

January X, 2011

Senator Tim Johnson
138 Hart Senate Office Building
Washington, D.C. 20510

Senator Richard C. Shelby
304 Russell Building
Washington, D.C. 20510

Representative Spencer Bachus
2246 Rayburn Building
Washington, D.C. 20515

Representative Barney Frank
2252 Rayburn Building
Washington, D.C. 20515

Representative Judy Biggert
2113 Rayburn Building
Washington, D.C. 20515

Secretary Shaun Donovan
U.S. Department of Housing and Urban Development
451 7th Street S.W.
Washington, D.C. 20410

RE: National Moratorium on Economically-Motivated Evictions

Dear Congressional Members and Secretary Donovan:

As local and national organizations working to promote the human right to housing in the United States, we write to express our grave concern regarding the continuance of economically-motivated evictions—evictions from homes or apartments on the basis of the inability to pay mortgage or rent payments due to unemployment, underemployment or ratio of debt-to-income as a result of irresponsible lending practices – in both the public and private markets. As the winter season sets in across the country and in the face of the most devastating economic crisis since the Great Depression, this is a time when families desperately need stable homes. Yet in municipalities across the country, individuals and families are being forced out of homes and into the streets with no place to go. The harsh reality facing countless Americans demands that action be taken.

Currently, nationwide, over 10,000 foreclosures are filed per day, and economists predict that this rapid rate of foreclosures will continue through 2011. Consequently, local and state homeless agencies have seen as much as a 61 percent rise in homelessness since the economic crisis, which started in our

housing sector, began in 2007.¹ Additionally, unemployment rates, which are at 10 percent nationwide and 30 percent for very low-income households, are expected to surge throughout the beginning of the new year.

Given the bleak economic reality facing millions of Americans, we urge Congress to issue a moratorium on economically-motivated evictions through halting all (1) evictions of residents in public and subsidized housing and (2) residential foreclosures. We ask you, as leaders of your respective congressional committees and head of the U.S. Department of Housing and Urban Development, to endorse and seek to implement such moratorium to begin immediately and last until May 31st, 2011.²

I. Heightened Hardship for the Lowest-Income Families

For many residents in public and subsidized housing, eviction means immediate homelessness. Yet, in recent years, federal law has opened the door to economically-motivated evictions in these housing programs of last resort. Since 1998, federal law has allowed owners of public and subsidized housing to evict households for nonpayment of rent and for “chronic rent delinquency.” This latter condition means that, whereas private landlords will only sue to evict a tenant after a significant violation of a lease, local housing authorities will begin eviction procedures after a resident is merely a few days late in paying their rent three times in a row. Ironically, those with the least means are subject to the harshest penalties. Evictions for nonpayment and multiple late payments of rent fundamentally undermine the intended role of our safety net housing programs and pose a constant threat to our most vulnerable residents’ security of tenure.

The threat of homelessness and displacement for public and subsidized households under these rules is especially acute today, given the heightened vulnerability of very low-income residents in this time of economic crisis. In fact, new data from the Center for Labor Market Studies found the unemployment rate for very low-income households is over 30 percent, which means that these families are experiencing economic hardship equivalent to that of the Great Depression. In this time of unprecedented hardship, for many families stable housing is their only resource. A moratorium on evictions will ensure that these families are able to maintain some stability, which will be of great importance as they work to rebuild their lives.

II. Insufficient Protection for Homeowners

The impact of decades of speculative investing, over-leveraging and financial chicanery in our private housing market is being felt in communities across the country. Yet, while the U.S. government has given unprecedented support to corporations and big business in the form of federal bailouts, individuals, families and communities continue to struggle. Most disheartening, it is these very same corporations that are largely responsible for the economic downturn we are currently experiencing. Recent news has further revealed that many of these banks have been circumventing centuries of

¹ With respect to a foreclosure moratorium, an alternative end date is the implementation of the recommendations of the Obama administration’s Financial Fraud Enforcement Task Force.

² This timeframe was developed based on the statutory heat seasons of several municipalities in the U.S., e.g., Heat season in Chicago begins September 15 and lasts until June 1 and New York City’s begins October 1 and lasts until May 31.

property law by using fraudulent or insufficient records to wrongfully evict homeowners. Law Professor Katherine M. Porter, an expert in mortgage securities at the University of Iowa, argues that it is likely that “a very large number — perhaps virtually all — securitized loans made in the boom period in the mid-2000s,” contain serious paperwork flaws, did not meet underwriting standards or have not been serviced properly in foreclosure proceedings.

