Testimony of
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On behalf of the National Apartment Association and the National Multifamily Housing Council

Before the House Financial Services Committee, Subcommittee on Housing, and Insurance

For a Hearing Entitled:

"Housing Affordability: Governmental Barriers and Market-based Solutions"

December 6, 2023

Chairman Davidson, Ranking Member Cleaver, and members of the subcommittee, thank you for the opportunity to testify today on the important issue of housing affordability. My name is Arianna Royster, the President of Borger Residential, and I am pleased to testify on behalf of the 100,000 combined members of the National Apartment Association (NAA) and the National Multifamily Housing Council (NMHC).

Borger Residential has been serving communities in Washington, D.C., Maryland, and Virginia for over 50 years. We strive to bring our core values of stewardship, leadership, innovation, and accountability to multifamily property management, as well as the communities and residents we serve. We are a locally owned firm with 100+ properties encompassing 8,700 multi-family units.

In my role with Borger, I provide strategic guidance and oversee all operations for our multi-family communities. This also includes spearheading leasing and marketing initiatives and implementing comprehensive training and development programs for the organization. I am a former President and current Board Member of the Apartment and Office Building Association of Metropolitan Washington and a Region 1 Vice President for NAA.

NAA and NMHC are committed to working together with federal policymakers to support communities nationwide by providing quality housing that American renters rely on. Yet, decades of undersupply make this increasingly more difficult at an affordable price point for many households. Issues persist like supply chain disruptions, labor shortages, increasing interest rates, rising costs for construction, materials and operational needs, many of which were particularly acute due to the pandemic. In addition, restrictive land-use requirements, and regulatory barriers at all levels of government increase the cost of maintaining existing housing and building new.

To sustainably address the nation's housing affordability challenge, policymakers should prioritize long-term solutions that will increase the supply of affordable rental housing. At the same, we must also ensure that there is adequate, effective rental assistance for struggling families in the short term. Under any strategy, we urge you to take care not to impose additional costly regulations on the rental market which will result in increased rents and make it even more difficult for households to access needed housing opportunities. These regulatory hurdles are exacerbated for small, mom-and-pop rental providers who, by an estimate from the Department of Housing and Urban Development (HUD), supply over half of the nation's rental housing.[1]

<u>State of the Rental Housing Market</u>

Supply/Demand Imbalance will Persist in the Long-term

The housing market has improved recently for renters with the largest surge in new completions in over 30 years, resulting in an influx of 405,367 units.[2] The surge in

[1] https://www.huduser.gov/portal/pdredge/pdr-edge-frm-asst-sec-061118.html
[2] https://www.naahq.org/apartment-market-pulse-fall-2023.

supply has led to increased vacancies, which in turn triggered rapidly cooling rent growth. Annual rent growth has been steadily declining since the first quarter of 2022.[3] The benefits to renters in terms of having access to a wider range of options are seen for the most part in those local areas with a 5 percent or greater increase in supply. However, in areas with lower supply, rents for Class B and C apartments are still increasing because there is a lower vacancy rate, giving renters fewer options.

While the rental housing market is more favorable for renters in the short term in some markets, given the tumult of the pandemic, it is still on an overarching path toward unsustainability. There simply are not enough rental units to meet the growing consumer demand.

According to research conducted by Hoyt Advisory Services and Eigen10 Advisors, LLC[4], and commissioned by NAA and NMHC, residents across the United States are counting on the construction of 4.3 million new apartment homes by 2035. Other key findings from the study include:

- **Shortage of 600,000 Apartment Homes.** The 4.3 million apartment homes needed includes an existing 600,000 apartment home deficit because of underbuilding after the 2008 financial crisis.
- **Loss of Affordable Units**. The number of affordable units (those with rents less than $1,000 per month) declined by 4.7 million from 2015 to 2020.
- **Homeownership**. Apartment demand also factors in a projected 3.8 percent increase in the homeownership rate.
- **Immigration**. Immigration is a significant driver of apartment demand, and levels tapered before the pandemic and have remained low. A reversal of this trend would significantly increase apartment demand.

