Justice Clarence Thomas' Billionaire Benefactor Harlan Crow And His Apartment Empire Have Interests In At Least Four Supreme Court Cases This Term

SUMMARY: Harlan Crow is the conservative "megadonor and developer" behind several of Supreme Court Justice Clarence Thomas' many corruption scandals**.** Crow is Chairman and former CEO of Crow Holdings, which is "among the country's most prolific multifamily developers" and values its residential portfolio at $14 billion. The firm's subsidiary Trammell Crow Residential claims to be a "pioneer of multifamily real estate" and "one of the largest developers in the United States," having built over 280,000 residences over the last four decades.

Trammell Crow Residential's CEO Ken Valach is currently Chair of the National Multifamily Housing Council (NMHC), an influential industry group which claims to be "the leadership of the trillion-dollar apartment industry." Notably, Harlan Crow hosted a 2016 "sellout crowd of NMHC emerging leaders" at his "famed library," where Ken Valach discussed the presidential election and conservatism during a "fireside chat." Prior to being named NMHC's 2022-2024 Chair, Valach was the group's 2020-2021 Vice Chair and was in its Executive Committee as early as 2014.

An Accountable.US review has shown that Harlan Crow and his property empire likely have interests in at least four cases that the Supreme Court is reviewing or was likely to review in its current term, plus one case the Court ultimately declined hearing:

Loper Bright Enterprises v. Raimondo

In Loper v. Raimondo, the Supreme Court will hear a "major" challenge against Chevron deference, a legal precedent which has been used to uphold "thousands" of federal agency rules. The case could have a major impact on the U.S. Department of Housing and Urban Development (HUD), which has relied on Chevron deference in much of its litigation.

Harlan Crow's business has repeatedly shown an interest against this crucial legal precedent.

In 2018, Trammell Crow Residential submitted a comment asking the Trump administration HUD to roll back a 2013 disparate impact standard—which was meant to fight systemic housing discrimination—to reflect a 2015 Supreme Court decision that upheld but "properly limited" Chevron deference for the HUD rule.

Earlier in 2014, while Trammell Crow's Ken Valach and two other Crow-affiliated executives were on NMHC's Executive Committee and Board of Directors, the group filed an amicus brief asking the Supreme Court to hear Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, the Chevron deference case reflected in Trammell Crow's 2018 HUD comment. The brief cited the Chevron decision as it argued that "the Court is not required to defer to HUD's regulation." Notably, Justice Thomas sided with NMHC, even writing his own dissenting opinion against the majority arguing that disparate impact represented "assumption over fact" in discrimination claims.

Consumer Financial Protection Bureau v. Community Financial Services Association Of America

In CFPB v. Community Financial Services Association Of America (CFSA), the Supreme Court heard a challenge against the constitutionality of the CFPB's funding structure.

NMHC, which Trammell Crow CEO Ken Valach chairs, touts a "Chair's Circle" of major industry sponsors. Beyond Trammell Crow Residential, this circle includes major banks Wells Fargo, JPMorgan Chase, Capital One, and Regions, which together have been ordered to pay at least $5.5 billion in CFPB enforcement actions for illegal practices.

NMHC has spent over $15 million on federal lobbying since the start of 2021, including directly lobbying the CFPB on its oversight of data collection, the Bureau's role in eviction moratoria, debt collection, and on fair housing. Also in this time, NMHC loudly praised the Supreme Court for striking down the COVID-19 eviction moratorium, which the group said it "vigorously opposed" and which the CFPB had a role in enforcing.

In 2023 alone, NMHC's board discussed the "regulatory risks" of the CFPB's role in the White House's Blueprint for a Renters Bill of Rights and the group has complained that industry was "already closely regulated at all levels of government" in a joint comment to the CFPB on tenant background checks.

Acheson Hotels, LLC v. Laufer

Acheson Hotels LLC v. Laufer is an Americans with Disabilities Act (ADA) accommodation case that could affect Crow Holdings' massive multifamily apartment subsidiary Trammell Crow Residential, which has required property supervisors to have ADA knowledge and has had to settle with the New York Attorney General for disability violations.

Additionally, the Center for Constitutional Responsibility, which filed an amicus brief just a month after its formation urging the Supreme Court to hear this case, appears to have multiple ties to Crow. Its president Adam White also appears to be a Supreme Court-focused Senior Fellow at the American Enterprise Institute (AEI), which claims "direct impact" on the Court and has counted Harlan Crow as a Trustee since 1996. White was also recently a research fellow at the Hoover Institution, a "right-wing" think tank where Crow serves on the Board of Overseers.

Moore v. United States

In Moore v. U.S., the Supreme Court may prevent the creation of a federal wealth tax. Harlan Crow—who has been accused of illegally dodging taxes through the yacht on which Justice Thomas took free trips—and others in "the Supreme Court's Billionaires' Club" stand to benefit if the Supreme Court decides to shield their vast fortunes from a wealth tax.

Harlan Crow's wife Kathy is on the Board of Trustees for conservative think tank the Manhattan Institute, which filed an amicus brief urging the Supreme Court to take up Moore v. U.S. and preemptively strike down the wealth tax. Additionally, the Institute's Chair is billionaire Paul Singer, who also drew controversy for gifting Justice Samuel Alito a luxury Alaska fishing trip with private jet travel valued at over $100,000 each way.

Community Housing Improvement Program v. City Of New York

Landlord affiliated groups petitioned the Supreme Court to hear Community Housing Improvement Program v. City Of New York, a case that threatened New York City's rent stabilization law, which caps rent increases and limits evictions across about a million apartments across the city. In early October 2023, the Supreme Court ultimately declined to hear the case.

The case rises from a Second Circuit decision that upheld New York's rent law. Notably, while Trammell Crow CEO Ken Valach was NMHC's Vice Chair, the group filed an amicus brief in the Second Circuit case claiming that rent controls were "counterproductive and unconstitutional."

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Billionaire Harlan Crow, Who Has Been At Center Of Justice Clarence Thomas' Corruption Scandals, Is Chairman And Former CEO Of Crow Holdings—Which Is "Among The Country's Most Prolific Multifamily Developers" And Whose Subsidiaries Include Trammell Crow Residential, "One Of The Largest Developers In The United States."

Conservative "Megadonor And Developer" Harlan Crow Has Been Behind A Series Of Ethics Controversies Involving Justice Clarence Thomas, Including Unreported Paid Trips On Crow's Private Jet And Megayacht, Years Of Expensive Private School Tuition For Thomas' Grandnephew, And Undisclosed Property Sales.

In 2023, Supreme Court Justice Clarence Thomas Has Faced A "Series Of Recent Controversies" Over Ties To Wealthy Benefactors That "Have Fueled Calls For Him To Recuse Himself From Cases Or Be Removed From Office And For The Court To Impose A Binding Code Of Ethics." "Supreme Court Justice Clarence Thomas has come under renewed scrutiny after the New York Times reported Sunday the justice has frequently received 'benefits' from wealthy friends through his membership in the Horatio Alger Association—the latest in a series of recent controversies involving Thomas that have fueled calls for him to recuse himself from cases or be removed from office and for the court to impose a binding code of ethics." [Forbes, 07/12/23]

Justice Thomas Has "For Years Accepted Trips From GOP Megadonor And Developer Harlan Crow, Including On His Private Jet And Superyacht, Without Disclosing Them." "Harlan Crow Trips: ProPublica first reported Thomas has for years accepted trips from GOP megadonor and developer Harlan Crow, including on his private jet and superyacht, without disclosing them on financial disclosures as federal law requires." [Forbes, 07/12/23]

Justice Thomas Has Accepted Two Years Of Paid Tuition For His Grandnephew From Harlan Crow, To Attend Two Private Schools, One Of Which Cost $6,000 A Month. "Harlan Crow Tuition: ProPublica reported Thursday Crow also paid two years of tuition for Thomas' grandnephew Mark Martin, whom the justice has custody of, to attend two private schools in the 2000s, which cost $6,000 per month at one of the schools and were similarly not disclosed—even as Thomas did disclose a tuition payment a different friend made years earlier." [Forbes, 07/12/23]

Justice Thomas "Sold A String Of Properties In Savannah, Georgia, To Crow In 2014" Without Disclosing Them, Including The Home Where Thomas' Mother Still Lives. "Harlan Crow Real Estate: Thomas and his family also sold a string of properties in Savannah, Georgia, to Crow in 2014 without

disclosing that as required, ProPublica reports—including the home where his mother still lives—which Crow told the publication he purchased so he could eventually build a museum dedicated to the justice." [Forbes, 07/12/23]

Harlan Crow Is The Billionaire Chairman And Former CEO Of Crow Holdings And Has Expanded The Company Into "Public Equities, Hedge Funds, Private Equities, And Other Asset Classes" Since He Took Over The Family Company In 1988.

Harlan Crow Is The Billionaire Chairman And Former CEO Of Crow Holdings, Which Has $29 Billion In Assets Under Management. "But Crow is worth millions of dollars, at least. His Dallas home is valued at an estimated $55 million, making it the most expensive house in the city. Crow Holdings, of which Crow is chairman, has $29 billion in assets under management. News outlets including the Wall Street Journal, the Guardian, Forbes and the Texas Tribune have referred to Crow as a billionaire." [MarketWatch, 04/06/23]

- **Harlan Crow Previously Was Crow Holdings' CEO.** "Harlan Crow is the Chairman of the Board of Crow Holdings, a private family business established to manage the capital of the Trammell Crow family. After working in a variety of positions at the firm, beginning as an industrial leasing agent in Houston in 1974, Harlan assumed overall responsibilities for the business in 1988. During his tenure as CEO, Crow Holdings grew and strengthened its position as a leader in the real estate investment business." [Crow Holdings, accessed 04/10/23]

1988: Harlan Crow Took Over Crow Holdings, Which Is "A Private Family Business Established To Manage The Capital Of The Trammell Crow Family." "Harlan Crow is the Chairman of the Board of Crow Holdings, a private family business established to manage the capital of the Trammell Crow family. After working in a variety of positions at the firm, beginning as an industrial leasing agent in Houston in 1974, Harlan assumed overall responsibilities for the business in 1988." [Crow Holdings, accessed 04/06/23]

During Crow's Tenure As CEO, Crow Holdings Expanded Into "Public Equities, Hedge Funds, Private Equities, And Other Asset Classes." "During his tenure as CEO, Crow Holdings grew and strengthened its position as a leader in the real estate investment business. The firm made important strategic diversifications into a variety of additional asset classes including new asset allocation models for public equities, hedge funds, private equities, and other asset classes. Today, the firm's asset base is diversified." [Crow Holdings, accessed 04/06/23]

Harlan Crow Is Known For His "Extravagant Tastes"—His Dallas Home, With A "77-Car Underground Garage," Is Valued At About $55 Million. "His Dallas home is valued at an estimated $55 million, making it the most expensive house in the city. [...] Even by the standards of Texas billionaires, the developer Harlan Crow has extravagant tastes. His home boasts a 77-car underground garage. He displays priceless statues of dead dictators in his backyard garden." [The Wall Street Journal, 11/14/21]

Crow Holdings Was Founded By Harlan Crow's Late Father Trammell Crow, Whose Companies Were "Once The Country's Largest Landlord"—Crow Holdings' Many Subsidiaries Include Trammell Crow Residential, "One Of The Largest Developers In The United States."

Harlan Crow's Father Trammell Crow Built A Texas Real Estate Company That "Was Once The Country's Largest Landlord." "Crow's father, Trammell Crow, built a real-estate company in Texas that was once the country's largest landlord, according to the Wall Street Journal. The younger Crow eventually took over the company, Crow Holdings, and continued its success. Crow's exact wealth is not known, and he doesn't appear on Bloomberg's Billionaires Index." [MarketWatch, 04/06/23]

- **Trammell Crow Died In 2009.** “Trammell Crow, who began his legendary business career as the teller behind the window H-to-M at the Mercantile National Bank in Dallas and rose to become one of America’s largest real estate developers and landlords, died Wednesday at his farm near Tyler, Tex. He was 94.” [The New York Times, 01/15/09]

- **Trammell Crow Was Called The Largest U.S. Landlord By Forbes In 1971 And By The Wall Street Journal In 1986.** “Forbes in 1971 and The Wall Street Journal in 1986 called Mr. Crow the largest landlord in the United States.” [The New York Times, 01/15/09]

Trammell Crow Founded Trammell Crow Company To Focus On Commercial Real Estate And Crow Holdings Was Its “Residential Counterpart”—In 2006, Trammell Crow Company Was Acquired By An Outside Firm While Harlan Crow Still Ran Crow Holdings. “Harlan is the third son of legendary real estate developer Trammell Crow, who founded Trammell Crow Company in Dallas in 1948. Trammell died in 2009 at age 94 but left behind two of the most accomplished development firms in the country. Harlan’s sister is Lucy Billingsley, principal at Billingsley Company, while Harlan’s brothers Stuart and Trammell S. Crow were also involved in the family company, Crow Holdings. Trammell Crow Company was formed to focus on commercial projects, and Crow Holdings was its residential counterpart. In 2006, CBRE bought the former for nearly $2 billion. Harlan took over Crow Holdings in the late ’80s and used the Crow family’s substantial wealth to evolve the firm into an umbrella development and investment corporation that included Trammell Crow Residential, Crow Holdings Capital, Crow Holdings Industrial and Crow Holdings Office.” [The Real Deal, 04/07/23]

Crow Holdings Is “Among The Country’s Most Prolific Multifamily Developers.” “Today, Crow Holdings manages around $30 billion in total assets and ranks among the country’s most prolific multifamily developers.” [The Real Deal, 04/07/23]

Crow Holdings’ Subsidiaries Now Include “Trammell Crow Residential, Crow Holdings Capital, Crow Holdings Industrial And Crow Holdings Office.” “Harlan took over Crow Holdings in the late ’80s and used the Crow family’s substantial wealth to evolve the firm into an umbrella development and investment corporation that included Trammell Crow Residential, Crow Holdings Capital, Crow Holdings Industrial and Crow Holdings Office.” [The Real Deal, 04/07/23]

Trammell Crow Residential, “A Crow Holdings Company,” Claims To Be “A Pioneer Of Multifamily Real Estate” And “One Of The Largest Developers In The United States,” Having Built Over 280,000 Residences Over 40 Years. “A pioneer of multifamily real estate, Trammell Crow Residential (TCR) is one of the largest developers in the United States. Over 40 years, we have built more than 280,000 premier residences, creating vibrant and amenity-rich communities that our residents are proud to call home.” [Crow Holdings, accessed 04/10/23]

Trammell Crow Residential

A CROW HOLDINGS COMPANY

[Crow Holdings, accessed 04/10/23]

Crow Holdings Values Its Residential Portfolio At $14 Billion:

[Crow Holdings, accessed 04/10/23]

Crow Holdings Residential Operation Has 16 Offices Across The U.S. "Our 16 offices provide an on-the-ground presence, deep network, and an understanding of local market dynamics." [Crow Holdings, accessed 04/10/23]

[Crow Holdings, accessed 04/10/23]

February 2016: Harlan Crow Hosted A "Sellout Crowd Of NMHC Emerging Leaders" At His "Famed Library," Where Trammell Crow Residential CEO Ken Valach Held A "Fireside Chat" And Discussed The 2016 Election And Conservatism.

February 2016: A "Sellout Crowd Of NMHC Emerging Leaders" Attended A "Fireside Chat" With Trammell Crow Residential CEO Ken Valach Held At Harlan And Kathy Crow's "Famed Library." "A sellout crowd of NMHC Emerging Leaders were treated to a fireside chat with Ken Valach, CEO of Trammell Crow Residential, at the famed library of Harlan and Kathy Crow in Dallas." [National Multifamily Housing Council via Archive.org, captured 11/11/21, accessed 04/11/23]

At The Event, Harlan Crow Invited Guests "To Enjoy His Collection Of 8,000 Rare Books, Manuscripts, Paintings And Photographs Documenting American History." "Harlan Crow kicked off the evening inviting guests to enjoy his collection of 8,000 rare books, manuscripts, paintings and photographs documenting American history. 'People ask what item I like the best. That's like choosing a favorite child. But one favorite is an Abraham Lincoln syllogism about the immorality and outrage of slavery,' Crow said." [National Multifamily Housing Council via Archive.org, captured 11/11/21, accessed 04/11/23]

During His Speech, Valach Polled Attendees On Their Preferred 2016 Presidential Primary Candidates And Discussed Conservatism. "After polling the audience, Valach said that, 'Trammel Crow is a partnership - our job is to pay people and allow them to earn a living. Elected officials get hung up on deficit. The average person doesn't care about deficit. The bottom 50% are focused on shelter, food and making sure that their kids

go to a good school.' Valach commented that, 'conservatives need to communicate that we need to give a hand up, not a hand out to show compassion,' and recommended Arthur C. Brooks' The Conservative Heart: How to Build a Fairer, Happier, and More Prosperous America as a guide on how to change the dialogue." [National Multifamily Housing Council via Archive.org, captured 11/11/21, accessed 04/11/23]

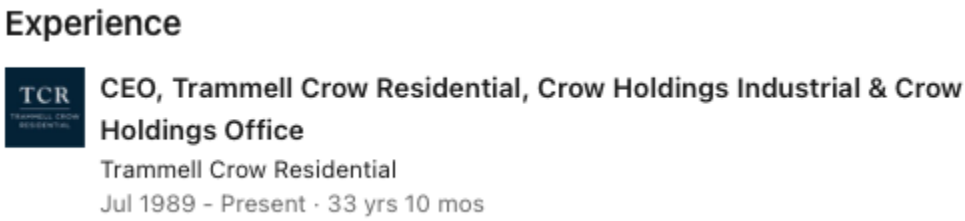
- **Valach Polled The Audience On The 2016 Presidential Election, With "A Majority" Supporting Republican Primary Candidate Marco Rubio.** "Valach concluded the conversation by polling the audience on the presidential election. A majority supported Sen. Marco Rubio, with Gov. John Kasich a distant second and the other candidates receiving a handful of votes." [National Multifamily Housing Council via Archive.org, captured 11/11/21, accessed 04/11/23]

Trammell Crow Residential CEO Ken Valach Is Now Chair Of The National Multifamily Housing Council (NMHC), "The Leadership Of The Trillion-Dollar Apartment Industry."

Ken Valach—CEO Of Trammell Crow Residential, Crow Holdings Industrial, And The Crow Holdings Office—Is The Chair Of The National Multifamily Housing Council (NMHC), Which Claims To Be "The Leadership Of The Trillion-Dollar Apartment Industry."

Ken Valach—CEO Of Trammell Crow Residential, Crow Holdings Industrial, And The Crow Holdings Office—Is Chair Of THe National Multifamily Housing Council And A Member Of The Real Estate Roundtable. "Ken Valach is the Chief Executive Officer of Crow Holdings Development. After joining Trammell Crow Residential in 1989, he served in a variety of positions including overseeing multifamily development in the western half of the United States. In 2009 Ken assumed the CEO role of Trammell Crow Residential, when he was charged with leading the company through the Great Financial Crisis. [...] Ken is the Chair of the National Multifamily Housing Council, a Director of Kimble Senior Housing, and Executive Chairman of New Hope Housing, which serves extremely low-income individuals and families. " [Crow Holdings, accessed 04/10/23]

- **Ken Valach Identifies Himself As CEO Of Trammell Crow Residential, Crow Holdings Industrial, And The Crow Holdings Office:**



[Linkedin Profile for Ken Valach, accessed 04/10/23]

- **Trammell Crow Residential CEO Ken Valach Is Also A Member Of The Real Estate Roundtable:**

[Real Estate Roundtable, accessed 04/10/23]

- **Ken Valach Was Still NMHC Chair As Of August 2023:**

Chair
Ken Valach
Trammell Crow Residential
Dallas, TX
View Bio

[National Multifamily Housing Council, accessed 08/09/23]

The National Multifamily Housing Council (NMHC) Claims To Be "The Leadership Of The Trillion-Dollar Apartment Industry," Representing "Prominent Apartment Owners, Managers And Developers." "Based in Washington, D.C., the National Multifamily Housing Council (NMHC) is the leadership of the trillion-dollar apartment industry. We bring together the prominent apartment owners, managers and developers who help create thriving communities by providing apartment homes for 40 million Americans." [National Multifamily Housing Council, 04/10/23]

Consumer Financial Protection Bureau (CFPB) v. Community Financial Services Association Of America (CFSA)

This Term, The Supreme Court Heard Consumer Financial Protection Bureau (CFPB) v. Community Financial Services Association Of America (CFSA), A Challenge Against The Constitutionality Of The CFPB's Funding Structure.