We commend the Obama Administration for convening a joint investigation into the banks’ pattern of illegal behavior, but we are extremely concerned that a comprehensive plan to revamp foreclosure practices is far off, as conceded by Attorney General Roy Cooper of North Carolina, member of the task force,³ and, before such a plan is put in place, hundreds of thousands of more families will lose their homes. Given recent revelations that suggest that the foreclosure situation is wrought with suspect conflicts of interest and unlawful profiteering by the very corporations we bailed out, relying on voluntary moratoriums – to be facilitated by the very banks which caused the crisis in the first place - is inadequate and unjust to homeowners. Simple principles of fairness and justice dictate that the federal government should use not only all of the legal tools at its disposal but also its significant leverage over these institutions to ensure homeowners are protected from the possibility of unjust foreclosure.

While some state legislatures and local officials have declared moratoriums on home foreclosures,⁴ this national crisis necessitates a national response. Consequently, Congress and the U.S. Department of Housing and Urban Development are in unique positions to put pressure on the biggest banks in the country. The federal government both (1) controls, through conservatorship and receivership, Freddie Mac and Freddie Mae, which together own or guarantee half of all first-lien mortgages in the United States, and (2) recently gave \$ 65 billion in taxpayer money to the three banks with the highest number of assets in foreclosed home loans – Bank of America, JPMorgan Chase Bank, and Wells Fargo – as well as hundreds of other U.S. financial institutions.

Leading up to the mid-term elections, congressional members from every corner of the country made the call for a nationwide foreclosure moratorium.⁵ Now is the time to fulfill these campaign pledges.

* * *

We commend Congress for putting into place anti-foreclosure programs in response to the economic crisis, but we remain concerned that these efforts fall far short of what is needed to stabilize communities. For instance, the Homelessness Prevention and Rapid Re-Housing Program requires recipients of the program’s rental assistance to demonstrate they can sustain housing after the benefits cease – a high standard for anyone in crisis, especially those impacted by the skyrocketing national unemployment rate – and the Home Affordable Modification Program has overseen the successful

³ David Streitfeld and Neson D. Schwartz, *Foreclosure Fix Is Seen as Distant*, N.Y. TIMES (Nov. 17, 2010).

⁴ E.g., Cook County’s Sheriff Thomas J. Dart announced October 2010 that he refused to carry out foreclosure evictions until the lenders could provide complete assurance that the foreclosure was done properly and legally.

⁵ E.g., Representative Barbara Lee, *Rep. Barbara Lee: Put the brakes on home foreclosures*, THE GRIO (Oct. 19, 2010); Senator Sheldon Whitehouse, *Why We Need a Foreclosure Moratorium*, HUFFINGTON POST (Oct. 29, 2010).

modification of only 422,000 mortgages, which is far fewer than the 3 to 4 million households the program intended to help.

Secretary Donovan has stated on several occasions that housing is a human right. As such, the framework for federal housing policy must recognize housing as social need rather than exclusively real estate. As the UN Special Rapporteur on the Right to Adequate Housing, Raquel Rolnik, has stated, “The belief that markets will provide housing for all has failed. The current crisis is a stark reminder of this reality.”

Therefore, we urge Congress and Secretary Donovan to provide temporary relief in the form of a mandatory moratorium on economically-motivated evictions in both the public and private markets.

Sincerely,

NATIONAL ORGANIZATIONS

Campaign to Restore National Housing Rights
Advancement Project
Center for Constitutional Rights
National Economic and Social Rights Initiative
National Lawyers Guild International Committee
Poverty Initiative
Western Regional Advocacy Project

COMMUNITY-BASED ORGANIZATIONS

Building Opportunity for Self-Sufficiency (BOSS) – Berkeley, CA
Chicago Anti-Eviction Campaign
Housing is a Human Right – New York, NY
Los Angeles Community Action Network (LA CAN)
Mayday New Orleans
Northeast Pennsylvania Organizing Center
Picture the Homeless – New York, NY
Poverty Matters – Los Angeles, CA
San Francisco Coalition on Homelessness
Sisters on the Road – Portland, OR
St. John’s Well Child and Family Center – Los Angeles, CA
Street Roots – Portland, OR

INTERNATIONAL ORGANIZATIONS

USA-Canada Alliance of Inhabitants
International Alliance of Inhabitants

ACADEMICS

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