



**Governor's Office for Emergency Relief and Recovery  
Stakeholder Advisory Board**

**Testimony of New Hampshire Legal Assistance  
April 30, 2020**

---

**(1) Please identify your position and your organization.**

My name is Sarah Mattson Dustin. I am a licensed New Hampshire attorney and the executive director of New Hampshire Legal Assistance (NHLA).

NHLA is a nonprofit law firm. As a civil legal aid provider, we assist low-income and elderly people with civil legal issues that impact their basic needs, such as safety, shelter, and economic security. NHLA's specialized attorneys and paralegal advocates work directly with our clients to help them resolve problems and get back on the path to long-term stability. We have offices in Berlin, Claremont, Concord, Portsmouth, and Manchester and operate statewide, traveling to every corner of the state – approximately 100,000 miles in 2019. In 2019, 71 percent of the clients we served were women, 51 percent experienced disabilities, 41 percent had minor children, and 33 percent were seniors.

**(2) Please identify what economic sector your enterprise operates within.**

As a nonprofit law firm, NHLA is part of New Hampshire's nonprofit, legal services, and human/social services sectors. Founded in 1971 and marking our 50<sup>th</sup> anniversary next year, NHLA is a cornerstone institution in each of these sectors.

**(3) Please describe how your enterprise and economic sector has been impacted by Covid-19.**

Please see below in response to question (4) for a summary of current and projected impacts.

**(4) Please provide an assessment of how you project your organization and economic sector will be impacted over the next 12 months by Covid-19.**

NHLA is considered an essential business and has continued to operate during the pandemic. Staff members are working from their homes, using telephone and video conferencing to assist

their clients and attend hearings and other case events. As a statewide program with five offices, we were already accustomed to working together from many locations and have been able to maintain near-total operational continuity. Although we are not able to answer our telephones live, we have a sophisticated telephone system and are operating using a call-back model. NHLA invested in technology upgrades during the last two years, and as a result we were well-equipped to make an overnight transition to remote work. During the last several weeks, the legal landscape with which our low-income clients interact has changed at a dizzying pace. NHLA attorneys and paralegals have been called upon frequently to help interpret and disseminate information to our client community as well as other service providers. With nearly 50 years of experience, we are a trusted, credible voice in our areas of expertise.

As a result of the COVID-19 pandemic and the ensuing economic crisis, NHLA is preparing for a surge in need for civil legal aid. Historically, civil legal aid – both here in New Hampshire and nationwide – has never had the capacity to meet demand. That problem is compounded when the need for civil legal aid spikes due to economic instability and increased poverty.

NHLA projects a sizeable increase in the number of Granite Staters who are eligible for our services. NHLA's financial eligibility guidelines cap household income at 200 percent of the federal poverty level (\$1,008 per week for a household of four). Many of our clients live in even deeper poverty: 43 percent have incomes at or below the poverty level (\$504 per week for a household of four).

As the economy worsens, more households will see their income fall below 200 percent of the poverty level. We estimate that during the last severe economic downturn, the percentage of people who were eligible for NHLA's services increased by approximately 23 percent.<sup>1</sup> A commensurate increase now would make 54,000 more Granite Staters eligible for NHLA's services.<sup>2</sup> Unemployment is already at historic highs. During the Great Recession, the highest number of new unemployment insurance claims in a single week was 4,058. The week ending April 4, 2020 saw 39,202 such claims.<sup>3</sup>

As people in New Hampshire lose work, spend down savings, and fall into poverty, they will begin to struggle to meet their basic needs. We applaud short-term solutions such as eviction and foreclosure moratoriums and supplemental unemployment insurance payments – but those solutions are unlikely to outlast the economic crisis. Civil legal aid can help families experiencing financial struggles and related legal trouble resolve problems fairly and get back on their feet. That is why civil legal aid is a direct response to the “second-order effects” of the COVID-19 pandemic, as described in the Department of the Treasury's guidance regarding Coronavirus Relief Fund spending.<sup>4</sup>

---

<sup>1</sup> Bureau of Labor Statistics and Census Bureau, Current Population Survey Annual Social and Economic Supplement, Table POV-46, Poverty Status by State, All Ages (2007-2013).

<sup>2</sup> Id. (2007-2018).

<sup>3</sup> Michael Cousineau, \$600 unemployment checks could arrive as soon as Friday, New Hampshire Union Leader (April 16, 2020).

<sup>4</sup> Department of the Treasury, Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments (April 22, 2020).

- (5) Please explain whether your enterprise or economic sector has or is receiving, or may possibly receive in the future, any other governmental support (federal, state or local) or charitable funds specifically intended to help address Covid-19 impacts; and explain whether the identified need might be covered by other governmental or charitable sources of funding or support programs.**

NHLA is aggressively pursuing funding opportunities connected with COVID-19 relief efforts. We are working with our existing governmental and charitable grant funders to seek additional funds and increase grant flexibility. NHLA also obtained a Paycheck Protection Program loan. These new opportunities, as well as the Board-designated reserve that NHLA has carefully built over the last decade, will help shore up our program's resources. Unfortunately, we expect other revenue sources to decline, potentially dramatically. NHLA relies heavily on an Interest on Lawyers Trust Accounts (IOLTA) grant from the New Hampshire Bar Foundation. IOLTA funds are highly dependent on interest rates, and we expect our funding to be reduced by at least 20 to 30 percent. State funding is also essential to NHLA's operations, and we know state budget writers have challenging work ahead. Our private fundraising campaign has adapted quickly but will almost certainly raise tens of thousands less than is typical. Like virtually all New Hampshire nonprofits, we are facing grave funding uncertainty.

A surge in need paired with a decline in funding is a familiar scenario for NHLA, harkening back to the circumstances we confronted during the Great Recession. Between 2008 and 2011, NHLA's staff shrank by almost half and we closed offices in Nashua and Littleton. This dealt a devastating blow to the communities we serve, sharply reducing the availability of civil legal aid just as more Granite Staters fell into poverty and struggled to meet their basic needs. Coronavirus Relief Fund spending will help make sure civil legal aid is there for people who need it due to the COVID-19 economic crisis.

- (6) Please provide comments on one or more ideas on how some portion of public relief funds could be provided to your enterprise and economic sector (including, if possible, an estimate of the amount of funds), and please comment on how these ideas would achieve the following important public goals:**

- (a) The funds will serve a public use and provide a public benefit.**
- (b) The funds will preserve or increase the social welfare or economic prosperity of the state, and will promote the general welfare of the state's citizens.**
- (c) The funds will promote the orderly development of economic and social activities, create or preserve employment opportunities, or protect the physical environment.**

Civil legal aid is an essential component of New Hampshire's strategy to relieve the "second-order effects" of the economic downturn. Civil legal aid attorneys and paralegal advocates help clients resolve problems and preserve their families' safety, shelter, and economic security. Civil legal aid stabilizes families and often prevents more expensive problems, such as the lasting

impacts of adverse childhood experiences (such as exposure to domestic violence) for low-income children. When NHLA helps clients access federal housing and benefits programs and income like child support, we also reduce costs for state benefit programs and municipal welfare budgets. These are concrete economic impacts that provide value not only to individuals and families, but also to the communities where they live. For these reasons, investing Coronavirus Relief Fund dollars in civil legal aid serves a public use, provides a public benefit, and increases the social welfare of the state. The following information details the ways in which we expect the need for civil legal aid to increase in the months ahead, and the public benefits of a robust relief effort.

NHLA expects the surge in need for civil legal aid to come in waves, as New Hampshire begins to reopen during an economic downturn. Areas of particularly heightened need include the following:

- 1.) Housing and utilities. Job loss forces low-income families to make impossible decisions. Food or medicine? The rent or the electric bill? Currently, moratoriums on eviction, foreclosure, and utility disconnections are staving off housing crises, but families remain obligated to pay their bills. Once the state begins to reopen and the moratoriums are lifted, many families will be left with significant arrearages and the threat of homelessness and/or utility disconnections. NHLA strongly supports funding for rent, mortgage, and utility assistance, but we know civil legal aid will be required to keep families in their homes.

Civil legal aid helps families by ensuring that evictions and foreclosures proceed on lawful substantive and procedural grounds. NHLA is often able to help tenants and homeowners reach reasonable repayment agreements with landlords and banks. Housing stability is the literal and figurative foundation of family stability; “housing first” is a mantra now heard across many disciplines. Civil legal aid is fundamental to preserving housing and preventing homelessness.

- 2.) Unemployment insurance and other benefits. NHLA has already observed a marked uptick in requests for assistance with unemployment insurance. New Hampshire Employment Security has not only had to process an unprecedented volume of claims, it has also had to roll out significant changes to underlying law and policy. If the economic downturn is prolonged, more people will also seek benefits administered by the Department of Health and Human Services, such as the Supplemental Nutrition Assistance Program (commonly known as Food Stamps) and the Granite Advantage Health Care Program.

