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MULTIFAMILY HOUSING: MORE ACCESSIBLE HUD DATA COULD HELP EFFORTS TO PRESERVE HOUSING FOR LOW INCOME TENANTS

HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

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MULTIFAMILY HOUSING: MORE ACCESSIBLE HUD DATA COULD HELP EFFORTS TO PRESERVE HOUSING FOR LOW INCOME TENANTS

Tuesday, July 20, 2004

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HOUSING AND
COMMUNITY OPPORTUNITY,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:07 a.m., in Room 2128, Rayburn House Office Building, Hon. Robert Ney [chairman of the subcommittee] presiding.

Present: Representatives Ney, Green, Hart, Tiberi, Waters, Lee, Capuano, Frank (ex officio) and Scott. Also present was Representative Emanuel.

Mr. NEY. [Presiding.] The subcommittee will begin, and we will entertain opening statements—I will begin mine—as members come in. That way, we will get this sitting out of the way and, hopefully, give us more time for the panelists.

This morning, the Housing Subcommittee meets to discuss the January 2004 General Accounting Office report dealing with the preservation of this country's affordable housing units.

Beginning in the 1960s, the federal government began to contract with the owners of privately owned multifamily buildings to increase the number of units available to low-income renters. Offering voluntary incentives to prevent the erosion of the country's affordable housing units was another enticement to further encourage the development of affordable housing for low-and moderate-income people.

Many of these mortgages for these developments have or will soon reach contract maturity. In addition to contract maturity, tight rental markets, low fair market rental levels and landlords who are choosing to opt out of the programs are reducing the supply of available housing for the program participants, which, I think, of course, will be creating a problem. Thus, many Americans living in these at-risk developments could find themselves unable to find affordable housing.

Properties subsidized under the programs represent a significant source of affordable housing across the country. Many of the commitment periods will be completed within the next 10 years. When owners pay off mortgages, in most cases, the subsidized financing

ends and so does the requirement, and that requirement, of course, is to keep those units affordable.

This raises the possibility that rents will increase. In many areas, families simply cannot find an affordable place to live, so I think we have to look for ways to keep these units affordable and also, obviously, available.

In December of 2002, Chairman Oxley and Ranking Member Frank requested that the General Accounting Office conduct a study of the preservation of low-income housing rental developments that are scheduled to reach maturity in their mortgage.

The GAO report states that over the next 10 years, low-income tenants in over 101,000 units may have to pay higher rents or move to more affordable housing when HUD-subsidized mortgages reach maturity, and, of course, the question would be: Where would they move to find affordable housing?

Nationwide, 21 percent of the subsidized properties with HUD mortgages are scheduled to mature through 2013. This is a significant portion of this country's affordable and available housing stock.

While HUD does not offer incentives to keep properties affordable after mortgage maturity, there are a variety of programs available to States and localities to assist them in keeping these properties affordable, such as CDBG and HOME.

The trick is for States and localities to have this information, I think, in a timely manner so they have sufficient time to use the tools and the incentives available to them that we already have to help keep the properties affordable.

Today, families across this nation often find it difficult to find decent affordable housing where they live. Policemen, firemen and schoolteachers can no longer live where they work.

That is why we have to work together to preserve our existing stock and to find ways to work with private groups, state and local governments and businesses to determine how best to provide affordable housing to low-and moderate-income families.

Now is the time, obviously, to begin to talk about this, find out the facts and try to get some solutions. That is the purpose of today's hearing.

And, with that, I yield to the gentleman from Massachusetts.

Congressman Frank?

Mr. FRANK. Mr. Chairman, I appreciate your calling this hearing.

The housing crisis that we face is a very serious one. There are problems in our economy, problems of people not being able to afford basics that we think every American should be able to have, which are alleviated when we have economic prosperity. Jobs, rising wages, those things do a great deal to help.

Housing, sadly, in some parts of the country is less beneficially affected. Obviously, it helps when the economy improves, but, in fact, the very prosperity that we enjoyed in the 1990s exacerbated the housing crisis in many parts of the country, and it is particularly relevant to today.