This Term, The Supreme Court Is Reviewing *Consumer Financial Protection Bureau (CFPB) v. Community Financial Services Association Of America (CFSA)*, A Predatory Payday Lender Group's Challenge Against The Constitutionality Of The CFPB's Funding.

February 27, 2023: The Supreme Court Agreed To Review *Consumer Financial Protection Bureau (CFPB) V. Community Financial Services Association Of America (CFSA)*:

22-448 ***CFX*** ***CFPB V. COMMUNITY FINANCIAL SERVICES ASSN. OF AM.***
Court: USCA-5 Granted: 2/27/23

[Supreme Court of the United States, 04/24/23]

At Issue In The Case Is Whether The Fifth Circuit Court Of Appeals Erred In Ruling That The CFPB's Funding Structure Is Unconstitutional, In Favor Of "Payday Lending Group" CFSA. "Issue(s): Whether the court of appeals erred in holding that the statute providing funding to the Consumer Financial Protection Bureau, 12 U.S.C. § 5497, violates the appropriations clause in Article I, Section 9 of the Constitution, and in vacating a regulation promulgated at a time when the Bureau was receiving such funding." [SCOTUSblog, accessed 05/04/23]

- **October 19, 2022: A Three-Judge Panel Of The Fifth Circuit Court Of Appeals Ruled That The Consumer Financial Protection Bureau's Funding Structure Was Unconstitutional After Hearing A Case Brought By Payday Industry Group, The Community Financial Services Association Of America.** "A federal appeals court has ruled that the funding structure of the nation's most powerful financial watchdog agency, the Consumer Financial Protection Bureau, is unconstitutional. In a case brought by a payday lending group, a three-judge panel of the 5th U.S. Circuit Court of Appeals threw out a CFPB regulation governing those high-interest-rate lenders and ruled that the way the bureau is funded, 'violates the Constitution's structural separation of powers.'" [NPR, 10/19/22]

October 2023: The Supreme Court Heard Oral Arguments In *Consumer Financial Protection Bureau (CFPB) v. Community Financial Services Association Of America (CFSA)*

October 3, 2023: The Supreme Court Heard Oral Arguments In *Consumer Financial Protection Bureau (CFPB) v. Community Financial Services Association Of America (CFSA)*.

Tuesday, October 3, 2023

No. 22–448. *Consumer Financial Protection Bureau, et al.* v. *Community Financial Services Association of America, Limited, et al.*

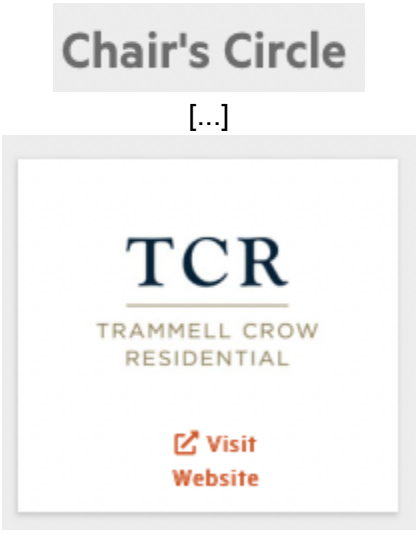
Certiorari to the C. A. 5th Circuit.
For petitioners: Elizabeth B. Prelogar, Solicitor General, Department of Justice, Washington, D. C.
For respondents: Noel J. Francisco, Washington, D. C.
(1 hour for argument.)

[Supreme Court of the United States, accessed 10/6/23]

NMHC's "Chair's Circle" Sponsors Include Trammell Crow Residential, As Well As Major Banks Wells Fargo, JPMorgan Chase, Capital One, And Regions, Which Together Have Been Ordered To Pay At Least $5.5 Billion In CFPB Enforcement Actions For Illegal Practices.

Trammell Crow Residential Is A "Chair's Circle" NMHC Sponsor, The Group's "Highest Level Of Sponsorship" Which Costs At Least $50,000 A Year And Features "The Most Prominent Recognition" At The Group's Meetings.

Trammell Crow Residential Is In NMHC's "Chair's Circle":



[...]

[National Multifamily Housing Council, accessed 08/23/23]

NMHC's Chair's Circle Sponsor Level, Which Is Its "Highest Level Of Sponsorship," Starts At $50,000 A Year And Provides Sponsors With "The Most Prominent Recognition Throughout The Year And At Every Major NMHC Meeting":

[National Multifamily Housing Council, accessed 08/23/23]

The CFPB Ordered Capital One, An NMHC Chair's Circle Sponsor, To Pay $165 Million In Fines And Restitution—The CFPB's First Public Enforcement Action—For "Deceptive Marketing Tactics" In Credit Card Add-On Products.

Capital One Is A Chair's Circle Sponsor Of NMHC:

[...]

[National Multifamily Housing Council, accessed 08/23/23]

July 2012: In Its "First Public Enforcement Action," The CFPB Ordered Capital One Bank To Refund Two Million Consumers About $140 Million And Pay A $25 Million Penalty For "Deceptive Marketing Tactics" In Add-On Products For Its Credit Cards. "Today, the Consumer Financial Protection Bureau (CFPB) announced its first public enforcement action with an order requiring Capital One Bank (U.S.A.), N.A. to refund approximately $140 million to two million customers and pay an additional $25 million penalty. This action results from a CFPB examination that identified deceptive marketing tactics used by Capital One's vendors to pressure or mislead consumers into paying for 'add-on products' such as payment protection and credit monitoring when they activated their credit cards. [...] $25 million penalty: Capital One will make a $25 million penalty payment to the CFPB's Civil Penalty Fund." [Consumer Financial Protection Bureau, 07/08/12]

- **CFPB Release Headline: CFPB Probe into Capital One Credit Card Marketing Results in $140 Million Consumer Refund** [Consumer Financial Protection Bureau, 07/08/12]

The CFPB Has Ordered Wells Fargo, An NMHC Chair's Circle Sponsor, To Pay At Least $4.7 Billion In Enforcement Actions For "Widespread Mismanagement Of Auto Loans, Mortgages, And Deposit Accounts" And "The Widespread Illegal Practice Of Secretly Opening Unauthorized Deposit And Credit Card Accounts,"

Wells Fargo Is A Chair's Circle Sponsor Of NMHC:

[...]

[National Multifamily Housing Council, accessed 08/23/23]

December 2022: The CFPB Ordered Wells Fargo To Pay $3.7 Billion For "Widespread Mismanagement Of Auto Loans, Mortgages, And Deposit Accounts," Including Wrongful Foreclosures And "Other Illegal Activity Affecting Over 16 Million Consumer Accounts." "Company repeatedly misapplied loan payments, wrongfully foreclosed on homes and illegally repossessed vehicles, incorrectly assessed fees and interest, charged surprise overdraft fees, along with other illegal activity affecting over 16 million consumer accounts" [Consumer Financial Protection Bureau, 12/20/22]

- **CFPB Release Headline: CFPB Orders Wells Fargo to Pay $3.7 Billion for Widespread Mismanagement of Auto Loans, Mortgages, and Deposit Accounts** [Consumer Financial Protection Bureau, 12/20/22]

April 2018: The CFPB Announced A Settlement With A $1 Billion Fine Against Wells Fargo For Consumer Financial Protection Act (CFPA) Violations In Its Auto Lending Practices. "Today the Bureau of Consumer Financial Protection (Bureau) announced a settlement with Wells Fargo Bank, N.A. in a coordinated action with the Office of the Comptroller of the Currency (OCC). As described in the consent order, the Bureau found that Wells Fargo violated the Consumer Financial Protection Act (CFPA) in the way it administered a mandatory insurance program related to its auto loans. [...] The Bureau assessed a $1 billion penalty against the bank and credited the $500 million penalty collected by the OCC toward the satisfaction of its fine." [Consumer Financial Protection Bureau, 04/20/18]

- **CFPB Release Headline: Bureau of Consumer Financial Protection Announces Settlement With Wells Fargo For Auto-Loan Administration and Mortgage Practices** [Consumer Financial Protection Bureau, 04/20/18]

September 2016: The CFPB Fined Wells Fargo $100 Million For "The Widespread Illegal Practice Of Secretly Opening Unauthorized Deposit And Credit Card Accounts," Estimated To Be Over Two Million False Accounts—The Enforcement Action Also Included A $35 Million Fine From The Office Of The Comptroller Of The Currency And A $50 Million From Los Angeles City And County. "Today the Consumer Financial Protection Bureau (CFPB) fined Wells Fargo Bank, N.A. $100 million for the widespread illegal practice of secretly opening unauthorized deposit and credit card accounts. [...] According to the bank's own analysis, employees opened more than two million deposit and credit card accounts that may not have been authorized by consumers. Wells Fargo will pay full restitution to all victims and a $100 million fine to the CFPB's Civil Penalty Fund. The bank will also pay an additional $35 million penalty to the Office of the Comptroller of the Currency, and another $50 million to the City and County of Los Angeles." [Consumer Financial Protection Bureau, 09/08/16]

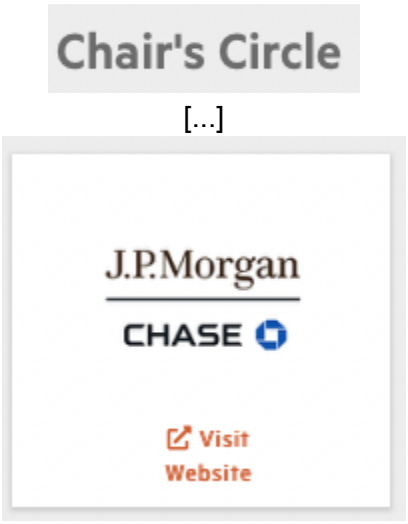
- **CFPB Release Headline:Consumer Financial Protection Bureau Fines Wells Fargo $100 Million for Widespread Illegal Practice of Secretly Opening Unauthorized Accounts** [Consumer Financial Protection Bureau, 09/08/16]

August 2016: The CFPB Ordered Wells Fargo To Pay A $3.6 Million Fine And $410,000 In Restitution For "Illegal Private Student Loan Servicing Practices That Increased Costs And Unfairly Penalized Certain Student Loan Borrowers." "The Consumer Financial Protection Bureau (CFPB) today took action against Wells Fargo Bank for illegal private student loan servicing practices that increased costs and unfairly penalized certain student loan borrowers. [...] The CFPB's order requires Wells Fargo to improve its consumer billing and student loan payment processing practices. The company must also provide $410,000 in relief to borrowers and pay a $3.6 million civil penalty to the CFPB." [Consumer Financial Protection Bureau, 08/22/16]

- **CFPB Release Headline: CFPB Takes Action Against Wells Fargo for Illegal Student Loan Servicing Practices** [Consumer Financial Protection Bureau, 08/22/16]

The CFPB Has Ordered JPMorgan Chase, An NMHC Chair's Circle Sponsor, To Pay At Least $520.5 Million In Fines And Restitution For "Illegal Credit Card Practices," "Illegal Mortgage Kickbacks," "Selling Bad Credit Card Debt And Illegally Robo-Signing Court Documents."

JPMorgan Chase Is A Chair's Circle Sponsor Of NMHC:



[...]

[National Multifamily Housing Council, accessed 08/23/23]

August 2017: The CFPB Ordered JPMorgan Chase Bank To Pay A $4.6 Million Fine For Failures Related to Checking Account Screening Information. "The Consumer Financial Protection Bureau (CFPB) today took action against JPMorgan Chase Bank, N.A. for failures related to information it provides for checking account screening reports. [...] The Bureau is ordering Chase to pay a $4.6 million penalty and implement necessary changes to its policies to prevent future legal violations." [Consumer Financial Protection Bureau, 08/02/17]

- **CFPB Release Headline: CFPB Takes Action Against JPMorgan Chase for Failures Related to Checking Account Screening Information** [Consumer Financial Protection Bureau, 08/02/17]

July 2015: The CFPB And 48 Attorneys General "Took Action Against JPMorgan Chase For Selling Bad Credit Card Debt And Illegally Robo-Signing Court Documents"—The Action Included $136 Million In Fines To The CFPB And States, $50 Million In Consumer Refunds, And A $30 Million Fine To The Office Of The Comptroller Of The Currency. "Today the Consumer Financial Protection Bureau and Attorneys General in 47 states and the District of Columbia took action against JPMorgan Chase for selling bad credit card debt and illegally robo-signing court documents. [...] Chase will pay at least $50 million in consumer refunds, $136 million in penalties and payments to the CFPB and states, and a $30 million penalty to the Office

of the Comptroller of the Currency (OCC) in a related action." [Consumer Financial Protection Bureau, 07/08/15]

- **CFPB Release Headline: CFPB, 47 States and D.C. Take Action Against JPMorgan Chase for Selling Bad Credit Card Debt and Robo-Signing Court Documents** [Consumer Financial Protection Bureau, 07/08/15]

January 2015: The CFPB Took Action Against JPMorgan Chase And Wells Fargo For "Illegal Mortgage Kickbacks," Ordering Chase Bank To Pay About $900,000 In Fines And Consumer Redress. "Today, the Consumer Financial Protection Bureau (CFPB) and the Maryland Attorney General took action against Wells Fargo and JPMorgan Chase for an illegal marketing-services-kickback scheme they participated in with Genuine Title, a now-defunct title company. [...] Under the proposed consent order filed today, Chase would pay approximately $300,000 in redress and $600,000 in civil penalties. The Bureau also filed an administrative consent order against Chase prohibiting future violations." [Consumer Financial Protection Bureau, 01/22/15]

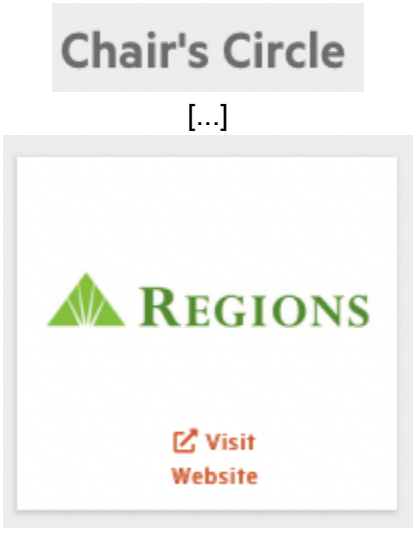
- **CFPB Release Headline: CFPB Takes Action Against Wells Fargo and JPMorgan Chase for Illegal Mortgage Kickbacks** [Consumer Financial Protection Bureau, 01/22/15]

September 2013: The CFPB Ordered JPMorgan Chase Bank And Chase Bank To Refund Consumers About $309 Million And Pay A $20 Million Penalty For "Illegal Credit Card Practices," Including "Unfair Billing Practices For Certain Credit Card 'Add-On Products.'" "The Consumer Financial Protection Bureau (CFPB) ordered Chase Bank USA, N.A. and JPMorgan Chase Bank, N.A. to refund an estimated $309 million to more than 2.1 million customers for illegal credit card practices. This enforcement action is the result of work started by the Office of the Comptroller of the Currency (OCC), which the CFPB joined last year. The agencies found that Chase engaged in unfair billing practices for certain credit card 'add-on products' by charging consumers for credit monitoring services that they did not receive. [...] Pay a $20 million penalty: Chase will make a $20 million penalty payment to the CFPB's Civil Penalty Fund." [Consumer Financial Protection Bureau, 09/19/13]

- **CFPB Release Headline: CFPB Orders Chase and JPMorgan Chase to Pay $309 Million Refund for Illegal Credit Card Practices** [Consumer Financial Protection Bureau, 09/19/13]

The CFPB Has Ordered Regions, An NMHC Chair's Circle Sponsor, To Pay At Least $198.5 Million In Fines And Restitution For "Illegal Surprise Overdraft Fees" And "Unlawful Overdraft Practices."

Regions Is A Chair's Circle Sponsor Of NMHC:



[...]

[National Multifamily Housing Council, accessed 08/23/23]

September 2022: The CFPB Ordered Regions Bank To Pay $191 Million In Fines And Restitution For "Illegal Surprise Overdraft Fees." "Today, the Consumer Financial Protection Bureau (CFPB) is ordering Regions Bank to pay $50 million into the CFPB's victims relief fund and to refund at least $141 million to customers harmed by its illegal surprise overdraft fees. [...] The CFPB also found that Regions leadership knew about and could have discontinued its surprise overdraft fee practices years earlier, but they chose to wait while Regions pursued changes that would generate new fee revenue to make up for ending the illegal fees." [Consumer Financial Protection Bureau, 09/28/22]

- **CFPB Release Headline: CFPB Orders Regions Bank to Pay $191 Million for Illegal Surprise Overdraft Fees** [Consumer Financial Protection Bureau, 09/28/22]

April 2015: The CFPB Fined Regions Bank $7.5 Million For "Unlawful Overdraft Practices." "Today the Consumer Financial Protection Bureau (CFPB) took action against Regions Bank for charging overdraft fees to consumers who had not opted-in for overdraft coverage. The bank also charged overdraft and non-sufficient funds fees on its deposit advance product despite claims that it would not. Regions has already refunded hundreds of thousands of consumers approximately $49 million in fees, and the consent order requires the bank to fully refund all remaining consumers. The Bureau also fined the company $7.5 million for its illegal actions." [Consumer Financial Protection Bureau, 04/28/15]

- **CFPB Release Headline: CFPB Fines Regions Bank $7.5 Million for Unlawful Overdraft Practices** [Consumer Financial Protection Bureau, 04/28/15]

NMHC, Which Has Spent Over $15 Million While Directly Lobbying The CFPB And Other Federal Agencies Since 2021, Has Opposed CFPB Efforts To Reduce Discrimination In Rental Background Checks, Has Held Meetings About "Regulatory Risks" Of The CFPB's Role In The White House's Renters Bill Of Rights, And Successfully Pushed The Supreme Court In Striking Down The COVID-19 Eviction Moratorium, Which The CFPB Helped Enforce.

NMHC Has Spent Over $15 Million On Federal Lobbying Since The Beginning Of 2021 Alone, Including On CFPB Rules On Data Collection; CFPB Enforcement Of Eviction Moratoriums, Tenant Protection, And Debt Collection; And On Fair Housing Issues.

