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Statement of

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**Before the House Committee on Appropriations
Subcommittee on Military Construction, Veterans Affairs, and Related Agencies**

on the

Military Housing Privatization Initiative

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Introduction

I want to thank you Chairwoman Wasserman Schultz, Ranking Member Carter, and distinguished members of the subcommittee. I am honored to appear before you this morning in my capacity as the Deputy Assistant Secretary of Defense for Housing (DASD(H)) to discuss the Military Housing Privatization Initiative (MHPI) and the Department's commitment to supporting the housing needs of military members and their families.

The Department of Defense (DoD) remains steadfast in our commitment to ensure that MHPI housing projects provide safe, quality, well-maintained housing where our military members and their families will want and choose to live. Under the overall leadership and direction of the DoD Chief Housing Officer (CHO), we have significantly enhanced the MHPI program and our oversight of the private sector companies that own, operate, and maintain privatized housing projects (i.e., MHPI Companies). Central to this oversight, the Department issued a revised MHPI Tenant Bill of Rights (BOR) on August 1, 2021, that expanded on the version submitted to Congress in February 2020 and now includes all 18 rights specified in the National Defense Authorization Act for Fiscal Year 2020, and issued all policy guidance necessary to fully implement, prospectively, the entire MHPI Tenant BOR all MHPI housing projects. In addition, the Department has secured voluntary agreement of MHPI companies to make the 18 rights available at nearly all existing MHPI housing projects. As of today, all 18 rights are fully available at all but five of the nearly 200 installations with privatized housing. While the Department continues to pursue agreements from the MHPI companies at the five remaining installations, our progress making the 18 rights available at nearly all existing MHPI housing projects represents a foundational step in DoD's ongoing efforts to improve the MHPI program and to rebuilt trust and ensure a positive living experience for military members and their families.

The Department remains focused on five key MHPI program oversight areas: 1) senior leader engagement; 2) rebuilding trust; 3) accountability; 4) transparency and communication; and 5) project and program financial viability. Since March 2021, as part of our enhanced oversight, we have taken a number of actions to improve our oversight to include conducting Department-wide programmatic reviews to ensure MHPI housing projects provide quality housing and customer service that enhances the residents' experience, and establishing uniform DoD housing standards and inspection requirements. In addition, we have worked with the private sector MHPI companies to accelerate project investment to renovate or construct new housing units at MHPI project where feasible, to improve the condition of existing privatized housing.

Our priority going forward is to focus on implementing MHPI reforms intended to improve the safety, quality, and habitability of privatized housing, while continuing our enhanced oversight of the MHPI program and projects. This includes enforcing the performance standards established for the private MHPI companies that own and operate privatized housing projects, monitoring individual MHPI project performance, and ensuring the long-term financial viability of the MHPI projects and program. We look forward to working with the Committee to support the priorities of the Department and the quality of life for our military members and their family members who are called to sacrifice so much for public service.

Military Housing Privatization Initiative Overview

The Department remains confident that housing privatization was the right thing to do. Privatization has dramatically improved the quality of on-base housing and has provided mechanisms for the long-term investment necessary to maintain high-quality, affordable housing where our military members and their families want and choose to live. As we continue to identify and address challenges within the program, it is important to remember why the Department originally pursued housing privatization.

Prior to the establishment of the MHPI program, the poor quality of housing on our U.S. installations was severely impacting the quality of life for military families, and creating recruitment and retention challenges that affected readiness. The Department had an estimated \$20 billion maintenance backlog, which was projected to take 30-plus years to address using traditional military construction and operational funding programs. These realizations, and our recognition that housing management was not a core DoD function, contributed to the Department's conclusion that leveraging private sector expertise and funding would improve housing quality much faster than we could provide by maintaining this housing as DoD-owned.

This led to the enactment of the MHPI in the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 1996. Under this initiative, the Military Departments conveyed existing government housing units on installations in the U.S. to competitively-selected entities (i.e., the MHPI housing projects). Since most military members have a choice between living on or off base, the projects would compete with housing in the local community, creating an incentive for the MHPI housing projects to maintain quality housing and community amenities to attract military tenants.

At present, the MHPI program includes 78 MHPI family housing projects across nearly 200 installations. Combined, these MHPI projects include more than 205,000 housing units, or 99% of available on-base family housing in the United States (U.S.). In addition, the MHPI program includes unaccompanied privatized housing at seven installations in the U.S., and one (1) privatized lodging project providing lodging at 40 Army installations in the U.S.

