week 12 Household Pulse Survey: July 16–July 21 (July 29, 2020), https://www.census.gov/data/tables/2020/demo/hhp/hhp12.html#:~:text=Week%2012%20Household%20Pulse%20Survey%3A%20July%2016%20%2D%20July%2021.

8. Whitney Airgood-Obrycki & Alexander Hermann, COVID-19 Rent Shortfalls in Small Buildings, Joint Center for Housing Studies at Harvard University (May 26, 2020), https://www.jchs.harvard.edu/blog/covid-19-rent-shortfalls-in-small-buildings.

II. The Trends Behind the U.S. Housing Shortage for Extremely Low-Income Renters

The paucity of housing that is affordable to the nation's lowest-income renters represents the product of three long-standing trends in housing policy: the decline in federal resources for rental housing; increasing reliance on private producers and investors; and an inadequate commitment to the needs of the poorest renters.

A. Declining Federal Support for Housing

Twelve years after the adoption of the U.S. Housing Act of 1937 and four years after the end of World War II, which largely halted domestic housing production, the 1949 Housing Act articulated the goal of providing "a decent home and a suitable living environment for every American family."[9] It was not until 1968 that the initial goal of 800,000 public housing units would be met, diminished by the demolition of 425,000 existing central city housing units through slum-clearance programs.[10] Opponents of public housing, concerned that the program was unfairly competing with private-housing producers, lobbied to limit the authorization of funds necessary to meet the goals of the 1949 Act, and local battles over the siting of public housing, often linked to racial and class prejudice, also slowed progress.[11]

Between 1960 and 1972, Congress sought to expand affordable housing programs at all levels, including rental housing production, rehabilitation programs, and subsidized financing mechanisms offered to private developers. With the establishment of HUD in 1965, passage of legislation outlawing discrimination in housing, and the recommendations of the President's Commission on Urban Housing in 1968, there was an uptick in support for housing programs for low-income households. HUD set ambitious production targets, timetables, and planning requirements designed to disperse low-income housing throughout metropolitan areas, and Congress provided ample funds.[12]

This expansion, however, proved to be short-lived. Under President Nixon, concerns were raised again about the impact of subsidized housing production on market producers and local housing markets. A 1971 review of affordable housing programs raised fears about program costs, targeting, and environmental and community impacts, along with administrative

9. Housing Act of 1949, ch. 338, § 2, 63 Stat. 413 (1949) (codified as amended at 42 U.S.C. § 1441 (2020)).

10. Alex F. Schwartz, Housing Policy in the United States 164 (2014); Emily Talen, *Housing Demolition During Urban Renewal*, 13 City & Community 233, 238 (2014).

11. Charles J. Orlebeke, *The Evolution of Low-Income Housing Policy, 1949 to 1999*, 11 Housing Policy Debate 489, 489 (2000); Alexander von Hoffman, *A Study in Contradictions: The Origins and Legacy of The Housing Act of 1949*, 11 Hous. Pol'y Debate 299, 310–11 (2000).

12. Orlebeke, *supra* note 11, at 490.

problems.[13] In early 1973, the administration imposed a moratorium on subsidized production programs, marking a dramatic shift away from federal support for affordable housing production.[14]

In 1974, funds for eight of the largest housing programs were repackaged into "Community Development Block Grants" (CDBG) allocated to local governments by formula, a restructuring that provided local governments with much greater discretion over the use of the funds.[15] However, the CDBG allocations could not be used for construction of new housing. Federal policy emphasized a shift to the new federal housing voucher program, administrated by local public housing authorities, rather than the construction of new deeply subsidized affordable homes.[16] Only a small public housing production program remained, along with chronically underfunded federal support for the repairs to existing public housing.[17]