Since The First Quarter Of 2021, NMHC Has Spent $15.25 Million On Federal Lobbying On CFPB Rules On ECOA Data Collection; CFPB Enforcement Of Eviction Moratoriums, Resident/Consumer Protections, Debt Collection; The Biden Administration's Blueprint For A Renters Bill Of Rights; Fair Housing And Disparate Impact Issues, And Other Matters:

Registrant Name	Report Type	Reporting Year	Amount Reported	Entities Lobbied	Notable Lobbying Issues

NATIONAL MULTIFAMILY HOUSING COUNCIL, INC.	1st Quarter - Amendment	2023	$2,330,000	CFPB, Others	Administration: Blueprint for a Renters Bill of Rights and a Resident-Centered Housing Challenge. Administration Two-part plan. Part One: protect renters and promote rental affordability. Part Two: federal actions to pursue a Renters Bill of Rights. [...] Public policies affecting consumer reporting, resident screening (financial, criminal, resident history) and consumer debt collection. [...] Public policies surrounding the use of rent payment history in consumer reporting. [...] Fair Housing (Fair Housing Act, Disparate Impact Rule, Screening and Reporting, Affirmatively Furthering Fair Housing)
NATIONAL MULTIFAMILY HOUSING COUNCIL, INC.	4th Quarter - Report	2022	$1,920,000	CFPB, Others	Bureau of Consumer Financial Protection, 12 CFR Part 1002, Docket No. CFPB-2021-0015, RIN 3170-AA09, Small Business Lending Data Collection Under the Equal Credit Opportunity Act (Regulation B). [...] Public policies affecting consumer reporting, resident screening (both financial and criminal) and consumer debt collection. [...] Public policies surrounding the use of rent payment history in consumer reporting [...] Fair Housing (Fair Housing Act, Disparate Impact Rule, Screening and Reporting)
NATIONAL MULTIFAMILY HOUSING COUNCIL, INC.	3rd Quarter - Report	2022	$1,300,000	CFPB, Others	Bureau of Consumer Financial Protection, 12 CFR Part 1002, Docket No. CFPB-2021-0015, RIN 3170-AA09, Small Business Lending Data Collection Under the Equal Credit Opportunity Act (Regulation B).[...] Public policies affecting consumer reporting, resident screening (both financial and criminal) and consumer debt collection. [...] Public policies surrounding the use of rent payment history in consumer reporting [...] Fair Housing (Fair Housing Act, Disparate Impact Rule, Screening and Reporting)
NATIONAL MULTIFAMILY HOUSING COUNCIL, INC.	2nd Quarter - Report	2022	$1,820,000	CFPB, Others	Bureau of Consumer Financial Protection, 12 CFR Part 1002, Docket No. CFPB-2021-0015, RIN 3170-AA09, Small Business Lending Data Collection Under the Equal Credit Opportunity Act (Regulation B).[...] Public policies affecting consumer reporting, resident screening (both financial and criminal) and consumer debt collection. [...] Public policies surrounding the use of rent payment history in consumer reporting [...] Fair Housing (Fair Housing Act, Disparate Impact Rule, Affirmatively Furthering Fair Housing Rule, Screening and Reporting)

NATIONAL MULTIFAMILY HOUSING COUNCIL, INC.	1st Quarter - Report	2022	$1,770,000	CFPB, Others	Bureau of Consumer Financial Protection, 12 CFR Part 1002, Docket No. CFPB-2021-0015, RIN 3170-AA09, Small Business Lending Data Collection Under the Equal Credit Opportunity Act (Regulation B). [...] Public policies affecting consumer reporting, resident screening (both financial and criminal) and consumer debt collection. [...] Public policies surrounding the use of rent payment history in consumer reporting [...] Fair Housing (Fair Housing Act, Disparate Impact Rule, Screening and Reporting) [...] Public policies affecting consumer reporting, resident screening and consumer debt collection. [...] Fair Housing (Fair Housing Act, Disparate Impact Rule, Affirmatively Furthering Fair Housing Rule, Screening and Reporting)
NATIONAL MULTIFAMILY HOUSING COUNCIL, INC.	4th Quarter - Report	2021	$1,650,000	CFPB, Others	Consumer Finance Protection Bureau Enforcement and Compliance (Related to Eviction Moratoriums and Notice, Resident/Consumer Protections, Debt Collection) [...] Public policies affecting consumer reporting, resident screening and consumer debt collection. [...] Fair Housing (Fair Housing Act, Disparate Impact Rule, Affirmatively Furthering Fair Housing Rule, Screening and Reporting)
NATIONAL MULTIFAMILY HOUSING COUNCIL, INC.	3rd Quarter - Report	2021	$1,340,000	CFPB, Others	Consumer Finance Protection Bureau Enforcement and Compliance (Related to Eviction Moratoriums and Notice, Resident/Consumer Protections, Debt Collection) [...] Public policies affecting consumer reporting, resident screening and consumer debt collection. [...] Fair Housing (Fair Housing Act, Disparate Impact Rule, Affirmatively Furthering Fair Housing Rule, Screening and Reporting)
NATIONAL MULTIFAMILY HOUSING COUNCIL, INC.	2nd Quarter - Report	2021	$2,040,000	CFPB, Others	Consumer Finance Protection Bureau Enforcement and Compliance (Related to Eviction Moratoriums, Resident/Consumer Protections, Debt Collection) [...] Fair Housing Act (Revision of the Disparate Impact Rule, Affirmatively Furthering Fair Housing, Screening and Reporting)
NATIONAL MULTIFAMILY HOUSING COUNCIL, INC.	1st Quarter - Report	2021	$1,080,000	CFPB, Others	Consumer Finance Protection Bureau Enforcement and Compliance (Related to Eviction Moratoriums, Resident/Consumer Protections, Debt Collection) [...] Fair Housing Act (Disparate Impact, Affirmatively Furthering Fair Housing, Screening and Reporting) [...]
		Lobbying Amount Total:	**$15,250,000**		

[U.S. Senate Lobbying Disclosure Act Database, accessed 08/21/23]

2023: The NMHC Submitted A Comment On The CFPB's Request For Information (RFI) On How Tenant Background Checks May Increase Barriers And Discrimination In Rental Housing—NMHC's Comment Claimed Additional CFPB Regulation "Will Hurt, Not Help" Access To Housing And Complained The Apartment Industry Is "Already Closely Regulated At All Levels Of Government."

May 2023: The NMHC And National Apartment Association Submitted A Joint Comment Letter To The CFPB And Federal Trade Commission (FTC) In Response To The Agencies' Joint Request For Information (RFI) On How Tenant Background Checks "May Be Increasing Barriers To Access And Driving Discriminatory Outcomes For Consumers In The Rental Housing Market." "On May 30, 2023, the National Apartment Association (NAA) and the National Multifamily Housing Council (NMHC) submitted a joint comment letter in response to the Federal Trade Commission (FTC) and Consumer Financial Protection Bureau (CFPB)'s request for information, which was released on February 28, 2023 as part of the White House Blue Print for a Renters Bill of Rights." [National Apartment Association, 06/06/23]

- **February 2023: The CFPB And FTC Issued A Joint RFI Seeking Comment On How Tenant Background Checks "May Be Increasing Barriers To Access And Driving Discriminatory Outcomes For Consumers In The Rental Housing Market."** "In January, the White House issued what it claimed was a robust plan to address the rental housing crisis. This plan followed months of organizing from the tenant-led Homes Guarantee Campaign, which had urged Biden to sign a draft executive order that would crack down on corporate landlords, regulate rents in federally-backed properties, and extend key legal protections (like just cause eviction) to millions of tenants nationwide. [...] On February 28th, 2023, the CFPB and Federal Trade Commission (FTC) issued a joint Request For Information (RFI) asking members of the public to share how tenant background checks (which landlords purchase from a screening company to vet prospective tenants) may be increasing barriers to access and driving discriminatory outcomes for consumers in the rental housing market." [Revolving Door Project, 04/27/23]

- **NMHC Was Listed First On The Letterhead Of The Joint Comment Letter:**

Submitted electronically regulations.gov

May 30, 2023

Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G St NW
Washington, DC 20552

April Tabor
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW
Suite CC-5610 (Annex B)
Washington, DC 20580

[National Apartment Association, 06/06/23 (PDF Download)]

NMHC's Comment Stated, "Simply Put, We Are Very Concerned That Additional Regulation By FTC Or CFPB Will Hurt, Not Help, The Affordable Housing Crisis In This Country." "Investment and development may significantly be diminished when property damage, criminal activity, significant arrearages, and increased eviction costs are weighed against narrow operating margins. Simply put, we are very concerned that additional regulation by FTC or CFPB will hurt, not help, the affordable housing crisis in this country." [National Apartment Association, 06/06/23 (PDF Download)]

NMHC's Comment Stated, "Amidst An Industry Already Closely Regulated At All Levels Of Government, Additional Federal Screening Regulations May Have A Chilling Effect On Housing

Providers." "We are therefore concerned that, amidst an industry already closely regulated at all levels of government, additional federal screening regulations may have a chilling effect on housing providers interested in developing or operating new housing." [National Apartment Association, 06/06/23 (PDF Download)]

NMHC's Comment Claimed, "The Impact Of New Federal Requirements Will Impact Investment Into And Development Of Housing Stock." "The impact of new federal requirements will impact investment into and development of housing stock if there is a discernible impact to the already-limited return on investment and the long-term viability of property." [National Apartment Association, 06/06/23 (PDF Download)]

NMHC Has Published A "Resident Screening and Consumer Reporting Fact Sheet" That Urges Policymakers To "Screening And Reporting Measures That Unduly Interrupt Necessary Operational And Property Management Practices." "Resident Screening and Consumer Reporting Fact Sheet [...] Screening and reporting practices are facing increased scrutiny as policymakers at all levels of government work to ensure housing access and equity. However, such efforts should recognize the inherent complexities in this field and avoid undermining fundamental property management practices. [...] We urge support for housing affordability and equity goals, while avoiding screening and reporting measures that unduly interrupt necessary operational and property management practices that fail to: [...]" [National Multifamily Housing Council, accessed 08/21/23]

2023: NMHC's Board Of Directors Meeting, Where Trammell Crow Residential CEO Ken Valach Moderated A Keynote Address, Included A Session That Discussed The "Regulatory Risks" Of the CFPB's And Other Agencies' Roles In The White House's Blueprint For A Renters Bill Of Rights.

May 2023: NMHC Held Its Spring Board Of Directors Meeting At The Four Seasons Chicago:

NMHC Spring Board of Directors Meeting
May 8-10, 2023
Four Seasons Hotel Chicago

Preliminary Agenda
(As of May 4, 2023)

[National Multifamily Housing Council, 05/04/23]

The Agenda For The Meeting Included A Session On "Regulatory Risks: The White House Blueprint for a Renters Bill of Rights and Beyond" That Discussed The CFPB's Role In The Blueprint And "The Impacts Of High Regulatory Burdens In The Multifamily Sector":

General Session *(Grand Ballroom, 8th Floor)*

- **Regulatory Risks: The White House Blueprint for a Renters Bill of Rights and Beyond**
  Policymakers at all levels are searching for ways to address challenges to housing access and affordability. Instead of promoting supply-side solutions, efforts increasingly focus on regulatory mandates and restrictions on ordinary business practices like rent control, eviction moratoriums and limitations on resident screening. The Biden Administration has embraced a broad range of these initiatives and has prioritized efforts to strengthen renter protections through action by federal agencies including FHFA, HUD, FTC, CFPB and others. This session will explore the current landscape of these regulatory proposals and examine the impacts of high regulatory burdens in the multifamily sector.
  Moderator: **Paula Cino**, VP, Construction, Development, Land Use and Counsel, NMHC

[National Multifamily Housing Council, 05/04/23]

The Session's Description Also Claimed Policymakers "Increasingly Focus On Regulatory Mandates And Restrictions On Ordinary Business Practices Like Rent Control, Eviction Moratoriums And Limitations On Resident Screening." "Policymakers at all levels are searching for ways to address challenges to housing access and affordability. Instead of promoting supply-side solutions, efforts increasingly focus on regulatory mandates and restrictions on ordinary business practices like rent control, eviction moratoriums and limitations on resident screening." [National Multifamily Housing Council, 05/04/23]

NMHC Chair Ken Valach Moderated Former Rep. Liz Cheney's (R-WY) Keynote Address At The Meeting:

Keynote Speaker: Liz Cheney, Former U.S. Representative (R-Wyo.)
(Grand Ballroom, 8th Floor)
Moderator: **Ken Valach**, Chief Executive Officer, Crow Holdings Development

[National Multifamily Housing Council, 05/04/23]

The NMHC Issued A Press Release Praising The Supreme Court's Conservative Majority For Striking Down The Biden Administration's Second Pandemic-Era Eviction Moratorium, Which The CFPB Had A Role In Enforcing, Claiming It Put Landlords "At Risk Of Irreparable Harm" And Touting It "Vigorously Opposed" The Moratorium—Notably, Crow Holdings Was Filing For Evictions During The Ban,

August 2021: The NMHC Issued A Press Release Praising The Supreme Court's Decision Against The Biden Administration's Second Eviction Moratorium, Finding It "Unlawful" And Holding That It Put Landlords "At Risk Of Irreparable Harm." "On Thursday, the U.S. Supreme Court blocked the Biden Administration's latest effort to continue a nationwide eviction moratorium. In a 6-3 vote, the Court reinstated a lower court order that found the Centers for Disease Control and Prevention's (CDC) eviction moratorium unlawful. The majority wrote that '[t]he moratorium has put the applicants, along with millions of landlords across the country, at risk of irreparable harm by depriving them of rent payments with no guarantee of eventual recovery.'" [National Multifamily Housing Council, 08/27/21]

- **The Supreme Court Held That The Centers For Disease Control And Prevention (CDC) Lacked Authority To Issue Its Second Eviction Moratorium, Which "Prevented The Eviction Of Any**

Tenants Who Live In Counties That Are Experiencing Substantial Or High Levels Of Covid-19 Transmission." "The United States Supreme Court upheld the District Court's judgment vacating the Centers for Disease Control and Prevention's (CDC) second eviction moratorium. The second moratorium had prevented the eviction of any tenants who live in counties that are experiencing substantial or high levels of COVID-19 transmission and who make certain declarations of financial need. Alabama Association of Realtors v. Department of Health and Human Services, 21A23 (Aug. 26, 2021) (AAR). Among other things, the Court held that the CDC lacked the authority to issue the injunction, and invited Congress to enact the eviction moratorium with proper legislation." [American Bar Association, 09/14/21]

- **After The CARES Act's Pandemic Eviction Moratorium Expire, The CDC Issued Two Of Its Own Moratoria.** "After the expiration of an eviction moratorium in the CARES Act, the CDC issued its own eviction moratorium. After that moratorium expired at the end of July 2021, the CDC issued its second eviction moratorium." [American Bar Association, 09/14/21]

The Release Said ""NMHC And A Broad, Real Estate Industry Coalition Vigorously Opposed Any Continuation Of A Federal Eviction Moratorium." "NMHC and a broad, real estate industry coalition vigorously opposed any continuation of a federal eviction moratorium. Instead, we remain focused on efforts to stabilize renters and housing providers through rental assistance." [National Multifamily Housing Council, 08/27/21]

The Supreme Court's 6-3 Conservative Majority Issued An Eight-Page Opinion That Was Seen As An "Unusual Move In A Ruling On An Application For Emergency Relief." "The Supreme Court on Thursday rejected the Biden administration's latest moratorium on evictions, ending a political and legal dispute during a public health crisis in which the administration's shifting positions had subjected it to criticism from adversaries and allies alike. The court issued an eight-page majority opinion, an unusual move in a ruling on an application for emergency relief, where terse orders are more common." [The New York Times, 08/26/21]

- **The Supreme Court Decided Against The Eviction Moratorium In A 6-3 Vote.** "In a 6-3 vote, the Court reinstated a lower court order that found the Centers for Disease Control and Prevention's (CDC) eviction moratorium unlawful." [National Multifamily Housing Council, 08/27/21]

- **Although The Supreme Court's Majority Opinion Was "Unsigned," It "Three Liberal Justices Dissented."** "The majority opinion, which was unsigned, said the Centers for Disease Control and Prevention had exceeded its authority. [...] The court's three liberal justices dissented." [The New York Times, 08/26/21]

April 2021: The CFPB Issued An Interim Final Rule In Support Of The CDC's Eviction Moratorium, Requiring Debt Collectors To Properly Notify Tenants Of Their Rights Under The Moratorium And Prohibiting Debt Collectors From "Misrepresenting Tenants' Eligibility For Protection From Eviction." "The Consumer Financial Protection Bureau (CFPB) today issued an interim final rule in support of the Centers for Disease Control and Prevention (CDC)'s eviction moratorium. The CFPB's rule requires debt collectors to provide written notice to tenants of their rights under the eviction moratorium and prohibits debt collectors from misrepresenting tenants' eligibility for protection from eviction under the moratorium." [Consumer Financial Protection Bureau, 04/19/21]

- **CFPB's Then-Acting Director Dave Ueijo Said, ""With COVID-19 killing hundreds of Americans every day, kicking families out into the street during this pandemic may literally be a death sentence.'"** "'With COVID-19 killing hundreds of Americans every day, kicking families out into the street during this pandemic may literally be a death sentence,' said CFPB Acting Director Dave Uejio. 'No one should be evicted from their home without understanding their rights, and we will hold accountable those debt collectors who move forward with illegal evictions.'" [Consumer Financial Protection Bureau, 04/19/21]

According To The Private Equity Stakeholder Project, Crow Holdings Had Filed 122 Eviction Filings In Just Six States From September 4, 2020—When The CDC's First Eviction Moratorium Was Put In Place—Through July 27, 2021:

Appendix A – Eviction filings by corporate landlord since September 4, 2020

(Select counties in FL, GA, TN, TX, AZ, NV)

Landlord	Since Sept 4, 2020
[...]	
Crow Holdings	122

[Private Equity Stakeholder Project, 07/27/21]

- **The CDC's First Eviction Moratorium Was Put In Place In September 2020.** "On September 4, 2020, the Centers for Disease Control and Prevention (CDC) imposed a nationwide temporary federal moratorium on residential evictions for nonpayment of rent." [Congressional Research Service, 03/30/21]

The NMHC Has Called On The CFPB To Change Its Home Mortgage Disclosure Act (HMDA) Rules For Multifamily Lending, Complaining About "'Unwarranted Regulatory Burdens'" And "'Considerable Cost.'"

June 2018: The NMHC And Other "Prominent Trade Groups" Called On The CFPB To Change Its Home Mortgage Disclosure Act (HMDA) Rules For Multifamily Lending. "The Mortgage Bankers Association, the National Multifamily Housing Council, and several other prominent trade groups are calling on the Consumer Financial Protection Bureau to change the Home Mortgage Disclosure Act rules for multifamily lending." [HousingWire, 06/20/18]

The NMHC Complained To The CFPB That The Apartment Industry Suffers "'Unwarranted Regulatory Burdens And Privacy Issues' Due To The 'Unnecessary Application' Of HMDA Reporting Requirements On Multifamily Lending." "In a response to the CFPB's request for information on the bureau's rulemaking authority, the MBA, the NMHC, the National Apartment Association, and the Commercial Real Estate Finance Council tell the CFPB that the multifamily housing industry experiences 'unwarranted regulatory burdens and privacy issues' due to the 'unnecessary application' of HMDA reporting requirements on multifamily lending." [HousingWire, 06/20/18]

NMHC Complained About "'Considerable Cost'" To "Lenders That Originate Multifamily Business-To-Business Loans" And Complained CFPB Requirements "Exceed The Scope Of What The HMDA Law Was Supposed To Accomplish." "According to the groups, lenders that originate multifamily business-to-business loans are still required to comply with HMDA reporting requirements, an obligation that creates 'considerable cost' for the lenders. Additionally, the trade groups say that the requirements are exceed [sic] the scope of what the HMDA law was supposed to accomplish." [HousingWire, 06/20/18]

The NMHC "Loudly" Supported The Nomination Of Trump CFPB Director Kathy Kraninger, Who Backed A "Deregulatory Agenda," Was Criticized For No Experience As A Regulator Or In The Financial Services Industry, And Who "Prompted Strong Resistance From Consumer Advocates."

November 2018: The NMHC And Other Industry Groups Signed A Letter "Loudly" In Support Of Trump CFPB Director Nominee Kathy Kraninger, Who Was Expected To Continue Her Predecessor Mick Mulvaney's "Much Gentler Approach To The Financial Services Industry." "Under Mick Mulvaney, the Consumer Financial Protection Bureau (or Bureau of Consumer Financial Protection, depending on who you

ask) has taken a much gentler approach towards the financial services industry. That tactic is likely to continue if the Trump administration's choice as a permanent replacement for departed CFPB Director Richard Cordray, Kathy Kraninger is ever confirmed by the Senate. And that's just what the housing industry is now loudly calling for. This week, the housing industry's largest and most prominent trade groups banded together to call on the Senate to confirm Kraninger as the next CFPB director. [...] The letter is signed by 21 of the housing industry's top groups, including the National Association of Realtors, the Mortgage Bankers Association, the National Association of Home Builders, and the National Multifamily Housing Council." [HousingWire, 11/13/18]

- **A Trump Administration Official "Described Ms. Kraninger As An Enthusiastic Supporter Of Free Markets And Could Not Cite Any Policy Positions With Which She Will Differ Substantively From Mr. Mulvaney's Deregulatory Agenda."** "Still, the official described Ms. Kraninger as an enthusiastic supporter of free markets and could not cite any policy positions with which she will differ substantively from Mr. Mulvaney's deregulatory agenda." [The New York Times, 06/16/18]

- **December 2018: Kraninger Was Confirmed As CFPB Director By A One Vote Margin.** "Kathy Kraninger, a White House official, has been confirmed as the Consumer Financial Protection Bureau's new director over objections by critics who highlighted her lack of experience in consumer protection. The Senate voted 50-49 Thursday to back Kraninger as head of the consumer protection watchdog agency." [NPR, 12/06/18]

In The Letter, NMHC And The Other Groups Said The CFPB "'Must Improve Its Examination, Enforcement, Rulemaking And Guidance Processes To Assist With Regulatory Compliance And Bring Certainty In The Marketplace.'" "'The undersigned organizations, representing the many facets of the housing and financial industries, support the nomination of Kathleen Kraninger as the Director of the Bureau of Consumer Financial Protection," the groups said in a letter to the Senate leadership and members of the Senate Committee on Banking, Housing, and Urban Affairs.' [...] The groups write that they believe the CFPB: 'must improve its examination, enforcement, rulemaking and guidance processes to assist with regulatory compliance and bring certainty in the marketplace.'" [HousingWire, 11/13/18]

The NMHC's Letter "Neglect[ed] To Make Mention Of The One Group That The CFPB Is Supposed To Actually Help – Consumers." "The groups say that approving Kraninger will benefit many of the parties involved, but neglect to make mention of the one group that the CFPB is supposed to actually help – consumers." [HousingWire, 11/13/18]

Kathy Kraninger "Never Held A Job As A Regulator Or Worked In The Financial Services Industry." "On Saturday, White House officials played down the fact that she has never held a job as a regulator or worked in the financial services industry." [The New York Times, 06/16/18]

Kraninger's Nomination "Prompted Strong Resistance From Consumer Advocates." "The appointment of Ms. Kraninger, 43, a Pittsburgh native and graduate of Marquette University and Georgetown Law School, prompted strong resistance from consumer advocates." [The New York Times, 06/16/18]

In 2022, The CFPB Announced It Would Resume Applying Anti-Discriminatory Disparate Impact Theory—NMHC, While Valach And Other Crow Executives Were Its Leadership, Argued Against Using Disparate Impact Theory To Fight Housing Discrimination In A 2014 Supreme Court Amicus Brief That Justice Thomas Ultimately Sided With.