Development Activity is Slowing

NAA and NMHC members are reporting that current economic and regulatory challenges are causing them to cut back significantly on development activities, in some cases, by as much as 50 percent. This trend will have long-term negative impacts on the supply of rental housing if it continues. NMHC's October 2023 Quarterly Survey of Apartment Market Conditions also indicates the following troubling statistics, all of which worsened from the July 2023 Quarterly Survey:

- Over half of respondents (57 percent) reported lower sales volume from three months prior.
- 64 percent of respondents reported equity financing to be less available than three months ago, marking the seventh straight quarter of less availability; and

[3] Based on data from RealPage.

[4] www.weareapartments.com

- 83 percent said it was a worse time for mortgage borrowing compared to three months earlier, the ninth consecutive quarter in which debt financing became less available.

Operational Costs Continue to Rise

Operating apartments has become increasingly challenging, highlighted by rising expenses. Industry data shows an average expense increase of 9.3 percent for the 12 months ending June 30, 2023, with insurance, state and local taxes, repairs/maintenance, administrative and payroll costs taking the lead.[5] Other cost drivers seeing significant increases, especially in urban markets, are utilities and the provision of security.

As highlighted above, one of the most challenging operational costs that has increased dramatically in recent years is insurance. The lack of affordability and availability of insurance options for property owners, of all types, increasingly puts needed insurance coverage out of reach or limits the ability of property owners to make needed investments in their properties. Two new data sets show the significant impact of insurance costs on housing operations and affordability. First, NMHC released the State of Multifamily Risk Survey & Report in June of 2023 which looked across all types of multifamily housing and showed, on average, property insurance premiums soaring 26 percent year-over-year. Yet, it is not uncommon to hear of triple-digit property premium increases in certain parts of the country. Other lines of coverage are also troublesome and impacting property operations.

As problematic as this has been across the broader housing ecosystem, the challenge is even more daunting in the affordable and middle-income housing space. A new survey and report released in September, commissioned by the National Leased Housing Association (NLHA), and supported by NAA, NMHC and other affordable housing organizations, focused on the impact of the current insurance market challenges on affordable housing providers. The survey found that rental housing businesses are facing much higher premiums—nearly one in every three policies had rate increases of 25 percent or more. These conditions have led to negative impacts on both housing providers and renters, with most housing providers indicating that they would take action to mitigate cost increases due to higher insurance premiums by increasing insurance deductibles, decreasing operating expenses, and being forced to increase rent.

Insurance is not the only area of property operations seeing an acute increase in costs. Based on data from NAA's Income/Expense IQ, property taxes have surged by an average of 6.5 percent from 2021 to 2022. Notably, cities like Orlando, Norfolk, Va., Minneapolis, Riverside, Calif., and Salt Lake City have experienced double-digit increases.

Data from the 2022 Income/Expense IQ also revealed that costs for utilities experienced the highest increase, up 14.3 percent year-over-year. Natural gas and heating fuel

[5] https://www.yardimatrix.com/Publications/Download/File/4486-MatrixResearchBulletin-Expenses-September2023

came out on top, increasing by 41.8 percent and 19.1 percent, respectively. Additionally, Electricity, internet/wireless and water/sewer all rose by double digits. Total repairs and maintenance were up 13.7 percent with a median cost of $950, driven by appliances, painting/decorating, and general repairs, all of which increased by 20 percent or more.

Payroll and other administrative expenses increased by 8.5 percent for the rental housing industry. Labor market challenges have plagued the industry for years, particularly for on-site staff, but the red-hot job market that was kickstarted by the pandemic recovery and stayed strong through 2022, only exacerbated the problems.

Operating Margins Remain Thin

Rental housing is a low-margin business. According to NAA's Dollar of Rent research, on average, for every rent dollar collected in the U.S., $0.93 is allocated towards the essential expenses necessary to operate rental communities[6]. These expenses include property maintenance, employee salaries, property taxes, insurance, and capital improvements. With such a slim margin, any substantial rise in operating costs can profoundly impact the sustainability of rental housing providers, add to the cost of rent, and potentially affect housing stability for millions of Americans.[7]

The Federal Regulatory Environment is Increasingly Challenging

State and local laws already heavily regulate the relationship between a rental housing provider and their residents, according to their specific market needs and characteristics providing protection to both parties. Increasing efforts to add federal layers of regulation on top of what is already an overly complicated set of federal, state and local compliance responsibilities for housing providers will ultimately hurt renters.

