July 29, 2024

The Honorable Adrianne Todman
Acting Secretary
Department of Housing and Urban Development
451 7th Street, SW
Washington, DC 20410

RE: FR-6144-P-01 HOME Investment Partnerships Program: Program Updates and Streamlining

Dear Acting Secretary Todman,

The National Community Stabilization Trust (NCST) is a national nonprofit serving as a trusted intermediary for responsible, locally-based buyers and developers who acquire and rehabilitate homes to create affordable homeownership opportunities.[1] To ensure NCST's policy recommendations are rooted in the practitioner perspective, we manage a nonprofit-led advocacy coalition called the Homeownership Alliance.[2] Members of the Alliance work to elevate the successes and pitfalls of various homeownership development and rehabilitation models, propose tangible reforms to existing programs, and advocate for legislative and regulatory reform to further empower a nonprofit delivery system as a key method in addressing homeownership gaps and housing affordability.

The HOME Investment Partnerships Program (HOME) is often referred to as the most comprehensive federal program supporting affordable housing development. While homeownership development and rehabilitation are statutorily eligible under HOME,[3] many Alliance members have found utilization of this program for homeownership purposes next to impossible. This stems from burdensome regulations, inconsistent guidance from the Department, and confusion at the Participating Jurisdiction (PJ) level - primarily stemming from the 2013 HOME final rule.[4]

NCST and the Homeownership Alliance are appreciative of the work HUD has done to thoroughly review the existing regulations, cross-reference the authorizing statute, and propose updated HOME requirements to ease utilization of these funds for homeownership. **This Notice of Proposed Rulemaking (NPRM) is a long-awaited and welcome action by the Department to effectively deploy the resources of HOME in order to narrow the racial homeownership gap and assist in bridging the racial wealth gap.**[5]

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[1] Affordable Single-Family Homeownership, (2024). NCST.

[2] Established by NCST in 2021, the Homeownership Alliance is a practitioner-led coalition of 20 CDFIs and nonprofit housing developers serving 16 states, (2024). The Homeownership Alliance.

[3] 42 USC 12742

[4] HOME Final Rule, (2013). HUD Exchange.

[5] Homeownership is the primary method to build wealth in the United States. In 2018, the Black-white homeownership gap reached 30.5 percentage points, the highest level in 50 years. 2022 estimates suggest homeownership rates among Black, Hispanic, and Asian families are increasing. However, Black Americans are the only racial group with homeownership rate below 50%. Nine Charts about Wealth Inequality in America, (Apr 2024). The Urban Institute.

Proposed Regulatory Changes Supporting Affordable Homeownership

NCST and the Homeownership Alliance are pleased to see many of our concerns[6] addressed in this rulemaking that we articulate in greater detail below.

Definition of homeownership assistance. One of the most common concerns raised by Alliance members is the misunderstanding by PJs — and in some cases, HUD regional offices — that homeownership development is not an allowable use of HOME funds. Some PJs do not dedicate any of their allocation toward homeownership initiatives, despite it being an explicitly permissible activity within the statute.[7] Unprecedented inflationary factors are leaving homeownership out of reach for more families,[8] particularly those who cannot afford market-rate housing. The historic underutilization of HOME funds for homeownership has led many PJs to the erroneous assumption that this activity does not require as much support, or that the funds will not be effectively spent to support low- to moderate-income (LMI) homeowners. The Homeownership Alliance has discussed the many regulatory and statutory barriers through our own practitioner-informed recommendations,[9] in conjunction with national partners,[10] to encourage the Department to take regulatory action, clarify these discrepancies, and better support affordable homeownership work.

HUD's comprehensive assessment of existing HOME policy, particularly the attention paid to the program's homeownership provisions, will largely improve clarity and flexibility from the perspective of both the PJ and the subgrantee. We applaud HUD for the effort and meticulousness taken to ensure this proposed rule addresses the numerous concerns raised by homeownership stakeholders. Most importantly, replacing "downpayment assistance" with "homeownership assistance" will provide PJs and HUD regional offices with the explicit clarity required to understand the full breadth of homeownership-related activities that are allowable using HOME funding. Affordability challenges facing LMI homebuyers are driven largely from a decreased supply,[11] so a clear assertion that HOME covers more than down payment assistance alone will more easily allow affordable housing developers to use these funds to construct or rehabilitate owner-occupied housing more feasibly, contributing toward much-needed affordable supply.

Community Housing Development Organizations (CHDOs). The Homeownership Alliance and NCST applaud HUD's efforts in making changes to the existing CHDO requirements. Creating more opportunities for

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[6] HOME Program Recommendations. Homeownership Alliance.