Civil legal aid helps people resolve problems they encounter when navigating complex and often overburdened public benefits systems – systems that had no time to prepare for a sudden and massive spike in demand. Making sure people can access the state and federal benefits for which they are eligible helps stabilize families and keeps children safe and healthy. These programs also keep money flowing to landlords, grocery stores, and other businesses that provide household essentials. Finally, increased economic

security for families prevents downshifting to municipal welfare programs – the safety net of last resort for Granite Staters in need.

- 3.) Domestic violence. New Hampshire’s COVID-19 response has already acknowledged that “emergency relief is necessary to ensure that victims of domestic and sexual violence are able to access critical services and protections in response to COVID-19.”<sup>5</sup> Governor Sununu’s Executive Order #21 created the Emergency Domestic Violence and Sexual Violence Services Relief Fund and authorized disbursement of up to \$600,000. We agree that the pandemic is likely to increase the risk of intimate partner violence as well as the barriers to seeking help and commend the decision to create this fund.

NHLA also provides domestic violence services, partnering closely with the domestic and sexual violence crisis centers that will receive emergency funding under Executive Order #21. Civil legal aid plays an essential role in helping survivors and their children reach safety and remain safe. Although many other kinds of court hearings have been postponed, NHLA lawyers are attending hearings telephonically to represent clients seeking protective (restraining) orders, including relief such as parenting rights (custody and visitation) and child support. These court orders are crucial to survivors’ long-term safety and stability, keeping abusers away and providing the financial stability survivors need to rebuild their lives.

- 4.) Education. We are grateful to the educators across New Hampshire who have deployed remote learning for New Hampshire students (and to the parents who have stepped up to help teach their kids). Unfortunately, some services are nearly impossible to deliver remotely, and some families are less equipped to participate in remote learning. In the months ahead, we must ensure that at-risk children, including children with disabilities, receive the educational services they need to make progress and stay on track.

Civil legal aid helps children and families enforce their rights under state and federal laws pertaining to special education and school discipline. The involvement of a civil legal aid attorney or paralegal advocate can help children, parents, and educators identify trouble spots, solve problems, and get back on the path to educational success.

Based on the predicted surge in need described in our responses to questions (4) and (6), NHLA asks the Governor’s Office for Emergency Relief and Recovery to set aside Coronavirus Relief Fund dollars for civil legal aid.

---

<sup>5</sup> State of New Hampshire by His Excellency Christopher T. Sununu, Governor, Emergency Order #21 Pursuant to Executive Order 2020-04, “Establishment of the COVID-19 Emergency Domestic and Sexual Violence Services Relief Fund” (April 1, 2020).

- (e) **The funds will contribute significantly to the continued operation, competitiveness and future success of the organization and the economic sector, and will enhance the resiliency of the organization to survive future economic or health challenges.**

NHLA is a careful steward of available resources with proven long-term sustainability. We have adapted quickly and successfully to providing civil legal aid in a remote work environment. Coronavirus Relief Fund dollars would help NHLA meet the sudden increase in need for civil legal aid caused by the pandemic's economic effects, without undermining the financial strength we have built during nearly 50 years of operations.

- (f) **The use of funds is not in conflict with local or regional development plans and policies, or any other provision of state or federal law.**

Directing Coronavirus Relief Fund dollars to civil legal aid does not conflict with local or regional development plans, or any other provision of state or federal law.

- (g) **The funds are structured in a way that will help the community and the State at large, and not just the particular private business or organization.**

Directing Coronavirus Relief Fund dollars to civil legal aid will expand the reach of New Hampshire's relief and recovery efforts, ensuring that low-income people throughout New Hampshire can resolve civil legal problems, stabilize their households, and participate in the revival of our communities.

- (h) **The use of funds is consistent with the one-time availability of the public relief funds and will not require future continuing operational support from the public sector in order to maintain success.**

NHLA is a mature organization with solid financial health and numerous diverse funding sources. Support from the Coronavirus Relief Fund would respond to a sudden increase in need for civil legal aid caused by the pandemic's economic effects.

- (7) **Please describe how the receipt and use of the public relief funds described in question 6 could be accounted for in your organization's financial statements.**

NHLA is a tax-exempt 501(c)(3) organization that records net assets according to the Financial Accounting Standards Board standards, which follow Generally Accepted Accounting Principles. Coronavirus Relief Fund dollars would be reflected in NHLA's financial statements according to the terms of the contribution. We would expect Coronavirus Relief Fund dollars to be donor-restricted, and therefore booked as restricted net assets to be released into revenue as the applicable restrictions are fulfilled. We propose use of the methodology applicable to our Foreclosure Relief Project funding, administered by the New Hampshire Department of Justice (Civil Bureau, Consumer Protection Division), to calculate the amount of net assets that could be released into revenue each month.

- (8) Please describe specific measures for public reporting on the receipt and use of the public relief funds, so that the State may satisfy any public reporting obligations that may be imposed with respect to such funds.**

NHLA reports twice per year to the Judicial Council, the executive branch agency that oversees our state funding under RSA 525-A. We include narrative updates about our program, de-identified descriptions of cases we have handled, and data about people served and both quantitative and qualitative outcomes. We propose that NHLA similarly report to the Judicial Council on the use of any Coronavirus Relief Fund support.

- (9) Please identify other important organizations or functions in the State that have an important impact on your organization or economic sector, and, if possible, provide ideas of how those organizations and functions may be assisted by public relief funds in a manner that would help your organization or economic sector.**

Many of our clients rely on state programs and services to remain in their homes, put food on the table, and access health care. Demand for such supports will only increase if economic recovery is sluggish. We expect the need for rent and utility assistance and ongoing unemployment insurance to be particularly acute. We urge the Stakeholder Advisory Board to look ahead to this increased need and plan for building capacity in existing programs as well as standing up any necessary short-term relief programs. Maintaining and building capacity for state basic needs programs will help avoid a bifurcated economic recovery in which low-income people and other marginalized groups are left behind.

- (10) What would your business, agency, organization, sector do with the funds that cannot be done currently?**

We do not yet know how sharply funding sources such as IOLTA and NHLA's appropriation under RSA 525-A will decline. Ideally, with Coronavirus Relief Fund support NHLA would increase capacity to deliver civil legal aid during a time of significantly increased need. Because the core of NHLA's expertise is helping low-income people resolve civil legal problems that impact their basic needs, many of our programs would not require alteration in the current circumstances.

Nevertheless, we would consider modifications as required by these highly unusual circumstances. For example, the spike in nonpayment evictions might call for "clinic" legal services in which attorneys are stationed at high-volume Circuit Courts to assist large numbers of litigants in a single day. A steady inflow of people seeking help with unemployment insurance might be served by an unemployment insurance hotline. We are already working with our civil legal aid partners (the Legal Advice and Referral Center, which is a hotline service, and the Pro Bono Program, which connects attorneys in private practice with low-income clients for free representation) to determine how we can collectively meet the challenge of a sudden surge in need for civil legal aid. We are also eager to partner with attorneys in private practice to maximize the volunteer resources that can be deployed in the months ahead. With enough funding, the civil legal aid response will include increased staffing, continued volunteerism, and new delivery mechanisms structured to accommodate the waves of need as they come.

**(11) We consistently hear different stories of what is occurring and what is needed; given the opportunity, please comment on what do you think should be said or considered that hasn't received much attention?**

We appreciate the Stakeholder Advisory Board's efforts to ensure that members hear from a diversity of voices. All Granite Staters should benefit from Coronavirus Relief Fund spending, and we commend the Stakeholder Advisory Board for emphasizing investments that provide a true public benefit.

Older adults, young children, people with disabilities, low-income people, communities of color, and other marginalized groups are susceptible to being left out of crucial public policy decisions like the ones you will help make. We encourage you to hear directly from such constituencies whenever possible. People from all walks of life, in every corner of New Hampshire, have pulled together to fight the COVID-19 pandemic. As the pandemic's "second-order effects" linger, all Granite Staters should also have a share in our economic recovery.

\*\*\*







Commissioner Jerry Little  
Governor's Office for Emergency Relief and Recovery  
One Eagle Square  
Concord, NH 03301

RE: Housing Stabilization Needs Due to COVID-19 Impact

April 30, 2020

Commissioner Little, Members of the Legislative Advisory Board and Members of the Stakeholder Advisory Board:

Thank you for the opportunity to share Housing Action NH's recommendations to address housing and homeless service needs resulting from the impacts of the COVID-19 pandemic. Housing Action NH is a statewide coalition of 80 organizations focused on improving state and federal policy so everyone in New Hampshire has a place to call home. Housing Action NH's membership includes: multifamily affordable rental housing providers (nonprofit and private); public housing agencies; homeless service providers; supportive housing providers; and financial affordable housing partners.

### **Impact**

Housing is a foundational issue for any functioning economy. Prior to the pandemic, New Hampshire was dealing with a limited supply of affordable housing. Our dismal .75% vacancy rate (instead of the economically balanced rate of 5%) caused major increases in rental costs. In fact, about half of all renters in our state (who make up just about 1/4 of all residents) were struggling with their rental costs.