Adding additional Federal requirements increases market uncertainty, confuses residents and their housing providers, and disincentivizes investment in housing, especially federally backed or federally assisted affordable housing, where there is often greater risk and smaller margins. Instead, policymakers should focus on solutions that encourage new housing supply which will, in turn, better ensure housing affordability. These additional regulations do nothing to address the root cause of affordability, which is a lack of available housing. Specific examples mentioned in NAA's Property Management Industry Pulse include the increasingly difficult eviction process for non-payment of rent and rent control laws.[8]

One such example is the lingering 30-day notice-to-vacate requirement from the CARES Act. Evictions are not good for rental housing providers and residents alike; however, they are a necessary tool to ensure that sufficient resources are available to adequately maintain properties for all residents. Section 4024 of the Act established a temporary 120-day moratorium on evictions due to nonpayment of rent, applicable to

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[7] https://www.naahq.org/breaking-down-one-dollar-rent-2023

[8] https://www.naahq.org/operational-efficiencies-are-top-industry-challenge-new-survey-shows

federally backed and federally assisted housing. HUD recently issued a proposed rulemaking which would make this permanent for units in certain HUD assisted programs.   This section of the CARES Act also instituted what should have been a temporary notice procedure, requiring housing providers to notify covered residents 30 days before filing for eviction after the moratorium ended on July 24, 2020. This temporary federal notice requirement remains, long after the moratorium and the federal COVID-19 public health emergency have ended. This requirement adds confusion to the eviction process established by states and further delays resolutions, which causes additional stress on housing providers and renters.

NAA and NMHC members have similar concerns around fees. We agree that transparency in the cost of rental housing is positive for renters and housing providers alike. It is disappointing, however, that rental housing fees that are assessed to cover legitimate operational needs and services beyond the cost of rent continue to be mischaracterized as “junk fees.” Federal policymakers have recently suggested that rental housing residents are pervasively being taken advantage of by housing providers. This political rhetoric comes on the heels of dozens of new proposals from federal agencies in the past two years, which would make it more costly to provide housing and to adequately address the needs in our communities and of our residents.

The potential for the most significant changes to federal housing policy are embodied in the White House Blueprint for a Renters Bill of Rights released in January of this year. In its Blueprint, the Biden White House proposes five principles designed to better ensure access to:

1. Safe, Quality, Accessible and Affordable Housing;
2. Clear and Fair Leases;
3. Education, Enforcement and Enhancement of Renter Rights;
4. The Right to Organize; and
5. Eviction Prevention, Diversion, and Relief.

The Blueprint recognizes more than two dozen commitments from agencies and Fannie Mae and Freddie Mac (collectively “the enterprises”) to examine and potentially implement sweeping changes to federal housing policy in line with Blueprint principles. These include a commitment by the Federal Housing Finance Agency to consider federalizing landlord and tenant laws, including possible rent control for enterprise-backed properties. This would have devastating impacts on housing markets and ultimately result in even fewer quality and affordable, rental housing options for renters.

Rental markets vary widely across the country, which is why local solutions tailored to individual markets is most appropriate, and much like our concerns about the CARES Act notice to vacate requirement, practical implementation challenges and unintended consequences would result from expanding federal landlord and tenant requirements onto housing providers in the private market.

The Blueprint announcement also launched the White House's Resident-Centered Housing Challenge, a call-to-action for housing providers and stakeholders to improve the quality of life for renters. NAA and NMHC both made strong commitments that align with our members' goals to provide quality housing opportunities for the communities they serve and support for their residents.

NAA's response to the challenge is being completed and will be submitted to the Administration soon. NMHC's response to the challenge can be accessed here.

State and Local Barriers to Development Impede New Supply

Regulatory, administrative, and political obstacles at all levels of government prevent us from delivering the housing our country so desperately needs. The rental housing industry faces significant barriers to new apartment construction, development and renovation. Rising costs and regulatory burdens at all levels of government further depress apartment development and rehabilitation nationwide. The most significant barriers are often imposed at the state and local levels of government, and incentives are needed to remove barriers to apartment development and streamline regulatory burdens.