[7] Ibid.

[8] 103.5 million U.S. households' income is insufficient to afford a median-priced new home, primarily due to an inability to qualify for the required mortgage underwriting criteria. Understanding Housing Affordability in Today's Market, (Jul 2024). National Association of Homebuilders.

[9] Ibid.

[10] Consensus Regulatory Recommendations, (Aug 2022). Homeownership Alliance.

[11] There remains a 4.5 million unit shortfall in the U.S., up from 4.3 million last year. Housing Market Predictions for 2024: When Will Home Prices be Affordable Again?, (Jul 20224). Forbes.

We greatly appreciate the measures the Biden-Harris administration has taken to address the shortage in affordable units, particularly through the Department of Treasury's announcement to invest an additional $100 million to support affordable housing supply.

nonprofits to be designated as a CHDO will maximize the scope of the affordable housing nonprofit delivery system, making homeownership more accessible through increasing affordable supply. Many members in the Homeownership Alliance seek to become CHDOs themselves, and now see a feasible path to eligibility. Flexibility is critical, particularly for CHDOs with a small staff size, limited funding resources, and existing limitations to the board structure. HUD's proposal will positively impact rural organizations that were adversely impacted by the existing high standards for the CHDO definition. Simplifying methods for a CHDO to increase its capacity will not only bolster the presence of the CHDO, but expand support and resources for the community they serve.

The proposed elected official and board composition changes are welcome and will ease compliance of organizations seeking to become CHDOs. Homeownership Alliance members also note that the capacity requirements related to volunteers is sufficient in assisting a CHDO's operability. Should the Department seek to institute reasonable guardrails on the volunteer requirement, some Alliance members recommend imposing similar time limitations as was proposed in the consultant language.

Community Land Trusts (CLTs). Our organization echoes the appreciation of many of our national partners regarding the regulatory definition for CLTs. Homeownership Alliance members note that these entities, especially those in partnership with local governments, provide significant benefits to the affordable housing market, such as a lower property tax that can pass through the project or end user, access to funding from the local government dedicating resources for that purpose, and the all-important component of community approval and governance that is central to the function of a CLT. In general, this definition will allow for CLTs to participate in the HOME program in earnest through the Department's specific inclusion of a CLT's right to exercise a preemptive purchase option. These proposed changes empower a key faction of the affordable housing nonprofit sector to deliver affordable and sustainable homeownership opportunities.

Maximum per-unit subsidy. Increased construction and labor costs continue to strain the housing market,[12] instilling a number of challenges for mission-driven developers seeking to use HOME to create more LMI homeowners. NCST and the Homeownership Alliance appreciate HUD developing an updated methodology to calculate the maximum per-unit subsidy limits. HUD noting the existing statutory limit establishing a floor, not a cap, of the subsidy amount, is a welcome clarification - as well as the flexibility provided in those limits based on market area, work performed, activity type, and other factors. Our organization looks forward to the release of the new methodology and intends to provide a robust, practitioner-informed response. Furthermore, we appreciate HUD's interim changes to the subsidy maximum calculation by increasing the section 234 limitations[13] from 240% to 270% while the Department designs the new limits. This will allow more flexibility for Homeownership Alliance members and other stakeholders who seek to maximize their usability of HOME funds ahead of the Department's release of the proposed methodology.

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[12] While the prices of materials have decreased since their peak during the pandemic, the overall cost of building remains a challenge due to labor shortages and other economic pressures. Where are Labor and Material Costs Impacting Affordability? (Jun 2024). CoreLogic.

[13] HUD Publishes New 2024 Limits for HOME Maximum Per-Unit Subsidies.

HOME resale formulas. NCST and the Homeownership Alliance applaud HUD's inclusion of resale formulas to guide PJs in determining a homeowner's fair return on investment and resale prices. We anticipate that a wider array of options will help to mitigate conflicting interpretations of what types of resale formulas are considered eligible, given different local needs for homeownership programs. PJs now have added flexibility with respect to current market conditions, which often provide a difficult terrain in the purchase and selling of homes. Retaining the ability for PJs to submit and use their own methods of calculating this value is also appreciated, allowing PJs with an established, routine process to continue with their preferred methods of calculation.

Home inspection requirements. Current home inspection regulations pose a challenge to nonprofits seeking to use HOME for homeownership. The directive that housing must meet all applicable State and local housing quality standards and code requirements is particularly challenging for nonprofit organizations working in the single-family homeownership space. A home built three years ago to the code at the time may not meet the new requirements established more recently.

