

## MEMORANDUM

**Date:** April 12, 2021

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

**From:** Lauren E. M. Everett  
Graduate Research Assistant, PSU-HRAC

**Subject:** Updates on COVID-19 and disaster response, housing, and people experiencing homelessness nationwide, April 5 - 11.

### News

1. Americans who rent their homes [are still being evicted](#) across the country despite the federal eviction moratorium. *The Appeal* offers an analysis of the causes of this crisis, as well as recommended solutions and [federal resources](#).
2. In [San Diego](#), lawmakers have responded by adding additional protections, limiting evictions to tenants who pose an imminent health or safety threat. They also limited rent increases to the Consumer Price Index (1.7% this year) for the duration of the emergency ordinance.
3. Mayor De Blasio announced that [New York City](#) will be ending its hotel shelter program in the near future, but did not commit to a specific date.
4. The [Texas](#) court system has signaled that it will no longer enforce the federal eviction moratorium (see Texas Housers' segment below). There is no statewide moratorium, so thousands of renter households are vulnerable to eviction.
5. *Shelterforce* makes the case for why struggling landlords should favor [rent forgiveness](#) over the current model of rental assistance allocation.
6. The [South Baltimore Community Land Trust](#) offers a model for neighborhood preservation and sustainability.
7. New research finds that the process through which assistance is distributed in the federal [Housing Choice Voucher Program](#) disadvantages the poorest applicants.
8. The one-dose [Johnson & Johnson](#) vaccine has become the favorite vaccine for organizations that support people experiencing homelessness.
9. Over a week after the [controversial sweep](#) of a large encampment in [Los Angeles' Echo Park](#), KCRW followed up with three former residents to see where they are living now.

### The National HoUsed Campaign Call for Universal, Stable, and Affordable Housing (April 5)

Cara Petersen, AD, Office of Enforcement, Consumer Financial Protection Bureau:

We released a statement recently about enforcement efforts related to the CDC moratorium. The acting director of the bureau put out a joint statement on March 29th that included a call to action for all of us to look for ways to bring our tools to bear to support people who are experiencing housing insecurity and unlawful evictions. They state that there are major landlords who are forcing people out of their homes and some tenants are being deprived of these rights. They point out that many people being harmed in this way are seniors or people of color. We are monitoring the marketplace for wrongdoing that may be occurring and looking for debt collectors or other actors that are violating consumer rights. We are hoping to do some outreach to groups like this one to hear about what you're seeing. We encourage you to pick up the phone and reach out to share what you're experiencing and what would be useful.

**Gabe O'Malley, Deputy Enforcement Director for Strategy, Office of Enforcement, Consumer Financial Protection Bureau (CFPB):** I oversee the enforcement docket and this conversation falls squarely within that scope. We request that you reach out if you have concerns that seem like they would fall under our purview. The bureau very much cares about this issue and it's all hands on deck right now to address it.

**Q:** What is the Department of Justice's role here? Do complaints need to go through other bureaus before they reach the DOJ?

**A:** If you're not sure if something's within our purview just reach out and we can always pass it on if needed. I can't speak to DOJ's specific role of where they're headed with things, but bringing things to our attention is a good first step.

**Q:** Would there be a chance for record expungement for people who have been unlawfully evicted?

**A:** That's a really good question and something for us all to be looking at. It depends if we're looking at credit reports or what type of document but it's something on our radar.

**Q:** Is there any interpretation from the CDPB that could stop an unlawful eviction? Is it worth contacting you, in other words?

**A:** To the extent consumers have complaints and don't know the legalities therein, I would encourage people to reach out to their state and local authorities.

**Noelle Porter, Director of Government Affairs, National Housing Law Project:** My report is not so positive and I think it's key that the CHPB step in here as much as possible. So recently the CDC issued an extension of the moratorium, but it does little else other than extend it. We've been asking them to make big changes and they haven't. The current order is far from a true moratorium in that tenants have to sign a declaration to be protected. It gives the ability for the definition of eviction to be so broad that notices of eviction and even filing aren't covered under the moratorium. What has continued to happen is that legal challenges are occurring and courts are interpreting the order as unlawful. We were hoping the administration would tighten this order with a public health rationale and close the loopholes, but that's not what the CDC gave us.

