

MEMORANDUM

Date: February 22, 2021

To: Marisa A. Zapata, PhD
Director, PSU-HRAC

From: Lauren E. M. Everett
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Subject: Updates on COVID-19 and disaster response, housing, and people experiencing homelessness nationwide, February 15 - 21.

News

1. More than 150 million Americans were experiencing [extreme winter weather](#) early this week, with millions of households from Oregon to Texas to Ohio losing power for days. Not surprisingly, the situation created [challenges for shelter systems](#), with the sudden need to move large groups of people inside.
2. Renter households across the nation are [receiving eviction notices despite the CDC eviction moratorium](#), in some cases even when they follow all of the required steps. Lack of resources for tenant legal representation is one major issue impacting the CDC order's efficacy. Shamus Roller of the National Housing Law Project is calling for a blanket eviction ban to address the deficiencies.
3. The national movement for a [Right to Counsel](#) (RTC) continues to gather momentum, as tenants around the country are faced with eviction during the pandemic and are unable to afford representation. If implemented at the national level, this right would mirror the existing right to counsel in criminal cases. New York City, Philadelphia, Newark, Boulder, San Francisco, Cleveland and Baltimore already have RTC legislation.
4. Republican lawmakers in some states are [stalling on releasing federal funds](#) for rental assistance. In Idaho several Representatives voted against accepting the assistance, on the grounds that it constitutes "dependency" on the federal government.
5. In [Austin, TX](#), an arts organization called Art From the Streets is one of several projects that illustrate how creative programs can be a source of financial and emotional support for people experiencing homelessness.
6. New research from the Joint Center for Housing Studies at Harvard reveals that high-income [Black homeowners receive higher interest rates](#) than low-income White homeowners.
7. [Philadelphia](#) will receive its first tiny home village for people experiencing homelessness. It will initially respond to COVID-era needs by providing transitional housing for people over 65 or who have health conditions. Meanwhile, advocates staged a protest demanding that the city resume its [hotel program](#) for elderly and high-risk individuals experiencing homelessness.

8. Under the direction of an executive order from President Biden, HUD will implement rules that [prohibit discrimination against LGBTQ+ tenants](#).
9. The [Los Angeles](#) Business Council has called on Mayor Garcetti to expand hotel rooms available as part of Project Roomkey by 15,000. After President Biden took office the FEMA reimbursement for hotel shelter increased from 75% to 100%, and advocates/stakeholders in many cities are accordingly pushing for an expansion of hotel programs.

National Low-Income Housing Coalition (NLIHC) weekly call and updates (February 16)

Jennifer Loving, CEO, Destination: Home: Santa Clara County already had a substantial homelessness crisis before the pandemic. We had a Homelessness Prevention System already in place, and our COVID response is an extension of our work with that. We were one of the first localities to enact an eviction moratorium, largely due to this pre-existing issue. We've had over 40,000 calls for help, which is a huge increase from our former capacity to service 1,500 households a year. We launched phase one of the emergency response during the first week of shelter-in-place and provided direct cash assistance to cover income loss. We were oversubscribed by requests within the first three days and had to stop accepting applications. In the second phase (May - Sept) we narrowed eligibility to households making less than 30% AMI, which is considered to be extremely low income. In the end 93% of households we served are households of color, 77% were extremely low income, 68% included children, and 1/3 of the funding went into the five most highly-impacted zip codes.

The average household owed \$5,000, so it didn't take much to prevent eviction. However for roughly 40% of these households we were unable to connect to the landlord. Many didn't have formal leases. The State of California has a statewide relief plan with a landlord-centric design, where the landlord has to agree to certain provisions. We are continuing our local program with the priority for very low income households, in a community-centered model. It's designed to help those who need it most, with a minimum of documentation needed and the ability to serve households without traditional leases. Avoiding onerous requirements is key is reaching the most impacted. The 70 or so agencies that worked with us for the last year are often quite small, and sometimes volunteer run. The amount of burden placed on community leaders is extraordinary. So we're aware of capacity limits and we need to support that financially. A big concern for us is working in partnership with the state, and making sure we can refer people into that system and not missing anyone.

Q: What about for undocumented residents?