Even in communities that want and desperately need rental housing development, we face hurdles like NIMBYism, zoning restrictions, rent control and other onerous local requirements (e.g., building code provisions that have nothing to do with health or safety, land or infrastructure donation requirements and ill-fitting transportation and parking mandates). All of which account for an average of 40.6 percent of multifamily costs further impacting affordability – according to research released by NMHC and the National Association of Home Builders (NAHB).[9] Although smart regulations can play an important role in ensuring the health and wellbeing of the American public, the NMHC-NAHB research found that many regulations can go far beyond those important goals and impose costly mandates on developers that drive housing costs higher.

<u>Sustainable Solutions to Housing Affordability Challenges</u>

Incentivize Lowering Government Barriers and Increase Housing Supply

Boosting housing supply is critical to addressing housing affordability in the long-term. One step to increase housing supply is to deploy the Biden Administration's Housing Supply Action Plan. Issued in May 2022, the plan aims to address the myriad challenges to develop new housing and would dramatically increase much-needed supply, such as:

- Reward jurisdictions that have reformed zoning and land-use policies with higher scores in certain federal grant processes, for the first time at scale;

[9] https://www.nmhc.org/research-insight/research-report/nmhc-nahb-cost-of-regulations-report/?utm_medium=email&utm_source=apartmentwire&utm_campaign=nmhc_news

- Deploy new financing mechanisms to build and preserve more housing where financing gaps currently exist;
- Expand and improve existing forms of federal financing, including for affordable multifamily development and preservation; and
- Work with the private sector to address supply chain challenges and improve building techniques.

Easing local and state regulations could go a long way to addressing the housing affordability challenges faced by communities across the nation while making critical investments in infrastructure of all types. Looking forward, at a macro level, we urge Congress to redouble its efforts to incentivize states and localities to remove or mitigate local barriers to development of rental housing. Examples include:

- Streamline and fast track the entitlement and approval process;
- Provide density bonuses and other incentives for developers to include workforce units in their properties;
- Enable "by-right" zoning and create more fully entitled parcels;

To this end, NAA and NMHC strongly support the Yes in My Backyard (YIMBY) Act (H.R. 3507/S. 1688). This legislation would help eliminate barriers to development by requiring Community Development Block Grant (CDBG) recipients to report periodically on the extent to which they are removing discriminatory land use policies and promoting inclusive and affordable housing. Exclusionary land use policies like zoning and density restrictions, onerous parking requirements and other development regulations exacerbate both the housing supply and affordability crisis. We urge Congress and the Administration to support this legislation.

Improve the Section 8 Housing Choice Voucher (HCV) Program

Since developing new housing can take some time due to the number of barriers to development, improving existing government subsidy programs is an important step to increase housing affordability in the short-term.

NAA and NMHC strongly support the Section 8 HCV Program, which has long served as America's primary method for aiding 2.1 million low-income households with rental assistance. This public/private partnership helps millions of Americans find homes in communities near good schools, jobs, and transportation services, but reforms are needed to expand private industry participation.

NAA recently surveyed frontline rental housing providers about their experiences, challenges and recommendations regarding the HCV program. The survey findings revealed five key reasons why housing providers are leaving the HCV program[10]:

[10] https://www.naahq.org/unveiling-reality-rental-housing-providers-insights-housing-choice-voucher-program

1. The administrative burden and paperwork requirements were the most significant challenge that led to rental housing providers leaving the HCV program.
2. Burdensome inspection and approval processes ranging from inconsistent inspection processes to lengthy application processes.
3. **I**nefficient communication and a lack of timely responses from PHAs as major stumbling blocks in their interactions.
4. Systemic issues associated with the voucher program such as liability for damages and repairs in residences occupied by voucher recipients.
5. Increased administrative costs to accept vouchers increased financial strain caused by higher insurance costs attributable to accepting vouchers.