I know there are people who like to argue that the rising tide lifts all boats, but if you are standing on tiptoe in the water because you cannot afford a boat, the rising tide is not good news. Or if you do not own the boat, but you are temporarily in it be-

cause you are paying a certain amount of money and somebody else can outbid you, you can go over the side. We are talking now about a problem of people being tossed over the side because of that very rising tide.

Enough metaphors. It is getting too complicated.

Here is the problem: We subsidize housing in a very sensible way. People who oppose federal efforts in the housing area often point to the mistakes we made—Codigo, Cabrini Green, Columbia Point, the large excessively institutional warehouses for large numbers of low-income people with no services. The poor people did not ask to be put there. The society did that because that was the cheapest way to kind of ease our conscious pangs.

But we learned that that was not a good idea, and one of the things we have done is to harness the private sector in a very useful public-private cooperation through various programs, 221(d)(3) below market interest rate program, 236 program and other forms of subsidy.

Now, in many cases, obviously, that housing was built in areas that were not quite so desirable, and the very prosperity that we all welcomed has made some of the areas which used to not be so desirable much more desirable.

The South End in Boston, when I got involved in Boston government 35 years ago, was not a great place to live. Today, it is a very high-end place to live. Now we built a lot of housing in the South End, subsidized housing, for people of low and moderate means. They now can be priced out.

In other words, if we do not act, the very prosperity that we welcome will become a source of displacement for many low-income people.

We have budget problems. We want to do things as economically as possible, as inexpensively as possible without minimizing quality. It seems to me overwhelmingly clear preserving existing units of affordable housing per dollar is by far the best way to deal with the housing stock problem.

I think we need to go beyond that. I think we should get back into a production program. But it ought to be the minimum that we could agree on, that preserving existing affordable housing is not only the least expensive financially, it is the least expensive socially. We are talking about people not being displaced.

Now we recognize that the owners have a constitutional right to the terms of the contracts into which they entered. We cannot order private owners to breach the terms of their contracts. It, therefore, becomes important for us to work together with the tenant groups, the owners, state and municipal officials cooperatively to try to preserve this housing.

By definition, by the way, we are going to be talking about housing with high consumer satisfaction because if we were talking about properties that are unattractive that no one wants to live in, there will be no concern about preserving them. They will not be the ones that could be rented out more expensively.

So this is, Mr. Chairman, as you know, a very, very important subject. It is one that calls for us all to work together cooperatively with the private sector, with tenant groups, with state and local governments, and I believe a relatively small amount of money per

unit will go further to preserving affordable housing here than anywhere else.

One last point: We all pay tribute to the notion of deconcentrating poor people, of integrating our society, of avoiding the segregation of poor people by economics and, to some extent, by race. If we lose the current stock of affordable housing because the neighborhood gets more desirable, we will be perpetuating that trend.

We ought to welcome this and say, "Yes." Isn't it an important thing to our society and our goal of integration economically, racially and every other way that as various neighborhoods change character, as they become places where wealthier people will want to live, we will preserve within those neighborhoods areas where lower-income people can live? That is the best way to achieve this goal.

So, Mr. Chairman, in this, as in other things, I am very appreciative of the willingness you have had to take the lead in trying to discharge our housing obligation.

Mr. NEY. I want to thank the gentleman from Massachusetts.

The gentleman from Wisconsin, Mr. Green.

Mr. GREEN. I have no opening statement, Mr. Chairman.

Mr. NEY. The gentleman from Georgia, Mr. Scott.

Mr. SCOTT. Thank you very much, Mr. Chairman.

To you, Chairman Ney, and Ranking Member Waters, Ranking Member Frank, I want to thank you for holding this important hearing today regarding affordable housing preservation.

There is an extraordinarily great need for this nation to preserve the existing inventory of federally assisted housing.

For about 50 years, HUD has subsidized the development of about 1.7 million low-income rental units by offering property owners favorable mortgage financing, long-term rental assistance contracts or both in exchange for owners' commitment to house low-income tenants for 20 to 40 years. According to the GAO, over 193,000 subsidized units will be lost in the next 10 years when the mortgage matures and the mortgage subsidy and low-income affordability restrictions related to the property terminate.