In the 1980s, two major changes further reduced the role of the federal government in setting the direction for housing policy and funding affordable housing programs. First, as part of President Reagan's overall reduction in social spending, federal funds allocated by HUD to state and local governments and for housing production programs fell sharply. Between 1981 and 1987, HUD grants to state and local governments dropped twenty-one percent, from $4.8 billion to $3.8 billion, and the total budget authority for federal housing assistance[18] fell by sixty-two percent, from $26.9 billion to $9.9 billion.[19] In short, the rise in direct funding for housing production of the previous decade was abruptly reversed. While spending rose again for a brief period in the late 1980s and early 1990s, discretionary spending for housing assistance has declined relative to GDP since 1995.[20]

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13. H.R. Rep. No. ___, House Committee on Banking and Currency, The Third Annual Report on National Housing Goals, Pursuant to the Provisions of Section 1603 of the Housing and Urban Development Act of 1968, at 21–26 (1971).

14. Agis Salpukas, *Moratorium on Housing Subsidy Spells Hardship for Thousands*, N.Y. Times, Apr. 16, 1973, at 30.

15. Schwartz, *supra* note 10, at 268.

16. Orlebeke, *supra* note 11, at 505.

17. In 1990, the much more modestly funded HOME Investment Partnership block grant was also created and dedicated entirely to affordable housing (including construction) for low- and moderate-income households. As a result of inadequate funding for public housing authorities, a 2010 report for HUD estimated that addressing the backlog capital needs at public housing complexes would cost $26 billion. Meryl Finkel, et al., Capital Needs in the Public Housing Program, Revised Final Report, prepared for US Dept of Housing and Urban Development (Nov. 24, 2019).

18. Federal housing assistance includes Section 8 programs, Public Housing, Section 21, Housing Assistance for Persons with AIDS, and Sections 202 and 811.

19. Office of Mgmt & Budget, Historical Tables: Table 5.1, Budget Authority by Function and Subfunction, 1976–2021, https://obamawhitehouse.archives.gov/omb/budget/Historicals.

20. Douglas Rice, Ctr. on Budget & Policy Priorities, Chart Book: Cuts in Federal Assistance Have Exacerbated Families Struggles to Afford Housing 6

Second, in 1986, a sea change in the way that affordable housing production is funded occurred when Congress amended the tax code to include the new Low-Income Housing Tax Credit (LIHTC). The LIHTC is now the most important source of funding for the construction and rehabilitation of affordable housing, yet it is administered by the Treasury Department's Internal Revenue Service. HUD is neither involved in its operation nor does it appear in the annual federal budget, since it is a tax benefit rather than direct spending. By 2015, LIHTC housing units sheltered twice as many households as public housing, and LIHTCs constituted the largest subsidy for production of low-income rental housing.[21]

In 2008, as part of the legislation responding to the impact of the mortgage crisis on affordable housing programs, Congress created a federal Housing Trust Fund (HTF), dedicated to meeting the needs of the lowest-income households—a longtime goal of housing advocates. The HTF was to be supported with funds generated by a set aside from mortgage sales by the two largest government-sponsored housing finance enterprises, Fannie Mae and Freddie Mac. Yet the funds allocated ended up being extremely modest: $245 million in 2019, given by formula to the states.[22] Texas, with a population of approximately twenty-eight million and a poverty rate close to fourteen percent in 2018, received just under $11 million in 2019, less than $3 per year per impoverished resident.[23]

With consistently inadequate funding and modest rent rolls, public housing authorities (PHAs) have struggled to serve their residents and maintain their aging housing stock. To overcome the ongoing challenge of the chronic underfunding of public housing operations and capital needs,[24] Congress created the Rental Assistance Demonstration program (RAD) in 2011.[25] PHAs choosing to participate in RAD shift from receiving fluctuating annual funding from HUD to receiving a set amount annually over the course of a renewable fifteen- to twenty-year contract. With greater certainty about ongoing funding, PHAs can then borrow money from private lenders and apply for tax credits to fund much-needed repairs and

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(2016), https://www.cbpp.org/research/housing/chart-book-cuts-in-federal-assistance-have-exacerbated-families-struggles-to-afford.

21. Schwartz, *supra* note 10, at 135.

22. , Nat'l Low Income Hous. Coal., *$245 Million Available for the National Housing Trust Fund in 2019* (Feb. 19, 2019), https://nlihc.org/resource/245-million-available-national-housing-trust-fund-2019.