The MHPI housing projects operate under long-term (~50-year) ground leases and associated legal agreements with a Military Department, generally with one additional 25-year option period. The MHPI housing projects own the housing units and are responsible for operation, maintenance, construction, and replacement of the housing during the entire lease term. As a key element of the privatization, military members who choose to live in the MHPI housing sign a lease with the MHPI companies and pay rent at rates that may not exceed their respective Basic Allowance for Housing (BAH). With the exception of a small number of key and essential personnel, military members are not assigned to privatized housing.

Currently, the construction and renovation planned for the initial development period of the individual MHPI family housing projects is 99 percent complete. This includes the construction of more than 80,000 new housing units and major renovations of more than 50,000 units. Through the MHPI authorities, the Department has achieved more than \$32 billion in total

development with less than \$4 billion in direct government financial contributions, dramatically improving the overall quality of on-base family housing in the U.S.

It is important to recognize that the private MHPI companies that own and bear operational and maintenance responsibility for the MHPI projects are neither DoD nor Military Department contractors. The MHPI projects are not contracts governed by traditional federal acquisition regulations, but rather are complex, public-private partnerships that are captured in a variety of legal documents that establish and protect the rights of all parties. The Military Departments retain oversight and limited decision-making rights through the project legal agreements, but the Government does not have the legal authority to unilaterally change the terms of the project legal agreements. Congress recognized this condition in the FY 2020 NDAA by requiring the Secretary of Defense to seek agreement from the MHPI landlords (i.e., the MHPI housing projects operated by the MHPI companies) to voluntarily agree to retroactive application of certain provisions to existing MHPI housing projects.

In addition to requiring consent from the MHPI companies for changes to project legal agreements, some changes require the MHPI companies to first obtain consent from their projects' private, third-party lenders. The MHPI projects obtain private sector debt secured, in most cases, solely by the cash flow and assets of the project. Structural changes that place risk on a MHPI project's cash flows are a concern to the third-party lenders since they could impact the project's ability to pay its debt obligations.

MHPI Program Reform Progress

During calendar year (CY) 2019 and CY 2020, we predominantly focused on implementing the MHPI Tenant BOR and the FY 2020 NDAA requirements embedded in those rights as a visible commitment to our military members and their families. We issued an initial MHPI Tenant BOR in February 2020, and had completed a number of additional reforms by the end of CY 2020. For example, the Department reinforced installation commander responsibility for day-to-day oversight of housing quality and service provided by the MHPI projects; hired more than 600 additional housing staff; improved training for commanders and housing staff; established housing councils and resident advocates; improved communication with residents; worked with MHPI projects to implement electronic work order systems that are visible by tenants and government housing staff; reviewed project business practices to identify and pursue needed corrective actions; improved metrics to gauge performance by the MHPI companies; revised project performance incentive fee metrics; and required installations to inspect and approve housing units at each change of occupancy.

On August 1, 2021, the Department issued a revised MHPI Tenant BOR, expanding the version that we issued in February 2020 to include all 18 rights set out in section 2890 of the title 10, United States Code (10 USC 2890). Based on our work with the MHPI companies, they have voluntarily implemented these 18 rights at all but five of the nearly 200 installations with privatized housing. The Department continues to seek voluntary agreements not yet reached, while also working to implement other MHPI reforms, with a priority placed on those reforms that address environmental, health, and safety concerns, or that enhance our oversight of the MHPI program and projects.

As a central element of our oversight of the MHPI program, the Department has implemented quarterly programmatic reviews (QPRs) of the performance (e.g. financial, operational) of each Military Department's respective MHPI portfolio and individual projects. In accordance with Department policy issued on January 15, 2021, I have conducted four QPRs, with the first taking place in April 2021. These QPRs build upon existing Military Department oversight practices and include assessment of key data to measure both qualitative and quantitative performance of their respective MHPI portfolios and projects; review of project challenges and opportunities; updates on important initiatives underway (e.g., implementation of legislative requirements); and review of one of four special topics that rotate each quarter (i.e., Basic Allowance for Housing rates, the Department's annual survey of tenant satisfaction, project insurance, and long-term project sustainment).

