COVID-19 Crisis Response: Policy

Thursday, May 21st, 2020 - 11:00 – 12:30 EDT

AGENDA

Welcome/Overview – Lisa Alberghini

Objective of the Meeting: To provide a forum for HPN member staff to discuss COVID-19 impacts on short term and long term member operations, emerging challenges, and potential state and federal policy proposals to address/overcome those challenges.

Topics for Discussion:

* Federal Response: Congressional Action on Next Relief bill, Update on other Administration Action.
  + After Congress passed a series of COVID-19 response bills in March, there has not been much congressional action recently.
  + Last week, the Democrat controlled House passed a $3 trillion bill – HEROES Act which includes huge investments in affordable housing such as:

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| **Provision** | **Funding Amount** | **Purpose** |
| Community Development Financial Institutions | $1 billion | Economic support and recovery in distressed communities by providing financial and technical assistance to CDFIs. |
| Emergency Rental Assistance | $100 Billion | Emergency assistance to help low-income renters at risk of homelessness avoid eviction due to the economic impact of the coronavirus pandemic. |
| Homeowner Assistance Fund | $75 Billion | To go to states, territories, and tribes to address the ongoing needs of homeowners struggling to afford their housing due directly or indirectly to the impacts of the pandemic.  Provides direct assistance with mortgage payments, property taxes, property insurance, utilities, and other housing related costs. |
| Tenant-Based Rental Assistance | $4 Billion | Allows public housing agencies (PHAs) to respond to coronavirus and the ability to keep over 2.2 million families stably housed even when facing a loss of income, including $1 billion for new, temporary, vouchers for individuals and families who are homeless or at risk of becoming homeless, or fleeing domestic violence. |
| Project-Based Rental Assistance | $750 Million | Ensure the continuation of housing assistance for low-income individuals and families living in project-based rental assistance properties, and to ensure housing providers can take the necessary actions to prevent, prepare for, and respond to the pandemic. |
| Community Development Block Grants (CDBG) | $5 Billion | Coronavirus response and to mitigate the impacts in our communities to be distributed by formula to current grantees. The legislation continues to waive the public services cap to allow communities to respond to the impacts of the pandemic. |
| Homeless Assistance Grants | $11.5 Billion | Emergency Solutions Grants to address the impact of coronavirus among individuals and families who are homeless or at risk of homelessness and to support additional homeless assistance, prevention, and diversion activities to mitigate the impacts of the pandemic. |
| Housing for the Elderly | $500 Million | To maintain operations at properties providing affordable housing for low-income seniors and to ensure housing providers can take the necessary actions to prevent, prepare for, and respond to the coronavirus pandemic.  To ensure access to supportive services for this vulnerable population, this includes $300 million for service coordinators and the continuation of existing congregate service grants for residents of assisted housing projects. |
| Housing Counseling Assistance | $100 Million | To enable housing counselors to respond to the surge of demand for services, which include foreclosure and eviction mitigation counseling, in light of the economic impact of the COVID-19 pandemic.  The bill allows the purchase of technology and equipment so services can be provided through electronic means. |