23. U.S. Dep't of Hous. & Urban Dev., *HUD Awards and Allocations* (2020), https://www.hudexchange.info/grantees/allocations-awards.

24. Based on data presented in a 2010 report prepared for HUD, the National Association of Housing and Redevelopment Officials estimated that addressing the capital needs of public housing would cost over $70 billion. Nat'l Ass'n Hous. & Redev. Officers, Projection of Costs Associated with Addressing the Capital Needs of Public Housing (unpublished manuscript).

25. Consolidated and Further Continuing Appropriations Act, 2012, Pub. L. No. 112-55, 125 Stat. 552, 567 (2011).

improvements to their properties. Initially, only 60,000 units were able to convert to RAD contracts; this number has since been expanded to 455,000 units.[26]

As federal involvement in affordable housing has retracted, state and local governments have increased their influence. State and local governments have discretion over the use of federal block grants, and states shape the criteria for awarding federal Low-Income Housing Tax Credits. Many cities have also developed their own (albeit modest) programs and funding sources and have made changes aimed at removing barriers to construction of affordable housing throughout cities. Results on the ground vary greatly across the country in terms of access to housing assistance. But few state or local governments can make up for the decline in federal support for affordable housing, particularly for the lowest-income households.

B. Increased Reliance on Private Producers, Linked to Private Investors

While the real estate industry initially sought to block public construction of affordable housing, the United States today operates under a system that depends largely on private producers, both nonprofit and for-profit. As federal policy has shifted away from production of public housing, a sophisticated network of affordable housing producers has gradually emerged, ranging from neighborhood-based groups with roots in 1960s-era federal programs emphasizing community empowerment, to mission-driven nonprofits operating at a larger scale, to for-profit developers specializing in the use of LIHTCs to turn development of affordable housing into a profitable venture. Tax credit investors—the profit-motivated entities that invest upfront in affordable housing developments in return for the tax credits that they generate over time—have become the most important source of funding for affordable housing construction. This category of housing development is now sufficiently mature, almost thirty-five years since the introduction of the LIHTC in 1986, that affordable housing developers are able to enter into formal relationships with specialized syndicators that match tax credits to be generated from proposed developments with the investors who seek them.[27]

Mission-driven nonprofit producers retain a special place within the constellation of affordable-housing producers because of their dedication to meeting the needs of their communities and their commitment to longer-term affordability. Research has found that, compared to for-profit developers that use LIHTCs, nonprofits are more likely to build housing that

26. Dennis Stout et al., Evaluation of HUD's Rental Assistance Demonstration Program (RAD) 27 (2019), https://www.huduser.gov/portal/sites/default/files/pdf/RAD-Evaluation-Final-Report.pdf.

27. David J. Erickson, *The Housing Policy Revolution: Networks and Neighborhoods*, Urban Inst. Press 52–59 (2009).

will remain affordable beyond the time period attached to the subsidy[28] to serve the neediest tenants,[29] to work in distressed neighborhoods,[30] and to attend to broader neighborhood conditions or provide social services.[31] In recognition of these facts, at least ten percent of HOME block grant funds and fifteen percent of LIHTCs must be awarded to qualified nonprofits.[32] In addition, Reagan-era budget cuts spurred community-based organizations to seek out other sources of funding, such as charitable foundations and state and local governments. The result has been stronger networks in some cities with locally focused foundations, strong local organizations, and supportive state and local governments.

