

Renters in Crisis

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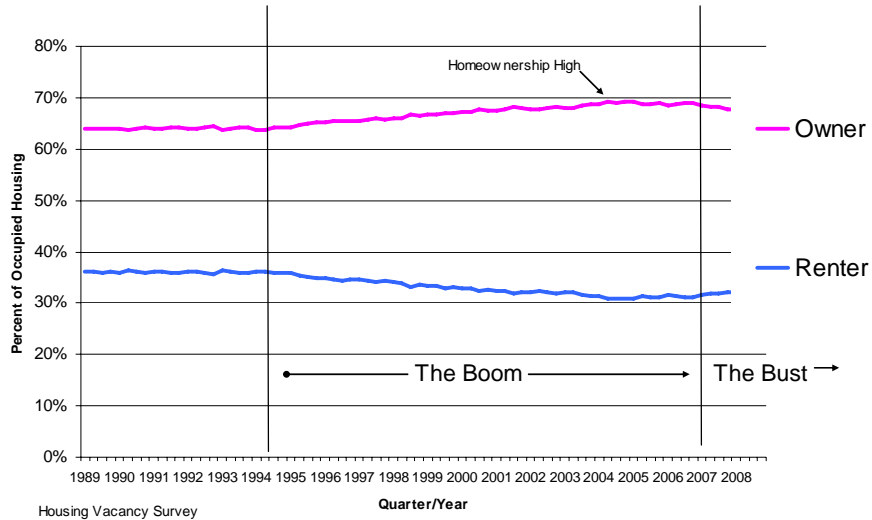
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Renters in America

- In 2008, 35 million households rented.
- This was 32% of American households.
- Renting tends to serve younger Americans and those with lower incomes.
- Most Americans rent in their lives.
- Historically, renting has provided a safety net for households.

Trends in renting and owning

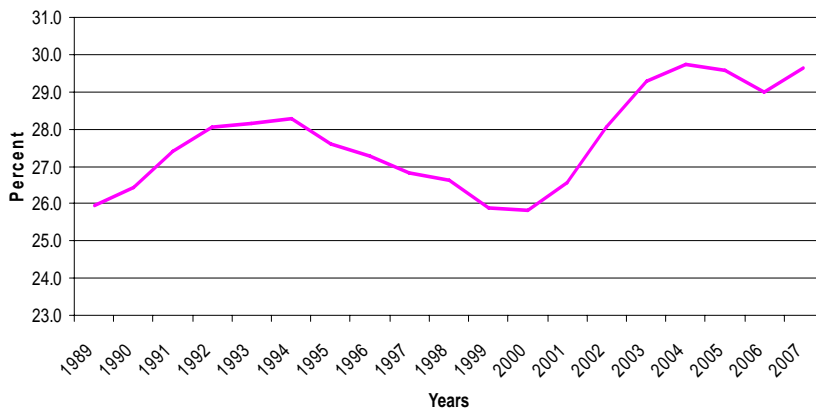
US Households: Percent Owner and Percent Renter
1989-2008



3

Nearly half of all renters now pay over 30% of income for housing

Median renter cost burden (1989-2007)
Gross rent as a percent of income



4

How “housers” talk about income

- AMI = Area median income
- ELI = Extremely Low Income = 0 -30% of AMI
- VLI = Very Low Income = 31-50% of AMI
- LI = Low Income = 51-80% of AMI
- MI = Moderate Income = 81%-120% of AMI

5

Lowest income households face severe housing cost burdens

Percent of Renter Households Spending >50% of Income on Gross Rent (2007)	
Income Category	2007
Extremely Low Income	70%
Very Low Income	31%
Low Income	7%
Not Low Income	1%
Total	24%

