

Congress of the United States

Washington, DC 20510

August 11, 2021

President Joseph R. Biden
The White House
1600 Pennsylvania Ave NW
Washington, D.C. 20006

Dear President Biden,

We write to express our opposition to your administration's latest eviction moratorium issued by the Centers for Disease Control and Prevention (CDC) on August 3. This latest action is plainly unconstitutional and will only serve to further distort the market and create a housing affordability crisis. We urge you to respect the Constitution and rescind the moratorium.

As you are aware, in *Alabama Association of Realtors v. Department of Health and Human Services*, five members of the Supreme Court effectively acknowledged that CDC exceeded its authority in issuing the moratorium.¹ Justice Kavanaugh stated that "clear and specific congressional authorization (via new legislation) would be necessary for the CDC to extend the moratorium past July 31." Your administration has acknowledged that legal reality in several statements, including one issued by White House Press Secretary Jen Psaki on August 2.²

Beyond the constitutional issues, any further restrictions on evictions at this point are counterproductive. The economy is open, jobs and vaccines are abundant, and federal rental assistance is a reality.

Instead of pursuing an unconstitutional moratorium, your administration should be focused on distributing the nearly \$50 billion in rental assistance that was appropriated through three separate stimulus packages. A recent Treasury report found very little of this money has been disbursed so far,³ and your new moratorium will act as an additional disincentive for tenants to apply for this aid, leaving property owners on the hook. Most states require the tenant to take the initiative when applying for rental assistance. With a moratorium still in place and courts

¹ After a lower court concluded that the moratorium was unlawful but then granted the government's motion to stay its order pending further litigation, the plaintiffs asked the Supreme Court to vacate the stay. Justices Thomas, Alito, Gorsuch, and Barrett indicated that they would grant the application, which suggests that they were sympathetic to the plaintiffs' argument that the moratorium was unlawful. The remaining justices voted to deny the stay application. Justice Kavanaugh issued a statement concurring with the denial, but noting that "clear and specific congressional authorization (via new legislation) would be necessary for the CDC to extend the moratorium past July 31."

Alabama Association of Realtors v. Department of Health and Human Services, 594 U.S. ____ (2021) (Justice Kavanaugh, concurring on application to vacate stay).

² Jen Psaki, "Statement by Press Secretary Jen Psaki on Eviction Prevention Efforts." *The White House*, August 2, 2021.

³ United States Department of the Treasury, "Emergency Rental Assistance Data Shows Programs Ramping Up, but States and Localities Must Do More to Accelerate Aid." *United States Department of the Treasury*, July 2021.

severely backlogged on eviction hearings, tenants have little incentive to apply, as they are not the ones bearing the financial burden.⁴

As long as an eviction moratorium remains in place, property owners will continue to struggle financially. The moratorium effectively forces property owners to provide a good without compensation. Meanwhile, these property owners must still pay mortgages, taxes, and maintenance for the dwelling. If this continues much longer, we will see a wave of bankruptcies, foreclosures, and blighted properties that will negatively affect housing affordability.

We demand you end this moratorium and allow the rental assistance funds to do what they were intended to do. This government overreach must end.

Sincerely,



Chris Jacobs
Member of Congress



Mike Lee
United States Senator



Scott Perry
Member of Congress



Eric A. "Rick" Crawford
Member of Congress



Bob Gibbs
Member of Congress



Louie Gohmert
Member of Congress

⁴ Matthew Haag, "A Landlord Says Her Tenants Are Terrorizing Her. She Can't Evict Them." *The New York Times*, July 31, 2021.



W. Gregory Steube
Member of Congress



Barry Moore
Member of Congress



Michael Cloud
Member of Congress



Fred Keller
Member of Congress



Brian Mast
Member of Congress



James Lankford
United States Senator



Bruce Westerman
Member of Congress



Andrew R. Garbarino
Member of Congress



Diana Harshbarger
Member of Congress



Roger Marshall
United States Senator



Dusty Johnson
Member of Congress



Jody Hice
Member of Congress



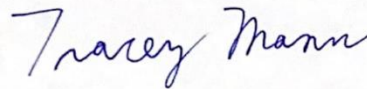
Jerry Moran
United States Senator



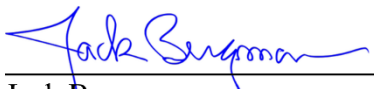
Debbie Lesko
Member of Congress



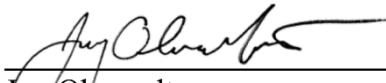
Nicole Malliotakis
Member of Congress



Tracey Mann
Member of Congress



Jack Bergman
Member of Congress



Jay Obernolte
Member of Congress



John H. Rutherford
Member of Congress



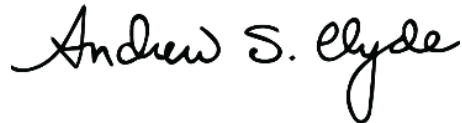
Bill Posey
Member of Congress



Austin Scott
Member of Congress



Brad R. Wenstrup, D.P.M.
Member of Congress



Andrew S. Clyde
Member of Congress



Lisa McClain
Member of Congress



Ted Budd
Member of Congress