Nonetheless, private for-profit developers build close to eighty percent of this nation's affordable housing using federal tax credits as a critical component of the development's financing.[33] Private-led partnerships were well-positioned to respond in the 1990s when HUD proposed the HOPE VI initiative aimed at addressing the poor conditions and backlog of capital needs facing many public housing authorities. The HOPE VI program facilitated redevelopment of the most distressed public housing and operated in 130 cities and towns. Historian Lawrence Vale found that HOPE VI outcomes varied widely in terms of the treatment of existing tenants in public housing developments that were rebuilt, as well as the extent to which those redevelopments served low-income households. Vale attributes these patterns to governance differences, which reflect each place's previous history of slum clearance and displacement.[34] In some locations, nonprofit housing organizations or well-organized tenants drove the redevelopment strategy. In others, where such actors were weak, for-profit developers dominated the process and included fewer units for public housing residents in their HOPE VI redevelopments.[35] The tensions between the goals of for-profit partners and the public entities in such redevelopment projects have been widely noted, especially regarding their commitment to rehousing existing residents.[36] In addition, researchers have found that HOPE VI's focus on converting public housing to mixed-

28. Edwin Melendez, Alex Schwartz & Alexandra de Montrichard, *Year 15 and Preservation of Tax Credit Housing for Low-Income Households: An Assessment of Risk*, 23 Hous. Studs. 67–87 (2013).

29. Katherine M. O'Regan & John M. Quigley, *Federal Policy and the Rise of Nonprofit Housing Providers*, 11 J. Hous. Rsch. 297, 313 (2000).

30. Rachel G. Bratt, *Should We Foster Nonprofit Housing Sector as Developers and Owners of Subsidized Rental Housing?*, Joint Ctr. for Hous. Stud., RR07-12, 16–19 (Mar. 2007).

31. Bratt, *supra* note 30, at 26.

32. O'Regan & Quigley, *supra* note 29, at 25–29.

33. Schwartz, *supra* note 10, at 144.

34. *See generally* Lawrence J. Vale, After the Projects: Public Housing Redevelopment and the Governance of the Poorest Americans (2019).

35. *Id.*

36. *Id.*; Lawrence J. Vale, Purging The Poorest: Public Housing and the Design Politics of Twice-Cleared Communities (2013).

income developments has marginalized low-income residents in some locations since they have little to no social contact with their higher income neighbors, and since property managers have little incentive to prioritize their needs over those of tenants paying market rents.[37]

The current emphasis on RAD and the privatization of public housing are the culmination of not only the chronic underfunding and declining political support for public housing in Congress but also the shift toward greater reliance on private investment and private partners to produce affordable housing. Under RAD, local agencies have the choice to retain ownership (often via subsidiary entities) and management of public housing or shift ownership and management to private for-profit or nonprofit partners.[38] This transition has raised concerns about the potential loss of permanently affordable public housing units. Nonetheless, RAD continues to expand.

In sum, the network of private actors involved in the production of affordable housing in the United States has largely replaced public production and strongly shapes housing policy. This system, partly driven by tax incentives, has leveraged a great deal of private investment for affordable housing at a time with little political appetite for directly funding housing programs. At the same time, for-profit private funders and partners view their affordable housing developments as time-limited investments and lack a long-term commitment to serving the lowest-income tenants. In addition, although not without exceptions, these partnerships have tended to produce housing with shallow subsidies and with rents that are out of reach for the lowest-income renters.

C. Inadequate Commitment to the Needs of the Poorest Renters

Declining federal support and the parallel rise in private production has helped feed a third trend in housing policy: an inadequate commitment to the needs of the poorest renters. Overall, the level of federal funding for programs serving the poorest renters grew dramatically from the passage of the U.S. Housing Act of 1937 to the early 2000s, largely due to the expansion of tenant-based housing assistance through vouchers. But since the early 2000s, the level of funding has remained essentially flat. This trend is even worse than it appears since the U.S. population has increased by about fifteen percent since the early 2000s. Although Figure 1[39] does not capture all subsidized housing targeted at the poorest renter households—

37. Mark L. Joseph, Robert J. Chaskin & Henry S. Webber, *The Theoretical Basis for Addressing Poverty Through Mixed-Income Development*, 42 Urb. Affs. Rev. 369, 383 (2007).

