

United States Senate

WASHINGTON, DC 20510

October 2, 2020

Dr. Mark T. Esper
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301

Dear Secretary Esper:

We are writing to request an update on the implementation of reforms for the Military Housing Privatization Initiative (MHPI), as included in the National Defense Authorization Act for Fiscal Year 2020, signed into law on December 20, 2019. These reforms addressed appalling conditions in privatized military housing, including health, safety and environmental hazards by increasing accountability and oversight of the private companies operating the MHPI program.

We strongly believe that Congress and the Department of Defense must exercise strong oversight over the Military Housing Privatization Initiative, the companies entrusted with housing, and the status of ongoing reforms required by Congress. Absent implementation of new oversight and accountability requirements, as outlined in the FY20 NDAA, and continued pressure, we worry that the tenuous progress achieved in improving privatized military housing could stagnate or even be reversed over time.

From the inception of the Military Housing Privatization Initiative in 1996, the Department of Defense and frankly, Congress, placed far too much trust in the private companies implementing the program. The agreements made, including 50-year leases between these companies and the military services, stacked the deck against servicemembers and their families. The companies frequently failed to properly address hazards and to meet their fundamental obligations to servicemembers and their families to provide safe, healthy and high-quality housing. The Department of Defense also did not conduct sufficient oversight of the housing within their purview, and dismissed legitimate and pervasive concerns of servicemembers and their family members regarding their housing.

For this reason, we introduced the *Ensuring Safe Housing for Our Military Act* (S.703) to begin reforming the privatized housing program, ensuring that our servicemembers have safe, healthy and high-quality housing. The FY20 NDAA included many provisions from this bill and put into place comprehensive reforms to right the program's wrongs. Now the Department of Defense, with oversight by Congress, must see these reforms through.

On February 25, 2020, the Department of Defense released a Tenant Bill of Rights, as required by the FY20 NDAA, and committed to making 15 of the 18 rights required by the NDAA available to military servicemembers and their families by May 1, 2020¹. However, DoD noted that additional work was needed to negotiate with the MHPI companies to implement the three

¹ https://media.defense.gov/2020/Feb/25/2002254968/-1/-1/1/MILITARY_HOUSING_PRIVATIZATION_INITIATIVE_TENANT_BILL_OF_RIGHTS.PDF

remaining rights. These included: a process for dispute resolution, a mechanism for the withholding of Basic Allowance for Housing (BAH) payments when disputes arise between the companies and the tenants, and a means by which to make a housing unit's maintenance history accessible to tenants.

On June 1, 2020, the Department of Defense's Chief Housing Officer, Assistant Secretary of Defense for Sustainment, W. Jordan Gillis, stated that only 14 of the rights had largely been implemented, and that work still remained on implementing the 15th right – the use of uniform forms and documents, including a standard lease across MHPI projects². Negotiations with the MHPI companies related to the withholding of BAH, dispute resolution and work history records were still ongoing.

We write to request an update on the status of the four rights that have not been implemented: the withholding of the BAH, a dispute resolution mechanism, work history records and a standard lease. We also are seeking information on the progress of other provisions in the FY20 NDAA that were intended to further reform the privatized military housing program. In particular, we are interested in the status of the following requirements that were pulled from our legislation, the *Ensuring Safe Housing for Our Military Act* (S.703), and were subsequently included in the FY20 NDAA:

- the establishment of a standard for minimum credentials for health and environmental inspectors of privatized military housing;
- the approval of mold mitigation and pest control plans by installation commanders;
- the withholding of incentives fees if landlords have not met established guidelines and procedures, and whether this authority has been invoked since the FY20 NDAA's passage;
- whether landlords are now paying reasonable relocation costs in the event of health, safety or environmental hazards; and
- the prohibition on landlords imposing supplemental payments, in addition to rent, on tenants.

Finally, as negotiations continue with the private companies over the implementation of these remaining rights, we urge you to consider convening a temporary housing advisory group of independent experts to offer you sound counsel. Expertise from both within and outside of the DoD could supplement the Councils on Privatized Military Housing that were required by the FY20 NDAA, to ensure adequate protections for tenants. Multiple perspectives and deep expertise in housing, state and local housing regulations, and environmental hazards are necessary to make stronger agreements. Clearly, these areas are not the core expertise of Pentagon leadership, nor are they part of a military leader's career trajectory. The Department of Defense has a long history of using advisory groups to provide independent and informed advice, such as the Defense Innovation Board, Defense Science Board, Defense Advisory Committee on Women in the Services, and the Military Family Readiness Council.

² <https://www.defense.gov/Explore/News/Article/Article/2204383/dod-chief-housing-officer-issues-memo-to-privatized-housing-tenants/>

Thank you for your attention to this serious matter. We look forward to a response, either in writing or through a brief.

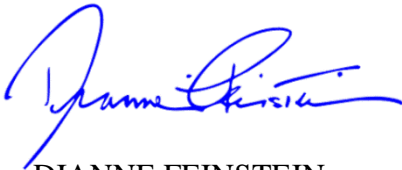
Sincerely,



MARK R. WARNER
United States Senator



TIM Kaine
United States Senator



DIANNE FEINSTEIN
United States Senator