In 2022, The CFPB Announced It Would Resume Applying Disparate Impact Theory—Which Helps Fight Systemic Discrimination In Lending And Other Industry Practices—To "Essentially All Providers Of Consumer Financial Services"After Congress Overturned Its Original Disparate Impact Rules In 2018.

2012: The CFPB Announced It Would "Use All Available Legal Avenues, Including Disparate Impact, To Pursue Lenders Whose Practices Discriminate Against Consumers"—In 2013, The Bureau Began Using Disparate Impact Theory In A Guidance On Auto Lending. "Today, the Consumer Financial Protection Bureau (CFPB) announced that it will use all available legal avenues, including disparate impact, to pursue lenders whose practices discriminate against consumers. The Bureau will equip consumers with the information they need to spot the warning signs of discrimination." [Consumer Financial Protection Bureau, 04/18/12]

- **The Bureau Affirmed Its Recognition Of Disparate Impact Doctrine In A Compliance Bulletin On Equal Credit Opportunity Act (ECOA) Enforcement.**"In a Compliance Bulletin released today, the Bureau is also reaffirming its commitment to enforcing the ECOA, by recognizing the disparate impact doctrine. Disparate impact occurs when a lender's practices or policies are facially neutral but have discriminatory effects. " [Consumer Financial Protection Bureau, 04/18/12]

- **Then CFPB Director Richard Cordray Said, "'We Cannot Afford To Tolerate Practices, Intentional Or Not, That Unlawfully Price Out Or Cut Off Segments Of The Population From The Credit Markets.'"** "'We want consumers to avoid the marketplace's silent pickpocket—discrimination,' said CFPB Director Richard Cordray. 'We cannot afford to tolerate practices, intentional or not, that unlawfully price out or cut off segments of the population from the credit markets. That's why the CFPB is educating consumers about their fair lending rights and pursuing lenders whose practices are discriminatory.'" [Consumer Financial Protection Bureau, 04/18/12]

- **2013: CFPB Began Using Disparate Impact Theory In Lending Guidance For Retail Automobile Lenders, Arguing That "'Dealer Markups'" Could Result In Higher Interest Rates For Protected Classes.** "CFPB began using the disparate impact theory in 2013 when the agency issued lending guidance for retail automobile lenders. In that guidance, CFPB expressed its view that automobile 'dealer markups' could be illegal under the Equal Credit Opportunity Act if they result in higher interest rates for protected classes." [Johnston Clem Gifford PLLC, 07/08/22]

2022: The CFPB Resumed Applying Disparate Impact Theory To "Essentially All Providers Of Consumer Financial Services" After Congress Overturned The CFPB's Original Disparate Impact Rules In 2018. "After a long hiatus, the Consumer Financial Protection Bureau resumed use of the 'disparate impact' theory under its fair lending enforcement authority. Once a cornerstone of the agency's fair lending enforcement mechanisms, the theory had been shelved for several years due to congressional action that precluded its use by the agency." [Johnston Clem Gifford PLLC, 07/08/22]

- **2018: Congress Overturned The CFPB's Disparate Impact Rules Under The Congressional Review Act, Which Allows Congress To "Effectively Veto Federal Agency Rules And Guidance" And Prevent Agencies From Issuing Similar Rules.** "Congress later overturned the agency's disparate impact theory rules and guidance in 2018 pursuant to its oversight authority under the Congressional Review Act. That law, which allows Congress to effectively veto federal agency rules and guidance, also prohibits federal agencies from attempting to skirt congressional will by issuing similar rules." [Johnston Clem Gifford PLLC, 07/08/22]

- **2022: The CFPB Announced That It Would Resume Using Disparate Impact Theory Under Its Authority Over Unfair, Deceptive, Or Abusive Acts Or Practices (UDAAP) Under The Consumer Financial Protection Act.** "Despite the previous action taken by Congress, CFPB announced in March 2022 that it would resume using the theory, concluding that its authority to do so still exists under the

agency's regulatory authority over unfair, deceptive, or abusive acts or practices under the Consumer Financial Protection Act." [Johnston Clem Gifford PLLC, 07/08/22]

- **The CFPB Clarified That It Would Apply Disparate Impact Theory "To Essentially All Providers Of Consumer Financial Services," Including "'Credit, Servicing, Collections, Consumer Reporting, Payments, Remittances, And Deposits.'"** "The press release also clarifies that the agency's renewed use of the theory will apply to essentially all providers of consumer financial services, stating that it: 'will examine for discrimination in all consumer finance markets, including credit, servicing, collections, consumer reporting, payments, remittances, and deposits.'" [Johnston Clem Gifford PLLC, 07/08/22]

Civil Rights And Fair Housing Advocates Have Argued That Disparate Impact Claims Are Necessary To Dismantle Practices That Systematically Harm Disadvantaged Communities, Such As "Zoning Laws That Bar Multi-Family Apartment Construction In Wealthier White Suburbs." "As overt racial discrimination has receded from the housing market, civil rights lawyers and housing advocates have argued that 'disparate impact' claims are vital to dismantling policies and practices that sound like they have little to do with race at all, such as zoning laws that bar multi-family apartment construction in wealthier white suburbs." [The Washington Post, 06/25/15]

Under ECOA And Other Federal Anti-Discrimination Laws, Disparate Impact "Occurs When Otherwise Facially Neutral Policies Have A Disproportionate Effect On Members Of A Protected Class" While Disparate Treatment Is "Intentional Discrimination Against A Protected Class." "Under ECOA and other federal anti-discrimination statutes, the courts generally recognize two theories of liability: disparate treatment and disparate impact. Disparate treatment is intentional discrimination against a protected class, e.g., race, color, national origin, religion, sex, or familial status, while disparate impact occurs when otherwise facially neutral policies have a disproportionate effect on members of a protected class without sufficient business justification." [Wilmer Cutler Pickering Hale and Dorr LLP, 03/24/22]

June 2014: NMHC Filed A Supreme Court Amicus Brief In Texas Department of Housing and Community Affairs V. The Inclusive Communities Project, Arguing That Disparate Impact Theory Represented "A Shift From 'Intentional' To 'Effects-Based' Discrimination Enforcement"...

June 16, 2014: NMHC Filed A Supreme Court Amicus Brief In Texas Department of Housing and Community Affairs, Et Al. V. The Inclusive Communities Project, Inc. Et. Al "Jun 16 2014 Brief amicus curiae of National Multifamily Housing Council filed." [Supreme Court of the United States, 04/24/14]

IN THE

Supreme Court of the United States

TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS, *et al.*,

Petitioners,

v.

THE INCLUSIVE COMMUNITIES PROJECT, INC., *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF OF *AMICUS CURIAE* NATIONAL MULTIFAMILY HOUSING COUNCIL IN SUPPORT OF PETITIONERS

[Amicus Curiae Brief Of National Multifamily Housing Council, 06/16/14]

NHMC Issued A Press Release Touting Its Amicus Brief, Which Argued Against Disparate Impact Discrimination In Fair Housing Laws And Opposed "A Shift From 'intentional' To 'Effects-Based' Discrimination Enforcement." "NMHC/NAA and six other real estate trade associations jointly submitted an amicus brief to the U.S. Supreme Court this week for a case that is anticipated to finally determine what constitutes discrimination under the Fair Housing Act (FHA). Scheduled to begin oral arguments January 21, 2015, this case calls into question the lawfulness of a Texas agency's allocation of Low-Income Housing Tax Credits. Specifically, it originated when the Inclusive Communities Project, a Dallas-based group that advocates for integrated housing, sued the Texas Department of Housing alleging they were discriminating against minority populations by disproportionately approving too many credits in minority areas and too few in non-minority areas, causing a disparate impact on a protected class. This issue highlights a shift from 'intentional' to 'effects-based' discrimination enforcement. While disparate treatment is prohibited by the FHA, policies and practices that result in a disparate impact on a protected class is a much different matter and, as is highlighted in our brief, is not provided for under the FHA." [National Multifamily Housing Council, accessed 04/10/23]

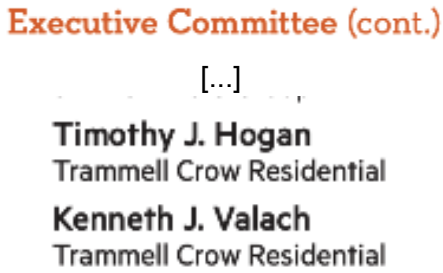
- **Press Release Headline: NMHC and NAA Weigh-In with Supreme Court on Disparate Impact Case** [National Multifamily Housing Council, accessed 04/10/23]

NMHC's Brief Complained That "Resident Criminal History And Credit Screenings" Could Trigger Discrimination Claims Under Disparate Impact Theory. "NMHC/NAA and six other real estate trade associations weighed-in on the issue by jointly submitting an amicus brief to the Supreme Court in November. We argued that disparate impact liability could trigger discrimination claims for conducting resident criminal history and credit screenings, among other business practices, despite no intention of singling out a particular group protected by the Fair Housing Act." [National Multifamily Housing Council, 06/25/15]

In Its Amicus Brief, NMHC Stated That It Was Interested In The Case As "A National Association Representing The Interests Of The Largest And Most Prominent Apartment Firms In The U.S." "INTEREST OF AMICUS CURIAE [...] The amicus curiae National Multifamily Housing Council ('NMHC') is based in Washington, DC. NMHC is a national association representing the interests of the largest and most prominent apartment firms in the U.S. NMHC's members are the principal officers of firms engaged in all aspects of the apartment industry, including ownership, development, management, and financing." [Amicus Curiae Brief Of National Multifamily Housing Council, 06/16/14]

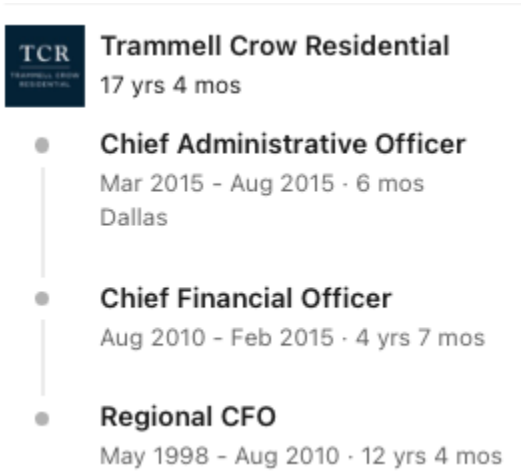
…At The Time, Ken Valach And Another Trammell Crow Residential Executive Were On NMHC's Executive Committee And Another Crow Holdings Capital Executive Was On NMHC's Board Of Directors—Harlan Crow Was Chairman And CEO Of Crow Holdings At This Time.

As Of 2014, NMHC's Executive Committee Included Trammell Crow Residential's Ken Valach And Timothy J. Hogan, The Company's Then-Chief Financial Officer:



[National Multifamily Housing Council via Issuu, 2014]

- **Timothy Hogan, Now Retired, Was Trammell Crow Residential's Chief Financial Officer At The Time Of The Amicus Brief And Later Became Its Chief Administrative Officer In March 2015:**



[Linkedin Profile for Timothy Hogan, accessed 04/10/23]

As Of 2014, NMHC's Board Of Directors Included Crow Holdings Capital's Dodge Carter, Who Is Currently Senior Managing Director Of Crow Holdings Capital's Multifamily Group:

[National Multifamily Housing Council via Issuu, 2014]

- **Dodge Carter Is Currently Senior Managing Director Of Crow Holdings Capital's Multifamily Group.** "Dodge Carter is Senior Managing Director in the Multifamily Group of Crow Holdings Capital, where is responsible for the oversight of the firm's multifamily investment activities and serves as a

member of the CHC Investment Committee. He has been associated with Crow Holdings and affiliated entities since 2003." [Crow Holdings, accessed 04/10/23]

As Of November 2014, Harlan Crow Was Chairman And CEO Of Crow Holdings. "Harlan Crow is the chairman and chief executive officer of Crow Family Holdings, a private family-business established to exclusively manage the capital of the Trammell Crow family. He assumed overall responsibilities for the family operations in 1988 after serving in other management positions." [Crow Holdings via Archive.org, captured 11/19/14, accessed 04/13/23]

July 2015: The Supreme Court Decided Against NMHC's Position In The Case And Upheld Disparate Impact Theory In Fair Housing Act Claims, With Justice Thomas Writing A Separate Dissent Claiming That ""Racial Imbalances Don't Always Disfavor Minorities."

June 2015: In A 5-4 Decision, With Justice Clarence Thomas Dissenting, The Supreme Court Decided In Favor Of The Inclusive Communities Project, Holding That The Fair Housing Act "Prevents More Than Just Intentional Discrimination." "Civil rights groups and the Obama administration won a major victory Thursday as the Supreme Court upheld a tool that advocates argue is essential to fighting housing discrimination and patterns of segregation that have persisted in America for decades. In the 5-4 decision written by Justice Anthony Kennedy, the court ruled that the 1968 Fair Housing Act prevents more than just intentional discrimination in the housing market. The court said the law can also prohibit seemingly race-neutral policies that have the effect of disproportionately harming minorities and other protected groups, even if there is no overt evidence of bias behind them. 'The Court acknowledges,' Kennedy wrote, 'the Fair Housing Act's continuing role in moving the Nation toward a more integrated society.'" [The Washington Post, 06/25/15]

- **Justice Clarence Thomas Did Not Side With The Majority And Wrote His Own Separate Dissent Against The Decision.** "The court's four liberals sided in the case with Kennedy, while Alito was joined in his dissent by Antonin Scalia and John G. Roberts Jr. Clarence Thomas wrote a separate dissent.'" [The Washington Post, 06/25/15]

The Decision Was Seen As "A Defeat For Banks And Developers" Who Claim Disparate Impact Lawsuits Would Discourage Them From Building Affordable Housing And That Such Lawsuits "Unfairly Impugn The Motives Of Banks, Communities And Developers." "The ruling is a defeat for banks and developers who countered that the fear of disparate impact lawsuits might discourage them from trying to build affordable housing. Critics have also argued that 'disparate impact' claims unfairly impugn the motives of banks, communities and developers who never intended to discriminate." [The Washington Post, 06/25/15]

In His Dissent, Justice Thomas Claimed That "Racial Imbalances Don't Always Disfavor Minorities," Citing The High Proportion Of Black NBA Players. "The court's four liberals sided in the case with Kennedy, while Alito was joined in his dissent by Antonin Scalia and John G. Roberts Jr. Clarence Thomas wrote a separate dissent. In his rebuttal, Thomas wrote that racial imbalances don't always disfavor minorities, pointing to instances in which minorities have dominated certain industries. 'And in our own country, for roughly a quarter-century now, over 70 percent of National Basketball Association players have been black,' Thomas wrote. 'To presume that these and all other measurable disparities are products of racial discrimination is to ignore the complexities of human existence.'" [The Washington Post, 06/25/15]

Justice Thomas' Dissent Also Claimed "Racial Imbalance Alone Is Not Sufficient To Prove Unlawful Conduct." "Justice Thomas also argued that racial imbalance alone is not sufficient to prove unlawful conduct and should not be punished as such." [Oyez, 06/25/15]

In His Dissent, Thomas Also Cited A Precedent That NMHC Cited In Its Amicus Brief, But Appeared To Go Even Further Than The Industry Group, Writing That The Precedent Was "Made Of Sand" And That Disparate Impact Theory Represented "Assumption Over Fact" In Discrimination Claims.

In Its Amicus Brief, The NMHC Cited Griggs V. Duke Power Co., Pointing It Out As A Case "Where Congress Inserted Language That Prohibited An Action That Had The Effect Or Result Of Imposing Outcomes On Protected Classes." "Disparate impact liability goes far beyond the parameters of the statute by permitting a finding of unlawful discrimination as a result of an incidental correlation between an otherwise facially neutral policy and the impact of that policy on a class of persons. Disparate impact claims have been permitted under other federal discrimination laws, but only where Congress inserted language that prohibited an action that had the effect or result of imposing outcomes on protected classes. See, e.g., Raytheon Co. v. Hernandez, 540 U.S. 44, 53 (2003) ("Both disparate-treatment and disparate-impact claims are cognizable under the [Americans with Disabilities Act]."); Griggs v. Duke Power Co., 401 U.S. 424 (1971) (recognizing that disparate impact claims are cognizable under § 703(a)(1) of Title VII)." [Amicus Curiae Brief Of National Multifamily Housing Council, 06/16/14]

In His Dissent, Justice Thomas Cited Griggs V. Duke Power Co. And Claimed The Decision "Wrongly Interpreted Title VII As Enabling Disparate-Impact Liability" Under The Fair Housing Act. "Justice Clarence Thomas wrote a dissent in which he argued that the Court's decision in Griggs v. Duke Power Co., on which the majority opinion based its Title VII analysis, wrongly interpreted Title VII as enabling disparate-impact liability, and therefore that opinion should not serve as the basis for the majority opinion's interpretation of the FHA in this case." [Oyez, 06/25/15]

In His Dissent, Justice Thomas Wrote That Griggs' V. Duke Power Co.'s Application Of Disparate Impact Theory Was "Made Of Sand" And "Represents The Triumph Of An Agency's Preferences Over Congress' Enactment And Of Assumption Over Fact." "I join Justice Alito's dissent in full. I write separately to point out that the foundation on which the Court builds its latest disparate-impact regime—Griggs v. Duke Power Co., 401 U. S. 424 (1971) —is made of sand. That decision, which concluded that Title VII of the Civil Rights Act of 1964 authorizes plaintiffs to bring disparate-impact claims, id., at 429–431, represents the triumph of an agency's preferences over Congress' enactment and of assumption over fact. Whatever respect Griggs merits as a matter of stare decisis, I would not amplify its error by importing its disparate-impact scheme into yet another statute." [Justia, 06/25/15]

Loper v. Raimondo

In *Loper v. Raimondo*, The Supreme Court Will Hear A "Major" Challenge Against Chevron Deference, Which Has Been Used To Uphold "Thousands" Of Federal Agency Rules—The Case Could Have A Major Impact On The U.S. Department Of Housing And Urban Development, Which Has Relied Significantly On Chevron Deference In Litigation.

The Supreme Court Has Granted Review Of *Loper v. Raimondo*, A "Major" Challenge Against Chevron Deference, A Longstanding Precedent "Used To Uphold Thousands Of Agency Rules" In Which Courts Have Deferred To Federal Agency Expertise In Policymaking Disputes.