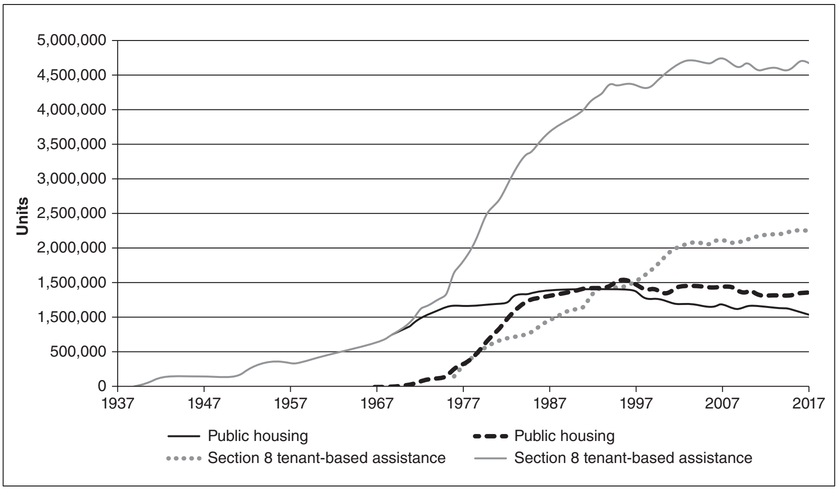
38. Rachel Garshick Kleit, Whitney Airgood-Obrycki & Anaid Yerena, *Public Housing Authorities in the Private Market*, 29 Hous. Pol'y Debate 670, 671 (2019).

39. Figure 1 was reproduced directly from Lawrence J. Vale & Yonah Freemark, *The Privatization of American Public Housing: Leaving the Poorest of the Poor Behind*, *in* Routledge Handbook of Housing Policy and Planning 192, fig. 14.1 (Katrin B. Anacker, Mai Thi Nguyen & David P. Varady eds., 2019).

for instance, a few jurisdictions manage to build such housing without federal subsidies—it is clear nonetheless that the stock of deeply subsidized rental housing is not only failing to keep pace with the need, but is also falling further behind with the passage of time.

The two primary housing programs serving the poor—public housing[40] and Housing Choice Vouchers (HCVs)—assist only one-quarter of the poorest households in the nation, leaving the other seventy-five percent paying more than half of their income for their housing.[41] This percentage has remained remarkably stable over time, despite increases in funding for HCVs.

Figure 1. Trends in Deep Subsidies
for Federally Assisted Rental Housing, 1935–2017



(Reproduced with permission from Vale and Freemark (2019).)

The rise in state and local government authority over housing policy has not improved conditions for the lowest income renters. A 2008 review of how state and local governments use their discretion to allocate federal block grant funds and federal tax credits found that states overall did not go beyond federal income targeting requirements to reach the poorest renters.[42] The scale of state and local resources dedicated to the lowest-income

40. While public housing regulations have been loosened to allow PHAs to serve slightly better off households, restrictions on the share of income that tenants can pay in rent have made public housing the *de facto* program for the poor.

41. Aurand et al., *supra* note 3.

42. Elizabeth Mueller & Alex Schwartz, *Reversing The Tide: Will State and Local Governments House the Poor as Federal Direct Subsidies Decline?*, 74 J. Am. Plan. Ass'n 122, 131 (2008).

groups was also sparse. The study found that local programs, in particular, were less likely to target the poor than state and federal programs.[43]

Within the context of declining federal leadership and resources, meeting the housing needs of lower-income groups often requires a convergence of several factors: the availability of state or local resources dedicated to housing; mission-driven housing organizations motivated to seek out or accept multiple sources of subsidy; and the state or local political will to raise and target the resources needed to meet the housing needs of the poor.[44] But even when this convergence does occur, the response to date has been inadequate to address the housing shortage for the nation's poorest renters.

III. Moving Forward

In the current context, where the housing needs of low-income households affected by the pandemic come on top of the pre-existing shortage of resources for the poorest renters, the outlook is grim. In this section, we propose some steps that could be taken to address the current housing crisis while also building a foundation for closing the underlying gap in affordable housing for extremely low-income households.

