September 5, 2020

The Honorable Nancy Pelosi
Speaker of the House of Representatives
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Charles Schumer
Minority Leader
United States Senate
Washington, D.C. 20510

Re: ABA Support for Emergency Rental Assistance to End the COVID-19 Eviction Crisis

Dear Speaker Pelosi, Majority Leader McConnell, Minority Leader McCarthy, and Minority Leader Schumer:

I write on behalf of the American Bar Association (ABA), the largest voluntary association of lawyers and legal professionals in the world, to renew our July 21, 2020 request, that you immediately prioritize American housing stability and safety through emergency rental and foreclosure relief to the millions of tenants and landlords experiencing hardship during the COVID-19 pandemic. This assistance is desperately needed to supplement and reinforce the important but limited protections accorded American families under the September 4, 2020 evictions moratorium issued by the Centers for Disease Control and Prevention (CDC). Failure to act will lead to a sharp spike in unemployment and homelessness, as well as extreme demands on community health and housing services during a time of year when such resources are in highest demand.

The CDC’s eviction moratorium is a necessary measure that provides critical relief from the threat of eviction for adults and children across the country and will help control the spread of COVID-19 in communities and across state lines. However, the moratorium is only a temporary and incomplete remedy as it does not include the federal rental assistance necessary to address the mounting rental debt and landlord expenses. As a result, not only will the eviction crisis resume as soon as the federal eviction moratorium expires, but renters and property owners will also suffer severe financial harm during the moratorium period as debts accumulate. For example, it is estimated that 30 to 40 million people (29-43% of renter households) could be at risk of eviction for nonpayment of rent due to COVID-19 related job and wage loss, – a problem compounded by the impact of eviction on one’s employment and the ability to seek new work.

1 The ABA’s July 21, 2020 letter to House and Senate leadership is available at: https://www.americanbar.org/content/dam/aba/administrative/government_affairs_office/housing-coronavirus-relief-july.pdf
2 The CDC’s eviction moratorium is available at: https://www.govinfo.gov/content/pkg/FR-2020-09-04/pdf/2020-19654.pdf
In addition to their economic impact, these looming evictions will undermine the health of many American families. Without adequate financial assistance, many of these families are likely to experience poor health outcomes after being forced to leave their homes, such as malnutrition, respiratory disease, anxiety, depression, and suicide. For children, eviction is particularly traumatizing and results in emotional, physical, and academic decline. In addition, housing displacement results in homelessness and overcrowded living environments, which could increase the spread of the coronavirus. Especially as the country works to contain and recover from the pandemic, housing stability is of paramount importance. And at a time Americans’ resiliency should be supported, the instability following eviction frustrates families’ ability to access the social services and community networks they need to survive and recover.

Equally pressing, the steep decline in rent payments places property owners in financial peril and will have a devastating impact, especially among small property owners who lack the financial ability to sustain short and long-term nonpayment of rent. The loss of rent began in March or April for many of these landlords and is expected to continue through the end of 2020, with increased operating expenses to heat buildings and remove snow and ice in many states.

Individual investors own approximately 22.7 million out of 48.5 million rental units in the housing market. These “mom and pop” landlords primarily own single-family rentals and small apartment properties and own 74% of rental properties. More than half (58%) of small rental property owners lack access to credit to cover emergencies, such as lost rent payments, and they may lack sufficient assets to pledge to a lender when rental income stops. The lack of credit could be devastating for small rental property owners with mortgages. Forty-four percent of single-family rentals have a mortgage, or some similar debt. Sixty-five percent of properties with 2-to-4 units and 61% of properties with 5-to-19 units have a mortgage.

Without rent payments and mortgage assistance, many property owners will be forced to raise rents to recover from financial hardship or leave the housing market. Small property owners provide more than half of the housing stock that rents for $750 or less. When rents are raised or these properties are removed from the nation’s housing stock, it will further deplete the United States’ affordable housing supply. By declaring an eviction moratorium, the CDC partially addressed the short-term need for tenant stability through the pandemic, but without federal rent relief now, our nation will face much higher costs down the road. Waiting will only mean more public funds will be needed to stabilize housing, address mounting renter and landlord debts, and replenish our lost affordable housing stock.