As such, the Homeownership Alliance and NCST are pleased to see HUD eliminate the requirement in § 92.251(c)(3) which states a homebuyer acquisition project that does not meet HOME property standards must be rehabilitated or it cannot be acquired with HOME funds. We are appreciative that this proposed rule would permit housing to be purchased by a homebuyer ahead of complying with the home property standards, so long as there is a written agreement with the PJ to meet those standards within 6 months. Alliance members believe this 6 month timeline to be adequate, and anticipate that this change will unlock more supply opportunities for purchase by HOME-assisted homebuyers.

Lease-purchase. We are grateful that the Department has specifically outlined the parameters by which a tenant may become a homeowner through the lease-purchase process. Allowing a homebuyer-tenant to contribute their tenant based rental assistance toward a down payment will lead to an easier rent-to-own process for HOME-assisted households. If finalized, both PJs and potential homebuyers could determine that all or some of the tenant's contribution to rent can be set aside for closing costs or a down payment, and solidify the terms through the lease-purchase agreement. In an environment where fewer renters see homeownership as an attainable objective amid today's inflationary pressures,[14] the ease of lease-purchase under HOME provides a much-needed avenue to increase the number of LMI homebuyers.

Underwriting standards - Appropriateness of assistance. According to program requirements,[15] PJs must have and follow written policies for "underwriting standards for homeownership assistance that evaluate housing debt and overall debt of the family, the appropriateness of the amount of assistance, monthly expenses of the family, assets available to acquire the housing, and financial resources to sustain homeownership." According to members of the Homeownership Alliance, this requirement causes confusion within PJs and HUD

[14] Single family home and condo prices were less affordable in Q2 of 2024, with 99% of the nation's counties at the highest levels of unaffordability compared to historical averages. Housing affordability costs got worse in Q2 - and homeownership costs hit a new high, (Jul 2024). The Business Journals.
[15] § 92.254(f)

field offices. It is not clear if the PJ is required to establish a maximum housing expense and total debt ratios, as well as how income should be calculated to determine the ratios.

HUD has rightly identified that the current regulation excludes households that have overall debt and monthly expenses that exceed a PJ's underwriting standards, even if the household demonstrates an ability to sustain a mortgage through other indicators. Establishing rigid ratios for housing expense and total debt is an outdated practice, as automated underwriting systems have largely abandoned inflexible maximum ratios of this nature. Additionally, the current requirement favors borrowers with strong credit ratings, high down payments, cash reserves after closing, and other compensating factors. Meanwhile, borrowers that are less strong may only qualify for a mortgage with lower ratios. These overly-strict standards of first mortgages can prevent a buyer from purchasing their preferred home in a neighborhood of their choice. Even if a mortgage lender is willing to originate a mortgage amid these requirements, the buyer cannot qualify for the down payment assistance they need in order to purchase the home.

Many Homeownership Alliance members appreciate HUD's proposal to eliminate the requirement that a PJ evaluate a family's monthly expenses, a measure that will help streamline these standards. We are also supportive of HUD's proposal to require that PJs establish a standard to determine the maximum amount of direct HOME assistance that can be provided to a household, as well as HUD proposing to prohibit PJs from providing a single, fixed amount of assistance to every homebuyer receiving assistance in the PJ's homebuyer program. As the Department finalizes this rulemaking, PJs must receive the appropriate and explicit level of guidance, particularly in a situation when a homeownership program may require flexibility in the amount of assistance. This is especially relevant when a nonprofit housing provider seeks to acquire and renovate vacant homes for resale to new homeowners - an activity that is likely infeasible without a higher amount of HOME assistance.

Nonprofit lenders. HUD correctly notes that current HOME regulations[16] have prevented some partnerships with qualified nonprofit lending organizations through a misinterpretation of the rule. As such, we appreciate the distinction and the explicit statement by HUD that PJs may provide HOME funds for nonprofit lending institutions as a contractor or subrecipient. This is what allows nonprofit lenders to provide HOME homeownership assistance in conjunction with first mortgage financing, and thereby strengthens a nonprofit delivery system to meet our nation's existing affordable homeownership needs.

Deadline for sale of a homebuyer unit. We appreciate HUD's solicitation of comment #11, posing the question if extending the 9-month deadline to 12 months for the sale of homebuyer assistance acquired, rehabilitated, or constructed with HOME would be a reasonable requirement. Our organization believes this adjustment will provide much-needed flexibility to Homeownership Alliance members using HOME funds.

Eligible project costs. Concerns around environmental review requirements are one of the most common raised by members of the Homeownership Alliance. Our organization understands the existing statutory and

[16] § 92.254(e)

jurisdictional constraints that prevent HUD from reforming the environmental review process through regulatory action.