In Loper v. Raimondo, The Supreme Court Will Hear A "Major" Challenge On Federal Rulemaking Where They Will Consider Chevron Deference, A "A 39-Year-Old Legal Precedent That Has Been Used

To Uphold Thousands Of Agency Rules Across The Entire Federal Government." "The Supreme Court will decide a challenge over how courts assess federal rule-making, setting up a major case for its next term that could change the balance of power between executive agencies, Congress and the judiciary. The case the court announced Monday, Loper Bright Enterprises et al. v. Raimondo, centers on a challenge to a Commerce Department rule on fishery inspectors. But the justices said they will reconsider a 39-year-old legal precedent that has been used to uphold thousands of agency rules across the entire federal government. Federal agencies, from the Justice Department to the EPA and the Federal Communications Commission, regularly assert what's known as 'Chevron deference' in defending their rules in court." [Roll Call, 05/01/23]

- **Chevron v. National Resources Defense Council Was A "Modern Foundational" Decision Which Held That Courts Should Defer To Federal Agencies' Policymaking Decisions Due To Their "Far Greater Expertise" Than Judges.** "The Supreme Court announced on Monday that it will reconsider one of its modern foundational decisions, Chevron v. National Resources Defense Council (1984), which for decades defined the balance of power between the federal judiciary and the executive branch of government. Chevron established that courts ordinarily should defer to policymaking decisions made by federal agencies, such as the Environmental Protection Agency or the Department of Labor, for two reasons: Agencies typically have far greater expertise in the areas they regulate than judges, and thus are more likely to make wise policy decisions." [Vox, 05/02/23]

- **The Supreme Court Granted Review Of Loper Bright Enterprises, Et Al. V. Gina Raimondo, Secretary Of Commerce, Et Al. On May 1, 2023.** [Oyez, accessed 08/09/23]

Loper v. Raimondo "Explicitly Asks 'Whether The Court Should Overrule Chevron.'" "Nevertheless, next term the Court will hear a case, Loper Bright Enterprises v. Raimondo, which explicitly asks 'whether the court should overrule Chevron.'" [Vox, 05/02/23]

Overturning Chevron, Which Would "Make The United States Far Less Democratic," Is Part Of A Long-Term Conservative Project That "Shifts Power Away From The Other Two Branches, Whose Leaders Are Elected, And To The Unelected Members Of The Federal Judiciary." "And a decision overruling Chevron would also make the United States far less democratic. One of the Supreme Court's most consequential projects in the last several years, a project that took off after former President Donald Trump remade the Court with three appointees, has been concentrating authority over federal policymaking within the Court itself. This project necessarily shifts power away from the other two branches, whose leaders are elected, and to the unelected members of the federal judiciary." [Vox, 05/02/23]

According To A 2017 Study, Chevron Deference Was Applied In Over 40% Of Cases Involving The U.S. Department Of Housing And Urban Development (HUD).

HUD Significantly Relies On Chevron Deference, According To A 2017 Study By Administrative Law Scholars Kent Barnett And Christopher J. Walker. "Two tables from a study by administrative law scholars Kent Barnett and Christopher J. Walker are reproduced below. The figures therein are based on a review of relevant federal court cases and reflect the average of three statistics: the agency's overall win rate, the rate at which Chevron deference was applied as a proportion of the total number of cases in the dataset, and the agency's win rate conditional on Chevron being applied. The resultant figure was subsequently normalized onto a zero-to-10 scale, with larger numbers indicating a higher frequency of agencies being afforded deference." [American Action Forum, 08/08/23]

- **According To The Study, Chevron Deference Was Applied In Over 41% Of Cases Involving HUD:**

TABLE 3. AGENCY-BY-AGENCY COMPOSITE DEFERENCE SCORES

Agency	*n*	Composite Score	Overall Win Rate	Chevron Applied	Chevron Win Rate
1. ICC/STB	16	9.38	100.0% (1)	81.3% (10)	100.0% (1)
2. FCC	80	8.67	82.5% (4)	88.8% (5)	88.7% (3)
3. Treasury	19	8.37	78.9% (7)	78.9% (13)	93.3% (2)
4. NLRB	32	8.26	78.1% (8)	87.5% (6)	82.1% (11)
5. Commerce	46	8.18	76.1% (11)	87.0% (7)	82.5% (9)
6. Defense/ Armed Forces	23	8.13	87.0% (3)	69.6% (19)	87.5% (4)
7. FDA	20	8.08	75.0% (12)	85.0% (8)	82.4% (10)
8. Education	20	8.06	80.0% (5)	75.0% (15)	86.7% (5)
9. HHS	85	7.89	80.0% (5)	72.9% (17)	83.9% (7)
10. Veterans Administration	27	7.88	77.8% (9)	77.8% (14)	81.0% (13)
11. ITC	11	7.79	72.7% (15)	90.9% (2)	70.0% (20)
12. Interior	31	7.66	77.4% (10)	74.2% (16)	78.3% (14)
13. EPA	159	7.49	67.9% (20)	89.3% (4)	67.6% (21)
14. Agriculture	35	7.45	68.6% (19)	80.0% (11)	75.0% (17)
15. SEC	24	7.43	75.0% (12)	66.7% (22)	81.3% (12)
16. FERC	38	7.37	60.5% (24)	100.0% (1)	60.5% (26)
17. OPM	13	7.30	61.5% (23)	84.6% (9)	72.7% (19)
18. Immigration Agencies	477	7.23	67.7% (21)	72.7% (18)	76.4% (16)
19. Labor	98	7.14	70.4% (16)	59.2% (24)	84.5% (6)
20. Transportation	26	7.04	69.2% (17)	65.4% (23)	76.5% (15)
21. Social Security Administration	13	6.84	69.2% (17)	69.2% (20)	66.7% (22)
22. Bureau of Prisons	19	6.79	73.7% (14)	68.4% (21)	61.5% (25)
23. IRS	45	6.78	66.7% (22)	53.3% (25)	83.3% (8)
24. Justice	29	6.77	58.6% (25)	79.3% (12)	65.2% (24)
25. FTC	11	6.74	90.9% (2)	36.4% (28)	75.0% (17)
26. Energy	11	6.21	45.5% (27)	90.9% (2)	50.0% (28)
27. HUD	24	5.19	54.2% (26)	41.7% (27)	60.0% (27)
28. EEOC	14	5.08	42.9% (28)	42.9% (26)	66.7% (22)

[American Action Forum, 08/08/23]

- **Kent Barnett And Christopher J. Walker's Study Was Published In 2017.** [Michigan Law Review, 2017]

In 2018, Trammell Crow Residential Submitted A Comment Asking The U.S. Department Of Housing And Urban Development (HUD) To Roll Back Its Anti-Discriminatory Disparate Impact Standard To Reflect A 2015 Supreme Court Decision That Upheld "'Properly Limited'" Chevron Deference For The HUD Rule.

2018: On Behalf Of Trammell Crow Residential, CEO Ken Valach Submitted A Comment Asking The U.S. Department Of Housing And Urban Development (HUD) To Reconsider Its Implementation Of The Fair Housing Act's (FHA's) Disparate Impact Standard To Prevent Systemic Housing Discrimination.

August 2018: Trammell Crow Residential CEO Kenneth J. Valach Submitted A Comment To The U.S. Department Of Housing And Urban Development (HUD) For Its June 2018 Advanced Notice Of Proposed Rulemaking (ANPR) Titled "'Reconsideration Of HUD's Implementation Of The Fair Housing Act's Disparate Impact Standard.'" "Thank you for allowing me to provide comments in response to HUD's advanced notice of proposed rulemaking ('ANPR') titled 'Reconsideration of HUD's Implementation of the Fair Housing Act's Disparate Impact Standard' and dated June 20, 2018. These comments are submitted on behalf of Trammell Crow Residential (TCR)." [Comment ID HUD-2018-0047-0430, Regulations.gov, 08/20/18 (Attached File)]

TCR

TRAMMELL CROW RESIDENTIAL

[...]

U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410

[...]

Respectfully,

Kenneth J. Valach
Chief Executive Officer
Trammell Crow Residential

[Comment ID HUD-2018-0047-0430, Regulations.gov, 08/20/18 (Attached File)]

- **June 2018: HUD Issued An ANPR Seeking Comment On Whether It Should Revise Its 2013 FHA Disparate Impact Standard To Reflect The Supreme Court's 2015 Decision In** "In June 2018, HUD issued an advance notice of proposed rulemaking (ANPR) seeking comment on whether its 2013 Fair Housing Act disparate impact rule (Rule) should be revised in light of the U.S. Supreme Court's 2015 Inclusive Communities decision." [Ballard Spahr LLP, 10/30/18]

June 2015: In A 5-4 Decision, With Justices John Roberts, Clarence Thomas, Samuel Alito, And Antonin Scalia Dissenting, The Supreme Court Decided In Favor Of The Inclusive Communities Project, Holding That The FHA "Prevents More Than Just Intentional Discrimination." "Civil rights groups and the Obama administration won a major victory Thursday as the Supreme Court upheld a tool that advocates argue

is essential to fighting housing discrimination and patterns of segregation that have persisted in America for decades. In the 5-4 decision written by Justice Anthony Kennedy, the court ruled that the 1968 Fair Housing Act prevents more than just intentional discrimination in the housing market. The court said the law can also prohibit seemingly race-neutral policies that have the effect of disproportionately harming minorities and other protected groups, even if there is no overt evidence of bias behind them. 'The Court acknowledges,' Kennedy wrote, 'the Fair Housing Act's continuing role in moving the Nation toward a more integrated society.'" [The Washington Post, 06/25/15]

- **Justice Clarence Thomas Did Not Side With The Majority And Wrote His Own Separate Dissent Against The Decision—Also Dissenting Were Justices John Roberts, Antonin Scalia, And Samuel Alito.** "The court's four liberals sided in the case with Kennedy, while Alito was joined in his dissent by Antonin Scalia and John G. Roberts Jr. Clarence Thomas wrote a separate dissent.'" [The Washington Post, 06/25/15]

The Decision Was Seen As "A Defeat For Banks And Developers" Who Claim Disparate Impact Lawsuits Would Discourage Them From Building Affordable Housing And That Such Lawsuits "Unfairly Impugn The Motives Of Banks, Communities And Developers." "The ruling is a defeat for banks and developers who countered that the fear of disparate impact lawsuits might discourage them from trying to build affordable housing. Critics have also argued that 'disparate impact' claims unfairly impugn the motives of banks, communities and developers who never intended to discriminate." [The Washington Post, 06/25/15]

Civil Rights And Fair Housing Advocates Have Argued That Disparate Impact Claims Are Necessary To Dismantle Practices That Systematically Harm Disadvantaged Communities, Such As "Zoning Laws That Bar Multi-Family Apartment Construction In Wealthier White Suburbs." "As overt racial discrimination has receded from the housing market, civil rights lawyers and housing advocates have argued that 'disparate impact' claims are vital to dismantling policies and practices that sound like they have little to do with race at all, such as zoning laws that bar multi-family apartment construction in wealthier white suburbs." [The Washington Post, 06/25/15]

Valach's Comment Claimed That HUD's Standard Was Too Broad Following The Supreme Court's 2015 Decision In *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project*, Where The Court Decided That HUD Was Entitled To "'Properly Limited'" Chevron Deference In Its Disparate Impact Rules.

Valach's Comment To HUD Claimed That Its ANPR Conflicted With The Supreme Court's 2015 Decision In *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project* And Should Be Revised. "HUD's 2013 Final Rule conflicts with the Supreme Court's 2015 Inclusive Communities decision, and should be revised to reflect the analysis of the Supreme Court and subsequent court rulings. In addition, between 2013 and 2017, HUD issued a series of subsequent rules and guidance documents derived from the 2013 Final Rule that should also be reevaluated and reissued to ensure compatibility with the Supreme Court's Inclusive Communities decision." [Comment ID HUD-2018-0047-0430, Regulations.gov, 08/20/18 (Attached File)]

Valach's Comment Claimed That "The Disconnect Between The Language And Reasoning Of The Final Rule And The Inclusive Communities Decision Creates Uncertainty For Housing Providers And Maintains Problematic Legal Conditions Specifically Rebuked By The Supreme Court." "The disconnect between the language and reasoning of the Final Rule and the Inclusive Communities decision creates uncertainty for housing providers and maintains problematic legal conditions specifically rebuked by the Supreme Court." [Comment ID HUD-2018-0047-0430, Regulations.gov, 08/20/18 (Attached File)]

Valach's Comment Stated That The Supreme Court "Was Explicit In Its Reasoning That Disparate Impact Liability Should Be 'Properly Limited' And Focused On Rooting Out 'Artificial Barriers To

Housing.'" "The Inclusive Communities Court was explicit in its reasoning that disparate impact liability should be 'properly limited' and focused on rooting out 'artificial barriers to housing.'" [Comment ID HUD-2018-0047-0430, Regulations.gov, 08/20/18 (Attached File)]

In The Inclusive Communities Case, The Supreme Court Reviewed Whether HUD's Interpretation Of The Fair Housing Act (FHA) Was Subject To Chevron Deference, A "39-Year-Old Legal Precedent That Has Been Used To Uphold Thousands Of Agency Rules." "In this case, the Supreme Court will determine whether the U.S. Department of Housing and Urban Development ('HUD')'s interpretation of the Fair Housing Act ('FHA') to include disparate-impact claims is subject to Chevron deference, which would result in disparate-impact liability under the FHA." [Cornell Law School, 01/21/15]

- **In 2023, The Supreme Court Decided To Hear A Challenge To Chevron Deference, "A 39-Year-Old Legal Precedent That Has Been Used To Uphold Thousands Of Agency Rules Across The Entire Federal Government."** "The Supreme Court will decide a challenge over how courts assess federal rule-making, setting up a major case for its next term that could change the balance of power between executive agencies, Congress and the judiciary. The case the court announced Monday, Loper Bright Enterprises et al. v. Raimondo, centers on a challenge to a Commerce Department rule on fishery inspectors. But the justices said they will reconsider a 39-year-old legal precedent that has been used to uphold thousands of agency rules across the entire federal government. Federal agencies, from the Justice Department to the EPA and the Federal Communications Commission, regularly assert what's known as "Chevron deference" in defending their rules in court." [Roll Call, 05/01/23]

In The Case, Inclusive Communities Argued That HUD's Interpretation Of The FHA Was Entitled To Chevron Deference Due To The Law's Intent Of "'Remedy[Ing] Existing Effects Of Prior Intentional Segregation.'" "The Texas Department of Housing and Community Affairs argues that the Court should not defer to the HUD's interpretation, which it claims is unreasonable because the language of the FHA differs from other statutes that explicitly allow disparate-impact liability. Inclusive Communities, on the other hand, argues that the HUD's interpretation is entitled to deference because it is reasonable, and is in fact the most favorable interpretation, given that the FHA's goal of 'remedy[ing] existing effects of prior intentional segregation.'" [Cornell Law School, 01/21/15]

- **Inclusive Communities Argued That HUD Was Entitled To Chevron Deference Because "Congress Gave HUD The Power To Interpret The FHA, To Implement It, And To Adopt Rules Necessary For Doing So."** "On the other hand, Inclusive Communities argues that HUD's interpretation of the text of the FHA is entitled to Chevron deference, meaning that the Court should defer to HUD's interpretation unless it is unreasonable. Inclusive Communities claims that HUD's interpretation is entitled to Chevron deference because rather than stating exactly how a plaintiff may prove a claim under the FHA, Congress gave HUD the power to interpret the FHA, to implement it, and to adopt rules necessary for doing so." [Cornell Law School, 01/21/15]

The Texas Department of Housing and Community Affairs (TDHCA) Argued That The FHA Only Allows Plaintiffs To Bring Claims Of Intentional Discrimination And That "HUD's Interpretation Is Not Entitled To Chevron Deference Because The Text Is Not Ambiguous." "The TDHCA argues that the text of the FHA unambiguously establishes that a plaintiff may only bring a claim if there has been intentional discrimination, and therefore, HUD's interpretation is not entitled to Chevron deference because the text is not ambiguous." [Cornell Law School, 01/21/15]

In 2019, The Trump HUD Proposed A Never-Enacted Revision To Its Disparate Impact Rule To Reflect The 2015 Supreme Court Decision, With Housing Advocates Arguing The Proposal Was "Essentially A Safe Harbor Or Exemption From Disparate Impact Liability For The Entire [Housing] Industry"—The Biden HUD Later Restored The Original Disparate Impact Rule.

2019: Under Trump Housing Secretary Ben Carson, HUD Proposed A Revision To Its Disparate Impact Rule "To Better Reflect The Supreme Court's 2015 Ruling In Texas Department Of Housing And Community Affairs V. Inclusive Communities Project, Inc." "On August 16, HUD released a proposed revision of its Disparate Impact Rule, which implements HUD's interpretation of the Fair Housing Act's Discriminatory Effects Standard, to better reflect the Supreme Court's 2015 ruling in Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc." [National Council of State Housing Agencies, 08/16/19]

- **2017-2021: Ben Carson Was U.S. Secretary Of Housing And Urban Development Under The Trump Administration.** "He later became active in politics and served as U.S. secretary of housing and urban development (HUD; 2017–21) in the administration of U.S. Pres. Donald Trump." [Encyclopaedia Britannica, accessed 08/08/23]

The Urban Institute Argued That HUD's Disparate Impact Revision Said HUD's Proposed Revision Would "Give The Upper Hand To Those Defending Potentially Discriminatory Housing Practices" And Called It "Essentially A Safe Harbor Or Exemption From Disparate Impact Liability For The Entire [Housing] Industry." "HUD's Proposal to Revise the Disparate Impact Standard Will Impede Efforts to Close the Homeownership Gap [...] The latest proposal from the US Department of Housing and Urban Development (HUD) for redressing systemic housing discrimination would nonetheless give the upper hand to those defending potentially discriminatory housing practices. [...] This is essentially a safe harbor or exemption from disparate impact liability for the entire industry." [Urban Institute, September 2019]

- **The Urban Institute Argued That In Texas Dept. Of Housing and Community Affairs v. Inclusive Communities, The Supreme Court "Plainly Intended For Plaintiffs To Have The Option To Proceed Under A Disparate Impact Method Of Proof."** "Plaintiffs can still attempt to prove intentional discrimination, but the Supreme Court ruled just a few years ago, in Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project, that Congress plainly intended for plaintiffs to have the option to proceed under a disparate impact method of proof, which 'permits plaintiffs to counteract unconscious prejudices and disguised animus that escape easy classification as disparate treatment.'" [Urban Institute, September 2019]

2020: After The Trump HUD Adopted A Revised Disparate Impact Standard, Claiming It Was Consistent With The Supreme Court's 2013 Inclusive Communities Decision, The Revised Standard Was Stayed And Halted By A Federal District Court In Massachusetts. "The U.S. Department of Housing and Urban Development (HUD) recently issued a final rule reinstating the 2013 version of its disparate impact rule under the Fair Housing Act (Act) to replace a version of the rule adopted by HUD during the Trump Administration in 2020 that never became effective. [...] As noted above, in 2020 the HUD adopted a revised version of the disparate impact rule, claiming that the revisions were consistent with the decision in the Inclusive Communities case. The 2020 version of the rule soon faced legal challenges, and before the rule could become effective a Massachusetts federal district court in the case Massachusetts Fair Hous. Ctr., et al. v. HUD issued a preliminary injunction staying and postponing the effective date of the rule." [Ballard Spahr LLP, 03/20/23]

2023: After The Trump HUD's Disparate Impact Revision "Never Became Effective," The Biden HUD Moved To Restore The 2013 Version Of The Rule. "The U.S. Department of Housing and Urban Development (HUD) recently issued a final rule reinstating the 2013 version of its disparate impact rule under

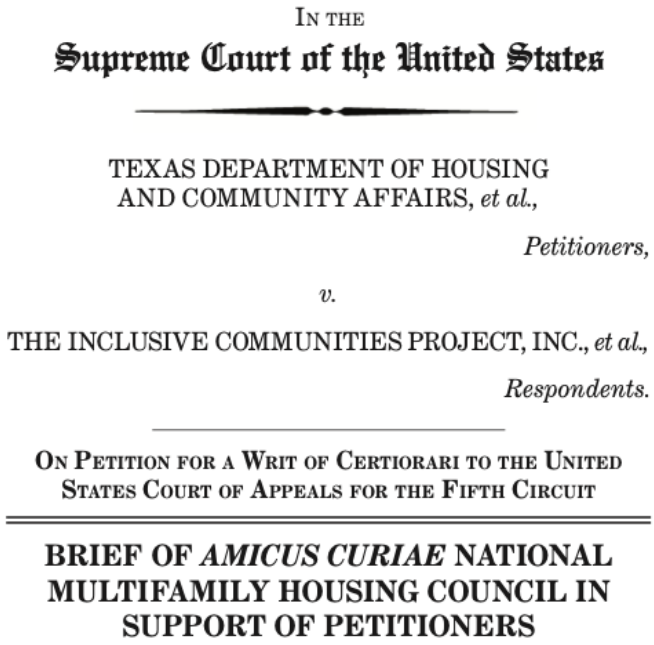
the Fair Housing Act (Act) to replace a version of the rule adopted by HUD during the Trump Administration in 2020 that never became effective." [Ballard Spahr LLP, 03/20/23]

- **March 2023: The Biden HUD Submitted A Final Rule Restoring The 2013 Disparate Impact Rule.** "Today, the U.S. Department of Housing and Urban Development (HUD) announced that it has submitted to the Federal Register for publication a Final Rule entitled Restoring HUD's Discriminatory Effects Standard. The Final Rule rescinds the Department's 2020 rule governing Fair Housing Act disparate impact claims and restores the 2013 discriminatory effects rule." [U.S. Department of Housing and Urban Development, 03/17/23]

2014: While Valach And Another Crow Executive Were On NMHC's Executive Committee, The Group Filed A Supreme Court Amicus Brief Against Disparate Impact Theory, Arguing "The Court Is Not Required To Defer To HUD's Regulation" And Citing Limiting Language In The Chevron Decision.