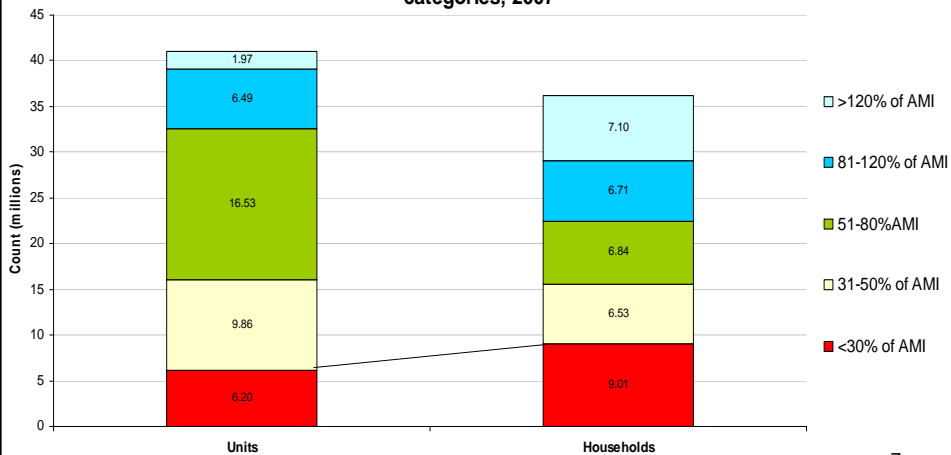
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NLIHC tabulations of 2007 ACS data

Supply is the problem

There is a 2.8 million absolute deficit of ELI rentals

Rental homes and renters in the US, matched by affordability and income categories, 2007



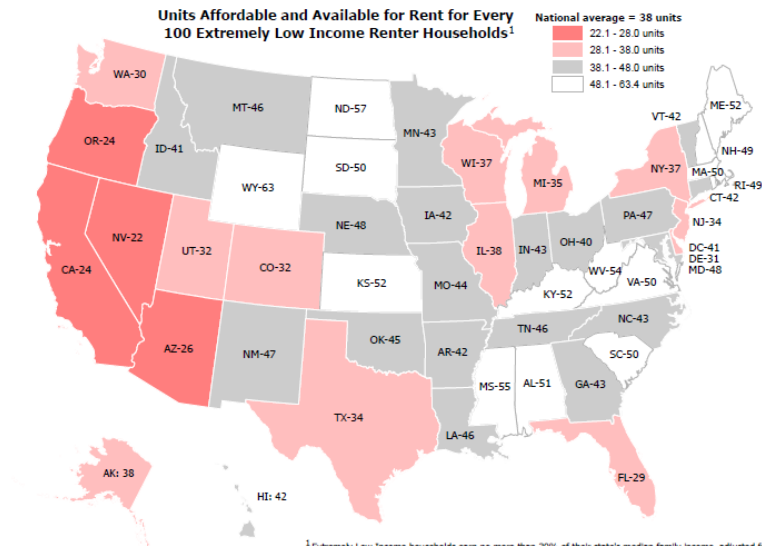
NLIHC Tabulations of 2007 Census American Community Survey Data

7

The gap exists nationwide

No state has more than 63 affordable homes for every 100 ELI renters

Units Affordable and Available for Rent for Every 100 Extremely Low Income Renter Households¹



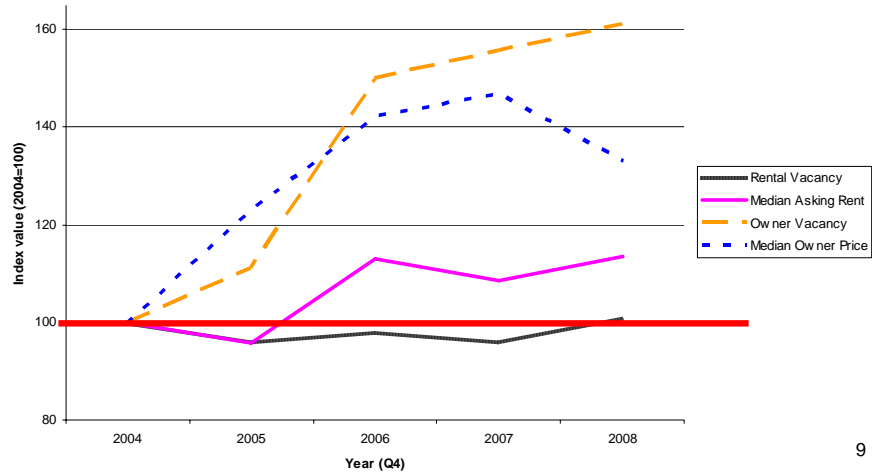
Note: States are classified by their unrounded values.