### ***Rent Challenges***

The vast unemployment resulting from COVID-19 in the retail, manufacturing and hospitality sectors has challenged the population of renters who were already "rent burdened" prior to the pandemic. The result is an exponential growth in the number of renters struggling to pay.

The eviction moratorium and mortgage forbearance policies, from both the state and federal levels, were important band aids during this time. Unemployment and stimulus checks have also helped some renters weather the last 30 days. However, none of these policies are sustainable. Without careful planning, New Hampshire will face a surge in evictions and homelessness once the moratoria and subsidies expire.

## *Homeless Services*

There is no safe place to isolate, quarantine or social distance in a typical congregate living homeless shelter. The pandemic created severe challenges for homeless shelters services, including: 1) space challenges; 2) staff shortages; 3) food program disruptions; and 4) increased expenses.

Housing Action NH has partnered with the state's 46 shelters, the Bureau of Housing Supports at NH DHHS, and the EOC to implement emergency shelter decompression and isolation/quarantine measures. Grant dollars, and the Governor's recently announced homeless fund that will support homeless service workers on the front lines, have helped bridge solutions until we have the resources needed for capital improvements and operations to deal with COVID-19.

## *Pipeline of Affordable Housing*

The pandemic has resulted in shortages of materials, delays in permitting and local approvals, and interruption of construction timelines. One of the best ways to address the housing costs challenges is to make sure projects in the pipeline are completed.

## **Proposed Solutions**

### *Rental Subsidy Program - \$70 million*

Based on outreach to our multifamily housing providers, reported increases in requests to welfare for rental support, and estimates from NH Housing Finance Authority, we estimate that 25% of all renters impacted by financial losses from COVID-19 will struggle with rental costs due to the pandemic. The needs over the next 6 months could exceed \$70 million.

We would urge the GOFERR to consider a program that meets the needs of those renters who are not currently receiving other available state or federal subsidies. The criteria should help focus the program on those who are at 80% and below of area median income (since that will indicate that they were already cost burdened in the rental market) and dealing with COVID-19 related loss of employment.

Note that the CARES Act included supplemental appropriations to the Emergency Solution Grant (ESG) program. According to the Bureau of Housing Supports at NH DHHS, these ESG funds will provide a total of \$1.3 million in rental assistance statewide through 7 agencies. This support, while welcomed and needed, will not address the broad approach needed to stabilize the rental market overall.

### *Homeless Shelter Adaptation Program - \$25 million*

Since homeless shelters cannot return to crowding bunk beds 2 feet apart and sharing limited bathrooms, we propose a program focused on addressing capital improvements and operations needed so homeless shelters can adapt their physical spaces and operations to support on site public health protocols and safe social distancing measures.

Hoteling and remote I/Q sites were urgent and while they may be unsustainable in their current arrangements, they might play a role in helping shelters maintain the ability to deliver emergency shelter

services based on the demand in their communities. A fund focused on shelter improvements and creative capacity solutions will help the agencies on the front lines serve our state's most vulnerable populations.

*Home Help NH/ Foreclosure Prevention Program - \$5 million*

Based on the lessons learned from the foreclosure crisis in 2009, we urge the GOFERR to actively support foreclosure prevention for those dealing with COVID-19 related financial loss. *Home Help NH*, a partnership among NH Housing Finance Authority, NH DOJ, the NH Banking Department and 211, is a successful model. In addition, we urge us not to forget foreclosure prevention for those who live in manufactured homes in New Hampshire's Residential Owned Communities (ROC) through supporting loan forgiveness programs through the NH Community Loan Fund.

*Affordable Housing Pipeline Program - \$10 million*

Another lesson learned from the 2008 financial crisis is the need to support affordable housing construction in the pipeline. In order to counter the COVID-related disruption to our collective efforts to build more affordable housing for our workforce, we urge the GOFERR to consider subsidies to affordable housing financing that could help save affordable housing projects in jeopardy of losing viability due to the value of tax credits or challenges with financing.

Thank you for your serious consideration of these proposals. As you consider a wide-range of needs around the state, we ask that you remember that "home is the foundation." Without a stable housing landscape, New Hampshire will not be able to rebuild its economy, improve public health or provide for the general welfare of its citizenry. We at Housing Action NH pledge our commitment to work with you to inform and implement the most effective and efficient programs possible to stabilize housing for those who need it most.

Very best regards,

Elissa

A handwritten signature in black ink, appearing to read 'Elissa Margolin', with a stylized flourish at the end.

Elissa Margolin  
Director



## **Guidelines for Written Comments to the Governor's Office for Emergency Relief and Recovery Stakeholder Advisory Board**

Thank you for agreeing to provide information to assist the Governor's Office for Emergency Relief and Recovery (GOFERR) Stakeholder Advisory Board ("SAB"). Your contribution is critically important to allow the SAB to perform its purpose of developing recommendations to the GOFERR for the allocation and expenditure of federal Covid-19 emergency funds to address fundamental needs of the State of New Hampshire.

Because the Covid-19 crisis has impacted almost everyone and every institution across New Hampshire, SAB expects to gather a substantial amount of information from many sources. In order to accomplish this task effectively and efficiently, SAB requests that all persons who submit information (including those persons who are scheduled to provide oral comments before a SAB meeting) please follow these guidelines.

The SAB is hopeful that many interested persons will submit information and ideas on how the State can best allocate federal emergency relief funds. We plan to read all comments, and for those who make oral presentations to the SAB, we intend to ask questions based on the written submissions.

There is no particular format for the comments, but we request that you focus your comments as efficiently as possible, and try to limit the number of pages to less than 10.

In order to help the SAB members to the greatest extent possible, we request that you try to address each of the information items listed below. The SAB members have identified these information items as highly relevant to their overall task. While some commenters are likely to provide additional information, and others may not be able to address each item, we request that you try to address the following items in your submission:

- (1) Please identify your position and your organization.

**Newton Kershaw III – Principal and Head of Investments and Finance for Elm Grove Companies. 440 Hanover Street, Manchester, NH 03104.  
nkershaw@elmgrovecompanies.com**

- (2) Please identify what economic sector your enterprise operates within.

**Elm Grove Companies is a vertically integrated real estate investment firm headquartered in Manchester, NH with 4 satellite offices across the State of New Hampshire with an additional office in north central Massachusetts. Elm Grove owns and manages close to 1,500 apartments in the affordable and market rate apartment sectors along with a number of retail (service and restaurant), office and warehouse interests. With a staff of over 100 employees, it has property management services provided internally for**

**its own assets as well as being a third party property manager for outside interests and private equity real estate syndications. Additionally, Elm Grove Companies has construction and property maintenance arms which self-perform new construction, renovation projects and internal maintenance. Further, Elm Grove Companies has over 20 real estate agents who work for its Elm Grove Realty division, which was one of the largest apartment brokerage firms in the State over the past few years as calculated by gross revenue and apartment units transacted.**

- (3) Please describe how your enterprise and economic sector has been impacted by Covid-19.**

**The largest impact to our economic sector based on Covid-19 is reduced rent collections.**

**We have realized a significant reduction in rental collections across the board, with rental collections from lower income apartments being the hardest hit. It is important to note that this does not mean project based Section 8 properties, where large portions of the rent paid are by HUD. Rather, non-project based Section 8 buildings with renters with the same income characteristics as those who are on Section 8 (as there is a supply and demand imbalance for Section 8 vouchers, with long wait times to be approved and accepted into the program).**

**Further, we have seen retail, restaurant and small office users who are tenants in our mixed use buildings (residential and commercial mixed use) struggle to make rental payments.**

- (4) Please provide an assessment of how you project your organization and economic sector will be impacted over the next 12 months by Covid-19.**

**We expect further reductions in rental collections in May and future months until the economy normalizes post Covid-19 shutdown.**

**We expect that absent support for rental payments on behalf of lower income tenants, lesser well capitalized real estate operators to be negatively impacted leading to distressed real estate situations. This will lead to non-payment of municipal property taxes by those operators and will stress local banks needing to take real estate assets onto their balance sheets or foreclose, leading to reductions in values of property trades in the market, leading to downward pressure future real estate transfer tax amounts and tax assessed values and municipal taxes receivable.**

**Additionally, absent rent payment stabilization, the court system will be flooded with eviction for non-payment of rent cases when the temporary postponement of eviction for non-payment of rent during Covid-19 is lifted.**

**Further, absent rent payment stabilization, we expect reduced multifamily housing starts, impacted by impaired rent projections and unwillingness of banks to provide debt capital in**

**an unstable marketplace, which will further exacerbate the supply and demand imbalance for safe and affordable housing in the State.**

- (5) Please explain whether your enterprise or economic sector has or is receiving, or may possibly receive in the future, any other governmental support (federal, state or local) or charitable funds specifically intended to help address Covid-19 impacts; and explain whether the identified need might be covered by other governmental or charitable sources of funding or support programs.