June 2014: NMHC Filed A Supreme Court Amicus Brief That Cited The Chevron Decision And Argued "The Court Is Not Required To Defer To HUD's Regulation" In Supreme Court Disparate Impact Case *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project...*

June 16, 2014: NMHC Filed A Supreme Court Amicus Brief In Texas Department of Housing and Community Affairs, Et Al. V. The Inclusive Communities Project, Inc. Et. Al "Jun 16 2014 Brief amicus curiae of National Multifamily Housing Council filed." [Supreme Court of the United States, 04/24/14]



IN THE

Supreme Court of the United States

TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS, *et al.*,

Petitioners,

v.

THE INCLUSIVE COMMUNITIES PROJECT, INC., *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF OF *AMICUS CURIAE* NATIONAL MULTIFAMILY HOUSING COUNCIL IN SUPPORT OF PETITIONERS

[Amicus Curiae Brief Of National Multifamily Housing Council, 06/16/14]

A Central Argument Of NMHC's Brief Was "The Court Is Not Required To Defer To HUD's Regulation" As It Cited The Chevron Decision's Language Requiring That Agencies Abide By "'Clear'" Congressional Intent. "The plain language of the FHAct leaves no doubt that Congress intended to prohibit only intentional discrimination in housing practices, not disparate impacts resulting from housing practices. Because 'the intent of Congress is clear' under the terms of the FHAct, 'that is the end of the matter; for the

court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.' Chevron U.S.A. Inc. v. Natural Res. Def. Council, Inc., 467 U.S. 837, 841 (1984)." [Amicus Curiae Brief Of National Multifamily Housing Council, 06/16/14]

B. The Court Is Not Required to Defer to HUD's Regulations.

[Amicus Curiae Brief Of National Multifamily Housing Council, 06/16/14]

- **NMHC's Brief Argued That HUD's Disparate Impact Rules "Exceed HUD's Statutory Authority And Are Therefore Invalid."** "HUD's regulations cannot 'administer' or 'carry out' the other provisions of the FHAct by creating a new or different right. Thus, HUD's regulations are entitled to no deference. Indeed, they exceed HUD's statutory authority and are therefore invalid." [Amicus Curiae Brief Of National Multifamily Housing Council, 06/16/14]

NHMC Issued A Press Release Touting Its Amicus Brief, Which Argued Against Disparate Impact Discrimination In Fair Housing Laws And Opposed "A Shift From 'intentional' To 'Effects-Based' Discrimination Enforcement." "NMHC/NAA and six other real estate trade associations jointly submitted an amicus brief to the U.S. Supreme Court this week for a case that is anticipated to finally determine what constitutes discrimination under the Fair Housing Act (FHA). Scheduled to begin oral arguments January 21, 2015, this case calls into question the lawfulness of a Texas agency's allocation of Low-Income Housing Tax Credits. Specifically, it originated when the Inclusive Communities Project, a Dallas-based group that advocates for integrated housing, sued the Texas Department of Housing alleging they were discriminating against minority populations by disproportionately approving too many credits in minority areas and too few in non-minority areas, causing a disparate impact on a protected class. This issue highlights a shift from 'intentional' to 'effects-based' discrimination enforcement. While disparate treatment is prohibited by the FHA, policies and practices that result in a disparate impact on a protected class is a much different matter and, as is highlighted in our brief, is not provided for under the FHA." [National Multifamily Housing Council, accessed 04/10/23]

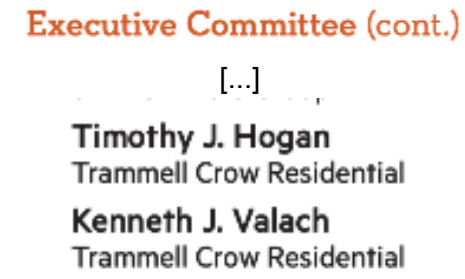
- **Press Release Headline: NMHC and NAA Weigh-In with Supreme Court on Disparate Impact Case** [National Multifamily Housing Council, accessed 04/10/23]

NMHC's Brief Complained That "Resident Criminal History And Credit Screenings" Could Trigger Discrimination Claims Under Disparate Impact Theory. "NMHC/NAA and six other real estate trade associations weighed-in on the issue by jointly submitting an amicus brief to the Supreme Court in November. We argued that disparate impact liability could trigger discrimination claims for conducting resident criminal history and credit screenings, among other business practices, despite no intention of singling out a particular group protected by the Fair Housing Act." [National Multifamily Housing Council, 06/25/15]

In Its Amicus Brief, NMHC Stated That It Was Interested In The Case As "A National Association Representing The Interests Of The Largest And Most Prominent Apartment Firms In The U.S." "INTEREST OF AMICUS CURIAE [...] The amicus curiae National Multifamily Housing Council ('NMHC') is based in Washington, DC. NMHC is a national association representing the interests of the largest and most prominent apartment firms in the U.S. NMHC's members are the principal officers of firms engaged in all aspects of the apartment industry, including ownership, development, management, and financing." [Amicus Curiae Brief Of National Multifamily Housing Council, 06/16/14]

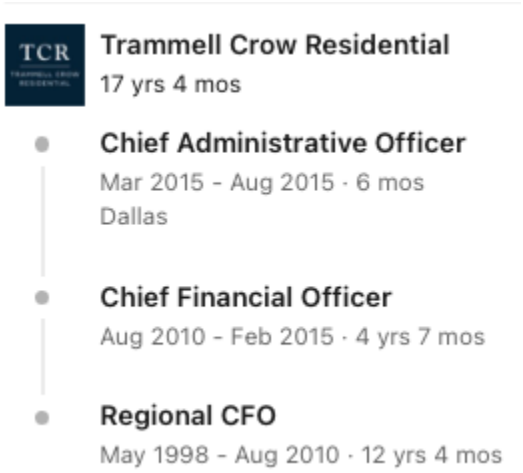
…At The Time Of The 2014 Amicus Brief, Ken Valach And Another Trammell Crow Residential Executive Were On NMHC's Executive Committee And Another Crow Holdings Capital Executive Was On NMHC's Board Of Directors—Harlan Crow Was Chairman And CEO Of Crow Holdings At This Time.

As Of 2014, NMHC's Executive Committee Included Trammell Crow Residential's Ken Valach And Timothy J. Hogan, The Company's Then-Chief Financial Officer:



[National Multifamily Housing Council via Issuu, 2014]

- **Timothy Hogan, Now Retired, Was Trammell Crow Residential's Chief Financial Officer At The Time Of The Amicus Brief And Later Became Its Chief Administrative Officer In March 2015:**



[Linkedin Profile for Timothy Hogan, accessed 04/10/23]

As Of 2014, NMHC's Board Of Directors Included Crow Holdings Capital's Dodge Carter, Who Is Currently Senior Managing Director Of Crow Holdings Capital's Multifamily Group:

[National Multifamily Housing Council via Issuu, 2014]

- **Dodge Carter Is Currently Senior Managing Director Of Crow Holdings Capital's Multifamily Group.** "Dodge Carter is Senior Managing Director in the Multifamily Group of Crow Holdings Capital, where is responsible for the oversight of the firm's multifamily investment activities and serves as a member of the CHC Investment Committee. He has been associated with Crow Holdings and affiliated entities since 2003." [Crow Holdings, accessed 04/10/23]

As Of November 2014, Harlan Crow Was Chairman And CEO Of Crow Holdings. "Harlan Crow is the chairman and chief executive officer of Crow Family Holdings, a private family-business established to exclusively manage the capital of the Trammell Crow family. He assumed overall responsibilities for the family

operations in 1988 after serving in other management positions." [Crow Holdings via Archive.org, captured 11/19/14, accessed 04/13/23]

July 2015: The Supreme Court Decided Against NMHC's Position In The Case And Upheld Disparate Impact Theory In Fair Housing Act Claims, With Justice Thomas Writing A Separate Dissent Claiming That "Racial Imbalances Don't Always Disfavor Minorities."

June 2015: In A 5-4 Decision, With Justice Clarence Thomas Dissenting, The Supreme Court Decided In Favor Of The Inclusive Communities Project, Holding That The Fair Housing Act "Prevents More Than Just Intentional Discrimination." "Civil rights groups and the Obama administration won a major victory Thursday as the Supreme Court upheld a tool that advocates argue is essential to fighting housing discrimination and patterns of segregation that have persisted in America for decades. In the 5-4 decision written by Justice Anthony Kennedy, the court ruled that the 1968 Fair Housing Act prevents more than just intentional discrimination in the housing market. The court said the law can also prohibit seemingly race-neutral policies that have the effect of disproportionately harming minorities and other protected groups, even if there is no overt evidence of bias behind them. 'The Court acknowledges,' Kennedy wrote, 'the Fair Housing Act's continuing role in moving the Nation toward a more integrated society.'" [The Washington Post, 06/25/15]

- **Justice Clarence Thomas Did Not Side With The Majority And Wrote His Own Separate Dissent Against The Decision.** "The court's four liberals sided in the case with Kennedy, while Alito was joined in his dissent by Antonin Scalia and John G. Roberts Jr. Clarence Thomas wrote a separate dissent.'" [The Washington Post, 06/25/15]

The Decision Was Seen As "A Defeat For Banks And Developers" Who Claim Disparate Impact Lawsuits Would Discourage Them From Building Affordable Housing And That Such Lawsuits "Unfairly Impugn The Motives Of Banks, Communities And Developers." "The ruling is a defeat for banks and developers who countered that the fear of disparate impact lawsuits might discourage them from trying to build affordable housing. Critics have also argued that 'disparate impact' claims unfairly impugn the motives of banks, communities and developers who never intended to discriminate." [The Washington Post, 06/25/15]

In His Dissent, Justice Thomas Claimed That "Racial Imbalances Don't Always Disfavor Minorities," Citing The High Proportion Of Black NBA Players. "The court's four liberals sided in the case with Kennedy, while Alito was joined in his dissent by Antonin Scalia and John G. Roberts Jr. Clarence Thomas wrote a separate dissent. In his rebuttal, Thomas wrote that racial imbalances don't always disfavor minorities, pointing to instances in which minorities have dominated certain industries. 'And in our own country, for roughly a quarter-century now, over 70 percent of National Basketball Association players have been black,' Thomas wrote. 'To presume that these and all other measurable disparities are products of racial discrimination is to ignore the complexities of human existence.'" [The Washington Post, 06/25/15]

Justice Thomas' Dissent Also Claimed "Racial Imbalance Alone Is Not Sufficient To Prove Unlawful Conduct." "Justice Thomas also argued that racial imbalance alone is not sufficient to prove unlawful conduct and should not be punished as such." [Oyez, 06/25/15]

In His Dissent, Thomas Also Cited A Precedent That NMHC Cited In Its Amicus Brief, But Appeared To Go Even Further Than The Industry Group, Writing That The Precedent Was "Made Of Sand" And That Disparate Impact Theory Represented "Assumption Over Fact" In Discrimination Claims.

In Its Amicus Brief, The NMHC Cited Griggs V. Duke Power Co., Pointing It Out As A Case "Where Congress Inserted Language That Prohibited An Action That Had The Effect Or Result Of Imposing Outcomes On Protected Classes." "Disparate impact liability goes far beyond the parameters of the statute

by permitting a finding of unlawful discrimination as a result of an incidental correlation between an otherwise facially neutral policy and the impact of that policy on a class of persons. Disparate impact claims have been permitted under other federal discrimination laws, but only where Congress inserted language that prohibited an action that had the effect or result of imposing outcomes on protected classes. See, e.g., Raytheon Co. v. Hernandez, 540 U.S. 44, 53 (2003) ("Both disparate-treatment and disparate-impact claims are cognizable under the [Americans with Disabilities Act]."); Griggs v. Duke Power Co., 401 U.S. 424 (1971) (recognizing that disparate impact claims are cognizable under § 703(a)(1) of Title VII)." [Amicus Curiae Brief Of National Multifamily Housing Council, 06/16/14]

In His Dissent, Justice Thomas Cited Griggs V. Duke Power Co. And Claimed The Decision "Wrongly Interpreted Title VII As Enabling Disparate-Impact Liability" Under The Fair Housing Act. "Justice Clarence Thomas wrote a dissent in which he argued that the Court's decision in Griggs v. Duke Power Co., on which the majority opinion based its Title VII analysis, wrongly interpreted Title VII as enabling disparate-impact liability, and therefore that opinion should not serve as the basis for the majority opinion's interpretation of the FHA in this case." [Oyez, 06/25/15]

In His Dissent, Justice Thomas Wrote That Griggs' V. Duke Power Co.'s Application Of Disparate Impact Theory Was "Made Of Sand" And "Represents The Triumph Of An Agency's Preferences Over Congress' Enactment And Of Assumption Over Fact." "I join Justice Alito's dissent in full. I write separately to point out that the foundation on which the Court builds its latest disparate-impact regime—Griggs v. Duke Power Co., 401 U. S. 424 (1971) —is made of sand. That decision, which concluded that Title VII of the Civil Rights Act of 1964 authorizes plaintiffs to bring disparate-impact claims, id., at 429–431, represents the triumph of an agency's preferences over Congress' enactment and of assumption over fact. Whatever respect Griggs merits as a matter of stare decisis, I would not amplify its error by importing its disparate-impact scheme into yet another statute." [Justia, 06/25/15]

Acheson Hotels LLC V. Laufer

The Supreme Court Is Currently Reviewing The Disability Accommodation Case *Acheson Hotels LLC V. Laufer*—Meanwhile, Harlan Crow's Trammell Crow Residential Has Settled For Disability Violations And Crow Is On The Board Of The American Enterprise Institute, Whose Supreme Court Senior Fellow Appears To Be President Of A Brand New Group That Filed An Amicus Brief Urging The Supreme Court To Review The Case.

March 2023: The Supreme Court Granted Review Of *Acheson Hotels LLC V. Laufer*, Disputing The Standing Of An Americans With Disabilities Act (ADA) Lawsuit Over Acheson Hotel's Failure To Publish Accessibility Information On Its Website.

March 27, 2023: The Supreme Court Granted A Review Of *Acheson Hotels LLC V. Laufer*:

22-429 ***CFX*** ***ACHESON HOTELS, LLC V. LAUFER***
Court: USCA-1 Granted: 3/27/23

[Supreme Court of the United States, 04/24/23]

At Issue In The Case Was Whether An Americans With Disabilities Act "'Tester'" Has "Standing To Challenge A Place Of Public Accommodations Failure To Provide Disability Accessibility Information On Its Website, Even If She Lacks Any Intention Of Visiting That Place." "Issue(s): Whether a

self-appointed Americans with Disabilities Act 'tester' has Article III standing to challenge a place of public accommodation's failure to provide disability accessibility information on its website, even if she lacks any intention of visiting that place of public accommodation." [SCOTUSblog, accessed 05/04/23]

Deborah Laufer, Who Has "Physical Disabilities And Vision Impairments," Sued Acheson Hotels For "Failing To Publish Information About Their Accessibility On Their Website, Which Is Required Under The Americans With Disabilities Act (ADA)." "Deborah Laufer, a prolific litigant with physical disabilities and vision impairments, sued Acheson Hotels for failing to publish information about their accessibility on their website, which is required under the Americans with Disabilities Act (ADA)." [Oyez, accessed 05/09/23]

- **A District Court Dismissed Laufer's Lawsuit For Lack Of Standing And The U.S. First Circuit Court Of Appeals Reversed The District Court Ruling, Holding That There Was Still An Injury Under The ADA Despite Laufer's Lack Of Intent To Visit The Hotel.** "The district court dismissed the lawsuit, finding that Laufer lacked standing to sue because had no plans to visit the hotel and thus suffered no injury as a result of the lack of information on the website. The U.S. Court of Appeals for the First Circuit reversed, concluding that Laufer's lack of intent to book a room at the hotel operated by Acheson does not negate the fact of injury." [Oyez, accessed 05/09/23]

October 2023: The Supreme Court Heard Oral Arguments In *Acheson Hotels LLC V. Laufer*

October 4, 2023: The Supreme Court Heard Oral Arguments In *Acheson Hotels LLC v. Laufer*.

Wednesday, October 4, 2023

No. 22–429. *Acheson Hotels, LLC* v. *Deborah Laufer.*

Certiorari to the C. A. 1st Circuit.
For petitioner: Adam G. Unikowsky, Washington, D. C.
For United States, as *amicus curiae:* Erica L. Ross, Assistant to the Solicitor General, Department of Justice, Washington, D. C.
For respondent: Kelsi B. Corkran, Washington, D. C.

(1 hour for argument.)

[The Supreme Court of the United States, accessed 10/6/23]

Crow Holdings And Trammell Crow Residential Are Likely Subject To ADA Requirements, With Crow Holdings Requesting That Applicants For A Multi-Family Supervisory Position Have ADA Knowledge, And With ADA Requiring Housing Providers To Ensure Accessibility In Public And Common Use Areas.

Under The Americans With Disabilities Act (ADA), Housing Providers Must Ensure Disability Accessibility At "Public And Common Use Areas." "Americans with Disabilities Act of 1990 (ADA): The ADA primarily deals with accessibility of public facilities such as restaurants, hotels, and parks. With respect to housing accessibility, Title II of the ADA covers housing provided by public entities (state and local governments), such as housing on a State university campus. Title III requires that public and common use areas at housing developments are accessible." [U.S. Department of Housing and Urban Development, accessed 05/09/23]

ADA Knowledge Was Listed Among "Desired Skills And Experience" In A Crow Holdings Job Posting For An Assistant Superintendent For Multi-Family Construction. "The Assistant Superintendent is responsible for coordinating and supervising the completion of multi-family construction by subcontractors and punch carpenters for final inspection. This position is also responsible for functioning in a support role to the Project Superintendent. [...] DESIRED SKILLS & EXPERIENCE [...] Knowledge of federal, state and local codes for ADA, FHA, Waterproof" [Crow Holdings, accessed 05/09/23]

2011: Crow Holdings' Subsidiary Trammell Crow Residential Settled With The New York Attorney General For Failing To Provide Disability-Accessible Facilities In A 795-Unit Apartment Complex, Agreeing To Pay $75,000 To Harmed Residents And To Retrofit The Complex.