In the long term, there is no getting around the fact that reducing the large and growing shortage of decent and affordable housing for extremely low-income people will require more federal funding and a commitment to prioritizing housing for the poor. As history has shown so far, while some localities may dedicate their own funds to housing the poor, others lack either the will or the capacity to do so. Only the federal government has the capacity to invest at the level required. The federal government funds other parts of the welfare state, such as food and health insurance for low-income people who cannot afford them. Now is the time to demand that the federal Housing Trust Fund be robustly funded so that it can support the housing needs of all extremely low-income households.

In the near term, as cities around the country struggle to assist renters facing evictions during COVID, increased funding could support expansion of the Housing Choice Voucher program, allowing renters to remain in their homes and those evicted to find new homes.[45] As Kirk McClure and Alex Schwartz recently argued, this change would also enable landlords to pay their mortgages and avoid foreclosure, pay the property taxes that local governments desperately need, and keep their employees on

43. *Id*.

44. Elizabeth Mueller, Jake Wegmann & Heather Way, *Place Matters: The Role of Public Housing Authorities in Expanding Inclusion in the U.S.*, National Association of Housing and Redevelopment Officers, International Forum, Austin, Tex. (Oct. 12–14, 2019).

45. Kirk McClure & Alex F. Schwartz, *The Case for Universal Rental Assistance: Expansion of an Existing Federal Rental Subsidy Program, The Housing Choice Voucher, Could Stabilize Housing for Millions of Households*, Appeal (May 15, 2020), https://theappeal.org/rental-assistance-housing-choice-voucher.

payroll.[46] They estimate that, to meet current needs, $100 billion per year would be needed—roughly comparable to the value of federal tax benefits claimed by residential mortgage borrowers, which mostly benefit the affluent.[47]

For the voucher program to be successful, the program must open up sufficient housing choices for all voucher holders throughout cities, including in higher-opportunity neighborhoods. Voucher households—and, in particular, Black and Hispanic households with vouchers—are heavily concentrated in high-poverty, low-opportunity neighborhoods.[48] An essential first step would be a nationwide ban on discrimination against renters paying a portion of their rent with vouchers (such as through a source of income discrimination ban), with careful attention to the implementation and enforcement of the ban according to best practices.[49] The federal government should also expand funding for voucher mobility counseling programs, and HUD should improve its Small Area Fair Market Rents policies to ensure voucher holders can access higher-rent neighborhoods.[50]

Additional policies to increase voucher holders' access to high opportunity neighborhoods include requiring housing authorities to adopt and implement detailed plans for enabling voucher holders of color to find housing outside of high poverty areas. And HUD should enforce fair housing laws and hold public housing authorities and cities accountable if they fail to make adequate progress on reducing the concentration of vouchers households in high-poverty, racially-segregated communities. This should include requiring cities to reduce barriers to siting affordable housing—or any multifamily housing—in middle and upper income residential neighborhoods, thus increasing the opportunities for renters to use their vouchers in such areas.

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46. *Id*.
47. *Id*.
48. Alicia Mazzara & Brian Knudsen, *Vouchers: A Comparative Look at the 50 Largest Metropolitan Areas*, Ctr. on Budget & Pol'y Priorities & Poverty & Race Rsch, Action Council (Jan. 3, 2019), https://www.cbpp.org/research/housing/where-families-with-children-use-housing-vouchers; Nat'l Low Income Hous. Coal., Who Lives in Federally Assisted Housing 3 (Nov. 2012), https://nlihc.org/sites/default/files/HousingSpotlight2-2.pdf.
49. Alison Bell, Barbara Sard & Becky Koepnick, *Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results*, Ctr. on Budget & Pol'y Priorities (Dec. 20, 2018), https://www.cbpp.org/research/housing/prohibiting-discrimination-against-renters-using-housing-vouchers-improves-results.
50. *See* Deborah Thorpe, *Achieving Housing Choice and Mobility in the Voucher Program: Recommendations for the Administration*, 27 J. Affordable Hous. 145, 146 (2018) (discussing this issue). For a list of more detailed policy recommendations concerning the SAFMR program, see Kelly Patterson & Robert Silverman, *Small Area Fair Market Rents (SAFMRs): An Analysis of First Year Implementation in Mandatory Metropolitan Areas and Barriers to Voluntary Implementation in Other Areas* (Sept. 2019), https://prrac.org/pdf/prrac-safmr-implementation.pdf.