The proposed rule would add costs for conducting environmental assessments and reviews to the list of permissible development costs that can be reimbursed with HOME funds, so long as the costs were incurred not more than 24 months before the date that HOME funds are committed. We are pleased to see HUD recognizing the lack of funding necessary for environmental reviews of sites proposed for development. The time and costs associated with this activity often stalls or restricts the execution of affordable housing projects. Members of the Homeownership Alliance understand this change will not address all of their concerns surrounding environmental reviews, but reiterate that it will still serve as an advantage, particularly for programs issuing down payment assistance.

Additional Recommendations to Improve HOME and Increase Affordable Homeownership Opportunities

Our organization articulates additional suggestions for HUD to consider below. All of our recommendations are informed by Homeownership Alliance members, with careful consideration to implementation across housing markets.

95% home price limit. We recognize and appreciate HUD's efforts to address the rigid limitations of the current 95% median home price limit. This limitation creates a barrier for both developers looking to meet housing demand and homebuyers wanting to live in communities of their choice. Under the existing regulation, that choice becomes unattainable, most often restricting the eligible household to homes in neighborhoods of concentrated poverty.

Unprecedented home prices have transformed this long-standing impediment to fair housing into what is now an insurmountable obstacle. In the aftermath of the COVID-19 pandemic, prices have escalated to the extent that, despite a surplus of qualified buyers below 80% AMI, there simply are not enough homes priced below the limit to meet the demand. Developers are extremely limited in their ability to provide homeownership opportunities for eligible households looking to live in what HUD refers to as "high opportunity neighborhoods." Instead, LMI homebuyers have a limited choice of homes to purchase, with the 95% limit leaving very few homes in adequate condition as options for the buyer. This outcome is contrary to the mission of Homeownership Alliance members, as concentrating eligible homebuyers to substandard housing would result in an inequitable and disparate impact.

We acknowledge the statutory requirement establishing the 95% threshold, however, we stress that more action is needed from HUD to achieve equitable single-family housing outcomes and that regulatory efforts are able to accomplish that mission. In accordance with the National Affordable Housing Act,[17] there is flexibility for the HUD Secretary to determine the base metric that the Department would then use to determine the 95% limitation. Our recommendation, within HUD's regulatory purview, is to use the Federal Housing

[17] 42 USC §12745(b)

Administration (FHA) Single Family Mortgage Market 203(b) data[18] for the purpose of calculating home price limits set at 95%. These data, used prior to the 2013 final rule, are more representative of an ever-evolving economic environment, thereby providing more flexibility for practitioners seeking to sell HOME-assisted units to eligible owner-occupants.

The current limit based on fixed FHA data[19] further divides communities and confines LMI homebuyers to lower-value homes and neighborhoods. FHA 203(b) data, however, are forward looking, avoid data lags, and provide enhanced flexibility for high-cost urban areas. This creates a dynamic and representative dataset that supports increased affordable homeownership development. For example, in Grainger County, TN, 95% of the median home price limit using the current data in 2023 was $251,000. Using 203(b) data in determining the 95% limit,[20] however, would yield a limit of $378,000, adding an additional $127,000 to the highest allowable home price. The 203(b) data would also provide additional flexibility for rural communities by providing a higher national floor, leading to more accurate and representative limits. We recommend HUD revise the Final Rule to adopt the use of 203(b) data as a basis to calculate the 95% threshold, opening more opportunities for families to access and live in an affordable home in a community of their choice.

Legislation such as the proposed HOME Investments Partnerships Program Reauthorization and Improvement Act[21] aims to address restrictions by reauthorizing HOME and implementing necessary improvements. This incloudes replacing the 95% home price limit with a 110% limit, or a percentage established by the Secretary, whichever is higher. Expanding this threshold would certainly be an improvement from current law, but NCST and the Homeownership Alliance support statutory action eliminating the 95% threshold from the HOME program entirely.

In discussion of alternative models to the 95% threshold, some Homeownership Alliance members suggest using data that exclude investor-purchased homes and only include owner-occupied sales. Investor purchases can skew data, undermining affordability goals that HOME seeks to address. Additionally, some members support replacing the 95% price limit with a HOME Subsidy Limit, which would focus on the "appropriateness of the amount of assistance" by PJs. This change would address HUD's concerns surrounding the prudent use of funds without restricting homebuyers' choices in neighborhood and home. Should HUD take this approach, however, it is important for the Department to note that utmost clarity and consideration with these limits would be required, as well as a thorough assessment to instances where the subsidy limit may increase the maximum subsidy amount, and how this approach would or would not align with other federal programs. Overall, we welcome partnership to explore alternative methods on how to best meet the homeownership needs of the communities served by the Homeownership Alliance.