A: There's been no differentiation between documented and undocumented in our program. We've provided financial assistance in the ways our local partners have requested, including gift cards and writing checks to landlords. We have been asked not to refer to it as an "undocumented fund" so we've avoided doing that.

Diane Yentel, President and CEO, NLIHC: Myself and some other NLIHC staff and housing advocates participated in a listening session with White House staff about how to extend and strengthen the moratorium. The purpose of the call was for the administration to hear the case about why this is so essential, and the implications of the racial inequities. Separately from that meeting Sarah Saadian participated in another call with USDA about the eviction moratorium. So clearly the administration is well aware of our request and are giving it a lot of thought. They may be having listening sessions with others and I don't know what that process is. This morning the administration announced that they are [extending the foreclosure moratorium](#) for homeowners through the end of June 2021. Along with that they're taking the action of extending the mortgage forbearance enrollment window through the end of June. They're creating [a centralized resource](#) for housing assistance for both renters and homeowners. We're going to reopen and recirculate the [sign on letter](#) we had in the past to urge the administration to strengthen and extend the eviction moratorium. Some of the people who are most in need of these protections are the least likely to be aware of them, such as those without internet or who don't speak English.

As for the emergency rental assistance programs that we've been tracking over the past year, we're up to a little over 600 nationwide. Up until now they were created with far more limited funds provided under the CARES Act, and there are now a lot more funds available through the last relief package. We'll indicate what programs are new coming out of the latest \$25 billion on our [rental assistance database](#). Alaska, Kentucky, Missouri, Texas and Virginia have all started to deploy these funds. We also know of 25 counties or cities that have their emergency rental assistance programs up and running to distribute these new funds. Please send an email to research@nlihc.org to add a program that you know about if it's not already in the database. Back in [July 2020](#) we published a paper on state and local rental assistance programs with early take aways, and published another one in [October](#). We took what we learned from this data and sent [our recommendations](#) to the Treasury regarding their guidance on distributing these funds. Their guidance is problematic in a number of ways, including overburdensome documentation requirements. Since that time we know HUD and the Treasury have been working to revise the FAQ, and they hope to release that revised document soon. We'll be scheduling a few webinars on how to set up equitable rental assistance lotteries, how to make payments when landlords are unresponsive, etc. - targeting some of the problem areas we've identified. Researchers at UPenn are doing a survey of rental providers to learn more about rent arrearages. If you're interested in helping with this, please email Research@nlihc.org.

Eric Dunn, Director of Litigation, National Housing Law Project: The CDC eviction moratorium leaves lots of questions. For example, can the landlord choose not to renew a lease when it expires, as a way to get a non-paying tenant out of a residence? Typically the landlord just gives a notice announcing that the tenancy is being terminated and it doesn't have to give a reason for that. If the landlord actually came out and said it was due to non-payment, it would be covered under the moratorium. We believe the moratorium *does* cover that type of event because it states that eviction is only permitted under certain circumstances like a lease violation, many judges are not interpreting it that way. We've prepared a new memo that specifically targets this issue with legal arguments for interpreting it this way.

Q: What about situations in which landlords are evicting tenants for having undocumented pets?

A: The way the moratorium is worded permits eviction for lease violations, and an undocumented pet would usually be a lease violation. However in many jurisdictions tenants should have the opportunity to cure, which means the tenant has the opportunity to remedy the situation. Also, if the tenant already had the pet and they have documentation that the landlord knew about it previously they might try and make that argument, although it can be difficult.

Q: Can ‘tenants at will’ be covered by the moratorium?

A: That term means different things in different places - it could be someone with a month-to-month lease, or someone who isn’t officially a tenant, like a houseguest. Someone with a month-to-month tenancy does have a right to protection under the eviction moratorium, but someone who is staying at a residence and not paying rent or under a lease would not have those protections.