In the absence of such proactive efforts, voucher holders will find few options outside of a few neighborhoods, and the expansion of the voucher program may simply continue the existing concentration of the lowest-income renters in the lowest-opportunity neighborhoods. The Trump Administration's recent repeal[51] of a federal rule designed to ensure that jurisdictions receiving HUD funds "affirmatively further fair housing" represents a step in the wrong direction and must be reversed.

In the longer term, additional funding—whether through the federal Housing Trust Fund or direct federal spending—is needed to support the production of more deeply affordable rental housing that serves the needs of the nation's 7.3 million extremely low-income renters who lack access to an affordable home. Changes to the tax code and program rules will also be necessary. Such changes should include increasing the percent of tax credits that must be awarded to nonprofits and targeting credits to projects serving a minimum percentage of extremely low-income households. Such requirements could be supported in several ways: in the LIHTC program, the value of credits awarded to tax credit projects could be increased by giving projects containing deeply affordable units a "basis boost" as is done currently in high-poverty or difficult development areas. This modification would increase the value of the credits and thus deepen the subsidy received by project developers.

To further close the housing gaps for extremely low-income renters, HOME program regulations could be revised to remove the time limits on tenant-based rental assistance such as vouchers.[52] Currently HOME rules limit Tenant Based Rental Assistance to twenty-four months, thus limiting their use to temporary housing.[53] CDBG and HOME funding could also be increased to build the capacity of local mission-driven housing organizations dedicated to developing housing for extremely low-income renters and providing the services most needed by these renters in particular local contexts. Such support would increase the capacity of locally based nonprofits with the greatest knowledge of community needs and access to local philanthropic resources. Finally, state and local governments could fund the creation of "operating reserves" that projects serving extremely low-income renters can use to fill the gap between operating costs and rents, as has been done in New York City. This funding would essentially provide an additional layer of subsidy, making it possible for rents to be lowered to be affordable to the lowest-income renters.[54]

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51. U.S. Dep't of Housing & Urb. Dev., Final Rule, RIN 2501-AD95, Preserving Community and Neighborhood Choice (pending publication in the Federal Register), https://www.hud.gov/sites/dfiles/GC/documents/6228-F-01%20Preserving%20Community%20and%20Neighborhood%20Choice.pdf.

52. Mueller & Schwartz, *supra* note 42, at 133.

53. Such assistance can be renewed if funds are available. 24 C.F.R. § 92.209 2013).

54. Mueller & Schwartz, *supra* note 42, at 131; Alex Schwartz, *New York City and Subsidized Housing: Impacts and Lessons of the City's $5 Billion Capital Budget Housing Plan*, 10

IV. Conclusion

Without concerted action, low-income renters and communities face harsh, far-reaching impacts. In his book *Evicted,* the sociologist Matthew Desmond extensively documented the cycle of repeated evictions and forced moves that ensnares extremely low-income households, trapped in a housing market with too few suitable options, and the resulting toll on their members' emotional, physical, and financial well-being. The current pandemic has elevated eviction from a grinding but often invisible harm to low-income households and communities to a potential nationwide calamity deserving of focused and timely attention.

Drawing from lessons learned from three long-standing trends in housing policy, the recommendations above are intended to provide a roadmap for how our country can respond to the current eviction crisis beyond short-term interventions. A strong federal role, a deep commitment to providing housing choices for extremely low-income renters, and robust support for mission-driven nonprofit housing producers are all critical to building a strong, long-lasting housing safety net for our nation's most vulnerable renters, including those impacted by the pandemic, as well as those impacted by future crises sure to come.

Hous. Pol'y Debate 839, 868 (1999).