They did give us an opportunity for recourse through the CFPB so you can potentially contact them when defending your client. We need to use rent relief as an advocacy tool. The dollars are not flowing out the door and we need to assure landlords we are putting a plan into place to get them funds for back rent. There are still some outstanding judicial issues. We think the DOJ is arguing on behalf of the moratorium, which is a change from the previous administration. But we would appreciate more from the federal government. One thing we've used in the past is that previously HUD and the USDA and the Treasury had provisions in place to protect federally backed properties and the tenants in this housing. We'll be asking for these agencies to step up. We also want to use the promise of rent relief as an advocacy tool to stave off eviction, and will also work for expungement of credit records and other obstacles to obtaining housing. We also have to make a strong push for tenant screening reform. There's a need for individualized assessment rather than using these screening companies that are going to be barring people from housing who have been impacted financially during the pandemic.

**Q:** Regarding the Texas ruling, how have other states handled enforcing the order that don't have their own moratorium?

**A:** There are judges that have continued to uphold the order and prevent illegal evictions, but the gaps are widening and it's concerning that lower court judges are making these interpretations.

**Q:** Are there useful outreach know-your-rights materials that make the declaration process super clear?

**A:** Yes, and it's important to note that if you already did a declaration it doesn't have to be renewed. We have documents on our website that explain it. Only one adult has to submit a declaration per household now.

### **CDC Eviction Moratorium - [Revised Analysis](#)**

**Kim Johnson, Policy Analyst, NLIHC:** The American Jobs Program is an almost \$2 trillion infrastructure plan that includes \$213 billion to preserve, produce and retrofit more than 2 million affordable homes. This includes both public housing and resources to support home ownership, as well as community incentives to eliminate exclusionary zoning and other harmful land use restrictions. The President and Vice President are working on an outreach campaign to garner support for the plan and details how communities will benefit. NLIHC is working to ensure that our priorities are included, which are rental assistance for every household that qualifies, funding for repairing public housing, and funding for the Housing Trust Fund. We're also working to make sure that resources are allocated equitably. We're expecting the details of the plan to be fleshed out in the coming weeks. Now the administration is signaling that they'd like to work across the aisle with the GOP, but many Republicans are balking at the price tag. Democrats used budget reconciliation to pass the American Recovery Act last month (which can only be done once a year). NLIHC has [a letter your organization can sign](#) onto in support of our priorities.

**Q:** How are they defining affordable housing, in terms of income?

**A:** It really doesn't get into that level of detail. We are going to be pushing the administration to target the lowest income people because that's what's in the shortest supply.

**Q:** Were there any specifics about rural versus urban, or distinction about what part of the housing continuum it targets?

**A:** \$40 billion would be targeted toward rehabbing public housing, but otherwise we don't have details about those specifics.

**Johnson:** We need that \$40 billion to not only preserve the housing for the future, but also for the benefit of current residents.

**Q:** Public housing authorities have experienced back rent issues for over a year and many public housing residents do not qualify for rental assistance in many places. Is there any legislation proposed to alleviate this strain on PHAs?

**A:** The emergency rental assistance from the last two relief packages are still available to people receiving regular housing assistance. Unfortunately what we're seeing is that a lot of state and local governments are imposing their own restrictions. There needs to be work at the state and local levels to make the programs as low-barrier as possible, which includes making these funds accessible to people who live in public housing.