* + The bill does not include HOME funding or any Low Income Housing Tax Credit provisions. We are asking for a 4% floor and lowering the 50% test for bond financed deals.
  + The House bill is a non-starter in the Senate. Senate is challenging and is not on the fast track to do the next round of relief. Some are saying they will take up a bill in June, and others are saying it’ll be after the 4th of July. Senator McConnell is taking a wait and see approach.
  + HPN’s focus on the HOME program, which could be a flexible solution for rental assistance to homeownership to operating expenses. The Senate could be receptive to our proposal. HPN members will be getting an action alert at the beginning of June and how to help with advocacy.
  + Questions –
    - Tom Bledsoe: Is the House bill mainly an appropriations bill? We know that discussions were being had with authorizing committees.
      * Shannon: Yes, mostly an appropriations bill but there are some authorizing provisions.
    - Robert Goldman: In the other provisions, there is a full year of no evictions and forbearance on all loans. Is there an appetite for this in the Senate?
      * The patchwork of eviction and repayment options is confusing. There might not be a legal enforceable. The government is trying to encourage private lenders to give forbearance options.
    - Nevada Merriman: What about CDBG?
      * $5 billion in the HEROES Act, same as CARES.
    - John Welsh: Senate doesn’t like the scale of the $3T HEROES act. Do we know what the Senate specifically likes or dislikes?
      * Republican leadership does know believe there is urgency to pass another bill, but they are talking to constituents about their states’ needs. There is an appetite to for the 4% floor, which is a cleaner ask. In the Senate, we won’t be asking for the 50% bond test. Tax provisions will need to be temporary; so we should ask for permanency. We’ve heard that the Senate Republicans and Administration like HOME. The Senate Republicans wants to have business liability protection.
      * Chris Neary: McConnell is making a point to not extend the $600/week enhanced unemployment insurance.
      * Robert Goldman: There might also be a fix to the PPP to extend it from 8 weeks to longer to spend the money.
        + John Welsh: Is there another round of funding?
        + Robert: Not new money; it’ll be a fix of for funding that has already been awarded.
      * Lisa Alberghini: Other part of the tricky dynamics is that assistance to individuals will help cover the rent payments, and additional help may not be warranted.
* Federal: OCC released the final CRA rule. Warp speed rulemaking: 6 weeks after comments were due, with over 7000 comments. FDIC did not join final rule making. Rumored that Otting will be resign as early at 5/21. We have not heard from banks about how they feel about the rule. There are overarching things we do know:
  + Compliance by 2023 for large banks and 2024 for small banks. There will be new evaluation thresholds made under a new Comptroller. There could be prompts to new rulemaking and challenges.
  + Fundamental structure remains the same – elimination of investment test. HPN has been opposed to ratio evaluation approach and the investment test. No targets for benchmarks are listed.
  + Paul Ainger: California Reinvestment Coalition has joined a lawsuit with other groups.
    - Shannon: The speed of rulemaking is of interest. The rule is mired in uncertainty. The biggest concern is that banks may hold back on investments until they understand the lay of the land. It looks like we’ll be gearing back up to provide comments in the next coming years.
* Linda Mandolini: Need clarification on the *eviction moratorium* through July. Residents are paying to their best of ability. In California, the rule is severe and it is likely to invite rent strikes. Residents that receive Section 8 are not paying rent and not requesting hardship accommodations. We need clear rules about paying to the best of tenants’ ability given the flexibilities given to residents if they have material hardships.
  + Shannon: Unfortunately this is a political issue we are not aligned with some of our advocate partners. We will keep working on this. Just to clarify - Concerned about an eviction moratorium without subsidy or a moratorium without exception?
  + Linda: Courts are not enforcing evictions in California, and would like to see clarity around landlord payment moratoria to balance it out.
  + Shannon: Agree that a blanket moratoria would be an unfunded mandate, which some in Congress do not want to see. We can include messaging support of landlords and owners in our messaging for rental assistance funding.
  + Linda: Additionally, the debt moratoria is not workable. Fannie and Freddie provide 3 months of relief, but owners will have to pay back debt next year. Banks are also saying that the capital rules applied to them by Dodd Frank make it impossible to do this stuff. For mortgages not covered under Fannie and Freddie, it makes it impossible for them to forbear payments voluntarily. A lot of bond deals are so complicated that you cannot simply forbear. No relief in California.
  + Robert: In HEROES, there is an extension of eviction moratoria, but there is not a provision extending forbearance options. But the further you extend eviction and foreclosure moratoria, the federal government has to do the same with forbearance. Housing authorities with the bond deals may have a huge cost incurred on them if they allow forbearance because bond investors need to be paid.
  + Lisa: In our position papers, HPN could address both these things. We support the eviction moratoria if there is simultaneous rental relief subsidy. On forbearance, if evictions and foreclosure moratoria are extended, forbearance options should have aligned timelines. We have to figure out how to message this.
  + Shannon: This advocacy will have to be done with regulators. FHFA has been putting out clarifications. NCSHA has been working with HFAs and the IRS.
  + Linda: NHC (David Dworkin) has been working with Brian Montgomery, and would recommend looping in NHC and sharing the policy priority list.
* Chad Martin: HDC MidAtlantic serves PA, DE, MD. Running into 100B in rental assistance in HEROES, the state is proposing their own program, and counties are just now thinking about how HOME and CDBG can assist renters. *How are other organizations messaging advocacy for rental assistance with various levels of government point to other sources of funding that can be accessed (although not finalized)?* 
  + Ellen Lurie Hoffman: Shared a letter in the slack group on language stating importance of CDBG be used for rental assistance. There is 5 day public comment period. NHT urged their Energy for Efficiency for All partners to do this outreach. We don’t know when more federal money will come out. Governor and Mayors should be talking to the press about how much federal rental assistance is needed; it’ll help get the message through to the Senate.
  + Jonathan Harwitz – Senators Cassidy and Menendez introduced a bipartisan bill with $500 billion in state and local assistance. The National Governors Association endorsed the legislation. Echoed the importance of Governors and Mayors needing to talk to their Senators about local needs.
* Federal Level: Announcement from FHFA that they are reissuing the capital requirement rule for Fannie and Freddie with a 60 day comment period. Some groups have asked Fannie and Freddie to enter the LIHTC market. Chris Neary had asked to lift the cap of $500M/year per Enterprise in anticipation of what the LIHTC market will look like in a couple of months. FHFA responded that this will continue to monitor the LIHTC market to determine if raising the cap is necessary.
  + Trump signed an Executive Order waiving a lot of rulemaking in the name of emergency response to deregulate. There is a lot of concern how this will affect fair housing, environmental, and immigration regulations.
* Questions/Comments –
  + David Beck: What the banks are actually saying about Dodd Frank and nail down whether what the banks are saying about Dodd Frank is actually true.
  + Chris Linder: In Maine, there are not a lot of large landlords. Many are small mom and pop business operations. Suggest that we look at it from a small business perspective and how they need support.
    - Chad Martin suggested looking at PA Housing Alliance’s work on how to support small landlords. ([Resource](https://housingalliancepa.org/wp-content/uploads/2020/05/COVID-19-Impacts-on-Landlords-May-2020.pdf))
  + Robert Cox: Watching the Fed/Treasury hearing, Republican Senators were focused on getting additional help to commercial real estate owners. Perhaps this support could be linked to support residential owners.
  + Discussion in the chat about state unemployment insurance systems, and the lack of people receiving benefits.
* State and local level responses: State Government, Local Government and Housing Finance Agencies seek to address COVID-19 affordable housing challenges.