About 77 properties, or 26 percent, of subsidized properties in Georgia alone are scheduled to mature by the year 2013. Owners will be permitted to raise the rents for units not covered by a rental assistance contract to market levels. Approximately 200,000 individuals in 101,000 units with no other subsidy attached to the property will be at risk of paying higher rents because there are no existing tenant protections, such as enhanced vouchers, to protect the tenants from paying higher rents or being evicted when the mortgage matures.

To help address these concerns, I have signed on as an original co-sponsor of H.R. 4679, the Displacement Preservation Act of 2004, and I want to thank Ranking Member Frank of Massachusetts for his sterling leadership on this critical issue and this important piece of legislation. Our bill H.R. 4679 will maintain the affordability of units and protect tenants in these units in cases where owners choose not to adhere to the existing affordability restrictions upon mortgage maturity.

I believe that this committee and HUD should continue to focus on the overall problem of the lack of affordable housing in America. To that end, I am also a co-sponsor of the National Housing Trust Fund, H.R. 1102, which will provide funding for 1.5 million units of affordable housing over the next 10 years.

I also am concerned with the loss of $1.6 billion from the Section 8 housing voucher program. Last week, our Financial Services Committee held a hearing on homelessness. Every one of the witnesses on the panel agreed that cutbacks in Section 8 vouchers will contribute to an increase—a dramatic increase—in homelessness in this country.

What could provide better assistance to help families become self-sustaining than helping them with rental assistance? These cuts are misguided, and they should be reversed.

Thank you, Mr. Chairman, and I look forward to the panel's testimony.

Mr. NEY. I want to thank the gentleman from Georgia.

Gentlelady? Ranking Member Ms. Waters?

Ms. WATERS. Thank you very much, Mr. Chairman, for scheduling this hearing to consider both the recent GAO report that Ranking Member Frank and Chairman Oxley requested on affordable housing preservation and H.R. 4769, the Displacement Preservation Act of 2004, a bill offered by Mr. Frank that I am proud to have co-sponsored.

Mr. Chairman, as Mr. Bodaken correctly observed in his prepared testimony, the nation's supply of decent affordable housing for the poor and elderly does not meet the demand for such housing, yet the Bush administration has no real production program to create additional affordable housing, and it also has taken many steps that jeopardize the Section 8 program.

These dire circumstances make it all the more urgent that we preserve our existing inventory of federally assisted affordable housing. We must do all that we can to prevent the loss of any affordable housing units. Yet the recent GAO report, the April 2004 report of the National Housing Trust and the testimony of our witnesses today will clearly demonstrate that we are, indeed, failing to do so.

The April 2004 report of the National Housing Trust establishes that 300,000 project-based affordable units have been lost in the past 8 years. The additional vouchers funded during this time period to prevent displacement of tenants have not been sufficient to prevent a loss of affordable housing. The National Housing Trust estimates that there has been a net loss of at least 74,000 rental subsidies between 1995 and 2003.

Mr. Chairman, there is every reason to believe that this problem will worsen as more mortgages mature if we do not act decisively to address it. As the recent GAO report observes, HUD does not offer incentives to keep properties affordable upon mortgage maturity, and tenants in over 101,000 units without rental assistance are at risk of paying higher rents after mortgage maturity because no requirement exists, such as enhanced vouchers, to protect tenants when HUD mortgages mature.

According to the GAO, over 193,000 subsidized units will be lost in the next 10 years when the mortgage matures and the mortgage

subsidy and low-income affordability restrictions related to the property terminate.

Tenants who live in units financed through Section 221(d)3, Below Market Interest Rate program, or Section 236 program will risk having to pay market-level rents when the mortgages for these properties mature because these units have no rental assistance contract attached to them.

Mr. Chairman, with the administration's support, a total of $703 million in Section 236 funds have been rescinded in the funding year 2004, funding year 2003 appropriations and in the funding year 2002 supplemental appropriations bill. These were funds that were authorized for the rehabilitation of low-income subsidized housing units that could have been used to preserve the supply of affordable housing.

In its funding year 2005 budget, the administration compounds the prior injury by proposing to rescind an additional $675 million in funds previously appropriated for Section 236 subsidized housing projects. H.R. 4679 would help to preserve affordable housing where the owners of Section 221(d)3 or Section 236 properties chose not to observe prior affordability restrictions when the mortgages matured.