For property owners, this financial support must go beyond the foreclosure moratorium and forbearance programs under the Federal Housing Administration and Federal Finance Housing Agency. Only a fraction of rental housing properties are covered by such programs, leaving the majority of property owners vulnerable. Foreclosure can happen very quickly, in a matter of weeks, depending on the state’s adoption of judicial or non-judicial foreclosure proceedings. Consequently, these property owners would face housing instability, debt, reduced credit scores, and other negative outcomes. Increased bankruptcy filings are also a risk of inaction. A study presented to the International Monetary Fund found that homeowners with prime and subprime mortgages are 28 times and 22 times, respectively, as likely to file for bankruptcy if lenders began foreclosure within the previous three months.
Nonpayment of rent will also have a direct impact on property owners’ ability to pay property taxes, which are crucial to sustaining community resources, especially schools and state and local governments. On average, funds from local governments supply 45% of school budgets, and 80% of these funds come from property tax. Without rental income, property tax payments could decline and reduce community resources. Nonpayment of rent can also harm communities where it affects a property owner’s ability to pay the mortgage and results in foreclosure. Foreclosed properties have a high risk of becoming abandoned. Abandoned and vacant properties have been linked to increased crime, increased risk to public health and welfare, and increased costs for municipal governments. Foreclosed properties also tend to lower surrounding property values and decrease investment in the community.

All of these crises – to renters, landlords, property owners, and to local communities – can be averted if Congress acts now to extend the evictions and foreclosure moratoriums until a time of greater economic stability and to provide rental and mortgage assistance to vulnerable families and property owners. Early estimates indicate that approximately $100 billion in federal rental assistance is needed to prevent housing instability. The Urban Institute estimates that the cost of rental housing assistance for six months ranges from $48 to $96 billion and would assist between 8.8 and 17.6 million households respectively. After excluding households already receiving federal financial housing assistance, the National Low-Income Housing Coalition (NLIHC) estimates that rental assistance to ensure housing stability for 11.5 million severely cost-burdened, extremely low-income, and very low-income renter households over the next twelve months would require $76.1 billion in new funding.

Numerous industry groups, state and local government officials, cross-sector leaders, and national advocacy organizations from across the political spectrum support federal legislation that includes $100 billion in rental assistance to ensure housing stability among cost-burdened households. Supporters include 32 national housing advocacy organizations, 40 local mayors and government officials, as well as the National Apartment Association, National Association of Home Builders, National Association of Realtors, and many other stakeholders.

I urge you to prioritize and promote housing stability and safety by supporting emergency rental and foreclosure relief during the nation’s health emergency to prevent irrecoverable harm to tenants, property owners, and communities. Because the need is urgent, relief is needed now. If you have any questions regarding our position, please contact Kenneth Goldsmith in the ABA Governmental Affairs Office at (202) 662-1789 or kenneth.goldsmith@americanbar.org.

Sincerely,

Patricia Lee Refo
President, American Bar Association

5 ANDREW AURAND ET AL., NLIHC RESEARCH NOTE: THE NEED FOR EMERGENCY RENTAL ASSISTANCE DURING THE COVID-19 & ECONOMIC CRISIS 2 (2020); see also HEROES Act, H.R. 6800, 116th Cong. (2020) (the HEROES Act includes $100 billion in rental assistance).
cc: The Honorable Nita Lowey, Chairwoman, House Appropriations Committee
    The Honorable Kay Granger, Ranking Member, House Appropriations Committee
    The Honorable Richard Shelby, Chairman, Senate Appropriations Committee
    The Honorable Patrick Leahy, Vice Chairman, Senate Appropriations Committee