Policy Responses in Maryland: Robert Goldman, MHP

* + The state has two types of loans – must pay debt and cash flow loans.
  + Most of the more recent deals have cash flow loans, so the state takes about 50%-70% of the cash flow. Some of the portion goes to the county and the developer gets a portion at the end of the distribution.
  + First, Maryland allowed MHP not to pay the state and instead use the money at the property to pay for COVID-related expenses and losses. It created a little fund at the property to help residents pay for rent if they lost their job or for extra cleaning expenses. Anything this isn’t spent would be due on June 15th, and MHP is trying to get it extended to a later date. The amount that MHP retained would still be due and would be added to the principal of the loan.
  + The state also argued that if they don’t receive their distribution, MHP would not receive their portion as well. In some cases, this is a small amount of money and worth the tradeoff.
  + MHP has been advocating for 90 day forbearance on the state portion that is “must pay.” Have yet to hear back from the state.
  + CARES Act states that a request must be made, and the forbearance must be given for 90 days, but it is more complicated than that, especially with risk share deals. The state is not accepting these calls and are not complying with what in the law. Don’t know what’s holding them back.
  + MHP has been advocating for what would be an appropriate payback period; they have a 4 year proposal and are suggesting this on the federal level as well. Virginia successfully convinced their state housing authority to allow a 4 year repayment period for amount forborne, and are asking Maryland for the same.
  + Advocating on the county level (Montgomery County) with CDBG funding for rental assistance ($2 million); sign up starts on June 1st.
  + County is also setting aside money that will go to individual developer owners for their tenants experiencing job loss. Developer owners will develop a workout plan with tenants, and funding will go back to the county. For those unable to pay back rental assistance, the amount will be forgiven.
  + County - $5M set aside for those not eligible for unemployment insurance. County is being sued by Judicial Watch to prevent relief funds to go to immigrants.
  + John Welsh: Montgomery County rental assistance program; does the resident apply or does the landlord apply?
    - Rob: Tenants apply within three days and the housing authority will do a lottery. Quick application and will need to provide documentation to back up. Payments will be made to landlord.
* For more on state and local policies, visit the HPN COVID-19 Resource Page – [State and Local Policy](https://housingpartnership.net/state-and-local-policy). Please share your policy proposals or examples for other members to use as a resource.