**Tim Thompson, Senior Attorney, Housing Justice Center:** About two years ago my organization along with a coalition of community groups in the Twin Cities got curious about understanding the tenant screening process. We just released a report of our findings. The goal was to understand how the process worked and to understand the viewpoint of both tenants and landlords. Although the focus is on how the Twin Cities process works, it applies beyond. Most companies look at the criminal history, credits report, etc. However different people draw the line in different places. So the question is, what is relevant to know if someone is trustworthy to rent to. Some are nuanced, and others are broad bans that appear to exclude a lot of people who would be well-qualified. You may have someone who gets denied housing from a felony that's 20 years old, or who had an eviction on their record from when they were a minor and their name is on the record. Also, applicants who have always paid rent on time but don't have the three times salary ratio that some require. So there's no common practice. Apparently landlords don't coordinate on this because it might be an antitrust issue. So we're trying to move the industry toward a more evidence based standard. We touch on several things in the report, including the large, but problematic role that screening companies play in this process, and how we can move toward a more equitable system. Major takeaways are, a need for more transparency from landlords in being clear about screening criteria, and the need for the tenant to have access to their own screening report.

### [Read the report](#)

**Eli Barrish, Policy Analyst, Texas Housers:** We have a fairly dire situation here in terms of the enforcement of the CDC moratorium, and it could be a national issue for how red states handle this. What's happened is that the Supreme Court of Texas had an emergency order governing how Justice

of the Peace courts would enforce the moratorium and that expired March 31. That was followed by guidance from another state agency called the Justice Court Training Center and it says that the moratorium is between tenants, landlords, and potential federal prosecutors. Justice Courts should be fairly hands off and follow the landlord's lead if the landlord would like to proceed with an eviction at their own risk. Now courts will be able to proceed with evictions and there will be a flood of hearings. Justice Courts will now no longer abate cases where a CDC declaration has been filed. Now the onus will be on the tenant to file a complaint with one of these agencies. The guidance is not legally binding on the judges so it will be at their discretion. Texas just recently rolled out a \$1.3 billion rental assistance program that is off to a really slow start, so if landlords are able to move forward with evictions it's going to make this program pretty ineffective. We don't want to get to a situation where there are hundreds of complaints registered with federal agencies after tenants are already out of their homes. So essentially the state courts are washing their hands of enforcing the moratorium. We want to see how we can strengthen the moratorium and also let you know that this would be a bellwether for what other red states do.

**Q:** Can you tell us more about how you're being proactive in slowing the number of eviction cases coming to court?

**A:** We're reaching out to the state agencies that are running the rental assistance programs and asked them to center this eviction moratorium and distribute these forms in lieu of the justices of the peace doing it. We've submitted a letter to the Justice Court Training Center asking them to reconsider.

**Q:** Do you have an estimate of how much of the need will be met by rental assistance?

**A:** Yes the need is over \$2 billion, so it's not enough but it's substantial. It is from the first allocation only, not the March aid package, so we should get close with that. The rental relief program has had a lot of issues. As of a few weeks ago they had only sent out about 300 payments. There are two major issues with the program. One is that the funds aren't eligible for people who receive housing subsidies, e.g. public housing. That's against the federal guidance and we have seen these tenants get evicted. The money should also be able to be used for relocation per federal guidelines, but the local programs don't allow for it. There are also concerns about processing time.

**Q:** Do the Texas programs allow for self-certification of financial hardship? And for direct tenant payments?

**A:** Yes they do allow for self-certification which is an improvement. The money can go to tenants but first the program has to contact the landlord. There's a 14 day window for the landlord to respond and we have seen hesitancy. Given that the courts aren't enforcing the moratorium, that gives the landlord a window for eviction.

### **Texas Housers' statement on the Texas Supreme Court's decision**

#### **Other resources:**

1. National Housing Law Project's CDC [eviction moratorium resources](#).

2. NLIHC brief on [FEMA non-congregate sheltering](#) during the pandemic.
3. The National Coalition for a Civil Right to Counsel will host a webinar April 13 on new sources of [federal funding for tenants facing eviction](#).
4. The Joint Center for Housing Studies at Harvard looks at how renters have responded to [financial stress during the pandemic](#).