2011: Crow Holdings Subsidiary Trammell Crow Residential Settled With The New York State Attorney General Over Inaccessible Facilities For People With Disabilities In A 795-Unit Apartment Complex, With The Company Agreeing To Pay $75,000 In Compensation To "Harmed" Residents. "Attorney General Eric T. Schneiderman today announced his office has secured an agreement with one of the nation's largest housing developers, Trammell Crow Residential, ensuring equal access to housing for people with disabilities. The settlement agreement requires the developer to make significant retrofits to Suffolk County's Atlantic Point Apartments, a 795-unit apartment complex, to ensure that people with disabilities have full use of the facilities." [New York State Office of the Attorney General via Archive.org, captured 09/05/15, 04/15/11]

- **Crow Holdings' Subsidiaries Include "Trammell Crow Residential, Crow Holdings Capital, Crow Holdings Industrial And Crow Holdings Office."** "Harlan took over Crow Holdings in the late '80s and used the Crow family's substantial wealth to evolve the firm into an umbrella development and investment corporation that included Trammell Crow Residential, Crow Holdings Capital, Crow Holdings Industrial and Crow Holdings Office." [The Real Deal, 04/07/23]

- **Trammell Crow Residential, "A Crow Holdings Company," Claims To Be "A Pioneer Of Multifamily Real Estate" And "One Of The Largest Developers In The United States," Having Built Over 280,000 Residences Over 40 Years.** "A pioneer of multifamily real estate, Trammell Crow Residential (TCR) is one of the largest developers in the United States. Over 40 years, we have built more than 280,000 premier residences, creating vibrant and amenity-rich communities that our residents are proud to call home." [Crow Holdings, accessed 04/10/23]

Harlan Crow, Currently Chairman Of Crow Holdings, Was Chairman And CEO Of The Company At The Time Of The Settlement. "Harlan Crow is the Chairman of the Board of Crow Holdings, a private family business established to manage the capital of the Trammell Crow family. After working in a variety of positions at the firm, beginning as an industrial leasing agent in Houston in 1974, Harlan assumed overall responsibilities for the business in 1988. During his tenure as CEO, Crow Holdings grew and strengthened its position as a leader in the real estate investment business." [Crow Holdings, accessed 05/09/23]

- **Harlan Crow Was Chairman And CEO As Of November 2010, Before The Settlement With The New York Attorney General.** "Mr. Harlan Crow, Chairman and Chief Executive Officer. Mr. Crow has been with Crow-affiliated entities for over 33 years." [Crow Holdings via Archive.org, captured 11/17/10, accessed 05/09/23]

As Part Of The Settlement, Trammell Crow Also Agreed To Pay $75,000 To Compensate People "Harmed By The Inaccessible Housing." "Trammell Crow Residential must also pay $75,000 to compensate individuals who are harmed by the inaccessible housing, and work with an independent expert to certify that future construction of apartment complexes are in compliance with New York State and federal accessibility laws." [New York State Office of the Attorney General via Archive.org, captured 09/05/15, 04/15/11]

Under The Settlement, Trammell Crow Residential Also Agreed To Retrofit The Apartment Complex To Accommodate People With Disabilities."The agreement follows a lawsuit brought against the developer by former Attorney General Cuomo in April 2010, and requires Trammell Crow Residential to complete retrofits in Bellport's Atlantic Point apartments and common areas, including providing accessible routes to amenities such as pools, mailboxes and exercise facilities. Furthermore, the agreement requires retrofitting of bathrooms, kitchens, and outlets in designated apartments." [New York State Office of the Attorney General via Archive.org, captured 09/05/15, 04/15/11]

The Center For Constitutional Responsibility, Which Filed Two Amicus Briefs Supporting Acheson Hotels In The Case, Was Formed Only A Month Before Its First Brief.

The Center For Constitutional Responsibility, Which Claims To Be A Nonprofit "Dedicated To Preserving The Separation Of Powers," Filed An Amicus Brief On Acheson Hotels' Petition For Writ Of Certiorari Arguing That The Supreme Court Review The Case And Arguing That ADA Tester Lawsuits Are Filed "Simply To Enforce The Law—Not To Redress Personal Injuries":

No. 22-429

In the Supreme Court of the United States

ACHESON HOTELS, LLC,
Petitioner,
v.
DEBORAH LAUFER,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

BRIEF OF *AMICUS CURIAE* CENTER FOR CONSTITUTIONAL RESPONSIBILITY IN SUPPORT OF PETITIONER

[Supreme Court of the United States, 12/08/22]

- **In The Brief, The Center For Constitutional Responsibility Described Itself As "A Nonprofit Organization That Is Dedicated To Preserving The Separation Of Powers And The Accountability Of The Political Branches At All Levels Of Government."** "Amicus curiae is the Center for Constitutional Responsibility. The Center is a nonprofit organization that is dedicated to preserving the separation of powers and the accountability of the political branches at all levels of government in the United States." [Supreme Court of the United States, 12/08/22]

- **The Center For Constitutional Responsibility's Brief Requested That The Supreme Court Should Grant Acheson Hotel's Petition For Writ Of Certiorari, Arguing That "ADA Tester Plaintiffs Sue Allegedly Noncompliant Businesses Simply To Enforce The Law—Not To Redress Personal Injuries."** "The power to enforce public rights is vested exclusively in the Executive Branch. Yet ADA tester plaintiffs sue allegedly noncompliant businesses simply to enforce the law—not to redress personal injuries. The circuit split over whether those plaintiffs have Article III standing accordingly also

presents important Article II questions, making this Court's review all the more needed. [...] The Court should grant the petition for a writ of certiorari." [Supreme Court of the United States, 12/08/22]

The Center For Constitutionalist Also Submitted A Separate Amicus Brief On Writ Of Certiorari In The Case, Claiming That ADA Test Plaintiffs, Calling Them "Unaccountable Private Parties" And "'Private Attorneys General.'" "In particular, the Center is concerned with the increasingly common delegation of the executive's exclusive power to enforce public laws to politically unaccountable private parties. This delegation—which deputizes the plaintiffs' bar and private citizens to act as roving, unaccountable 'private attorneys general'—is a threat to democratic accountability and the cohesiveness of our union. Laws, especially on contentious topics, should be enforced by government officials that answer to the Constitution and the people. The Center aims to prevent the unwise and unconstitutional delegation of sovereign enforcement authority." [Supreme Court of the United States, 06/12/23]

No. 22-429

In the Supreme Court of the United States

ACHESON HOTELS, LLC,
Petitioner,
v.
DEBORAH LAUFER,
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

BRIEF OF *AMICUS CURIAE* CENTER FOR CONSTITUTIONAL RESPONSIBILITY IN SUPPORT OF PETITIONER

[Supreme Court of the United States, 06/12/23]

The Amicus Brief Was Signed By Center For Constitutional Responsibility Executive Director Karen R. Harned, Who Also Appeared On The Group's November 2022 Formation Documents Alongside President Adam White:

Karen R. Harned
Executive Director
CENTER FOR CONSTITUTIONAL RESPONSIBILITY
4532 Cherry Hill Road, No. 538
Arlington, VA 22207

[Supreme Court of the United States, 12/08/22]

- **The Center For Constitutional Responsibility Inc. Was Formed In Virginia On November 9, 2022 And Qualified By Virginia In January 2023, With Karen Harned As Executive Director And Adam White As President:**

Entity Name:	Center for Constitutional Responsibility, Inc.
Entity Type:	Nonstock Corporation
Series LLC:	N/A
Formation Date:	11/09/2022
VA Qualification Date:	01/13/2023

[…]

Title	Director	Name
Executive Director	No	Karen Harned
President	Yes	Adam White
Secretary	No	James Copland
Treasurer	Yes	Peter Wallison

[Virginia State Corporation Commission, accessed 05/09/23]

Center For Constitutional Responsibility President Adam White Has Multiple Ties To Harlan Crow, Serving As A Senior Fellow Focusing On Supreme Court Issues And "Leading" Legal Studies At The American Enterprise Institute (AEI), A Group That Claims "Direct Impact" On The Court Where Crow Has Been A Board Of Trustees Member Since 1996…

Adam White Was Listed As The Center For Constitutional Responsibility's President:

Title	Director	Name
Executive Director	No	Karen Harned
President	Yes	Adam White
Secretary	No	James Copland
Treasurer	Yes	Peter Wallison

[Virginia State Corporation Commission, accessed 05/09/23]

Center For Constitutional President Adam White Appears To Also Serve As A Senior Fellow At The American Enterprise Institute Focusing On "The Supreme Court And The Administrative State." "Adam J. White is a senior fellow at the American Enterprise Institute, where he focuses on the Supreme Court and the administrative state." [American Enterprise Institute, accessed 05/09/23]

- **Adam White Has Been A Senior Fellow Since 2022 And Was Previously A Resident Scholar From 2019 To 2022.** "American Enterprise Institute: Senior Fellow, 2022–present; Resident Scholar, 2019–22" [American Enterprise Institute, accessed 05/09/23]

- **As Of 2019, Adam White Was "Leading AEI's Effort To Revitalize Its Constitutional And Legal Studies Program."** "Adam White is leading AEI's effort to revitalize its constitutional and legal studies

program, teaching and writing on the separation of powers, the role of courts in American society, and the administrative state." [American Enterprise Institute, 2019]

Crow Holdings Chairman Harlan Crow Is On The Board Of Trustees Of The American Enterprise Institute:

Harlan Crow

Chairman

Crow Holdings

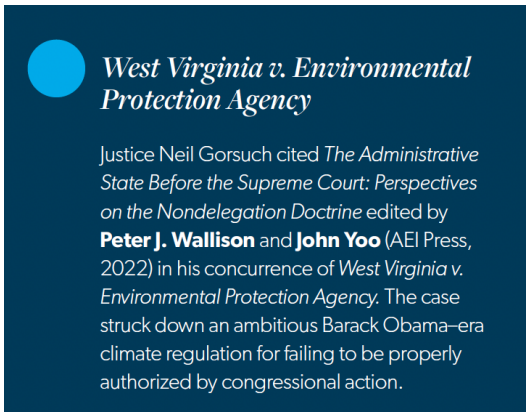
[American Enterprise Institute, accessed 05/09/23]

- **February 1996: AEI Announced That Harlan Crow Was Named To Its Board Of Trustees.** "Wilson H. Taylor, chairman of the Board of Trustees of the American Enterprise Institute, announced the retirement of four AEI trustees and the election of four new trustees following the Board's annual meeting on December 6. [...] The new AEI trustees are Dick Cheney, Harlan Crow, Harvey Golub, and William S. Stavropoulos." [American Enterprise Institute, accessed 04/07/23]

- **2018: AEI Created The Harlan Crow Community Building Award, Given Annually To "An Individual Who Best Exemplifies Leadership In The AEI Community And Service To [Its] Mission."** "Harlan Crow Community Building Award [...] The Enterprise Club has been made possible through the tremendous efforts and leadership of founding member Andrew Klaber, who was honored on October 29 at AEI headquarters with the Harlan Crow Community Building Award. Created in 2018 to honor AEI trustee Harlan Crow, the award is granted annually to an individual who best exemplifies leadership in the AEI community and service to our mission." [American Enterprise Institute, 2019]

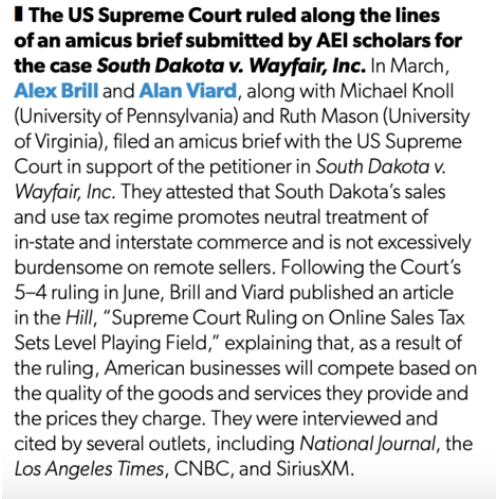
As Recently As 2022, AEI's Annual Report Highlighted Their "Direct Impact" On The Courts Due To A "Renewed Emphasis On Constitutional Law And The Supreme Court." "Thanks to a renewed emphasis on constitutional law and the Supreme Court, we have had our most direct impact on the courts' evolving view of the administrative state. Specifically, an important AEI Press book on the topic helped shape a crucial Supreme Court decision." [AEI Annual Report (Page 16), 2022)

- **The 2022 Annual Report Also Highlighted How An AEI Publication Was Cited In A Key Supreme Court Case That Year.**



[AEI Annual Report (Page 17), 2022)

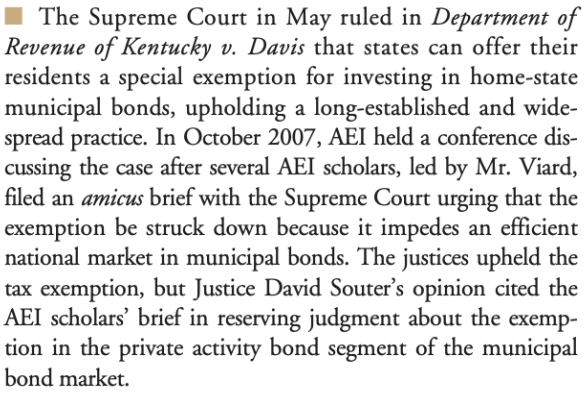
- **The 2018 Annual Report Highlighted How A SCOTUS Decision Was Decided Along The Lines Of An AEI-Scholar Submitted Amicus Brief.**



The US Supreme Court ruled along the lines of an amicus brief submitted by AEI scholars for the case *South Dakota v. Wayfair, Inc.* In March, **Alex Brill** and **Alan Viard**, along with Michael Knoll (University of Pennsylvania) and Ruth Mason (University of Virginia), filed an amicus brief with the US Supreme Court in support of the petitioner in *South Dakota v. Wayfair, Inc*. They attested that South Dakota's sales and use tax regime promotes neutral treatment of in-state and interstate commerce and is not excessively burdensome on remote sellers. Following the Court's 5–4 ruling in June, Brill and Viard published an article in the *Hill*, "Supreme Court Ruling on Online Sales Tax Sets Level Playing Field," explaining that, as a result of the ruling, American businesses will compete based on the quality of the goods and services they provide and the prices they charge. They were interviewed and cited by several outlets, including *National Journal*, the *Los Angeles Times*, CNBC, and SiriusXM.

[AEI Annual Report (Page 24), 2018]

- **The 2008 Annual Report Highlighted How A SCOTUS Opinion Specifically Cited An Amicus Brief Filed By AEI Scholars.**



The Supreme Court in May ruled in *Department of Revenue of Kentucky v. Davis* that states can offer their residents a special exemption for investing in home-state municipal bonds, upholding a long-established and widespread practice. In October 2007, AEI held a conference discussing the case after several AEI scholars, led by Mr. Viard, filed an *amicus* brief with the Supreme Court urging that the exemption be struck down because it impedes an efficient national market in municipal bonds. The justices upheld the tax exemption, but Justice David Souter's opinion cited the AEI scholars' brief in reserving judgment about the exemption in the private activity bond segment of the municipal bond market.

[AEI Annual Report (Page 29), 2008]

Adam White Was Also Previously A Research Fellow And Visiting Fellow At The "Right-Wing" Hoover Institution, Where Harlan Crow Is On The Board Of Overseers And Whose Fellows Have Filed Multiple Supreme Court Amicus Briefs.

Adam White Was Also Previously A Research Fellow And Visiting Fellow At The Hoover Institution From 2015 To 2019. "Hoover Institution (Washington, DC): Research Fellow, 2016–19; Visiting Fellow, 2015–16" [American Enterprise Institute, accessed 05/09/23]

Harlan Crow Is On The Board Of Overseers For The Hoover Institution, A "Right-Wing" Think Tank Funded By "Conservative And Libertarian Sources Such As The Koch Family And The Petroleum And Chemical Industries." [Hoover Institution, 04/11/23]

- **The Hoover Institution Board Of Overseers, A "Dedicated Group Of Supporters," "Advises And Supports The Institution's Senior Administration."** "The Hoover Institution Board of Overseers advises and supports the Institution's senior administration, ensuring that the Institution follows the path set forth by its founder. This dedicated group of supporters, who contribute to the advancement of the

Institution through their knowledge, experience, and leadership, meets twice a year, at Stanford and in Washington, DC." [Hoover Institution, 2022]

- **The "Right-Wing" Hoover Institution's Funding Sources Include "Conservative And Libertarian Sources Such As The Koch Family And The Petroleum And Chemical Industries."** "The institution's 'purpose,' as Hoover defined it in 1959, 'must be, by its research and publications, to demonstrate the evils of the doctrines of Karl Marx — whether Communism, Socialism, economic materialism, or atheism — thus to protect the American way of life from such ideologies, their conspiracies, and to reaffirm the validity of the American system.' That purpose is supported by an independent funding stream with conservative and libertarian sources such as the Koch family and the petroleum and chemical industries listed among its donors." [Los Angeles Times, 11/17/20]

February 2023: Hoover Institution Senior Fellows Michael McConnell And John Cogan And Figures From Other Think Tanks Led "A Group Of Former High-Ranking US Government Officials" In A Supreme Court Amicus Brief "Challenging President Biden's Student Loan Debt-Relief Program." "On February 3, 2023, a group of former high-ranking US government officials, led by Hoover senior fellows Michael McConnell and John Cogan, Hudson Institute fellow Christopher DeMuth, and American Enterprise Institute emeritus fellow Peter Wallison, filed an amicus brief in the US Supreme Court case challenging President Biden's student loan debt-relief program." [Hoover Institution, 02/06/23]

- **Press Release Headline: Hoover Senior Fellows File Supreme Court Amicus Brief In Case Challenging President Biden's Student-Loan Debt Relief Program** [Hoover Institution, 02/06/23]

- **The Amicus Brief Was For Two Cases: Joseph R. Biden Jr. v. State of Nebraska and U.S. Department of Education v. Maya Brown.** [Supreme Court of the United States, 02/03/23]

December 2021: Jack Goldsmith, Senior Fellow At The Hoover Institution, And Oona Hathaway Co-Authored An Amicus Brief In Support Of The Writ Of Certiorari For Timothy H. Edgar V. Avril D. Haines, Director Of National Intelligence:

No. 21-791

IN THE

Supreme Court of the United States

TIMOTHY H. EDGAR, ET AL.,
Petitioners,

v.

AVRIL D. HAINES, IN HER OFFICIAL CAPACITY AS DIRECTOR OF NATIONAL INTELLIGENCE, ET AL.,
Respondents.

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Fourth Circuit

BRIEF FOR PROFESSOR JACK GOLDSMITH AND PROFESSOR OONA A. HATHAWAY AS *AMICI CURIAE* SUPPORTING PETITIONERS

[Supreme Court of the United States, 12/29/21]

- **Jack Goldsmith Is A Senior Fellow At The Hoover Institution.** "Jack Goldsmith is the Learned Hand Professor at Harvard Law School, co-founder of Lawfare, and a Senior Fellow at the Hoover Institution." [Lawfare, 02/07/22]

Community Housing Improvement Program v. City Of New York

2021: While Trammell Crow CEO Ken Valach Was NMHC's Vice Chair, The Group Filed A Second Circuit Amicus Brief Against New York City's Rent Stabilization Law—After The Law Was Upheld, The Supreme Court Was Considering Hearing The Case, And Landlords Were "'Confident'" They Would "'Ultimately Prevail.'"

January 2021: NMHC Filed A Second Circuit Amicus Brief Supporting A Challenge To New York City's Rent Stabilization Law, With NMHC's President Claiming "'Rent Control Does Nothing To Address The Housing Affordability Crisis.'"

January 2021: NMHC Filed An Amicus Brief In The Second Circuit Court "Supporting A Challenge To New York's Rent Stabilization Law," Claiming The Rent Controls Were "Counterproductive And Unconstitutional." "The National Multifamily Housing Council (NMHC) filed an amicus brief on Friday, January 22, supporting a challenge to New York's Rent Stabilization Law (RSL). NMHC asserts that the rent control regulations are counterproductive and unconstitutional." [National Multifamily Housing Council, 01/25/21]

- **NMHC, Along With The National Apartment Association, Filed The Amicus Brief In The U.S. Court Of Appeals For The Second Circuit.** "The amicus brief, filed jointly with the National Apartment Association in the U.S. Court of Appeals for the Second Circuit, argues that the RSL violates both the Takings Clause and the Due Process Clause of the U.S. Constitution." [National Multifamily Housing Council, 01/25/21]

- **The Case Was Community Housing Improvement Program Et Al. V. City Of New York Et Al.** [National Multifamily Housing Council, 01/22/21]

NMHC President Doug Bibby Claimed "'Rent Control Does Nothing To Address The Housing Affordability Crisis Facing Our Nation'" And Said Policymakers "'Should Enact Policies That Promote The Creation Of New Housing.'" "'Rent control does nothing to address the housing affordability crisis facing our nation. In fact, it further exacerbates the crisis by disincentivizing further development and preservation of existing affordable stock,' said Doug Bibby, NMHC President. 'Instead, lawmakers in New York and other municipalities considering such measures should enact policies that promote the creation of new housing and broaden housing opportunity for all.'" [National Multifamily Housing Council, 01/25/21]

After The Second Circuit Upheld The Law In February 2023, Landlord Groups Vowed To Appeal To The Supreme Court And Said They Were "'Confident'" They Would "'Ultimately Prevail.'"