Advocacy and Next Steps

* Policy Proposals
  + Lisa: We talked about sending out an action alert, and may want to organize outreach and provide a more tailored approach. We can also fine tune the message to be responsive to eviction moratoria and forbearance concerns.
* Messaging
  + Nina Dooley: Messaging to Democratic Senator is just as important. We’ll want to make sure messaging is consistent regarding protecting owners, which can sometimes be tricky. Same talking points to both sides of the aisle.
  + Linda Mandolini: What is the tradeoff politically for unemployment insurance versus rent subsidy? It makes it a challenging conversation to have with policymakers.
* Possible Strategy
  + Lisa: Maybe we should be asking for more money to go to states and localities, and then having the conversation about using these resources for housing.
  + Linda: This might be complicated by states’ budget shortfalls.

Looking Ahead – Topics and Areas of Focus

Unemployment Insurance and Rental Payments

* Lorraine Kindred: National CORE is doing a weekly review of residents and rent payment. Most residents (95%) have received *nothing* in unemployment benefits which is significantly affecting collections. For those receiving stimulus checks and/or unemployment, these benefits will cause a drop off in rent payment when enhanced UI expires.
* Chad Martin: Similar situation in PA – 1/3 of UI applicants have not received confirmation of benefits as of the first week of May.
  + In Chat: “Going forward we'll be tracking what the cause of financial hardship is, are they receiving unemployment, etc. But up to now our info is all anecdotal. And we won't be tracking this for residents who pay rent on time.”
* Shannon: Do owners have a sense of who lost their employment? Or are we guessing based on demographics?
* Linda: Using county percentages of unemployment based on sector. For example, assuming Uber drivers, retail and food service employees are not working. Those working in the public sector like schools, like teachers’ aids and bus drivers, will not working throughout the summer. But it’s still difficult to broad brush who is and who isn’t working.
* Ellen: There is a [report](https://www.epi.org/blog/unemployment-filing-failures-new-survey-confirms-that-millions-of-jobless-were-unable-to-file-an-unemployment-insurance-claim/) that shows 50% more people that are unemployed and not receiving benefits. It illustrates that we do not know the whole spectrum of people who are unemployed nationally. It could be a compelling piece of evidence that there are many people have given up trying to access UI.

Single Family Homeownership – will continue supporting Homeowner Assistance Fund

CDFIs – will be asking for CMF funding when we get to the recovery phase

**Takeaways:**

* Discussion about aligning eviction and foreclosure moratoria with forbearance policies and deadlines. The proposed HEROES Act has the former, but doesn’t provide enough rental relief or a workable forbearance solution for owners.
* Action Alert: As HPN puts together action alert, we may want to include that we support the eviction moratoria if there is simultaneous rental relief subsidy. On forbearance, if evictions and foreclosure moratoria are extended, forbearance options should have aligned timelines.
* Action Alert Strategy: We may want to organize outreach to specific Congress members and provide a more tailored approach for members. We can also fine tune the message to be responsive to eviction moratoria and forbearance concerns.
* Chad Martin from HDC Atlantic asked about *how are other organizations messaging advocacy for rental assistance with various levels of government point to other sources of funding that can be accessed (although not finalized)?* Ellen Lurie Hoffman shared a letter, which can be tailored and submitted to states and localities during the public comment period, stating importance of CDBG and how it can be used for rental assistance. Shannon offered to share this letter in follow up.
* We are continuing to collect data on the need for landlord and owner support. Please share organizational data - increase staff costs and operational costs. Nina from LINC offered to share what they have. It will be useful to articulate how you cannot have affordable housing if government does not support resources to owners. Working on a sign on letter making the case from the owner’s perspective.