¹Extremely Low Income households earn no more than 30% of their state's median family income, adjusted for household size. Affordable means paying no more than 30% of household income for housing. Source: NLIHC tabulations of the 2007 American Community Survey PUMS housing file. As with all surveys, margins of error are associated with all estimates derived from the American Community Survey.

8

Nationally, rental markets have tightened as owner markets declined

Changes to prices and vacancy in national owner and rental markets 2004-2008



9

The outlook for renters

- Nationally, the number of renters will increase.
 - Even if more households avoid foreclosure
- Demand for lower rent homes will increase.
 - Incomes are falling.
 - Poorer job prospects (not everyone can live with mom and dad).
 - Households falling out of ownership will rent.
- “Shadow market” of unsold for-sale homes grows.
 - Provides more options for higher income renters but will likely not affect low or even “median” rents.
- Commercial apartment loans look fragile
 - Large building have maintained low foreclosure rates but with falling property values, tight credit, imminent refinancing, this may change.
 - Large local impacts as thousands of units foreclose at once.

10

Foreclosures affect renters

- In 2008, a fifth of properties in foreclosure were rentals.
- Many foreclosures have multiple units.
 - NLIHC estimates **40%** of the families that face eviction due to foreclosure are renters.
 - 56% in New England (NLIHC)
 - Over 50% in New York (Furman Center)
 - etc. see (www.nlihc.org/template/page.cfm?id=159)
- NLIHC estimates that 7 million Very Low Income households in small rental properties are at risk of foreclosure.

11

Homelessness: Before the crisis

- 2.5 to 3.5 million people “literally” homeless annually—shelters, transitional housing, streets. About 1.5 million more doubled up
- HUD: About ½ unsheltered
- Affordable housing shortage: Leading cause of homelessness nationally

12

Homelessness in a recession

“Based on estimates of the depth likely to be reached by the current recession, 1.5 million additional Americans are likely to experience homelessness over the next two years, over and above the number who usually become homeless.”

What is needed is not more shelters but to, “prevent homelessness, and to rapidly rehouse families that do become homeless.”

National Alliance to End Homelessness. (2008) Homelessness Looms as Potential Outcome of Recession.

13

Impact of foreclosure crisis on homelessness

- MA: 33% increase in number of families in shelters in the past year
- NYC: 2,747 families applied for shelter in September 2008, up from 2,087 in September 2007.
- Fairfax County, VA: About 1,200 homeless students in public school system, 25% increase from 900 last year, attributed to foreclosures.
- Hennepin County, MN (includes Minneapolis) 880 families in shelters from Jan. –Aug. 2008, up from 698 in same period in 2007. County: At least 10% this year from foreclosed properties, mostly renters.

14

Without Just Cause:
**A 50-State Review of the (Lack of)
Rights of Tenants in Foreclosure**

- State law governs renters' treatment in foreclosure—primarily & currently
- Different provisions in different states
- Report: summary review of law in 50 states
- Recommendations

15

**Overview of state laws: Foreclosure
and eviction proceedings: Three
frameworks**

- Some states require tenants be given some notice prior to the foreclosure proceedings or actually be joined as parties to the proceedings themselves
- Tenants have some rights

16

Three Frameworks (cont'd)

- Foreclosure and eviction are completely independent of each other
- Status of the tenancy following foreclosure unclear; generally least protections for tenants

17

Three Frameworks (cont'd)

- Hybrid: Foreclosure proceedings may address whether tenancy survives foreclosure
 - Less clear regarding tenants' rights of possession after a foreclosure; not necessarily providing tenants with rights in the proceeding