It would make low-and certain moderate-income tenants in units not covered by rental assistance contracts eligible for enhanced vouchers if owners choose not to continue the affordability restriction. It would require notice to tenants at least 9 months prior to mortgage maturity, if an owner chooses not to maintain affordability restrictions when the mortgage matures.

Finally, the bill would authorize the use of $675 million in Section 236 funds targeted by the administration for rescission to provide one-time rehab grants to owners, one-time grants to help nonprofit organizations purchase properties and continue them as affordable and to make annual payments to owners to cover the difference between subsidized and market rents for low-income and certain moderate-income tenants.

Affordable housing preservation initiatives, like H.R. 4679, are a cost-effective method to maintain our affordable housing stock, while avoiding the "not-in-my-backyard" problems that sometimes attach to new housing projects. I urge my colleagues to support H.R. 4679.

And, finally, Mr. Chairman, when you factor in the impact of the proposed cuts to the Section 8 program on affordable housing inventory, it is clear that we will continue to lose units at a rapid rate if we do not act to remedy these ongoing problems.

HUD must do more than simply take steps to make data about properties with maturing mortgages more accessible to the public. They need to fund the preservation of these units.

I thank you, Mr. Chairman, for allowing me to enter this statement into the record, and I know that you want to continue with the testimony from our witnesses today.

[The prepared statement of Hon. Maxine Waters can be found on page 39 in the appendix.]

Mr. NEY. Without objection.

Any additional opening statements?

The gentlelady from California?

Ms. LEE. Thank you, Mr. Chairman.

Let me thank you and Ranking Member Waters, Ranking Member Frank for convening this very important hearing to review the GAO findings from the recent report on preservation and data collection of privately owned affordable rental units for low-income tenants.

This report and hearing is very important because it highlights the harsh reality of HUD's lack of State and local data collection, its poor recordkeeping and really very dismal efforts to track privately owned subsidized properties where our most vulnerable families live.

As we all know, the need to preserve the nation's existing inventory of federally assisted affordable housing is critical. As more and more families fall victim to our economy in terms of losing jobs, losing their health care and much more, we must do everything we can do to protect their basic shelter.

If we cannot pass simple legislation to create a national affordable housing production program similar to H.R. 1102, the National Affordable Housing Trust Fund, the least we can do is to maintain, preserve and work in conjunction with landlords to keep people in the limited affordable housing that we currently maintain.

Unlike the administration's efforts in terms of its efforts to cut affordable rental housing by block-granting the Section 8 program, I fully support legislative fixes that will keep families in their homes. It is this committee's obligation to change the current direction of HUD policies toward the poor and moderately incomed individuals and families.

Homeownership or homelessness is not the option families should have to face. Instead, we must invest in affordable rental programs like Section 8, Section 202, Section 221 and Section 236.

The problems that we are discussing today can be fixed in the short term by passing H.R. 4679, the Displacement Prevention Act of 2004.

Ranking Member Frank's legislation realistically uses $675 million in previously appropriated housing rescissions for one-time-only grants to owners for rehabilitation of affordable properties in desperate need of repair.

The $675 million could also be made available for non-profit organizations to purchase properties in order to keep them affordable.

Lastly—and probably most importantly to owners—this funding can cover the difference between subsidized and comparable market rents in the area.

This legislation is realistic and a good first step to looking at the problem of national affordable rental units.

So I wish we actually were discussing the National Affordable Housing Trust Fund today, but I am sure that many of the witnesses here will provide all of the background as to why we need to preserve the current housing stock and create a national production program. The housing bubble in many of our communities is bursting, and we must act now to protect those who are most vulnerable.

I look forward to the testimony of our witnesses, and I want to thank you again for convening this hearing, Mr. Chairman.

Mr. NEY. I thank the gentlelady.

Are there any additional opening statements? If not, we will move on to the panel.

The first member of the panel is Mr. David G. Wood, director of financial markets and community investment, General Accounting Office, and the second is the Honorable John C. Weicher, Assistant Secretary, Housing/Federal Housing commissioner, U.S. Department of Housing and Urban Development.

I want to welcome both of you, and we will begin with Mr. Wood.

STATEMENT OF DAVID G. WOOD, DIRECTOR, FINANCIAL MARKETS AND COMMUNITY INVESTMENT, GENERAL ACCOUNTING OFFICE

Mr. WOOD. Thank you, Mr. Chairman, and thank you for inviting me today.