To address these concerns and bring private sector participants back to the Section 8 program, NAA and NMHC strongly support the bipartisan and bicameral Choice in Affordable Housing Act (H.R. 4606; S. 32), which would enact common-sense reforms that could help improve the program for both renters and property owners and increase housing provider participation overall. Key elements of this legislation include:

- Enabling PHAs to make one-time incentive payments to recruit housing providers into the program;
- Allowing PHAs to pay for security deposits for voucher holders;
- Awarding bonus payments to PHAs that hire "landlord liaisons" to contact, recruit, retain and generally support private housing providers;
- Permitting units in buildings that have been inspected in the last year under other federal housing programs to meet the HCV inspection approval;
- Expediting the inspection progress by creating a 60-day "pre-inspection" approval for housing providers who anticipate participating in the HCV Program;

The Choice Act also funds Tribal HUD-Veterans Affairs (VASH) program to help renters on tribal lands including programs for Native American veterans who are homeless or at risk of homelessness. It expands upon the 2016 Small area Fair Market Rent rules by requiring the use of neighborhood-specific data to set rents in three times as many communities as originally designated. Importantly, there is a provision in this section limiting rent decreases for any unit currently accepting Section 8.

We strongly encourage Congress and the Administration to support this legislation.

Avoid Disincentives to Investment in Housing Development

1. Don't Federalize the Housing Provider/Resident Relationship

Housing providers are subject to a wide range of federal, state, and local laws and regulations, and private lease agreements further define the rights and responsibilities of the parties involved in rental agreements. These protections and requirements include fair housing practices, consumer reporting and debt collection laws, property operation and management rules, eviction process requirements and enforcement provisions to guard against fraud and abuse.

Housing policy is highly localized, and operations and management practices are largely shaped by state and local laws and regulations. Any new, federal one-size-fits-all set of requirements likely will not account for, or conflict with, the unique housing needs of individual real estate markets.

2. Reject Rent Control

Decades of research and real-world case studies show that rent regulation devastates rental housing and harms affordability. Rent regulation will not add a single new unit of housing. In fact, it has the opposite effect. Rent controls distort the housing market by deterring or discouraging the development of rental housing and investment in maintenance and rehabilitation, further damaging the communities they are attempting to serve.

With little to no ability to gain a return on investment, developers and investors will shift their investments to other non-rent regulated jurisdictions—the NMHC/NAHB cost of regulations report indicated 88 percent of respondents would avoid development in jurisdictions with rent control.[11]

A study conducted by ndp | analytics on behalf of NAA from December 2022 to February 2023 reveals significant adverse effects of rent control on housing providers and developers in markets with rent control policies. Interviews with entities ranging from large firms to small mom-and-pop businesses indicate that over 70 percent have been compelled to alter their investment strategies, including decreased investments, relocation of development plans, or complete withdrawal, due to such policies.

Critical investment in housing drops as developers leave when rent control is instituted, thinning the rental market and decreasing housing options for renters. The experience in St. Paul, Minnesota illustrates this. After their 3 percent rent cap passed in 2021, the city saw a 30 percent decline in housing starts, forcing them to amend their rent control policy. Rents in St. Paul have continued to increase due to more constraints on housing supply, neighboring Minneapolis, which has not implemented rent controls, has increased supply and decreased rent growth. Rent control drives away investments and reduces potential tax revenue contributed by rental housing providers.

While the notion of rent control policies may appear as an appealing solution to housing affordability concerns, it is critical to acknowledge their potentially counterproductive and damaging consequences. Rent control has been proven to negatively impact renters, housing providers and even entire communities. This research shows that rent control policies can inadvertently lead to reduced housing supply, lower property values and decreased quality of available properties.[12]

This is why NAA, NMHC and 17 other national organizations representing real estate, renters and other constituencies recently sent a letter to Director Sandra Thompson

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[11] https://www.nmhc.org/research-insight/research-report/nmhc-nahb-cost-of-regulations-report/?utm_medium=email&utm_source=apartmentwire&utm_campaign=nmhc_news

[12] https://www.naahq.org/examining-unintended-consequences-rent-control-policies-cities-across-america

urging FHFA to reject imposing rent regulation as a condition of Enterprise-backed financing. NAA and NMHC encourage lawmakers to promote proven alternatives to rent control that address the critical affordable housing shortage, making rents more affordable to lower-income residents and encouraging development of new housing at a variety of rental levels.