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[18] Mortgagee Letter 2023-21: 2024 Nationwide Forward Mortgage Loan Limits, (Nov 2023). Assistant Secretary for Housing - Federal Housing Commissioner, HUD.

[19] HOME Homeownership Value Limits, (Jun 2023). HUD Exchange.

[20] Our organization understands that HOME statute specifically denotes the 95% limit, and that HUD abandoned the use of 203(b) data in 2013, stating those figures reflected 125% of the area median purchase price. However, 100% of the area median purchase price can be recovered mathematically from the given 203(b) figure. From that, 95% can be taken to supply an area's HOME program Homeownership Value Limit.

[21] S.3793 H.R.7075

Maximum per-unit subsidy. As HUD develops changes to the maximum per-unit subsidy limits, we implore the Department to ensure PJs have access to the most thorough and accurate information at all stages of adoption and implementation of the new levels so as to not delay or undercut the allowable resources for affordable homeownership activities.

HUD should consider additional factors when determining an updated methodology, including allowing flexibility for units that need further rehabilitation to ensure the home is move-in ready. Repair costs place a significant strain on the households served by Homeownership Alliance members,[22] and we urge HUD to consider rehabilitation needs as they develop the new methodology to calculate a maximum per-unit subsidy amount. Homeownership Alliance members go to great lengths to ensure a home is turnkey for an eligible buyer, and the Department must take measures to ensure subsidized housing does not equate substandard housing.

We also recommend HUD consider factors associated with rising operating costs, property insurance costs,[23] income limits for potential eligible buyers, administrative costs to blend multiple programs when crafting pre-development plans, and other impacts to a developer's revenue streams. The strain of a shrinking housing supply raises expenses at all stages of the construction and management process. It is important to note that these are not factors that only face multifamily properties, but even 2-4 unit properties may require a developer to retain a certain level of reserves - both for operating and for replacement reserves. Further, we recommend HUD work in any cost factors that may be specific to single family housing (which the HOME regulations define as 1-4 units).

Lastly, HUD must begin to address the inconsistencies between a PJ's award to a rental project in comparison to a homeownership project. Homeownership Alliance members raise the point that, in many cases, the subsidy provided by the PJ to support an affordable homeownership property or program rarely reaches the maximum limit. So long as this practice continues, the benefits resulting from HUD's well-informed per-unit subsidy maximum calculations will bypass many organizations and subgrantees serving eligible owner-occupants. As such, we strongly recommend HUD assess a PJ's award practices, and both identify and mitigate the causes of this imbalance of subsidy award.

CHDO recommendations. Homeownership Alliance members have posed additional suggestions for the Department to consider to further strengthen the updated CHDO requirements. First, our membership recommends HUD institute further clarity that the institutions listed in examples of entities that can meet the low-income board requirement are not exhaustive. Faith-based institutions are often key partners to affordable

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[22] Higher shares of low-income homeowners delay or forego housing and upkeep repairs, resulting in a higher likelihood of these families living in substandard housing. About 9.6% of American Indian/Alaska Native and 5.7% of Black homeowners live in inadequate housing, as compared to 3.4% of all homeowners. The State of the Nation's Housing 2024, Joint Center for Housing Studies of Harvard University.

[23] Soaring Property Insurance Rates Threaten Affordable Housing Development, (Mar 2024). Shelterforce. We recognize the intentional steps HUD is taking to better understand and address the impacts of property insurance on affordable housing developers.

housing organizations, and can assist in HUD's goal of developing the capacity of CHDOs – and increasing the number of CHDOs — by allowing these entities to meet the ⅓ low-income board representation requirements.[24] To ensure clarity for the PJs, we would recommend HUD release guidance that includes entities that would be *ineligible* to meet the low-income board requirement.

Some Homeownership Alliance members note significant concern with the proposed change allowing the creation of "state-wide CHDOs", as the change could pose limitations for rural areas. They note that the proposal for state-wide CHDOs in rural areas, as currently written, would open the door to a high-capacity organization achieving the CHDO designation at the expense of smaller organizations with a greater need of the capacity building funding for which the CHDO designation was designed. Moreover, this new definition could present issues when determining low-income representation. Members have raised concern that, under the proposed definition, a state-wide CHDO could develop a board with no low-income presence, accountability, or connection with the community served, but instead meeting that requirement through a member of staff from a nonprofit in a different part of the state.

Our organization welcomes the proposed changes to enhance capacity capabilities of the CHDO, and we recommend that HUD include experience with New Markets Tax Credits (NMTC) as an eligible way to show capacity, so long as the NMTC was used to support affordable housing.[25] The Federal Home Loan Banks'(FHLBank) Affordable Housing Program, as well as other FHLBank programs, should be explicitly listed, as the program is another source of funding that requires a high degree of compliance, and would display a CHDO's comparative capacity to execute HOME funds.