**Our enterprise has received funds from the SBA Payroll Protection Plan (PPP) which has allowed us to keep our headcount stable at about 100 employees.**

**The identified need for rental payments on behalf of residents is not funded by other programs at present.**

- (6) Please provide comments on one or more ideas on how some portion of public relief funds could be provided to your enterprise and economic sector (including, if possible, an estimate of the amount of funds), and please comment on how these ideas would achieve the following important public goals:

**While the Small Business Administration's (SBA) Payroll Protection Program (PPP) has provided a backstop to help small businesses, there has not been a parallel federal program geared toward helping some of our most impacted citizens, our State's renters. Housing and food expenditures for the nation's citizens representing the bottom 20% of earners are 40.4% and 15.4%, respectively, of their annual household incomes. These are the two largest categories of expenditure for these citizens**

**We fear that these same citizens are the least educated in financial management. As a result of that, coupled with the State of New Hampshire's Emergency Order #4 Pursuant to Executive Order 2020-04 placing a temporary prohibition on evictions and foreclosures, will lead to continued reductions in rental payments by renters who interpret the order to mean that they do not need to pay rent. Likely spending by these citizens on other items during the temporary prohibition will lead to many situations where these same renters will lack the funds to make good on past due rental payments upon lifting of the order, leading to housing instability for our most income insecure citizens by virtue of eviction for non-payment of rent.**

**Though the Federal Government's program to send checks directly to citizens is helpful to aid in renter cash flows, the program was slow to distribute funds, and the monies going directly to citizens puts the onus on them to spent the monies as they see fit.**

**We feel that direct payment of rent to landlords is the most efficient manner to provide housing security for our most vulnerable citizens in this time. As opposed to direct funds given to a citizen, as with the Federal checks sent, direct support for housing will**



**avert situations where funds are not allocated toward vulnerable citizens largest expense, housing, which could lead to their future housing instability.**

**Regarding an estimation of the appropriate allocation of funds to such a direct rent payment initiative, we have attempted to use a rough order of magnitude in expected reduced rental collections during a 2-3 month period of time during the Covid-19 disruption to deduce said number.**

**As of 2019 (per December 2019 State of New Hampshire Office of Strategic Initiatives report), there were 188,827 apartment units in the state. Median gross rental costs as of 2019 (per 2019 NH Residential Rental Cost Survey of NHHFA) was \$1,251 per month. Assuming a 15% reduction in collections, the size of the program over 2 months would be  $188,827 \times \$1,251 \times 15\% \times 2 = \$47,244,515.4$ . Over 3 months, it would be \$70,866,773.10.**

**In conversation with the New Hampshire Housing Finance Authority (NHHFA), we learned of other states, Arizona and Delaware, taking direct action:**

[Direct Rental Payment Assistance - Arizona 1](#)

[Direct Rental Assistance - Arizona 2](#)

**Delaware documentation attached to email submission.**

(a) The funds will serve a public use and provide a public benefit.

**Direct payment of rent to landlords on behalf of tenants will serve a public use and provide public benefit by stabilizing collections for landlords and avert groundswells of distressed real estate which will stress local banks, eviction court systems, future construction starts and local and state tax payments receivable.**

(b) The funds will preserve or increase the social welfare or economic prosperity of the state, and will promote the general welfare of the state's citizens.

**Direct payment of rent to landlords on behalf of tenants will increase the social welfare or economic prosperity of the state and will promote the general welfare of the state's citizens by reducing future housing insecurity for tenant citizens.**

(c) The funds will promote the orderly development of economic and social activities, create or preserve employment opportunities, or protect the physical environment.

**No comment.**

- (d) The funds will contribute significantly to the continued operation, competitiveness and future success of the organization and the economic sector, and will enhance the resiliency of the organization to survive future economic or health challenges.

**Stability of rental collections will avert housing disruptions which would affect local banks, court systems and municipal and State tax collections receivable.**

- (e) The use of funds is not in conflict with local or regional development plans and policies, or any other provision of state or federal law.

**No comment.**

- (f) The funds are structured in a way that will help the community and the State at large, and not just the particular private business or organization.

**The direct payment of rent will protect the housing insecure resident directly and indirectly housing operators, local banks, court systems and municipal and state taxing bodies.**

- (g) The use of funds is consistent with the one-time availability of the public relief funds and will not require future continuing operational support from the public sector in order to maintain success.

**The direct payment of rent is needed solely through the time of disruption to the economy and employment during Covid-19 and will be unnecessary upon return to normal.**

- (7) Please describe how the receipt and use of the public relief funds described in question 6 could be accounted for in your organization's financial statements.

**The proposed measure for the State to pay rent direct to landlord on behalf of tenants will not be accounted for in our financial statements other than to show an amount paid in the tenant ledger by the State.**

- (8) Please describe specific measures for public reporting on the receipt and use of the public relief funds, so that the State may satisfy any public reporting obligations that may be imposed with respect to such funds.

**No comment**

- (9) Please identify other important organizations or functions in the State that have an important impact on your organization or economic sector, and, if possible, provide ideas of how those organizations and functions may be assisted by public relief funds in a manner that would help your organization or economic sector.

**Electric and Fuel Assistance Programs administered by the Community Action Programs by county serve those same housing insecure citizens as would be benefited by a direct rent payment programs. Any additional funding buffer provided by the State to these programs during this time will aid in housing stability for renter citizens.**

- (10) What would your business, agency, organization, sector do with the funds that cannot be done currently?

**Provide forward housing security for tenants who are currently not paying rent.**

- (11) We consistently hear different stories of what is occurring and what is needed; given the opportunity, please comment on what do you think should be said or considered that hasn't received much attention?

**Elm Grove Companies is connected to myriad multifamily and mixed use operators in NH, the northeast and all along the US eastern seaboard. The resounding consensus of these operators is that May collections and future month collections are predicted to be much lower than April. Factors affecting this are as follows:**

**-tenants have marginal savings and want to do the right thing. Regardless of income security, people want to pay their bills and a history of doing so has momentum leading to a higher likelihood of their having paid their April bills, though payment of April rent absent former income levels likely eats through the majority or all of their savings reserves.**

**-tenant job security may not have been effected at all or fully come rent payment time in April, but ballooning unemployment rates are now affecting a larger number of residents who will need to make harder decisions about when or if to pay their rent.**

**-continued closure past original May 4 date will force tenants to reconsider allocation of funds to rent or other expenditures.**

\* \* \* \* \*

SAB anticipates that its members will be reaching out to diverse interests and persons to request submission of comments, and we thank you in advance for considering these requests. We are all in this together, New Hampshire!

Please check the [GOFERR website](#) for current information on how to submit comments. All recommendations and information submitted in response to this request will be available for public inspection and copying in their entirety. For further information, please contact Joe Doiron at the GOFERR offices ([JOSEPH.DOIRON@LIVEFREE.NH.GOV](mailto:JOSEPH.DOIRON@LIVEFREE.NH.GOV)).

Please submit your comments no later



## **Guidelines for Written Comments to the Governor's Office for Emergency Relief and Recovery Stakeholder Advisory Board**

Thank you for agreeing to provide information to assist the Governor's Office for Emergency Relief and Recovery (GOFERR) Stakeholder Advisory Board ("SAB"). Your contribution is critically important to allow the SAB to perform its purpose of developing recommendations to the GOFERR for the allocation and expenditure of federal Covid-19 emergency funds to address fundamental needs of the State of New Hampshire.

Because the Covid-19 crisis has impacted almost everyone and every institution across New Hampshire, SAB expects to gather a substantial amount of information from many sources. In order to accomplish this task effectively and efficiently, SAB requests that all persons who submit information (including those persons who are scheduled to provide oral comments before a SAB meeting) please follow these guidelines.

The SAB is hopeful that many interested persons will submit information and ideas on how the State can best allocate federal emergency relief funds. We plan to read all comments, and for those who make oral presentations to the SAB, we intend to ask questions based on the written submissions.

There is no particular format for the comments, but we request that you focus your comments as efficiently as possible, and try to limit the number of pages to less than 10.

In order to help the SAB members to the greatest extent possible, we request that you try to address each of the information items listed below. The SAB members have identified these information items as highly relevant to their overall task. While some commenters are likely to provide additional information, and others may not be able to address each item, we request that you try to address the following items in your submission:

- (1) Please identify your position and your organization.

Kenneth A. Viscarello, Esq.  
Shareholder & Director – Sheehan Phinney Bass & Green, PA

I am an attorney who concentrates in the area of affordable housing development. I have represented public housing authorities, not-for-profit and for-profit developers in the development of over 100 multifamily workforce and affordable housing projects over the past 20 years.

- (2) Please identify what economic sector your enterprise operates within.

Workforce and affordable housing development.

- (3) Please describe how your enterprise and economic sector has been impacted by Covid-19.

Throughout the state, social distancing and stay-at-home restrictions have caused delays to current and future projects and operational issues at existing projects, adding to the uncertainty in the equity markets.

