

Congress of the United States

House of Representatives

Washington, DC 20515

NYDIA M. VELAZQUEZ

7TH DISTRICT, NEW YORK

September 9, 2020

Honorable Steven Mnuchin
Secretary
United States Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Mnuchin:

During your September 1st appearance before the House of Representatives' Select Subcommittee on the Coronavirus Crisis, I questioned you on President Donald Trump's *Executive Order on Fighting the Spread of COVID-19 by Providing Assistance to Renters and Homeowners*.¹ During our exchange, you stated that specific guidelines would be released later that afternoon which would be "quite significant... [and] allow[] moratoriums for people who certify that they can't make their rent due to coronavirus related issues."² In describing the guidelines, later in our exchange, you said that "everyone will be very pleased."³

After reviewing the Center for Disease Control and Prevention's ("CDC") moratorium guidelines that were released later that day,⁴ I unfortunately must write to you today to register my disappointment with the guidelines that were issued. The CDC's guidelines are a half measure that fail to fully realize the extent of the housing crisis that America's tenants, landlords, and homeowners currently face.

First and foremost, the CDC's guidelines fail to protect all tenants from evictions. Only those tenants who meet a certain set of conditions are eligible to receive eviction protection.⁵

¹ President Donald J. Trump. *Executive Order on Fighting the Spread of COVID-19 by Providing Assistance to Renters and Homeowners*. The White House. (August 8, 2020).

² U.S. House of Representatives' Select Subcommittee on the Coronavirus. *Hybrid Hearing with Treasury Secretary Steven T. Mnuchin*. (September 1, 2020) (at.1:50:53).

³ *Id.* (at 1:52:52).

⁴ Center for Disease Control and Prevention, Department of Health and Human Services. *Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19*. Nina Witkofsky. 85 FR 55292. (September 4, 2020).

⁵ Under the CDC's Guidance a "Covered person" means any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action, a declaration under penalty of perjury indicating that: (1) The individual has used best efforts to obtain all available government assistance for rent or housing; (2) The individual either (i) expects to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return), (ii) was not required to report any income in 2019 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act; (3) the individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary out-of-pocket medical expenses; (4) the individual is using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses; and (5) eviction would likely render the individual homeless—or force the

The conditions and the eligibility requirements set forth in the guidelines, still leaves a range of scenarios where a renter can be evicted from their home. If the goal of the CDC's guidelines is to stop evictions in order to preserve public health and prevent further spread of the COVID-19 virus,⁶ then the CDC's guidelines should protect all tenants, not just those that meet a certain set of conditions.

For those tenants that are covered, the guidelines place the onus of proving that coverage on them by presenting their landlord with a legal declaration form, attesting—under the penalty of perjury and with the threat of prosecution, jail time, or fines—that they meet the guideline's eligibility criteria.⁷ For many tenants, understanding and completing legal documents like the ones required by the guidelines are a confusing and time-consuming process that often requires the assistance of a lawyer. Completing these documents can be an even more daunting task for our friends and neighbors who do not speak English. During these trying emotional and economic times, we should be doing everything possible for tenants and their families to stay in their homes. We should not be placing the burden of proof on tenants and requiring them to comply with a complicated legal and attestation process, and we certainly should not be threatening them with possible jail time, just to avoid being kicked out on the street.

As I mentioned during our exchange, tenants and homeowners are estimated to need as much as \$162 billion in order to stay in their homes.⁸ I am particularly concerned that the CDC's guidelines were not accompanied by any federal funding for rental assistance. The guidelines still require tenants to pay their rents and continue to owe their landlords for any unpaid rent that has accrued since the start of the crisis.⁹ Moreover, the guidelines still permit landlords to charge tenants fees, penalties, and interest for failing to pay their rent, regardless of the financial hardship the tenant may be facing as a result of the pandemic.¹⁰

By failing to provide sufficient funding for rental assistance along with the CDC's guidelines, the Trump Administration is only delaying evictions, not preventing them, and putting the nation's entire rental housing sector in further jeopardy. Landlords, particularly small landlords and community-based organizations that offer affordable housing, that don't have large cash reserves or existing lines of credit with financial institutions, are reliant on tenants' rents to finance their own monthly obligations. Without meaningful rental assistance to support tenants with their monthly rents, landlords will be unable to meet their own financial commitments, which could, in turn, compromise their ability to keep residents stably housed.

individual to move into and live in close quarters in a new congregate or shared living setting—because the individual has no other available housing options. *Id.* pg. 55293.

⁶ Center for Disease Control and Prevention, Department of Health and Human Services. *Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19*. Nina Witkofsky. 85 FR 55292. (September 4, 2020).

⁷ *Id.* pg. 55297.

⁸ Kaul, Karan. and Laurie Goodman. *The Price Tag for Keeping 29 Million Families in their Homes: \$162 Billion*. The Urban Institute. (March 27, 2020).

⁹ Center for Disease Control and Prevention. pg. 55294.

¹⁰ *Id.*

Princeton University Professor, and Principal Investigator of the esteemed Eviction Lab, Matthew Desmond was recently quoted as saying that an eviction moratorium on its own was not enough; that an eviction moratorium accompanied by significant rental assistance was the only real solution to America's rental crisis.¹¹ Professor Desmond stated: "[w]e need serious federal investment. That's the best way out of this. You know, we need a national moratorium on evictions. We need to say, look, in this pandemic, the home is medicine. The home is safety. And we have to protect that. Americans deserve that level of protection. Property owners need to pay their bills, too. And so we don't just need moratoriums. We also need rent relief."¹²

As we spoke, you too stated that rental assistance was necessary and acknowledged that the Trump Administration's "first choice is to have bipartisan legislation that allocates specific rental assistance to the hardest hit."¹³

Therefore, instead of the Trump Administration issuing guidelines that are only likely to harm tenants and their families in the long run, I encourage you and other Administration officials to return to the table and negotiate with Speaker Pelosi and Leader Schumer on a comprehensive legislative package that provides emergency rental assistance to America's tenants.

The House-passed *HEORES Act* provides \$100 billion in emergency rental assistance.¹⁴ This critical emergency rental assistance coupled with a national eviction moratorium will ensure tenants remain stably housed and small landlords are able to pay their monthly bills and maintain their property for the duration of the pandemic. The *HEORES Act* is necessary for our tenants, our landlords, and the future stability of our nation's rental market.

Thank you for your attention to this matter.

Sincerely Yours,



Nydia M. Velázquez
Member of Congress

¹¹ Desmond, Matthew. *Could Federal Investment Prevent an Eviction Crisis?* PBS News Hour Weekend. (August 8, 2020) (at. 5:39).

¹² *Id.*

¹³ U.S. House of Representatives' Select Subcommittee on the Coronavirus. *Hybrid Hearing with Treasury Secretary Steven T. Mnuchin.* (September 1, 2020) (at.1:50:50).

¹⁴ HR 6800, *The HEROES Act*. Sec. 110201. (Rep. Lowey, NY) (May 20, 2020).

Cc:

Nina B. Witkofsky, Acting Chief of Staff, Centers for Disease Control and Prevention

The Honorable Dr. Benjamin S. Carson, Sr., M.D., Secretary, United States Department of Housing and Urban Development