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Mr. Derek Miller

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Re: Omaha Housing Affordability Action Plan 9/21/22 Draft (HAAP) Comments

Dear Derek,

The Apartment Association of Nebraska (AAN) represents Owners, Managers, and Developers of over 26K multifamily units in the City of Omaha. We would like to express our thanks to the Omaha Planning Department for taking the time to gather input from various stakeholders and including the AAN in the process. Many of our members participated in Listening Sessions over the summer and we are committed to being part of the solution in this important endeavor.

We have reviewed the 9/21/22 Draft HAAP and are encouraged by the City’s proactive approach in developing strategies to provide an adequate supply of Affordable Housing for current and future residents. The primary drivers of increased rental rates at all levels of affordability are increasing construction costs for new development, property operating expense inflation, and inadequate supply relative to demand. Initiatives that discourage new development, increase construction costs, or raise operating expenses lead to higher rents.

We are supportive of many of the goals and strategies identified in the HAAP. These include incentives and financial subsidies for developers and current housing providers to build and maintain quality housing at an affordable rental rate. Government funding (at the Federal, State and local levels of government), other monetary incentives (e.g., reduction in property taxes), and revised building, property maintenance and fire codes that reduce the costs of development and renovations, are methods that will increase safe and affordable housing. There are several recommendations more likely to exacerbate rather than improve affordability. These should be rejected or modified to avoid unintended consequences, including:

1. **Affordable Housing Fee: (**Pg. 16) “This fee would be applied to all new housing developments that do not meet an affordability or accessibility threshold.”

Additional development fees will add to housing cost and rental rates. The cost would ultimately be borne by renters rather than homeowners and others in higher income brackets.

1. **Tax Increment Financing (TIF): (**Pg. 18)
* “Require replacement of any subsidized or unsubsidized affordable units one for one.
* “Require a percentage of affordable units or payment in lieu.”

Affordable housing set-aside requirements for properties receiving TIF funding will push development to the outskirts of the metro area where S.I.D.’s are utilized to fund offsite improvements. Additionally, rental rates on non-subsidized units would need to be increased to offset lost income on affordable units. The result is essentially a regressive tax on renters that don’t qualify for the subsidy. Affordable unit set asides create significant challenges in securing financing. Kansas City, MO adopted a similar ordinance in 2021 that has had a stifling impact on new development.

1. **Adding Source of Income to City’s Human Rights Ordinance: (**Pg. 30) “Specifically third-party incomes such as child support, spousal support, general assistance, or rental assistance vouchers.”

This recommendation fails to distinguish between persons and programs. Most rental property owners regularly accept child and spousal support and other forms of consistent income as well as funds from a variety of rental assistance programs. Apartment owners and managers often assist residents in the application and receipt of rental assistance. The industry as a whole was instrumental in helping residents access Covid-19 assistance in 2020 and 2021.

There are programs, most notably Section 8 Housing Choice Vouchers (HCV), that a significant number of properties do not participate in for reasons that have nothing to do with discrimination against individuals. Primary objections include:

* Unreasonable and untimely inspection requirements
* Non-standard lease provisions
* Delayed payments
* Administrative burden
* Antiquated HUD rules
* Delayed response for approval of rental rate increases

HCV needs to be reformed to increase participation rather than requiring Owners to participate in a flawed system. Our members have experienced similar issues in dealing with assistance programs offered through local non-profit organizations.

1. **Eviction and Foreclosure Assistance:** (Pg. 28) “For Eviction this should include establishment of a tenant right to counsel in eviction court….Additionally, legal counsel should be more broadly available and free for tenants.”

Eviction delays and added legal costs are expensive for Rental Housing Providers. By the time an eviction is processed, the defendant has often occupied the apartment for 30 days without payment. Amendment to the City Ordinance allowing free legal counsel for tenants will discourage housing providers from “taking chances” on individuals with poor rental history or marginal credit. The proposed strategy would make it more difficult and costly for individuals with poor rental or credit history to secure rental housing.

The Douglas County Tenant Assistance Project is currently offering free legal services to defendants in eviction proceedings. The program has increased the legal costs and caused unnecessary delays for AAN Members, often due to aggressive litigation tactics used by attorneys representing tenants for non-payment, lease violations, criminal acts, and property damage. Tactics employed include filing meritless appeals or housing discrimination lawsuits after the Court has granted an eviction pursuant to a trial.

We appreciate your consideration of our thoughts and comments. Please let us know if you have questions or if we can provide additional information.

Sincerely,

Rhonda Pederson

Executive Director

CC: David Fanslau

 Eric Englund