The data collection and analysis that are part of the MHPI QPRs allow for the Department to better assess and monitor the "health" of the overall MHPI program and projects, to include improved forecasting of potential issues that need to be addressed by the Military Department or the MHPI companies (e.g., revenue reductions due to offline units). While the Military Departments have long performed similar evaluations of their respective MHPI portfolios, the lack of consistency among their methodologies and metrics made it challenging to compare the performance of MHPI projects from different Military Department portfolios or to assess overall MHPI program health.

Each quarter's QPR results are consolidated and presented to the CHO and the Military Department Assistant Secretaries responsible for privatized housing at a Quarterly MHPI Assistant Secretary meeting. These recurring meetings, hosted by the CHO, ensure continued transparency, engagement, and collaboration by senior leaders across the Department. Working in collaboration with the Military Departments, my office continues to refine key MHPI project and program performance metrics for upward reporting to the CHO and other senior Department leadership. As we move forward, we will incorporate lessons learned and perform more in-depth analysis on the extensive amount of QPR data.

The Department issued policy on December 16, 2021, on the payment of utilities and the establishment of Resident Energy Conservation Programs (RECPs) in privatized housing. The Military Departments previously developed RECPs specific to their privatized housing programs, but all such RECPs were suspended in accordance with section 3063 of the FY 20 NDAA, as amended. The new policy provides guidance directing the Military Departments to work with their MHPI project companies to maximize the establishment and maintenance of new RECPs for MHPI housing at individual MHPI projects. This policy reflects the Department's recognition that RECPs have proven to be a valuable tool to incentivize privatized housing residents to reduce their energy utilization, which is important for the Department to meet its installation energy goals, and for MHPI projects to minimize their energy costs. The policy also provides guidance on the calculation of utility allowances for Service members living in privatized housing and the establishment of RECPs, such as guidelines for including or excluding units or residents from RECPs; required information on resident utility bills; the basic start-up protocols, documentation, and approvals required to establish a new RECP; and required reporting to the CHO.

On January 21, 2022, the Department issued policy establishing a uniform code of basic housing standards for safety, comfort, and habitability, and directed the Military Departments to complete third-party, one-time assessments of all privatized housing and DoD government-owned family housing using this standard, formally implementing the requirement in section 3051 of the FY 2020 NDAA, as amended. The DASD(Construction) worked with the Military Departments and International Code Council (ICC) to arrive at the Department's uniform code of basic housing standards, which is modeled off of the International Property Maintenance Code (IPMC). The associated inspections are in addition to other inspections that the Military Departments already complete to ensure that MHPI housing units are good condition and safe for occupancy, to include between occupancy inspections and the associated Military Department approval of each MHPI housing unit that is required before the MHPI project can provide the unit for occupancy by a new tenant.

In CY 2021, the Department of the Army conducted a third party, pilot inspection of privatized housing units at Fort Belvoir, Virginia, using the 2018 IPMC and the Virginia Home Inspection Standards of Practice criteria, allowing the Department to consider the results and feedback from this pilot inspection before finalizing the newly released DoD Uniform Housing Standard and inspection requirement. The pilot inspections, which cost about \$1,000 per home, were completed for 90 percent (1,879) of Fort Belvoir's 2,078 privatized family housing units; the inspections were not completed at homes where the residents refused access by the inspection team, typically due to health-related (e.g., COVID-19) concerns. The inspections found that the majority of MHPI housing units at Fort Belvoir are in good or excellent condition; identified no systemic issues impacting habitability; determined that the instances in which habitability concerns were identified were likely caused by resident behavior/treatment (e.g., removing batteries from smoke detectors) and not attributed to housing improvement quality or maintenance; identified very few structural defects and concluded that structural integrity was not a concern; and determined that the vast majority of identified deficiencies could be repaired by routine maintenance and would most likely be identified and corrected by a property manager during the change or occupancy maintenance process. The pilot inspection also determined that each housing neighborhood at Fort Belvoir is maintained at reasonably the same level, and that there was no discernable difference in the quality or frequency of maintenance repairs across the various neighborhood rank bands.

In addition to establishing a new DoD housing standard and inspection requirements, the Department issued guidance on February 1, 2022, on Military Departments requirements for managing environmental health hazards in DoD housing, to include guidance and information to inform DoD officials responsible for oversight to ensure that MHPI housing projects appropriately manage potential environmental health hazards in their housing. This policy reinforces the need for DoD personnel to utilize the Department's hazard assessment tool and to store housing inspection and hazard-related data resulting data in the DoD's enterprise Military Housing (eMH) database, to include any data for MHPI housing.