Our report to Chairman Oxley and Ranking Member Frank on properties with HUD mortgages scheduled to mature over the next decade provides information in three areas: first, the scope of the issue in terms of the numbers of properties affected, their location by state and other characteristics; second, the impacts that low-income tenants may experience as a result of maturing HUD mortgages; and, third, tools or incentives available from HUD, states or localities that could be used to preserve affordability for low-income tenants.

Regarding the scope, I will briefly note a few highlights. Using HUD's databases, we identified a total of 2,328 properties with HUD mortgages that are scheduled to mature by December 31, 2013. These properties contain over 236,000 rental units, slightly over half of which are subsidized with project-based rental assistance provided by HUD, and every state has at least a few of these properties. The range is from three in Vermont to 273 in California.

We found that the potential impact on tenants could vary at these properties. Among other things, the impact may depend on protections against rent increases, if any, that may exist and owners' decisions regarding the use of their properties.

A little over 134,000 of the units of these properties are covered by rental assistance, mostly project-based Section 8. As long as the rental assistance contract covers the unit, the tenant is basically shielded from any increase in rent, even after the mortgage matures. If the rental contract expires and property owners decline to renew them, often referred to as opting out, then tenants of rent-assisted units are generally eligible for housing vouchers, which help pay the rent at their existing units or at other units.

Meanwhile, over 101,000 units in properties with HUD mortgages scheduled to mature by 2013 are not covered by rental assistance. No statutory requirement exists to protect tenants in these units from increases in rent after the HUD mortgages mature. Thus, tenants of those units could face having to pay higher rents or moving.

The impacts on tenants will depend not only on protections against rent increases, but also on property owners' decisions after

their HUD mortgages mature. Such decisions could be affected by a number of factors, including the income level of the property's neighborhood, the physical condition of the property, and the owner's mission.

Profit-motivated owners, for example, may find it desirable to turn a building into condominiums or rental units for higher-income households. On the other hand, non-profit owners, which own about 38 percent of the 2,328 properties, generally have a mission of providing housing affordable to lower-income households.

At the time of our study, the HUD mortgages on 32 properties had matured. Half of these properties had units covered by rental assistance contracts, thus shielding those tenants from rent increases.

We were able to contact 10 of the remaining properties and found that all were still offering rents affordable to low-income tenants. However, because of the small number, we do not know the extent to which these properties are indicative of properties with mortgages yet to mature.

Our survey of state and local agencies showed that a number of tools or incentives might be used to preserve the affordability of properties with maturing HUD mortgages. However, the survey also clearly showed that this was an issue not on the radar screen. In fact, most agencies do not track the status of HUD properties.

For example, about three-quarters of the 226 agencies that responded said that they do not track the maturity dates on HUD mortgages, and over half reported that they have no tracking system to systematically identify properties that are eligible to leave HUD's subsidiary programs. However, a number of respondents said that it would be helpful and useful to have this information.

Accordingly, we recommended that HUD take steps to make its data more available to help state and local agencies track subsidized properties that are eligible to lead HUD's programs. As an example of one approach, we also developed an interactive CD-ROM containing a database of the properties included in our study, which may be searched using a variety of criteria, including mortgage maturity date.

Mr. Chairman, that concludes my prepared remarks, and I will be happy to answer any questions you have.

[The prepared statement of David G. Wood can be found on page 132 in the appendix.]

Mr. NEY. I want to thank the gentleman.

Mr. Weicher?

STATEMENT OF HON. JOHN C. WEICHER, ASSISTANT SECRETARY, HOUSING/FEDERAL HOUSING COMMISSIONER, U.S DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. WEICHER. Thank you, Chairman Ney, Ranking Member Waters, Ranking Member Frank and distinguished members of the subcommittee, and, on behalf of Secretary Jackson, thank you for inviting the department to testify this morning. We appreciate this opportunity to provide the committee with the department's comments on this GAO report.

This administration is firmly committed to preserving affordable housing. Historically, HUD's subsidized rental projects have had

rent affordability requirements for a fixed term. In recent years, the department has worked with Congress to create incentives to maintain affordability if the rental assistance contract expires. Some of these incentives programs have extended the affordability restrictions beyond the maturity of the insured mortgage.