To address HUD's specific solicitation of comment #1 regarding rural CHDOs, it is crucial for the Department to note that rural areas vary across the nation as far as their expertise and challenges when using HOME. In many cases, rural areas experience capacity limitations and are ineligible for many funding sources — particularly at the federal level, where housing programs have historically focused on urban communities. Rural organizations that fail to achieve CHDO status, though eligible, often require targeted and specific technical assistance to prepare for the very competitive funding cycles for HOME CHDO setaside funds. Homeownership Alliance members note that many rural organizations can benefit from local partnerships and business relationships. We urge HUD to consider what existing regulations may limit these forms of partnerships and rectify such barriers, if applicable, to ensure rural organizations can access additional resources to help increase the reach of their service lines.

Lastly, HUD reiterates in this proposed rule that only 10% of the funds awarded to a CHDO for development of housing may be used for down payment assistance. Often, down payment assistance programs are

[24] As HUD looks to specify these entities, our organization supports HUD's existing definition of a faith-based institution: "Faith-based organizations are of three types: (1) congregations; (2) national networks, which include national denominations, their social service arms (for example, Catholic Charities, Lutheran Social Services), and networks of related organizations (such as YMCA and YWCA); and (3) freestanding religious organizations, which are incorporated separately from congregations and national networks." Faith-based Organizations in Community Development, (Aug 2001). U.S. Department of Housing and Community Development, Office of Policy Development and Research.

[25] Why use NMTCs for Affordable For-Sale Homeownership, (Aug 2022). Smith NMTC Associates LLC.

oversubscribed and underfunded. The number of down payment assistance programs reached an all-time high in the second quarter of 2024.[26] HUD can support broader access to eligible households by revisiting this 10% threshold, and coordinating with Congressional partners, where appropriate, to determine a method to allow greater flexibility in this 10% ceiling as demand continues to rise.

CLT recommendations. While the CLT changes articulated in the previous section are appreciated, some Homeownership Alliance members recommend HUD further assess implications considering the 30-year period of affordability. CLTs do require an enforcement mechanism due to their structure and purpose to provide permanent affordability, requiring financially sound operators to adhere to covenant enforcement and to retain sufficient resources to execute the right of first refusal. Because of these additional measures, HUD could consider if PJs should perform underwriting similar to that of a robust organization to cover these mechanisms - perhaps using the multifamily requirements as a template. This could better ensure a sound operational foundation for the organization during the duration of the affordability period. Underwriting could also ensure that HOME dollars are not over-subsidizing the units so buyers can afford to pay ongoing CLT fees.

Needless to say, we encourage HUD to pay keen attention to the additional burden placed on the CLT in light of these considerations. The Homeownership Alliance is made up of both CLTs and non-CLTs, and is prepared to share a diverse array of perspectives from our broad network of homeownership practitioners to assist HUD in further specifying these elements.

Lease-purchase of homes developed under the Low-Income Housing Tax Credit (LIHTC) program. In § 92.254(a)(7), current regulations state that “HOME funds may be used to assist homebuyers through lease-purchase programs for existing housing and for housing to be constructed.” Thousands of single-family homes were developed across the country using LIHTC, operating under the assumption that the tenant would be able to purchase the home at the end of the program’s 15-year compliance period. Layering both HOME and LIHTC can provide an important, long-term pathway for renters to find housing stability, improve financial well-being, and become homeowners.

During the rental period, the HOME rules defer to the LIHTC qualification standards for whether a renter is eligible to rent a HOME-assisted unit. The LIHTC qualification standards require an initial qualification of the tenant at the time of lease, but if the tenant household income increases over the LIHTC and/or HOME maximum, the tenant is still qualified to live in the unit and is not displaced. However, since HUD’s adoption of the 2013 HOME final rule, many PJs are requiring a tenant to re-qualify under the homeownership rules at the time of the sales transaction once they are eligible to purchase their single-family home at the end of the LIHTC compliance period. If the tenant exceeds 80% AMI at the time of requalifying, they are disqualified from purchasing the HOME-assisted unit.

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[26] Down payment assistance programs hit an all-time high: report, (Jul 2024). HousingWire.