Christine Hess, ED, Nevada Housing Coalition: Nevada’s renters are disproportionately affected by the pandemic, compared to homeowners. We were already in a housing crisis before the pandemic, with a critical shortage of affordable housing. Our state moratorium expired in October and we saw a surge in evictions. The governor reinstated it in December and it has been working, but is set to expire at the end of March. According to the Nevada State Housing Association landlords are dealing with millions in lost revenue. We have a mediation program which is working well, and is an important part of the Renters Connect Program, which makes mediation available but does not mandate it. Clark County (Las Vegas) has the CARES Housing Assistance program, which offers housing support to both renters and homeowners. Our programs are accepting applications right now for the new round of housing assistance. We’ve had some delays because we have to restructure eligibility to align with the federal guidelines. A huge issue is that applicants aren’t allowed to ‘self-attest’ income loss, so our team is having to work back through over 1,000 applications to request more information from many applicants.

Diane: It’s really troubling to hear about the additional work the state has to do to get this additional documentation, due to the federal requirements. If this is changed, how will that alter the way your program is working now?

A: I can’t speak for the state or the program administrators, but what I can tell you is when they developed the original program they did make revisions to their application processes to make it easier and smoother. So if the federal guidelines are revised I hope they will move back to that.

Lindsey Siegel, Director of Housing Advocacy, Atlanta Legal Aid Society: Our county continues to hear eviction cases and the interpretation of the moratorium really varies by judge. As part of the federal relief that was passed at the end of December, DeKalb County was allocated \$21 million. One rental assistance agency is responsible for distributing all of the aid. We’ve been asked to reach out to landlords with pending eviction cases to see if they would accept rental assistance instead of pursuing legal action. We want to resolve as many of these pending cases as possible. The distribution of funds is very complicated. The county originally had about 20 agencies involved,

which ended up being many different application processes with different documentation requirements. We're glad that the county has asked us to be part of this effort. Our goal is to resolve 1,000 eviction cases, which will likely take 3-6 months.

We think this plan improved upon the CARES Act distribution. One thing is that the county only has one set of paperwork requirements now. The tenants and landlords apply directly through the court and then we sift through those to see which ones might be resolved through negotiation. Tenants without formal leases are also eligible. The assistance will be for back rent and future rents, so tenants don't resolve their case just to be behind again. The income limit for eligibility is 80% AMI. They received about 2,000 applications on the first day. One of the difficult things about this type of assistance is that it goes through the courts, so it's only for pending eviction cases. I'm hoping that when the Biden Administration passes more relief we'll be able to offer assistance to other tenants. I think by the time the courts are done resolving these cases there won't be much money left

Sarah Saadian, VP of Public Policy, NLIHC: Last week the House Financial Services Committee approved their COVID relief bill, including about \$40 billion in housing and homelessness funds. We were pleased to see that none of the amendments offered that would have diminished these resources or access were adopted. Some of these proposed amendments included smaller time frames for spending the money, denying it to undocumented immigrants, tying it to school reopening, etc. That means that the budget can move forward in the Budget Reconciliation Process. This week they'll package it together into the \$1.9 trillion package. After it passes the House we'll see the Senate process take place, which will entail amendments and floor votes. During that time we'll be calling on all of you to reach out to your representatives to urge against voting for harmful amendments.

What's in the bill: \$5 billion in homelessness assistance. It's a unique design for this money because they wanted to have a broad set of uses. So it's not just usages we would see under the ESG program, but you can also use these to convert buildings into noncongregate shelter and permanent housing. There are a lot of waivers available to diverge from the usual requirements for these kinds of funds. They're designed to enable localities to purchase property for permanent housing. Under the bill there's a lot of provisions that are identical or similar to the \$25 billion in rental assistance. There is some less restrictive language about financial eligibility, around having to prove that hardship is due to the pandemic. Now it says *during* the pandemic. Additionally, assistance can now be provided for 18 months, which is longer than before. The deadline for spending previous funding will also be extended, and the deadline for these funds are until 2025. The bill includes \$5 billion in housing vouchers for households who are experiencing or at risk of homelessness, or who are fleeing domestic violence. The resources are going to be allocated to public housing soon. There's about \$10 billion available to homeowners, and \$100 million for housing counseling.

Other resources:

1. The National Council of State Housing Agencies' symposium, [*Toward a Racially Just Housing System*](#), takes place February 24.
2. The National Low Income Housing Coalition's forum, [*NLIHC Virtual Housing Policy Forum 2021: A New Day*](#) takes place March 30-31.