3. Resist Efforts to Broadly Classify Fees as "Junk"

Two weeks ago, the Federal Trade Commission issued a proposed rule related to "junk fees" that may add even more complexity to the provision of rental housing by creating opaque new requirements under the broad umbrella of its Unfair Deceptive and Abusive Practices (UDAP) authority. Fees that are assessed in rental housing are not "junk fees," nor hidden or misleading, but instead cover operational costs. Such fees also allow property owners to offer more services and amenities for a disclosed price, thereby allowing consumers to make choices that fit their needs. The Secretary of HUD also sent a letter targeting certain fees, such as application fees, without considering the legitimate business purpose they serve.

Additionally, fees assessed for resident screening serve as a critical part of property management and operations. Further, resident screening is often required by the federal government by way of HUD and other government supported housing communities.

It allows housing providers to evaluate whether a potential resident is capable of and likely to fully comply with the terms of their lease and helps to identify and counter increasing fraud in rental applications, thereby preventing evictions. There are costs associated with screening that must be covered in some way.

As they consider changes to consumer protection laws, policymakers must ensure a vibrant marketplace can flourish, one that creates housing opportunities and preserves housing options for consumers. We encourage them to study the utility of fees in the housing market in a meaningful way, rather than labeling actions that cover valid operational and management expenses as "junk fees."[13]

4. Return the Eviction Process back to States and Localities

Backlogs in eviction courts are stretching from weeks or months to years in some jurisdictions. This is causing housing providers to delay needed maintenance and ultimately hurts the nation's renters. For NAA and NMHC members, their businesses always do better when units are occupied and when they can fully meet their obligations to their residents, employees, investors/creditors and the communities that they serve.

[13] For more information, see the NMHC- NAA joint statement n on rental fees for a recent Senate Banking and Urban Affairs Committee hearing entitled, "Taking Account of Fees and Tactics Impacting Americans' Wallets."

Throughout the pandemic, NAA and NMHC members have worked to both help our residents resolve their hardships and to advance policies to provide renters with essential resources to meet their housing needs. Now that Congress and the President have terminated the federal COVID-19 public health emergency, we urge Congress to end the CARES Act 30-day notice-to-vacate by passing the bipartisan Respect State Housing Laws Act (H.R. 802), returning eviction policies back to the state and local level.

5. Act to Stabilize Soaring Insurance Costs

Congress must take action to stabilize the insurance market and prevent growing exposure to taxpayers in the wake of unrelenting natural disasters. This will require partnership between policymakers and private sector stakeholders from real estate and insurance to advance solutions that improve climate resilience and sustainability and allow for properly functioning insurance and reinsurance markets to protect our nation's rental housing stock and the broader economy.

The Path Forward

Given the multitude of factors that contribute to the state of the housing market, NAA and NMHC are advocating for a multi-faceted approach to support the health and stability of the rental housing sector. Ensuring an adequate supply of quality housing is critical to continued economic prosperity and household stability for Americans nationwide. Federal policymakers should focus on helping to provide funding and supporting liquidity in the housing market, while avoiding imposing additional regulatory schemes that are already addressed at the state and local level will ultimately cost consumers.

On behalf of the multifamily industry and the nearly 40 million Americans we serve, we look forward to continuing to work with policymakers on balanced, sustainable and innovative policies to support the housing market. Thank you for the opportunity to testify before you today.

Attachment A: Breaking Down One Dollar of Rent

NATIONAL APARTMENT ASSOCIATION

2023: BREAKING DOWN ONE DOLLAR OF RENT

With so much discussion around rent payments and the prevailing misconception that rental housing owners enjoy large margins, the industry would like to offer this explanation of the breakdown of $1 of rent based on the national average.

Only 7 cents of every $1 is returned to owners as profit, including the many apartment owners who are themselves small businesses and rely on this revenue to make ends meet, and investors, which include public pensions and retirement plans that many Americans rely on whether or not they reside in rental housing.

2 cents of every $1 goes toward capital expenditure reserves. The funds in these reserves cover roof and HVAC replacements and other important repairs that help ensure quality housing for America's 38.9 million rental housing residents.

46 cents of every $1 pays for the mortgage on the property. This is a critical expense, as mortgage foreclosures put all residents at risk of losing their housing.