We believe this outcome is inequitable and contradictory to the purpose of a lease purchase program for low-income residents. The Homeownership Alliance has raised this concern with HUD in the past,[27] and our members are disappointed to see that HUD did not adopt our recommendations in this proposed rulemaking. In some cases, homeownership is inadvertently disincentivized due to these existing regulations, and we urge the Department to consider regulatory changes that would provide more flexibility in income determination in the event of a lease purchase of this nature. More broadly, if a lease-purchase fails - whether or not the unit was supported in part by LIHTC - the developer is locked into a lengthy cycle of rental administration, closing off much-needed affordable inventory for homeownership.

Underwriting recommendations. NCST and the Homeownership Alliance support HUD's transition from the Housing Cost Ratio to the proposed merged approach, resulting in additional qualified borrowers. HUD could massively simplify the use of HOME funds for homebuyer assistance, as well as increase the number of state and local governments offering homebuyer assistance programs, by creating an underwriting safe harbor that says the HOME underwriting standards have been met if the first mortgage used to purchase a home was a Qualified Mortgage (QM). All mortgages secured by Fannie Mae, Freddie Mac, the Department of Veterans Affairs, the U.S. Department of Agriculture, and FHA meet a QM standard, which would ease compliance with the HOME underwriting rule. If another first mortgage loan product is used, then the PJ would have to ensure the first mortgage meets the specific attributes of a QM as laid out by the Consumer Financial Protection Bureau.[28]

Selling homes to eligible buyers that had been leased. The Homeownership Alliance alerted the Department that the current requirements for homeownership housing using HOME funds do not specify how a home that has been leased under this provision can subsequently be sold to an eligible homebuyer. While the Alliance is appreciative of the proposed sales deadline extension from 9 months to 12 months,[29] it is still unclear as to how a home leased under these terms could be sold to a homebuyer. Unfortunately, this can and has led to PJs concluding it is not allowable to sell the home as originally intended, or it can only be sold via the Lease-Purchase provisions in § 92.245(a)(7) of the regulations.

As such, we recommend HUD issue clear guidance to PJs clarifying that a sale to another eligible buyer is allowable, and address how that home can be sold to that buyer. Better still, the Department could clarify in the regulation itself to allow a home leased under § 92.254(a)(3)'s requirements be sold to an eligible buyer within 12 months of a tenant voluntarily moving out of the rented home or after being legally evicted for cause.

Vacant land acquisition and demolition. Many of NCST's community buyers and Homeownership Alliance members engage in the demolition of vacant properties as a means to enhance neighborhood stabilization. The HOME proposed rule clarifies that acquisition of vacant land or demolition may only be undertaken for a

[27] Ibid, pages 9-10.
[28] The Qualified Mortgage (QM) Rule and Recent Revisions, (Mar 2021). Congressional Research Service.
[29] Homeownership Alliance members also appreciate this extension due to the ever-changing nature of the housing markets. While a 9 month timeline may be suitable for a market currently, selling a home will likely bode more challenging in the near future due to the downward trend in home sales.

project that will provide affordable housing and meets the requirement for a specific local project in accordance to the program's definition of "commitment". This means that these activities cannot take place unless all necessary financing has been secured, a budget and schedule have been established, underwriting has been completed, and construction is scheduled to start within 12 months of the execution date of the written agreement.

NCST and the Homeownership Alliance firmly believe that HOME should be singularly focused on the development of affordable housing. Our organization is not suggesting that subrecipients should be allowed to use HOME funds to conduct demolition or acquisition work without a firm plan to construct affordable housing on those parcels. However, Homeownership Alliance members have noted that the 12-month deadline is very narrow due to delay factors such as securing financing, public entitlement, site assembly, and other requirements that often fall to localities that can slow the process. This places the nonprofit developer at a disadvantage, particularly for those who work to support homeownership opportunities in distressed areas where acquisition, demolition, and other work with vacant parcels is required to stabilize the neighborhood. Additionally, our organization fears that the lack of specificity around the proposed definition of 'commitment' could confuse some PJs, and in turn further delay the construction process within the narrow time frame.

As such, our organization recommends HUD extend the 12-month requirement, or establish separate deadlines or parameters for vacancy and demolition work. We would support the Department instituting oversight measures between the PJ and the subgrantee to ensure these activities will support affordable housing. Many mission-driven organizations who own parcels of land do have specific and concrete plans to build, but the number of requirements that must be met ahead of construction are not often met in the 12-month timeline.

Additionally, we recommend the Department consider adding language to § 92.205(a)(2) to permit the acquisition of vacant land or demolition of structures on parcels contiguous or adjoining to a project that will provide affordable housing. So long as these activities will further neighborhood stabilization - the exact reason why many nonprofits, such as Homeownership Alliance members and NCST community partners, conduct these activities - the nature of vacancy and demolition continues to align with the purpose of the HOME program.