In all cases, the Military Departments require that MHPI companies/projects follow all federal, state, and local guidelines for mitigating environmental health hazards, including mold and lead exposure. The MHPI companies have made great strides in reducing the number of homes with lead-based paint, and in mitigating environmental hazards in remaining privatized

housing in accordance with federal, state and local regulations, to include accelerating measures to replace housing where financially feasible and permissible under applicable historic preservation requirements.

Similar to property managers of off-base rental housing, the MHPI property managers actively respond to calls about mold issues and typically address the problem as quickly as possible, because keeping the resident happy is good business. There may be times when a resident is not satisfied with the property management's response time or the quality of service received, but with increased communication between the installation, the MHPI company, the MHPI project property management team, and the residents, appropriate adjustments to incentive fee performance metrics, and government oversight restored to previous levels, we expect to minimize health and safety risks and improve resident satisfaction.

On February 25, 2022, the Department issued updated policy that fully implemented Section 606 of the FY 2019 NDAA, as amended by the FY 2020, FY 2021, and FY 2022 NDAAs. The Department appreciates the provision that Congress included in the FY 2022 NDAA that revised the formula for calculating the mandatory subsidy payment to each MHPI projects to more accurately reflect the amount of potential rent reduction that the projects experience based on the Department's inclusion of an out-of-pocket cost-sharing element as part of the Basic Allowance for Housing that military members use to pay their MHPI housing rents, and past amendments that provided for part of the Chief Housing Officer to prioritize part of the potential subsidy payments to underfunded MHPI projects based. The updated policy and revised subsidy payment calculation is retroactive for covered MHPI housing as of January 1, 2022, and will help strengthen MHPI project sustainment.

MHPI Program Challenges

While the Department is actively working to develop a complaint database, it will take time before the Department is able to establish the database required by 10 USC 2894a. This determination is based in large part on information we received during consultation with the Consumer Financial Protection Bureau regarding the establishment and operation of their publically available consumer complaint database, which Congress has recognized as a model for the rest of the federal government. While the Department pursues future implementation of the complaint database required by section 2894a, our progress in implementing the MHPI Tenant BOR means that nearly 96 percent of military members and their families who reside in MHPI housing have access to the formal dispute resolution process set out in the Tenant BOR in addition to numerous other means by which they can raise concerns or complaints. Such additional means to raise housing concerns or complaints include, but are not limited to: direct feedback to MHPI company property managers, housing maintenance personnel, installation resident advocates or neighborhood "mayors," installation military housing personnel, installation commanders, the military member's immediate chain of command, or military medical providers; feedback provided via project point-of-service work order and maintenance surveys, Military Department customer service telephone numbers; and complaints to the DoD or Military Department inspector general.

This past year, we have continued our collaboration with the MHPI companies to explore and execute opportunities within the MHPI housing project to improve the quality and safety of the homes by accelerating renovation or replacement, doing so in a manner that does not jeopardize the long-term financial viability of the MHPI project. For example, two of the fourteen MHPI companies have obtained Army concurrence for their projects to acquire additional private debt to accelerate development plans to renovate or replace housing units to address tenant concerns and improve the overall condition of their MHPI projects' housing units.

The Department shares Congress' concern for military members and their family members with disabilities who are tenants of MHPI housing projects. The Department is examining ways to improve processes to enhance the housing experience for military families who have accessible housing needs, to include improving coordination between the Exceptional Family Member Program (EFMP) and Military Department housing offices regarding the family's housing requirements. In addition, the Department is engaging with the Department of Housing and Urban Development regarding federal nondiscrimination laws that are applicable to MHPI companies/projects.

The MHPI project legal agreements require the MHPI company/project or its representative, such as the property manager, to comply with applicable federal, state, and local nondiscrimination laws, including the Americans with Disabilities Act and the Fair Housing Act. MHPI project legal agreements also generally require the MHPI projects to set aside five (5) percent of newly-constructed housing units as disability accessible or adaptable units and, in many cases, to pay for reasonable modifications to these units. This is in addition to the disability accessible or adaptable housing units that the Military Departments conveyed to the MHPI projects at each installation (generally five (5) percent of the housing units conveyed). Regardless of whether it is required by the MHPI project legal agreements, many MHPI projects voluntarily pay for reasonable modifications to their privatized housing units to when a military family requests such modifications and has accessible housing needs. In all cases, MHPI project policies and procedures are in place to prioritize occupancy of disability accessible units by military families with accessible housing needs.

