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October 2, 2013

Federal Housing Finance Agency
Multifamily Housing Policy
400 7th Street, S.W., Room 9-261
Washington, DC 20024

Via US Mail and email: multifamilypolicyissues@fhfa.gov

Re: August 9, 2013 Request for Public Input on Reducing Fannie Mae and Freddie Mac (the "Enterprises") Multifamily Business (the "August 9 Request")

To Whom It May Concern:

On behalf of Legacy Partners Residential and our owners, employees, investors and residents, we welcome the opportunity to comment on the Federal Housing Finance Agency's ("FHFA's") proposals to reduce the Enterprises' presence in the multifamily debt finance market.

Legacy Partners Residential is an owner, developer, and manager of multifamily properties throughout the United States, with a focus in the Western US. Based in Foster City, CA, we have been active in the multifamily business since 1968 and have developed over 70,000 apartment units in our 45 year history. We currently own or asset manage 23 communities totaling over 5,000 units in 9 states, property manage 56 communities totaling over 11,000 units and also have an active development pipeline of 8 communities totaling almost 2,000 units.

While we support the FHFA's broad goal of encouraging private capital in the multifamily debt finance market and managing the federal government's exposure to risks in the Enterprises' operations, we do not believe that either a blanket volume reduction, such as those that were implemented in 2013 via the Enterprises' scorecards, or targeted restrictions on products or business activities as outlined in the August 9 Request, are the most appropriate means to do so.

During the financial crisis of 2008-2009, and immediately thereafter, the Enterprises were a very large proportion of the multifamily debt finance market because most other traditional lenders (including conduits, commercial banks, and life insurance companies) had curtailed lending activities as they repaired their balance sheets and managed through problem assets acquired prior to the financial crisis. The Enterprises' combined market share of new originations was 66% in 2008, and 70% in 2009. This high market share is exactly what one should expect of the Enterprises as government sponsored entities during such a period of market turmoil. They were fulfilling one of the roles that they are uniquely able to provide—namely providing liquidity during all periods of the business/credit cycle. The presence of that liquidity backstop reduces volatility in the multifamily acquisition and development markets, which in turn lowers investors' return requirements, which makes new development feasible during a greater portion of the business/credit cycle, which ultimately leads to a larger supply of multifamily units and lower rents for those units (since demand for housing over the long term is a function of demographics which are independent of the supply of housing) than would be the case absent a lender which can be relied upon to provide such a backstop. Whether or not it is an explicit goal of federal policy, lower housing costs as a result of lower rents directly benefits the 36 percent of citizens who are renters.

Recently the Enterprises market share has been diminishing as the other traditional sources of multifamily debt finance have returned to the market. The combined Enterprises new origination market share in 2010 was 47%, in 2011 it was 40%, in 2012 it was 44%, and YTD trends for 2013 point to a market share around 39%. While it is impossible to know how much of that reduction would have been accomplished absent the volume reductions mandated by FHFA, we are confident there would have been a market share reduction had there not been a mandated volume reduction. We have sought, and closed, debt financing with private capital sources such as banks and insurance companies in the past year that were largely absent from the market in the previous three years. Their return to the market preceded the announcement of the volume reductions, which is why we feel the Enterprises market share was likely to diminish absent the volume reductions.

If the Enterprises currently have a greater market share than they would in a "normal" market environment and if private capital is readily available today to fill in if the Enterprises were to have a lower market share (and we are not certain that either of these conditions are true today), then the cause of the Enterprises greater than "normal" market share is almost certainly one of the price of the Enterprises' debt offerings in the market crowding out private capital's debt offerings in the market and not the type or structure of products offered. To put it more simply, if the goal is to reduce the Enterprises' market share then the spreads on the Enterprises' debt offerings should be higher until a normal market share is achieved.

To be clear, we do not advocate for regulatory or administrative controls on those spreads. They have been historically, and should be in the future, dictated by the market. However there are elements of both Enterprises' multifamily debt spreads—whether Fannie Mae's MBS spreads, which include a guaranty and servicing fee determined by Fannie Mae or Freddie Mac's CME spreads, which are affected by the rates Freddie Mac requires for its loss absorbing position in its securitizations, that are not necessarily driven entirely by the market (the other elements of those spreads are clearly market determined because they are priced in real time in an auction environment). We feel that the proper avenue for the FHFA to investigate, and if necessary use, to influence those spreads would be through the Enterprises' cost of capital, because that is the same mechanism that drives the equivalent component of the spreads for private capital. We feel that the FHFA could implement that through either guaranty/insurance premiums to backstop the Enterprises' contingent liabilities, guaranty fees on their balance sheet debt obligations to the extent they are explicitly or implicitly backed by the full faith and credit of the US government, or explicit return expectations on the treasury's implicit equity investment in the Enterprises based on a prudent leverage ratio given the Enterprises' risk profile. In addition to creating a market based platform to manage the Enterprises market share, such a program would have a collateral benefit of preparing the Enterprises' for bringing in private capital if that is the legislative decision in the future, since private capital will be priced to earn market clearing returns.

We feel that a market based approach that focuses on the Enterprises' cost of capital, with explicit goals to earn a market reflective return on the capital necessary to support the Enterprises' business given the risk associated with that capital (whether provided explicitly or implicitly by the federal government or the private sector), would ensure that the Enterprises were on an equal footing with private market participants and would in turn lead to an appropriate market share and risk profile for the Enterprises in normal market conditions. In times of market stress when private participants withdraw from the market, these same levers could be adjusted so that the Enterprises fulfill their backstop role and expand their activities while others are absent. Such countercyclical activity is as we stated earlier, something that only the Enterprises as government sponsored entities are able to provide in a timely manner.

The presence of the Enterprises in the multifamily debt finance market over the past 40 years has been an absolute benefit to the multifamily market and it has supported an environment that has provided more housing supply and therefore lower rents than would have been the case without the Enterprises' presence. Additionally, the role of the Enterprises as standards setters, their product innovations, and their admirable record of underwriting in this marketplace as evidenced by their extremely low multifamily default ratios throughout the financial crises, have in our opinion improved the quality of product offerings by private market participants. We urge the FHFA to keep the Enterprises' excellent track records and positive role in mind, as well as the impacts on that positive role, as they consider regulatory options to meet their goals.

If you have any questions on the attached or wish to discuss this further, please feel free to contact the undersigned.

Sincerely,

Robert Calleja, CFO,
Legacy Partners Residential, Inc.

cc: Senator Diane Feinstein
Senator Barbara Boxer
Representative Jackie Speier
Doug Bibby, NMHC
David Cardwell, NMHC
Sharon Dworkin-Bell, NAHB
C. Preston Butcher, Chairman, Legacy Partners Residential, Inc.
W. Dean Henry, CEO, Legacy Partners Residential, Inc.
Guy K. Hays, President, Legacy Partners Residential, Inc.