February 2023: The Second Circuit Court Upheld New York City's Rent Stabilization Law "Capping Rent Increases And Limiting Evictions On Roughly A Million Apartments Citywide"—The Landlord-Affiliated Plaintiffs Vowed To Appeal To The Supreme Court And Said, "'We Are Confident We Will Ultimately Prevail.'" "New York City's rent stabilization system is safe for now, after a federal appeals court on Monday upheld laws capping rent increases and limiting evictions on roughly a million apartments citywide. The Second Circuit Court of Appeals affirmed the decades-old rent stabilization laws in response to two related court

challenges from landlord trade groups and a collection of property owners seeking to dismantle the tenant protections." [Gothamist, 02/06/23]

- **The Landlord-Affiliated Plaintiffs Said They Would Appeal To The Conservative Majority Supreme Court, With A Spokesperson Saying "'We Always Expected These Issues To Be Decided By The Supreme Court And Are Confident We Will Ultimately Prevail.'"** "The landlords say they will next try to get the U.S. Supreme Court and its conservative majority to weigh in. 'We always expected these issues to be decided by the Supreme Court and are confident we will ultimately prevail, and finally compel leaders around the country to create real and fair solutions for our nation's housing challenges.' said Kimberly Winston, a spokesperson for CHIP and RSA." [Gothamist, 02/06/23]

The Landlord-Affiliated Groups Petitioned The Supreme Court To Hear The Case. "A group of landlords sued and lost. In February, the Second U.S. Circuit Court of Appeals affirmed the trial court's decision that rent stabilization, even in its 2019 version, isn't a government taking, which would require compensation under the Fifth Amendment. The landlords have petitioned the justices to hear an appeal." [The Wall Street Journal, 08/15/23]

- **As Of August 23, 2023, The Supreme Court Had Yet To Grant Writ Of Certiorari To The Case, Titled Community Housing Improvement Program, Et Al., Petitioners v. City Of New York, New York, Et Al.** [Supreme Court of The United States, accessed 08/24/23]

A Housing Policy Expert Said If The Supreme Court Overturns The Rent Stabilization Law, "'It's The End Of New York City,'" Warning Of Rising Rents, "'A Tremendous Amount Of Displacement,'" And "'A Lot Of Homelessness.'" "Samuel Stein, a housing policy analyst at the Community Service Society, an anti-poverty organization in New York, said if the Supreme Court were to overturn the rent stabilization law, 'It's the end of New York City.' 'Rents would go up significantly around the city,' he continued. 'There will be a tremendous amount of displacement. You will have a lot of people leaving New York City, you will have a lot of homelessness, you'll have a lot of overcrowding.'" [The Lever, 08/16/23]

Trammell Crow CEO Ken Valach Was NMHC's Vice Chair At The Time Of NMHC's Second Circuit Amicus Brief And The Company Is Active In The New York Real Estate Market.

Crow Holdings' Multifamily Real Estate Company Trammell Crow Residential Is Active In The New York Real Estate Market. "Trammell Crow Residential [...] A CROW HOLDINGS COMPANY [...] Trammell Crow Residential is a pioneer of multifamily real estate and is one of the largest developers in the United States." [Crow Holdings, accessed 04/11/23]

[Crow Holdings, accessed 04/11/23]

October 2021: Crow Holdings Announced That Trammell Crow Residential Was Developing A New "450-Unit Luxury Multifamily Residence In Harrison, New York." "Crow Holdings, a leading national real estate investment and development firm, announced today that its multifamily development company, Trammell Crow Residential (TCR), has partnered with Boston-based Marcus Partners to develop Alexan Harrison, a 450-unit luxury multifamily residence in Harrison, New York. This latest community under the Alexan brand marks Crow Holdings' and Marcus Partners' first New York State multifamily project." [Crow Holdings, 10/26/21]

Trammell Crow Residential CEO Ken Valach Was NMHC Vice Chair From 2020 To 2021. "The full slate of officers for 2020-2021 is: [...] Vice Chair: Ken Valach, CEO of Trammell Crow Residential, Dallas, TX" [National Multifamily Housing Council, 01/13/20]

Moore V. United States

In June 2023, The Supreme Court Announced Plans To Review *Moore v. United States,* Which Could Block "A Federal Wealth Tax In The Future" And "Protect Billionaires From Wealth Taxes Before Congress."

In June 2023, The Supreme Court Announced Plans To Review *Moore V. United States,* In Which The Justices Will Determine If Trump's 2017 Tax-Reform Law Violated The Sixteenth Amendment, Which Says Congress "Has The Power To 'Lay And Collect Taxes On Incomes, From Whatever Source Derived."

June 26, 2023: The Supreme Court Announced Plans To "Weigh In On The Constitutionality Of Wealth Taxes By Deciding Whether Congress May Require Taxpayers To Pay Their Share Of Earnings From A Foreign Company." "The Supreme Court announced Monday it will weigh in on the constitutionality of wealth taxes by deciding whether Congress may require taxpayers to pay their share of earnings from a foreign company, even if they received no dividends or income." [The Los Angeles Times, 06/26/23]

In Reviewing *Moore V. United States,* The Justices Will Determine If Trump's 2017 Tax-Reform Law—Which "Imposed A One-Time 'Mandatory Repatriation Tax' On American Taxpayers Who Owned More Than 10 Percent Of A Foreign Corporation"—Violated The Sixteenth Amendment. "In *Moore v. United States,* the justices will consider whether a provision of former President Donald Trump's tax-reform law in 2017 violated the Sixteenth Amendment, which allows Congress to collect federal income taxes. As part of a complex restructuring of federal corporate tax laws, the 2017 law imposed a one-time 'mandatory repatriation tax' on American taxpayers who owned more than 10 percent of a foreign corporation." [The New Republic, 06/26/23]

The 16th Amendment Says Congress "Has The Power To 'Lay And Collect Taxes On Incomes, From Whatever Source Derived," But Doesn't Include "Property Or Corporate Wealth That Grows In Value," Also Known As "'Unrealized Gains.'" "The 16th Amendment says Congress has the power to 'lay and collect taxes on incomes, from whatever source derived.' And that has been understood to mean that the government may impose taxes on wages or earnings and stock dividends, but not on property or corporate wealth that grows in value. These are referred to as 'unrealized gains.'" [The Los Angeles Times, 06/26/23]

The Case Invites The Justices To "Prevent Democrats From Imposing A Federal Wealth Tax In The Future," Despite The Department Of Justice Urging The Supreme Court To Reject The Case And Arguing That The Court Does Not "Have The Constitutional Power To Issue Advisory Opinions About Hypothetical Legislation."

The Petition Invites The Justices To "Prevent Democrats From Imposing A Federal Wealth Tax In The Future." "While the case hinges on a tax passed by Trump and a Republican-led Congress, the petition invited the justices to use it to prevent Democrats from imposing a federal wealth tax in the future." [The New Republic, 06/26/23]

The Department Of Justice Urged The Supreme Court To Reject The Case, "Noting There Was No Split On The Issue In The Lower Courts" And That The Supreme Court Does Not "Have The Constitutional Power To Issue Advisory Opinions About Hypothetical Legislation." "The Justice Department had urged the justices to reject the case, noting there was no split on the issue in the lower courts and arguing that the Ninth Circuit Court of Appeals had correctly applied the relevant precedents. On the wealth-tax question, the government also pointedly noted that the Supreme Court does not have the constitutional power to issue advisory opinions about hypothetical legislation that has not been enacted into law by Congress." [The New Republic, 06/26/23]

The Court's Decision To Take Up The Case That "Could Protect Billionaires From Wealth Taxes Before Congress," Potentially Shielding Several Billionaires Involved In "Multiple Ethics Controversies" With Supreme Court Justices.

The Court's Decision To Hear The Case Comes At A Time When ProPublica Has Revealed Several Fruitful Relationships Between Billionaires And Conservative Justices Clarence Thomas And Samuel Alito. "The court's decision to hear the Moores' case also comes at an awkward time for the justices, to say the least. ProPublica and other major news outlets have reported extensively on Justice Clarence Thomas's fruitful relationship with Harlan Crow, a billionaire and GOP megadonor, in recent months. Last week, the publication also reported that Justice Samuel Alito went on a free luxury fishing trip in Alaska in 2008 with billionaire Paul Singer, who gave the justice a free ride on his private jet to get there. Both Thomas and Alito have denied that they acted improperly by not disclosing the billionaires' gifts on

their annual financial-disclosure forms; Alito even took to the *Wall Street Journal's* op-ed section to defend himself." [The New Republic, 06/26/23]

While It Is Not Disclosed Which Of The Justices Voted To Review The Case, The Justices Will Be "Taking Up A Case That Could Protect Billionaires From Wealth Taxes Before Congress" At A Time When The Court Is Rattled With "Rapidly Declining Public Esteem And Multiple Ethics Controversies." "Only four votes are needed for the justices to take up a particular case. The court does not disclose how the justices vote on petitions for review, so it is not known if Thomas or Alito voted to hear the Moores' lawsuit. Americans will get a clearer perspective on their views in the case when the court hears oral arguments in the fall term. As the justices wrestle with rapidly declining public esteem and multiple ethics controversies, taking up a case that could protect billionaires from wealth taxes before Congress can even pass them is an interesting choice." [The New Republic, 06/26/23]

The Manhattan Institute Has Filed An Amicus Brief In Moore v. U.S. Arguing The Wealth Tax Is Unconstitutional—Harlan Crow's Wife Is On The Group's Board Of Trustees, Which Is Chaired By Conservative Billionaire Paul Singer, Who Gave Justice Samuel Alito A Luxury Alaska Fishing Trip With Private Jet Travel Valued At Over $100,000 Each Way.

Conservative Think Tank The Manhattan Institute Filed An Amicus Brief Supporting The Moores' Petition For Supreme Court Review, Where It Argued That The "The Mandatory Repatriation Tax Is Unconstitutional."

The Manhattan Institute, Which Singer Has Served As Chairman Of Since 2008, Regularly Files "Friend-Of-The-Court Briefs With The Supreme Court," Including At Least 15 In The Supreme Court's Most RecentTerm. "He has also given millions to the Manhattan Institute, a conservative think tank where he has served as chairman since 2008. The institute regularly files friend-of-the-court briefs with the Supreme Court — at least 15 this term, including one asking the court to block student loan relief." [ProPublica, 06/20/23]

The Manhattan Institute Is A Think Tank Dedicated To "Advancing Opportunity, Individual Liberty, And The Rule Of Law In America And Its Great Cities," With Particular Emphasis On "The Need For Public-Sector Reform," "Alternatives To Identity Politics," "Educational Excellence And Educational Choice For All Families," And "Expanding Economic Freedom." "The Manhattan Institute is a community of scholars, journalists, activists, and civic leaders dedicated to advancing opportunity, individual liberty, and the rule of law in America and its great cities. We work to improve the quality of life in our urban centers, with a particular focus on the problem of urban violence and the need for public-sector reform. We offer constructive alternatives to identity politics to help overcome our nation's ethnic and cultural divides. We champion educational excellence and educational choice for all families. We believe that expanding economic freedom is essential to achieving widespread prosperity and upward mobility." [The Manhattan Institute, accessed 06/27/23]

March 27, 2023: The Manhattan Institute Argued That The Ninth Circuit's Ruling In *Moore v. United States* On Congress's Ability To Tax Citizens On Their Ownership Of Shares In A Corporation "Open[s] The Door To An Elizabeth Warren-Style Federal Wealth Tax And Otherwise Represent[s] A Serious Expansion Of Congress's Taxing Power." "Does Congress have the power to tax citizens on their ownership of shares in a corporation? The Ninth Circuit said that the answer is yes, announcing that realization of income 'is not a constitutional requirement' for Congress's exercise of its power to tax 'incomes' without apportionment among the states (which is the constitutional requirement for direct taxes on property). [...] If that assessment is sustained, it would potentially open the door to an Elizabeth Warren-style federal wealth tax and otherwise represent a serious expansion of Congress's taxing power. It would also stand at odds with the original

meaning of the Sixteenth Amendment—which enabled the federal income tax—and a long line of Supreme Court precedents holding that realization is necessary for a taxpayer to have taxable 'income.'" [Manhattan Institute, 03/27/23]

The Manhattan Institute Filed An Amicus Brief Supporting The Moores' Petition For Supreme Court Review, Where They Argued That The "The Mandatory Repatriation Tax Is Unconstitutional" And The Sixteenth Amendment Places "A Hard Limit On The Central Government's Taxing Powers." "To that end, the Manhattan Institute has filed an amicus brief supporting the Moores' petition for Supreme Court review. Joined by originalist scholars Erik Jensen and James W. Ely, we argue that the framers intended the Apportionment Clause to be a hard limit on the central government's taxing powers; the drafters of the Sixteenth Amendment intended a narrow definition of 'incomes' as traditionally understood; and thus the Mandatory Repatriation Tax is unconstitutional." [Manhattan Institute, 03/27/23]

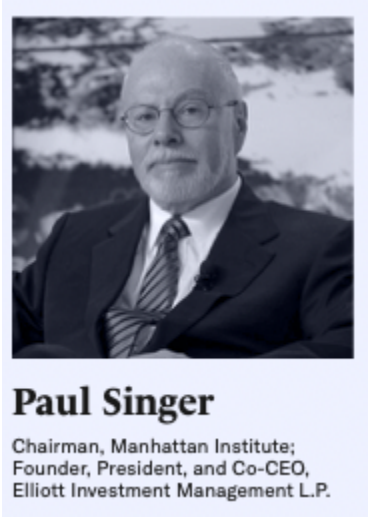
Harlan Crow's Wife Kathy Crow Is On The Manhattan Institute's Board Of Trustees, Which Is Chaired By Conservative Billionaire Paul Singer, Who Gave Justice Samuel Alito A Luxury Alaska Fishing Trip With Private Jet Travel Valued At Over $100,000 Each Way.

Harlan Crow's Spouse, Kathy Crow, Is On The Board Of Trustees At The Manhattan Institute:

[Manhattan Institute, accessed 06/27/23]

- **Kathy Crow Is Harlan Crow's Spouse.** "A sellout crowd of NMHC Emerging Leaders were treated to a fireside chat with Ken Valach, CEO of Trammell Crow Residential, at the famed library of Harlan and Kathy Crow in Dallas." [National Multifamily Housing Council via Archive.org, captured 11/11/21, accessed 04/11/23]

Billionaire Paul Singer Is Chair Of The Manhattan Institute:

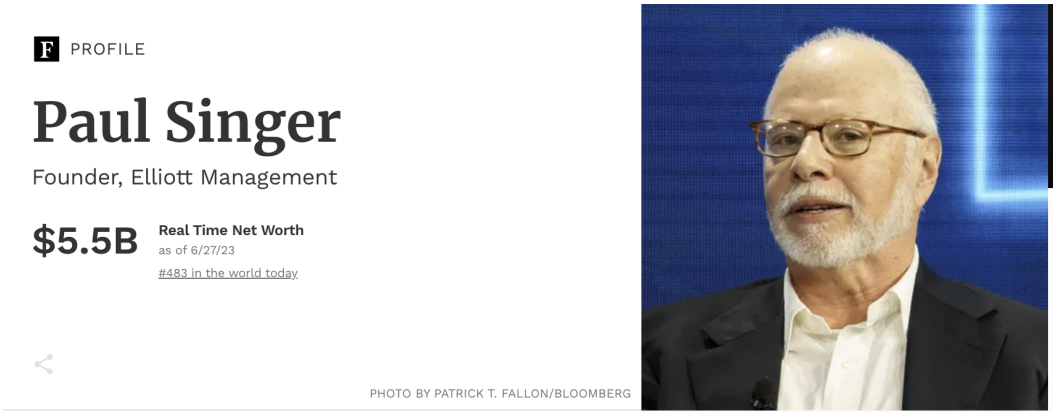


[Manhattan Institute, accessed 08/16/23]

- **Singer Has Given Over $80 Million To Republican Political Organizations, Including "Millions To The Manhattan Institute," Where He Been Chairman Since 2008 And Which Filed At Least 15 Supreme Court Amicus Briefs In The Court's Most Recent Term.** "In the last decade, Singer has contributed over $80 million to Republican political groups. He has also given millions to the Manhattan

Institute, a conservative think tank where he has served as chairman since 2008." [ProPublica, 06/20/23]

- **Paul Singer's Net Worth Was Valued At $5.5 Billion, As Of Late July 2023:**



[Forbes, accessed 06/27/23]

- **2008: Supreme Court Justice Samuel Alito Accepted A Trip From "Billionaire Hedge Fund Manager And Republican Donor" Paul Singer, Using Singer's Private Jet To Travel To A "More-Than-$1,000-A-Night Luxury Resort" In Alaska.** "The Supreme Court ethics crisis continues, not with Clarence Thomas but with his right-wing comrade, Justice Samuel Alito. In 2008, according to a recent ProPublica investigation, Justice Alito took a trip to a more-than-$1,000-a-night luxury resort in a remote region of Alaska, arriving there on the private jet of Paul Singer, a billionaire hedge fund manager and Republican donor." [The New York Times, 06/27/23]

- **If Justice Alito Had Chartered Singer's Private Jet Himself, It Would Have Cost Over $100,000 To And From The Alaska Destination.** "Singer was more than a fellow angler. He flew Alito to Alaska on a private jet. If the justice chartered the plane himself, the cost could have exceeded $100,000 one way." [ProPublica, 06/20/23]

Harlan Crow Has Been Accused Of Illegally Taking "Massive Tax Deductions" Through The Yacht On Which He Gave Justice Thomas Free Trips.

Harlan Crow Has Been Accused Of Wrongly "Taking Massive Tax Deductions" By Falsely Claiming His Yacht, On Which Justice Thomas Has Taken Free Trips, Was A For-Profit Charter Company—Senate Finance Committee Chair Ron Wyden (D-OR) Said "'This Has The Look Of A Textbook Billionaire Tax Scam.'"

July 2023: Harlan Crow Was "Accused Of Taking Massive Tax Deductions Based On Business Losses From His Megayacht, The Michaela Rose," In Violation Of Federal Tax Laws. "Harlan Crow is under the microscope again. This time he is accused of taking massive tax deductions based on business losses from his megayacht, the Michaela Rose. But whether the boat is a profit-seeking business is in question. [...] But Crow may have violated tax laws related to the yacht, ProPublica reported." [The Real Deal, 07/17/23]

Crow's "Opulent Gifts" To Justice Clarence Thomas Included Trips On The Yacht. "The investigation started with Crow's opulent gifts, including trips on the Michaela Rose, to Supreme Court Justice Clarence Thomas, which Thomas didn't disclose. Senate Democrats went after Crow to seek documentation of the gifts. Crow's attorneys have resisted, and the billionaire businessman attested that he's committed no wrongdoing." [The Real Deal, 07/17/23]

Crow Was Accused Of Improperly Lowering His Tax Bills By Falsely Claiming His Yacht Was Operated As A For-Profit Charter Company. "Crow allegedly carried out a scheme common among the super rich, blurring the line between business and pleasure as a way to lower their tax bills. A company called Rochelle Charter, founded by Crow and his father Trammell Crow in 1984, purportedly chartered the Michaela Rose. Yet, there's no evidence that the company functioned as a for-profit entity, as required by the law." [The Real Deal, 07/17/23]

- **Former Crew Members From The Yacht Said "They Had No Knowledge Of The Yacht Ever Being Chartered" And "The Vessel Also Appears To Have Been Reserved For Crow's Family, Friends, Company Executives And Their Guests."** "Former Michaela Rose crew members said they had no knowledge of the yacht ever being chartered. The vessel also appears to have been reserved for Crow's family, friends, company executives and their guests." [The Real Deal, 07/17/23]

Senate Finance Committee Chairman Ron Wyden (D-OR) Said, "'This Has The Look Of A Textbook Billionaire Tax Scam,'" And Noted That Crow Had Been "'Stonewalling The Finance Committee's Investigation For Months.'" "'Based on what information is available, this has the look of a textbook billionaire tax scam,' Senate Finance Committee chair Ron Wyden told the outlet. 'These new details only raise more questions about Mr. Crow's tax practices, which could begin to explain why he's been stonewalling the Finance Committee's investigation for months.'" [The Real Deal, 07/17/23]