18

Summary Findings & Trends

- *Requirements for Notice to Tenants:*
 - 17 states require, in some form and under certain circumstances, that tenants be provided with notice of foreclosure proceeding or owner default
- *Tenants as Parties to Foreclosure Proceedings:*
 - 12 states explicitly require tenants be named as parties to foreclosure proceedings in order for foreclosure to automatically terminate tenancies –and provide the new owner with immediate possessory rights (remedy could be that tenant takes subject to lease)

19

Summary Findings & Trends (cont'd)

- *Judicial v. Non-Judicial Proceedings:*
 - **35 states** permit both judicial and non-judicial foreclosures
 - **14 states** and DC permit foreclosure only through judicial process
 - Judicial foreclosures: Formal legal proceeding, can take time
 - Non-judicial foreclosures: Typically used where mortgages contain a “power of sale” clause allowing lender to institute a foreclosure (without judicial intervention) following default

20

Summary Findings & Trends (cont'd)

- *Termination of Tenancy:*
 - Most states: Renter's tenancy automatically terminated following foreclosure.
 - But: circumstances of termination (notice, timing of taking of possession by new owner, requirement of eviction process following foreclosure) vary greatly.
- *Tenancy Survives Foreclosure:*
 - In NJ and DC the tenancy survives foreclosure and is not reason for eviction

21

Recent State Legislative Initiatives

- Since 2007, some **13 states** have considered or currently considering legislation to address foreclosure and eviction issues (*e.g.*, Illinois, Indiana, Massachusetts and Nevada).
 - Many focusing on strengthening regulation of mortgage lenders and brokers and increasing the rights of borrowers in foreclosure proceedings, rather than tenants' rights.
 - Legislation to enact or extend notice requirements for renters of an impending foreclosure sale or prior to eviction.
 - Would allow tenants to terminate their leases once they are notified of impending foreclosure or to convert leases to tenancies-at-will.
 - Strongest protection appears to be in MA bills that would require "just cause" for eviction of tenants of foreclosed properties.

22

State rental assistance: it's a patchwork

- Number of state programs increasing.
 - 2001: 101 programs in 40 states
 - 2008: 112 programs in 42 states
- More programs are “ongoing” with the potential for 3 or more years of assistance.
 - 2001: 23 programs
 - 2008: 34 programs
- However, assistance is still hit or miss.
- Current fiscal climate is resulting in cuts.

25

Federal response thus far

- Troubled Asset Relief Program
 - Agencies required to “coordinate” to keep renters in place for the term of the lease.
 - Protections for Federal, state and local rental subsidies and requirement to restructure multifamily mortgages to ensure financial viability.

26

New Haven case

- Renter challenged her eviction from multi-unit rental property foreclosed upon by Fannie Mae.
- Claim: (i) Fannie Mae became a federal agency when it came under the conservatorship of Federal Housing Finance Agency (“FHFA”), (ii) EESA requires Treasury to coordinate with FHFA to permit tenants (such as Ms. Colon) to remain in their homes post-foreclosure and (iii) burden is on Fannie Mae to allege good cause for eviction.

27

Impact

- Case pending
- Jan. 13 Fannie Mae new national policy to allow renters to stay.
- Jan. 30 Freddie Mac, similar policy.

28

Federal response thus far (cont.)

- Neighborhood Stabilization Program (NSP)
 - Tenants in foreclosed properties acquired with NSP dollars entitled to 90 days notice and right to remain for term of lease
 - Protections for section 8 tenants
 - No discrimination against holder of Section 8 voucher
- Emergency Shelter Grant program (ESG)
 - \$1.5 billion for homelessness prevention in the Economic Recovery Act.

29

What's next?

- Renter protections in TARP implementation.
- Federal renter protections.
 - Minimum of 90 days notice before eviction.
 - Right to remain through lease term.
 - Ensure that recipients of section 8 assistance retain lease and assistance after foreclosure.
- Address overall need.
 - Fully-fund National Housing Trust Fund.
 - Provide 200,000 new housing choice vouchers per year for next 10 years.

30

For more information

National Law Center on Homelessness & Poverty
(202) 638-2535
www.nlchp.org

National Low Income Housing Coalition
202-662-1530
www.nlihc.org

The Renters in Foreclosure Project
www.nlihc.org/template/page.cfm?id=159

31