Green Building Standards. NCST and the Homeownership Alliance are grateful for the forethought of the Administration in countering the dire impacts of climate change, which have higher and more detrimental impacts on low-income communities, as well as nonwhite communities within the U.S. To aid LMI households in both energy and cost savings, NCST is also supportive of the adoption of energy efficiency standards for new construction of HUD- and USDA-financed housing,[30] so long as there are sufficient resources for nonprofit housing developers to meet the new green building standards.

[30] Final Determination: Adoption of Energy Efficiency Standards for New Construction of HUD- and USDA- Financed Housing, (Apr 2024). Department of Housing and Urban Development and Department of Agriculture.

Unfortunately, the proposed HOME rule falls short in providing developers with the resources required to adhere to any mandatory or voluntary building practices. In response to HUD's specific solicitation of comment #2, Homeownership Alliance members determine that a proposed 5% increase to the maximum per unit subsidy limit is entirely insufficient to support even the required 2021 IECC and ASHRAE 90.1 standards. Additionally, it is important for HUD to recognize, as was mentioned in a previous section, that the per-unit maximum level is rarely awarded by the PJ for homeownership projects. This would render the 5% plus-up proposal moot in the instance of most HOME-funded homeownership activities.

Regarding HUD's question on incentive structures to better encourage the adoption of voluntary standards in green building, it is difficult to estimate the costs for implementing additional green standards for affordable, single-family, owner-occupied housing without further specifics. Once HUD releases additional rulemakings on the matter, the Homeownership Alliance will ensure to respond with the impact on practitioners seeking to develop affordable housing for HOME-eligible households.

HUD could, however, look to best practices that positively impact the feasibility of the developer to adhere to the standards as well as bring down energy costs for the consumer. Because of the various green building programs authorized during the Biden-Harris Administration, the Department could consider instituting similar standards to the Greenhouse Gas Reduction Fund, the Green and Resilient Retrofit Program, or the Section 45L Tax Credits for Zero Energy Ready Homes. The standards required in these programs may be familiar to developers who have received these methods of financing to increase/ improve affordable housing supply. Additionally, some Homeownership Alliance members suggest HUD use a Home Energy Rating System rating of 50 or lower to establish energy-efficient building, particularly due to its flexibility.

HUD must ensure energy-efficiency considerations are also addressed for off-site built housing. Because manufactured homes meet a federal building standard, they are exempt from the statutorily-imposed 2021 IECC and ASHRAE 90.1 standards. It is crucial for the Department to consider energy-efficiency improvements for these households as well, such as the Environmental Protection Agency's Energy Star v. 3 standard or the Department of Energy's Zero Energy Ready standard for manufactured homes as a minimum for any activities related to the purchase of new manufactured housing using HOME funds. Both standards represent a significant increase in the overall home energy savings of manufactured homes. To conclude, however, our organization reiterates that HUD must ensure there are sufficient resources available for grantees to comply with these standards - particularly seeing as the required standards cannot be met under existing allocation awards.

Smoke detector requirements. Homeownership Alliance members are well-equipped to meet the new smoke detector requirements under HOME, so long as funds are made available for that purpose. In response to comment #3, however, it is not feasible to meet these requirements without HOME-funded rehabilitation or construction programs. HUD is asking stakeholders if down payment assistance programs are an appropriate source of funding to ensure all smoke detector requirements are met. Due to high housing costs, LMI homeseekers need to use down payment assistance programs for that exact purpose - supporting the homebuyer's down payment. Requiring this installation to take place through a down payment assistance program would only increase administrative and cost burdens for the nonprofits executing these programs.

Installing these forms of devices has also proven challenging in older housing stock, and compliant devices can be more costly and more difficult to access - especially in remote and rural communities. As such, HUD should not expect down payment assistance grants to cover the installation of these smoke detector requirements, and we ask that this also apply to the carbon monoxide detector requirement.[31]

Thank you for the opportunity to submit our recommendations in an effort to maximize HOME funds for affordable homeownership. The Homeownership Alliance is a dedicated partnership of affordable housing stakeholders, and our membership stands ready to further opine on our recommendations, ensuring practitioner-based perspectives serving LMI communities nationwide. Soliciting feedback on HOME program reforms directly from the affordable housing industry will ensure these changes are both impactful and implementable. Any questions or points of clarification can be addressed to Elisabeth Coats, Director of Homeownership Alliance (ecoats@ncst.org). We appreciate the Department's time and consideration of our recommendations.

Sincerely,

The Homeownership Alliance
The National Community Stabilization Trust (NCST)

[31] Homeownership Alliance members also note that a seller will likely not allow installation of alarms ahead of closing, presenting yet another reason for the private market to refuse publicly-funded mortgage products.