#### Delays in Current & Future Affordable Housing Transactions

COVID-19 created numerous delays all of which increase the costs of development in form of tax credit adjusters, loss of revenue and other out of pocket costs. Some of the delays the affordable housing sector is experiencing include:

- Shortages of construction materials and workers
- Delays in permitting and local approvals
- Delays in public hearings
- Difficulties in conducting due diligence activities including site visits, surveys and environmental studies

#### Interruptions in Daily Operations of Existing Projects

Compounding the problems on the development front, the operations of existing affordable housing projects are facing increased operational pressures including:

- Difficulty arranging maintenance and repair activities
- Anticipated decline in rent collections
- Difficulties filling vacant units, as people are hesitant to move to a new apartment during these unsettled times and it is difficult to show vacant units to prospective tenants.

Notably, a decrease in rent collections and prolonged vacancies will cause affordable housing developers to come out of pocket to meet debt service requirements and operating expenses. While, many affordable housing projects maintain operating reserves, a few months of high delinquency can deplete those reserves. These operational issues are causing investors to reassess their level of investing in affordable housing.

#### Delays & Operational Pressures Impacting Financial Market

Due to the increased delays in the development process, mounting operational pressure on existing projects and market uncertainty, investors and lenders are becoming increasingly cautious. This results in funding problems for projects that have received tax credits and were planning to close in the spring and summer of 2020. At best, these projects face uncertainty with their sources of funding which has resulted in the following:

- Sources of financing have become scarce. To the extent that sources of financing remain, changes in business terms have made the development of affordable housing more or expensive.
- Some investors have put a stop to investing and other investors are re-examining their pricing and yield requirements.

(4) Please provide an assessment of how you project your organization and economic sector will be impacted over the next 12 months by Covid-19.

Over the past week, I have had discussions and correspondence with seven of my colleagues, who either provide tax credit equity to fund affordable housing projects or act as consultants to help developers put together financing packages for affordable housing projects. All of my colleagues have decades of experience and have worked extensively on New Hampshire affordable housing projects.

These tax credit equity investors are the drivers of affordable housing development as almost all multifamily affordable housing located in New Hampshire is financed utilizing Low Income Housing Tax Credits (“LIHTCs”). LIHTCs are awarded to developers by the New Hampshire Housing Finance Authority (“NHHFA”). The developer then goes out and sells the LIHTCs to an investor to raise permanent equity for their project which never needs to be paid back. This permanent equity means that the developer needs to take on less debt that needs to be paid back. The investor is able to take a dollar for dollar reduction in their federal tax liability. Although investors receive a \$1 credit in tax liability for each \$1 of tax credit they purchase, they pay the developer less than \$1 for that credit. Prior to the outbreak of Covid-19 investors were generally paying 88¢ - 92¢ per tax credit dollar, with some investors paying more.

The LIHTCs awarded to a project are never sufficient to provide all of the capital necessary to completely develop an affordable housing project. The gap is usually filled with a number of other sources, including loans, grants and soft money loans, e.g. HOME loans, Affordable Housing Trust Fund loans, CDBG funds and FHLB -AHP loans. The amount of these soft money loans is limited and competition for these funds is already quite fierce.

It is going to be more difficult to develop affordable housing in the next 12 months and beyond for the following reasons:

#### A. DROP IN TAX CREDIT PRICING

The investors in the industry are anticipating a drop in pricing for LIHTCs between 6% and 10%. This is not unlike what happened when the economy went into recession in 2008 or with the passage of tax reform in 2017 when the corporate tax rate dropped. This means that during the pre-COVID-19 period where an investor was paying 88¢ - 92¢ per tax credit dollar, they will now be paying somewhere in the high 70s¢ to low 80s¢

range. This will put a huge strain on financing affordable housing projects. There are a number of reasons for this drop in credit pricing. More specifically:

1. Fewer Buyers for LIHTCs.

In order to utilize the benefits of tax credits it is necessary to have taxable income to be offset by the tax credits. Banks are probably the largest purchaser of tax credits in the country and New Hampshire. Right now, most banks, facing their own economic challenges, are either ceasing to make investments or taking a wait-and-see approach, so demand from banks for tax credits is decreasing. Insurance companies also purchase tax credits, and a number of them are still in the tax credit market, but with banks cutting back on investing, insurance companies can demand lower pricing per tax credit dollar. In its most simplistic terms, it is a supply and demand issue.

2. Desire to Increase Yield

Investors in tax credit deals underwrite their investment hoping to receive a certain return on their investment. A number of the investors I spoke to said that investors will be looking to increase the yield on their investment in the coming months. They anticipate an increase in yield by 50-100 basis points, which translates into 0.5%-1.0%. This will contribute to the drop in pricing, which will contribute to a decrease in the price paid for tax credits.

B. DELAYS CAUSED BY COVID-19

Prior to the Covid-19 outbreak it generally took between 11 months and 14 months to construct a medium-sized affordable housing project. With the uncertainty in the construction field caused by shutdowns and social distancing, most developers are assuming that projects will take much longer to get completed. This will have a direct effect on the amount of money that investors will be willing to put into a tax credit project. In order for an investor to get the benefits of the tax credits the projects have to be “placed in service” which basically means ready to be occupied. If an investor has to take credits farther out it will reduce their yield and reduce the price that they will be willing to pay per tax credit dollar.

C. WILLINGNESS TO INVEST ONLY WITH EXISTING CLIENTS AND IN THE SAFEST PROJECTS

A number of investors have indicated that to the extent they stay in the market, even with reduced pricing, they will only work on affordable housing projects with their top existing developer clients, provided the deals meet the highest of underwriting standards. This too will cause a lack of investors and increase in pricing.

D. EXAMPLE OF RAMIFICATIONS OF DECREASED PRICING



I think it will be helpful to provide an example of the effect lower LIHTC pricing will have on an affordable housing project. I recently worked on a project in Rochester, New Hampshire that had its grand opening this past December. The project contains 34 units of affordable housing. The total development cost was budgeted at approximately \$8,335,000. NHHFA awarded the project approximately \$7,768,500 in LIHTCs. The developer found an investor to purchase the tax credits for 88¢ per tax credit dollar, which translated into approximately \$6,836,280 in equity invested into the project, leaving a gap of approximately \$1,498,720. This gap in financing was filled with permanent loans and other soft debt. Assuming the price per tax credit dollar drops to 82¢, it has a fairly large impact on the gap in financing. This drop in pricing results in total equity dollars received of \$6,370,170 and a gap of approximately \$1,964,830, an increase of \$466,110 from a deal that could sell tax credits for 88¢. There are very few sources of financing out there that can fill this additional financing gap.

- (5) Please explain whether your enterprise or economic sector has or is receiving, or may possibly receive in the future, any other governmental support (federal, state or local) or charitable funds specifically intended to help address Covid-19 impacts; and explain whether the identified need might be covered by other governmental or charitable sources of funding or support programs.

Not that I am aware of. In fact, I did receive notice this morning that on April 23, 2020, the United States Congress passed Coronavirus Stimulus 3.5, a \$484 billion relief package for small businesses, hospitals, and testing, but no new housing resources have been authorized as a result of this stimulus bill.

- (6) Please provide comments on one or more ideas on how some portion of public relief funds could be provided to your enterprise and economic sector (including, if possible, an estimate of the amount of funds), and please comment on how these ideas would achieve the following important public goals:

#### SUGGESTION FOR FUNDING

The affordable housing sector in New Hampshire would be well served if some of the federal funding goes towards providing a fund that will help fill the gaps created by a decrease in the price paid for LIHTCs. This fund could be established with NHHFA. NHHFA currently has an affordable housing fund and the processes and procedures in place to administer the funds. The funds could be disbursed as zero interest or low interest loans to developers to use specifically for affordable housing purposes. Given the number of potential affordable housing developments in the next year, the uncertainty in the market and the need for affordable housing an award around \$10-\$20 million would be appropriate.

- (a) The funds will serve a public use and provide a public benefit.

Providing clean, safe and affordable housing is a problem that pre-dates Covid-19. There is a critical need in New Hampshire to provide affordable housing to working families.

- (b) The funds will preserve or increase the social welfare or economic prosperity of the state, and will promote the general welfare of the state's citizens.

A fund established to ensure the creation of needed affordable housing will provide an asset to attract a working population necessary to help the state stabilize before and after social distancing restrictions are phased out.

- (c) The funds will promote the orderly development of economic and social activities, create or preserve employment opportunities, or protect the physical environment.

A vibrant economy needs to be able to offer workers clean, safe and affordable housing. Not only does the development of affordable housing provide a place to live, the construction of these projects provides numerous construction, architectural and engineering jobs to residents of the state.

- (d) The funds will contribute significantly to the continued operation, competitiveness and future success of the organization and the economic sector, and will enhance the resiliency of the organization to survive future economic or health challenges.

Not applicable

- (e) The use of funds is not in conflict with local or regional development plans and policies, or any other provision of state or federal law.

I don't believe so.

- (f) The funds are structured in a way that will help the community and the State at large, and not just the particular private business or organization.