The Military Departments' installation military housing offices, under the authority of an installation commander, provide both oversight of the MHPI projects and assistance to military families who request assistance obtaining accessible housing. While the Military Departments have received few complaints from military families regarding the provision of accessible or adaptable homes or reasonable accommodations and modifications in Government-owned/controlled or MHPI housing, in the cases brought to the attention of a Military Department, the Department was able to provide reasonable accommodations in its Government-owned/controlled housing or work with the MHPI housing project to provide reasonable accommodations.

MHPI Program Future Direction

Going forward, in FY 2022 and FY 2023 the Department will continue our focus on health and safety and on other measures that will be most impactful on improving the quality of life for military members and families. This requires that the Department maintain the staff resources

that are vital to uphold our renewed focus on MHPI program oversight and accountability, to include being responsive to tenant needs or concerns and also challenges and opportunities that arise. The Department recognizes that we took risk by reducing housing-related staff while seeking to fully perform our oversight of MHPI housing. To address this shortfall, the Department significantly increased its Family Housing Operations and Maintenance funding requested in FY 2020, FY 2021, and FY 2022. The President's Budget request for FY 2023 continues this trend.

The Military Departments have used budgeted funds, plus additional funds enacted in the FY 2020 and FY 2021 appropriations, to increase manpower authorizations in installation housing offices and other organizational levels, hiring more than 600 additional positions to augment housing oversight, quality assurance, and customer care services. In addition to hiring, the Military Departments leveraged the enacted FY 2020 and FY 2021 funding to focus on actions that will help ensure MHPI housing projects deliver quality housing and provide a positive living experience for tenants. For example, all three Military Departments have strengthened their MHPI oversight through improved training for commanders and housing staff at all levels of the organization and change of occupancy housing inspections.

In addition, the Department will continue to pursue initiatives, in coordination with OMB and the Congress, intended to mitigate government risk and enhance the long-term financial viability of a number of MHPI projects. These actions include facilitating required government approval for MHPI projects to raise additional capital, to transfer ownership interest at the project company level, or to restructure government direct loans to mitigate repayment risk and obtaining project owner concessions. The Department recognizes that MHPI projects are subject to market forces that may impact their long-term financial viability, similar to other private sector rental properties. Under certain circumstances, an MHPI housing project may struggle to meet debt coverage, sustainment, or long term recapitalization requirements, such as when Basic Allowance for Housing rates result in constrained rental income that fails to meet pro forma expectations. In such cases, the Department will work with the MHPI company to pursue approval of a project restructure, some of which may require the Military Department budget authority to contribute cash equity or cover the scored cost of a modified federal credit facility (e.g., modified terms for a project's existing government direct loan). The President's Budget request for FY 2023 includes funding for a small number of planned Air Force MHPI project restructures in the coming fiscal year.

We appreciate the Congress's past support and recognition of the importance of staffing, and we ask for your continued funding support for the Department's expanded housing staff and oversight activities. We also again thank the Congress for the amendment to title 5, United States Code, added by the FY 2021 NDAA to expand direct hire authority for positions in the military housing office of a military installation whose primary function is supervision of MHPI housing.

Conclusion

The Department of Defense understands that families serve too and honors the sacrifice that military members and their families make to serve our Nation. The Department recognizes that

the environment where Service members and their families live impacts their quality of life, their ability to do their jobs, and the Department's ability to recruit and retain the force. We remain committed to the long-term success of the MHPI program, and will continue to remain diligent in our oversight to ensure MHPI projects deliver quality housing and a positive living experience for Service members and their families. Bottom line, this includes a twin focus...striving to ensure our tenants have a positive experience living in privatized housing, and working to ensure the long-term financial viability of the MHPI housing projects.

Thank you for the opportunity to testify on this critically important topic and for your continued support of Department of Defense's efforts to make sure that military families have safe, quality housing. Again, I look forward to continue to work with you and the committee staff to support the priorities of the Department and the quality of life for our military members and their families who are called to sacrifice so much for public service.