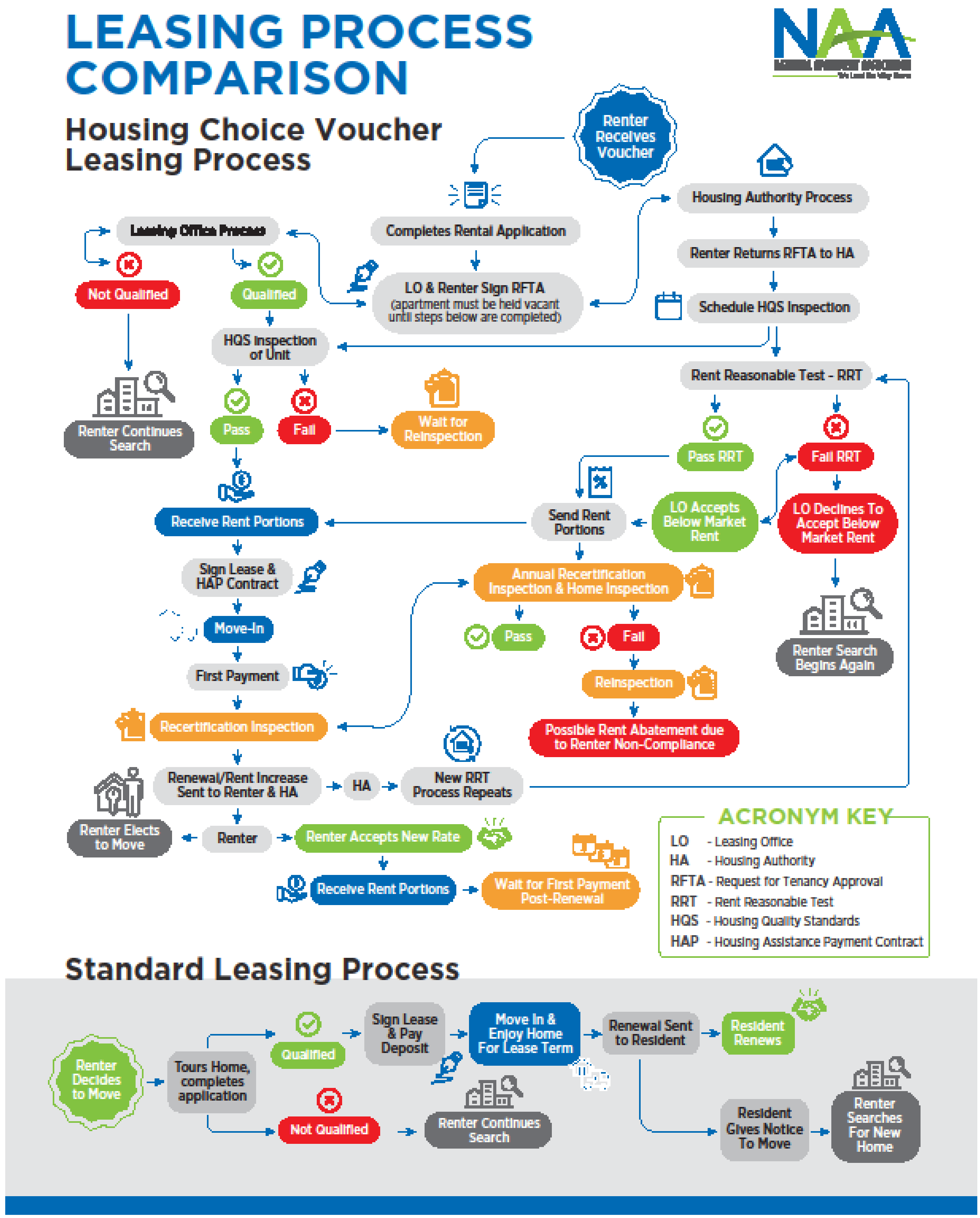
11 cents of every $1 goes to property taxes, which in turn support the community through financing for schools, teachers, emergency services and other important local needs.

27 cents of every $1 pays for operating expenses such as property and liability insurance, utilities and ongoing maintenance.

7 cents of every $1 covers payroll expenses, including pay for employees who operate and maintain the community as part of the 17.5 million jobs that the industry supports.

Between mortgage payments, investor returns—which help support many Americans' retirement plans—and dollars put back into the apartment community to ensure quality living for residents, a rent payment is much more important than one might otherwise realize.

Attachment B: Leasing Process Comparison



Attachment C: Cost of Regulation