The use of the funds will benefit multiple organizations. Not only will public housing authorities, not-for-profit and for-profit developers benefit, but jobs will be provided for construction trades, material suppliers, architects, engineers, accountants, etc. Finally, and most importantly, working families can avail themselves to clean, safe and affordable housing.

- (g) The use of funds is consistent with the one-time availability of the public relief funds and will not require future continuing operational support from the public sector in order to maintain success.

I believe that is correct. Once the challenges posed by Covid-19 are lifted, most believe there is a likelihood that the markets will bounce back. During the recession of 2008 and the drop-in corporate tax rates with tax reform in 2017, will the market for tax credits dropped, however, as time went on and the economy strengthened the prices for tax credits increased.

- (7) Please describe how the receipt and use of the public relief funds described in question 6 could be accounted for in your organization's financial statements.

Not applicable to my position.

- (8) Please describe specific measures for public reporting on the receipt and use of the public relief funds, so that the State may satisfy any public reporting obligations that may be imposed with respect to such funds.

Although this is not my area of expertise, I am assuming that if funds are given to NHHFA to use in support of affordable housing, that they will have the ability to adequately report and use the relief funds.

- (9) Please identify other important organizations or functions in the State that have an important impact on your organization or economic sector, and, if possible, provide ideas of how those organizations and functions may be assisted by public relief funds in a manner that would help your organization or economic sector.

As stated above, the construction trades have an important impact on the affordable housing industry.

- (10) What would your business, agency, organization, sector do with the funds that cannot be done currently?

Ensure that sufficient resources exist to provide the funding necessary to complete and construct affordable housing in the state of New Hampshire

- (11) We consistently hear different stories of what is occurring and what is needed; given the opportunity, please comment on what do you think should be said or considered that hasn't received much attention?

\* \* \* \* \*

SAB anticipates that its members will be reaching out to diverse interests and persons to request submission of comments, and we thank you in advance for considering these requests. We are all in this together, New Hampshire!

Please check the [GOFERR website](#) for current information on how to submit comments. All recommendations and information submitted in response to this request will be available for public inspection and copying in their entirety. For further information, please contact Joe Doiron at the GOFERR offices ([JOSEPH.DOIRON@LIVEFREE.NH.GOV](mailto:JOSEPH.DOIRON@LIVEFREE.NH.GOV)).

Please submit your comments no later than May 1, 2020.



April 30, 2020

Governor's Office for Emergency Relief and Recovery  
Stakeholder Advisory Board  
107 N. Main Street  
Concord, NH 03301

Dear Stakeholder Advisory Board Members,

On behalf of the members of the Mortgage Bankers and Brokers Association of New Hampshire (MBBA-NH), thank you for the opportunity to share our thoughts on the use of federal funds targeting sectors adversely impacted by COVID 19. The housing sector has been significantly impacted by COVID 19 and it will be important that the single family homeownership sector, in particular, is part of the relief and recovery effort. In support of that effort, the Mortgage Bankers and Brokers Association of New Hampshire (MBBA-NH) recommends the state allocate \$5 million in support of state wide homeownership relief efforts and \$20 million to support housing recovery efforts.

According to the 2018 American Community Survey, 71% of occupied housing units in New Hampshire are owner-occupied (378,742 households). These homes account for at least 992,000 residents whose safe housing may be impacted by job/income loss due to the pandemic—close to 73% of our population—and 64% of these owner-occupied units have a monthly mortgage payment due, usually the largest monthly debt for a homeowner. With the median income of these households sitting at about \$91,608, the economic loss of these jobs, even temporarily, significantly contributes to a compromised housing market. Add to that the strong presence of New Hampshire banks who are also mortgage servicers and the impact of housing on the state's economy grows exponentially.

As the state considers ways to best serve its citizens, please consider the positive impacts of investing \$25 million dollars into the homeownership sector as part of the COVID 19 relief and recovery effort:

Relief:           **\$5 million**  
                    Pre-foreclosure Counseling **\$1.5 million**  
                    2-1-1 – Intake and Referral system **\$150,000**  
                    Outreach/Communications **\$300,000**  
                    Recovery for non-federally backed mortgages **\$3,050,000**

Recovery:       **\$16 million in Down Payment Assistance (DPA)**  
                    Average DPA per loan **\$6225** (3% / loan)  
                    **2570** homeowners assisted – primary homes ONLY—we consider this workforce housing assistance  
                    *Economic stimulus created in New Hampshire:*  
                    Total Home Sales - **\$533+** million;  
                    Total Loan Generation - **\$552+** million;  
                    **\$3.2 million** in fee income paid to lenders to pay workforce and  
                    **\$10.3 million** in fee income to the state via transfer tax.

**\$4 million in Emergency Home Repair (revolving loan fund)**

**\$15,000 average loan amount (well, furnace, roof, etc.)**

**Capacity: 267 residents over 18 months stay in home safely and inventory properly maintained**

MBBA-NH makes the following recommendations for programs that help to ensure a stable and sustainable housing market:

Considering their positive performance during the last recession, we advocate that New Hampshire Housing Finance Authority (NHHFA) manage any funds allocated to housing recovery. NHHFA has always been a sound collaborator with all industry stakeholders for the betterment of housing security in the state. We believe they have the resources to manage funds for housing recovery as we work through the COVID 19 crisis.

Utilize NH 2-1-1(HomeHelpNH) for intake and referrals. Homeowners will require education and counseling as part of the recovery effort. Using a collaborative mechanism with general practices already in place will allow the state to quickly ramp up the ability to serve citizens experiencing “housing crisis” in New Hampshire.

Communication – There is a great deal of confusion around forbearance and the special allowances in the CARES Act regarding forbearance. Consumer friendly materials to help homeowners navigate the decision making process around forbearance would lead to the understanding necessary for our citizens to make financial decisions about how to manage their mortgage payments. This is compounded by the CARES Act only addressing federally backed mortgages, leaving 1/3 of mortgaged households not covered by CARES Act protections. Examples of in appropriate messaging range from, “buy a home now and have your first six months of payments waived” to “the government has forgiven mortgage debt via the CARES Act for up to 12 months”. Managing messaging for our citizens early in the process allows homeowners to make educated choices on how long they truly need to take advantage of the forbearance option and minimizes the number of homeowners who may be forced into a modification or adverse credit situation once the forbearance period ends making it harder for them to recover from this economic downturn. (see Mass. Consumer Piece attached)

Counseling Outreach – New Hampshire has a strong network of unbiased counselors statewide who have experience in helping homeowners through times of crisis. Credit repair after job loss and managing forbearance options during the crisis can only minimize the number of homes that go into foreclosure after the forbearance period. For homeowners who end up in foreclosure, counselors may work with borrowers and their lenders to mitigate the foreclosure in a manner that works for both the homeowner and the lender, keeping the housing market on a more stable footing.

Lender Education – Many New Hampshire lenders are small servicers and some have little experience with forbearance. Offering an educational program for lender/servicers to understand their responsibilities around consumer protections for payment deferment, forbearance, and foreclosure will go a long way to supporting New Hampshire citizens and homeownership.

Down Payment Assistance – Although relief is an important component of any plan to restart an economy, recovery is equally important. Many New Hampshire citizens have lost jobs or had to close their businesses during this time. Some have traditionally earned above the current allowable income limits for state housing agency loans and cash assistance. Increasing the allowable limit for a specific period of time from 140% of AMI to 200% AMI would help to serve a larger population of small business owners and W-2 wage earners who have had to deplete savings during this time and help to

stimulate the recovery in the state's housing sector. This stimulus also coincides with solutions to tackle the overarching problem of workforce housing in the state.

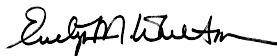
Transfer Tax Relief – In an effort to make housing more affordable for our workforce, include a first time homebuyer tax credit, applied at closing, for the buyer's portion of the state transfer tax. Transfer tax is a significant portion of closing costs and would help stimulate purchases as we recover from this crisis.

Emergency Home Repair – With an aging housing inventory, many homeowners will face the need for emergency repair. During time of crisis credit, equity and a lack of household liquidity hinder homeowners from the ability to do proper and necessary maintenance via traditional loan channels. In addition, some needed home improvements could hinder the ability to sell a home. Providing funds for this type of emergency repair would help those who need it to sell in order to keep themselves financially whole or to stay safely in their homes. This fund would not be a grant and replenishment along with a minimal interest rate on funds borrowed will help to generate a revolving fund that can be used in perpetuity to support homeownership in the state.

Ensuring we are including all contributors in the recovery effort is paramount. Making sure that Independent Mortgage Brokers in the state have access to housing finance agency loan programs is critical. Extending outreach to brokers who currently do not work with our housing finance agency is an important step. In addition, there is a tremendous network of mortgage industry professionals who believe strongly in vocational service. Many of the above initiatives could be moved forward in collaboration with those interested volunteers, adding to the resource pool to help prop up the industry through this difficult time but also as we recover and move forward.

We thank you for the opportunity to share our thoughts and considerations as the state moves forward to support its citizens during this time. Please don't hesitate to reach out with any question or for further explanation regarding any of the ideas presented.

Sincerely,



Evelyn Whelton  
MBBA-NH President  
603-455-4467





## **Guidelines for Written Comments to the Governor's Office for Emergency Relief and Recovery Stakeholder Advisory Board**

Thank you for agreeing to provide information to assist the Governor's Office for Emergency Relief and Recovery (GOFERR) Stakeholder Advisory Board ("SAB"). Your contribution is critically important to allow the SAB to perform its purpose of developing recommendations to the GOFERR for the allocation and expenditure of federal Covid-19 emergency funds to address fundamental needs of the State of New Hampshire.

Because the Covid-19 crisis has impacted almost everyone and every institution across New Hampshire, SAB expects to gather a substantial amount of information from many sources. In order to accomplish this task effectively and efficiently, SAB requests that all persons who submit information (including those persons who are scheduled to provide oral comments before a SAB meeting) please follow these guidelines.

The SAB is hopeful that many interested persons will submit information and ideas on how the State can best allocate federal emergency relief funds. We plan to read all comments, and for those who make oral presentations to the SAB, we intend to ask questions based on the written submissions.

There is no particular format for the comments, but we request that you focus your comments as efficiently as possible, and try to limit the number of pages to less than 10.

In order to help the SAB members to the greatest extent possible, we request that you try to address each of the information items listed below. The SAB members have identified these information items as highly relevant to their overall task. While some commenters are likely to provide additional information, and others may not be able to address each item, we request that you try to address the following items in your submission:

- (1) Please identify your position and your organization.

**Marc Drapeau, 2020 President, NH Association of REALTORS; Hourihane, Cormier & Associates: Rochester, NH**

**Chris Norwood, 2020 Chair, NH Assn. of REALTORS Public Policy Committee, NAI Norwood Group; Bedford, NH**

- (2) Please identify what economic sector your enterprise operates within.

**Real Estate sector**

- (3) Please describe how your enterprise and economic sector has been impacted by Covid-19.

Real Estate has been deemed an essential service under the Governor's March 27<sup>th</sup> Executive Order and listings and sales are continuing using remote showings and social distancing.

Real Estate activity accounts for about 20% of New Hampshire's economy. March residential sales data showed total closings were relatively stable from March 2019 while median sale prices rose by 9%. This activity reflects transactions which began months before the shut down and moved quickly to close soon after the emergence of the virus.

It is important to note that many NH family's wealth and savings exists in the equity of their home and reductions in that equity will have long-term consequences.

In April, New Hampshire brokers report that residential real estate has continued to operate with reduced but still fairly robust activity; while commercial real estate has been hit harder.

The prohibition on evictions has challenged property owners, residential and commercial, to develop short and long-term workouts leading to a greater impact commercial real estate and multi-family housing.

New Hampshire's commercial real estate market is in a more dire financial situation than is residential. Many retail and restaurants are unable to afford rents and a growing number of corporate chain stores are either unable or unwilling to pay rent. A true assessment of how widespread the issue with lease rental payments will become clearer over the next two weeks as rent payments are due.

Anecdotal evidence across the state suggests that many restaurants and other "non-essential businesses" are paying landlords partial rent for utilities, snow plowing, landscaping, but otherwise not paying for the entire rent obligation while some landlords are only paying interest on their mortgage. In the end both landlords and tenants are in need of additional capital even with the stimulus funds from the federal government. It is also worth noting that the stimulus funds including the Paycheck Protection Program (PPP) are largely geared to staffing expenses and not other operational expenses such as occupancy and real estate taxes.

The data firm Trepp watches all Commercial Mortgage Backed Securities (CMBS) loans nationwide. Early April evidence suggests that some 20% of all hotel mortgages and 10% of all retail mortgages across the Nation were late or requested deferment in the month of April 2020. This is contrasted against all other asset classes that were under 5%. Clearly certain sectors of the economy will be hit worse.

- (4) Please provide an assessment of how you project your organization and economic sector will be impacted over the next 12 months by Covid-19.

**NHAR estimates that residential real estate will see a 20% to 40% reduction in sales over the next year – depending on how long the situation lasts. The lack of residential inventory in the state, which was already a major impediment to growth prior to the shut-down, will be made worse as sellers feel less comfortable about allowing people into their homes. Due to the lack of inventory, NHAR expects prices to remain relatively stable.**

**In 2019 the volume of residential closed sales was just over \$6 billion so even under the best case scenario a 20% reduction in 2020 would result in \$1.2 billion in lost activity.**

**The commercial sector is more segmented with office, hospitality, multi-family, restaurant, personal services, entertainment and construction. Retail and restaurants are hardest hit but office and personal service will be impacted as businesses assess how many employees will be brought back to the traditional office environment.**

**Other concerns for commercial real estate would be the lack of payments of rents by retail and other tenants. That lack of income may put a strain on a landlord paying real estate taxes in a timely fashion, which could constrain cities and towns further. A more dire prediction would be if banks have to take back properties in those asset classes which could lead to devaluation of real estate assessment values.**

- (5) Please explain whether your enterprise or economic sector has or is receiving, or may possibly receive in the future, any other governmental support (federal, state or local) or charitable funds specifically intended to help address Covid-19 impacts; and explain whether the identified need might be covered by other governmental or charitable sources of funding or support programs.

**Real estate licensees are largely independent contractors which are traditionally not eligible for unemployment benefits. The CARES Act required that states allow independent contractors to apply for unemployment benefits. Some of NHAR members have applied and have been approved.**

**Brokerage firms as well as independent contractors are eligible for both Small Business Administration loan programs (PPP and EIDL). Many applied and were approved while others are still waiting.**

**Most commercial property owners did have access to the EIDL loans, however those loan amounts were tightened. Additionally many of the commercial tenants have had**

**access to the PPP loans, however only a small portion of that money can be used for rent, mortgage or utilities (if the loan is to be forgivable).**

- (6) Please provide comments on one or more ideas on how some portion of public relief funds could be provided to your enterprise and economic sector (including, if possible, an estimate of the amount of funds), and please comment on how these ideas would achieve the following important public goals:

**Until testing is widely available, the real estate sector will not fully recover. While NHAR understands that expanded testing is not covered by these funds, it is important to emphasize the primary importance of testing in order for a full economic recovery.**

**REALTORS in the residential real estate sector are seeing continuing demand for housing. The problems which confronted the market during the last recession, lax mortgage underwriting which led to low equity in housing, are not prevalent in today's market. If the job losses are long-term and not simply temporary then clearly that would greatly depress the housing market.**

**NHAR believes It is imperative that the commercial sector is stabilized before there is widespread defaults in the retail, restaurant, multi-family and office markets. NHAR would suggest direct financial assistance to these commercial tenants for property owners to receive monthly lease payments.**

**Any program which aids commercial property owners in receiving rental payments from their tenants will in turn assist those property owners to ensure payment of property taxes to cash-strapped municipalities.**

**The program could augment existing programs such as the Paycheck Protection Program or the Economic Injury Disaster Loan program, both administered through the local banks and secured by the SBA. The program should ensure that a certain percentage of the funding must be used for rental payments and/or real estate taxes.**

- (7) Please describe how the receipt and use of the public relief funds described in question 6 could be accounted for in your organization's financial statements.

**NHAR is not asking for specific dollars from the \$1.25 billion CARES Act funds for our membership or industry. Those funds should go directly to retail, restaurants, and other tenants to assist them with among other things, meeting the financial obligations of the leases. NHAR does believe that a requirement of any loan or grant program should require payment of lease/rent.**

- (8) Please describe specific measures for public reporting on the receipt and use of the public relief funds, so that the State may satisfy any public reporting obligations that may be imposed with respect to such funds.

**XXXX**

- (9) Please identify other important organizations or functions in the State that have an important impact on your organization or economic sector, and, if possible, provide ideas of how those organizations and functions may be assisted by public relief funds in a manner that would help your organization or economic sector.

**Municipalities provide basic operations which all real estate is dependent upon such as water, sewer, road maintenance and schools. Real estate values will be severely impacted if such services are underfunded or additional costs are shifted to property taxpayers who are continuing to pay their tax obligations.**

**Ensuring commercial property owners have revenue to meet those tax obligations will stabilize not only New Hampshire's businesses but will ensure towns and cities have funding to continue to operate.**

**NHAR cannot emphasize enough the need to make municipalities "whole" financially in order to ensure long-term price stability in New Hampshire's residential and commercial real estate sectors. If municipalities in neighboring states are able to manage their financial losses better than NH then it could put our market at a financial disadvantage if it results in increased property tax burdens.**

- (10) What would your business, agency, organization, sector do with the funds that cannot be done currently? **Ensure tenants meet rental, lease and tax obligations.**
- (11) We consistently hear different stories of what is occurring and what is needed; given the opportunity, please comment on what do you think should be said or considered that hasn't received much attention?

**The CARES Act requires federally-backed Government Sponsored Enterprises (Fannie Mac, Freddie Mae) as well as VA, USDA and FHA to allow mortgage forbearance for up to one-year. Both the Governor's Executive Order as well as the CARES Act prohibit foreclosures and evictions.**

**The result has been mortgage underwriting has become stricter. Potential homebuyers who may have been eligible for affordable mortgage products are now excluded out of concern that new property owners may immediately seek forbearance on their new purchase. These stricter underwriting requirements will exacerbate New Hampshire's already critical affordability issues in the housing market.**

**Interest rates are low and making housing an attractive investment. However, if access to the those low-interest mortgages is limited then many New Hampshire families will be shut-out of the market.**

**On the commercial property side many real estate owners as well as small businesses are watching with interest as other States reopen their economies. If the economy is to move forward quickly we will need business owners and their customers to have certainty in their actions. Perhaps education programs for business owners on how to open back their stores would be something that the NH Department of Business and Economic Affairs (DBEA) or the SBA could champion and provide blue prints to business of all kinds how to open back up the economy.**

\* \* \* \* \*

SAB anticipates that its members will be reaching out to diverse interests and persons to request submission of comments, and we thank you in advance for considering these requests. We are all in this together, New Hampshire!

Please check the [GOFERR website](#) for current information on how to submit comments. All recommendations and information submitted in response to this request will be available for public inspection and copying in their entirety. For further information, please contact Joe Doiron at the GOFERR offices ([JOSEPH.DOIRON@LIVEFREE.NH.GOV](mailto:JOSEPH.DOIRON@LIVEFREE.NH.GOV)).

Please submit your comments no later than May 1, 2020.







## MEMORANDUM

TO: Donnalee Lozeau, Chair, GOFERR Stakeholder Advisory Board (SAB)  
FROM: Dean J. Christon  
DATE: May 1, 2020  
SUBJECT: Housing Stakeholder Feedback on CARES Act Funding

In response to the SAB's effort to get broad stakeholder feedback, NHHFA circulated the SAB questionnaire to a wide range of housing stakeholders. In less than a week, we have received over 20 responses, which I have sent to you and Joe Doiron separately.

Housing stakeholder responses have identified a series of needs related to the severe economic impact of the coronavirus emergency. They have also identified possible solutions and funding requests. These solutions range from responding to and attempting to relieve the immediate effects of this crisis on New Hampshire families to efforts designed to support the recovery of the state's economy and housing market. Below, I have outlined these issues and solutions, ranging from immediate relief to longer-term recovery.

### **I. Residential Rent Stabilization**

There are approximately 152,000 renter households in New Hampshire, which represents roughly 322,000 people, or 24% of the state's population. An estimated \$2.06 billion is paid by residential tenants annually within the state. While state and federal unemployment assistance will be available to residents who have lost their jobs, many will still struggle to pay rent. Approximately 29% of those who have lost their jobs are renters. NHHFA projects that 25%, or almost 11,000, of those households will lack the ability to pay rent and could face eviction after the expiration of Governor Sununu's emergency order prohibiting eviction for non-payment.

Many stakeholders have proposed a program of direct rental assistance. This proposal is intended to protect renter households from the potential loss of their housing, provide relief to thousands of property owners (most of whom are small businesses or individuals) who are facing significant loss of income due to non-payment of rent, ensure that resources are available to pay local property taxes, and avoid the impact that large-scale eviction actions will have on the court system. Such a program would provide payments directly to property owners on behalf of tenants in need who have received unemployment benefits due to a COVID-19 related loss of employment, who do not live in a rent-subsidized apartment or receive tenant-based rental assistance, and who have past due rent or who are unable to pay current rent. The consensus is that such a program would require up to \$70 million over the next six months.

NHHFA administers a statutory fund that may be suited to address this program and has the administrative capacity, working in conjunction with partners such as the Community Action Agencies and local non-profit housing organizations, to operate it.

### **NEW HAMPSHIRE HOUSING FINANCE AUTHORITY**

32 Constitution Drive, Bedford, NH 03110  
Mail: PO Box 5087, Manchester, NH 03108

603.472.8623  
NHHFA.org



## **II. Multi-Family Housing Development Financing**

There are many affordable and workforce housing properties under construction across the state that have been awarded funding based on community needs and that will provide badly needed housing – more than 700 units in all. By design, these projects have tight budgets in order to ensure the efficient use of public funds.

Most of these projects have reported cost increases and funding shortfalls due to the crisis. The causes include increased material costs because of supply chain problems, smaller work crews to allow for social distancing onsite, and a heightened labor shortage. In addition to these increased costs, the value of financing from investors has substantially diminished, even where such investors remain committed to a project. This is because the market for federal tax credits has dropped significantly and bond financing has become more expensive.

Based on responses from the housing development community, at least \$10 million would be needed to ensure the timely completion of these projects and the much-needed housing they will provide. This initiative could be operational within a few weeks of notification that funds are available. NHHFA administers a statutory program suited to this purpose, and the funds could be made available to the projects almost immediately to keep their construction in operation, maintain related jobs, and ensure that the housing is available soon.

## **III. Downpayment and Closing Cost Assistance**

Each year approximately 6,000 households in New Hampshire buy their first home, and these purchasers provide important liquidity to the housing market by allowing other owners to sell their homes and move up or downsize. In the best of times, first-time homebuyers have difficulty assembling the resources necessary to complete the transaction; now, they have been significantly impacted by the crisis and will need support recovering from the economic and personal impacts of COVID-19. An important means of support is to provide direct downpayment and closing cost assistance.

Funding of \$20 million would help approximately 2,000 New Hampshire households buy a home. This would leverage private capital in the mortgage market to fund \$450 million in homebuying activity, ensuring that this important part of the state's real estate economy recovers on a timely basis. Assistance could be structured as forgivable loans at 0% interest rate and secured by a second mortgage.

NHHFA administers a statutory fund that is suited to this purpose. Working with participating lenders, real estate professionals, and housing counseling agencies, NHHFA has in place the systems and infrastructure to launch and market this program, and then to provide the homeownership assistance. This program could be made available to households 30-45 days from funding notification.

#### **IV. Foreclosure Intervention**

Approximately 71% of New Hampshire households own their homes, and many of them have experienced devastating financial impacts from the current crisis. While forbearance is an option for those with federally backed mortgages, those borrowers will still face substantial financial difficulties when forbearance ends. Up to one-third of homeowners in New Hampshire have a mortgage that is not federally backed, including most owners of manufactured housing. Federally sanctioned forbearance is not an option for them, and their needs are immediate.

Ten years ago, using funds from the National Mortgage Servicing Settlement, New Hampshire established “HomeHelpNH,” a program designed to help homeowners facing foreclosure. Over a three-year period, this program counseled over 2,500 homeowners and provided intake and referral services to over 4,000 households; the counseling resulted in a 92% success rate at preventing foreclosure.

The HomeHelpNH structure could be used to provide counseling over the next year to help homeowners avoid foreclosure. This program could also provide a framework for direct assistance for at-risk homeowners who have mortgages that are not federally backed. Funding of \$5 million would provide foreclosure prevention counseling for approximately 2,000 homeowners, including intake and referral services using the 2-1-1 system, and provide direct mortgage assistance for up to 1,000 New Hampshire families. NHHFA has the capacity to administer the counseling program. It also administers a statutory fund that is suited to address the direct assistance needs of homeowners who have mortgages that are not federally backed.

#### **V. Homeless Shelter Adaptation**

Current experience has made it clear that the state’s homeless shelters do not have adequate physical structures or operational resources to effectively address the current crisis, which requires physical distancing among people. Funding has been provided to address some of the immediate operational and physical needs of the shelters, including additional funding for staff and opportunities for “decompression” sites to reduce the concentration of people in a single location. While these measures are helpful, there is a need for long-term changes.

Information from homeless shelter providers identifies an opportunity to fund a capital improvement program and ongoing operational support for homeless shelters. This will provide the resources necessary for the shelters to adapt their physical spaces and operations to accommodate the changed needs of the population they serve and to help reduce the likelihood of ongoing transmission of coronavirus as well as other communicable diseases.

An appropriation of \$25 million has been requested for these purposes. NHHFA administers a statutory fund that is suited to address the capital improvements portion of this request, and it is likely that the Department of Health and Human Services (DHHS) would be most appropriate to administer ongoing operational support with these funds.

## **Conclusion**

The aggregate sum of these proposals would require at least \$130 million. These requests address many of the critical housing needs that are a direct result of the COVID-19 crisis.

It is important to note that New Hampshire has a strong and experienced network of organizations with the capability to administer programs such as those outlined here. In addition to NHHFA, which already has systems in place that administer approximately \$100 million annually in federal funds, the network includes the DHHS, CDFA, the state's Community Action Agencies, the NH Community Loan Fund, and numerous housing-focused community development organizations.

This network has the capacity and experience to implement these housing programs effectively, quickly and in full compliance with federal oversight requirements.