To date, the department has been very pleased with the success of these programs in preserving the affordable housing stock. Under this administration, the department has preserved the affordability of over 2,000 projects with about 200,000 in the Mark to Market, Mark Up to Market and Section 236 decoupling programs.

Although these programs do not directly address the termination of the affordability requirements resulting from mortgage maturity, the GAO reports shows that they are, in fact, preserving affordable units for an extended period beyond the original maturity date.

The Section 202 prepayment program also promotes long-term affordability. Owners can refinance the loans and obtain funds for modernization in return for keeping the affordability use restriction until the maturity of the original loan.

To promote preservation of these affordable elderly housing projects, the department has announced that we will allow these loans to be underwritten at the current Section 8 rent even if it is higher than the market rent. This change should enable substantially more Section 202 projects to be refinanced through FHA and improve long-term viability.

As the GAO report states, there are over 230,000 units in 2,300 properties where the mortgages are scheduled to mature through 2013. About 75 percent of these properties will not mature until 2011 or later. About 225 will mature in the next 5 years.

About 57 percent of the units in these properties receive project-based Section 8 assistance or other rental assistance. These residents are protected for the term of the assistance contract and will receive vouchers if the contract expires and is not renewed.

The remaining 43 percent of the units benefit from a mortgage interest rate subsidy, but the tenants do not now receive rental assistance. These are Section 221(d)(3) BMIR and Section 236 projects. The question has been raised as to whether unassisted residents in these projects would be able to afford increased rents when the mortgage matures.

It should be noted that the income limits are higher in these programs than in Section 8. There is, in fact, no income limit in Section 236. Residents in the Section 221(d)(3) BMIR projects can have incomes of up to 95 percent of area median in contrast to project-based Section 8 which limits residents' incomes to less than 80 percent of area median income.

Also, as the GAO report points out, unassisted residents of these projects have higher incomes than residents who do receive rental assistance. These unassisted residents should have the ability to afford higher rents, and, in the case of the Section 236 program, many of these residents may have been paying higher rents throughout the mortgage term.

Actual history shows that many projects remain affordable after loan maturity. The GAO report includes information on 26 rental properties where the HUD-insured mortgage had matured between

1993 and 2002. After maturity, all 26 remain affordable to low-and moderate-income residents.

Therefore, few affordable housing units appear to be at risk in these projects. When the mortgages do mature, the projects are remaining affordable.

The department certainly concurs with GAO that it is helpful to notify our partners in State and local governments when HUD-insured properties have the potential to leave HUD programs. In accordance with GAO's recommendation, within the past 30 days, the department has begun posting on our web site a list of HUD-insured mortgages and Section 202 loans that are expiring in the next 10 years.

The department is also planning to solicit comments from our industry partners on the information that is being provided so that we are able to improve the usefulness of the data.

That concludes my testimony, Mr. Chairman, and I would be happy to answer your questions.

[The prepared statement of Hon. John C. Weicher can be found on page 126 in the appendix.]

Mr. NEY. I want to thank the gentlemen.

And also, the Chair notes we need to keep to the 5-minute time today. I will notify members when they are out of time, if they want to wrap up their part of the questions, just so we can get on with this panel and the second one.

A question I had, Mr. Weicher—I want to start with you—is, in light of the department's July 12 letter that they sent stating that the GI/SRI fund is at 75 percent capacity and the administration's recent budget amendment submission requesting a $4 billion loan commitment increase, do we have enough commitment authority to last through the fiscal year? I wonder, if there is a continuing resolution, what does it do to that? Are the current funds sufficient?

So can we last through with the statement about the $4 billion, and I wonder, if we do go to a continuing resolution, how does that affect that, and would the current funds be sufficient?

Mr. WEICHER. As you know, Mr. Chairman, we said last week in that July 12 letter that we would reach the 75 percent mark for the fiscal year at the end of last week. We actually are reaching it either yesterday or today. That is just about where we reached it a year ago.

So, while we are running at a rate which would not exhaust the funds in this fiscal year, that is where we were last year at this time.

Mr. NEY. I do not mean to interrupt, but, last year, we ran out in August.

Mr. WEICHER. In September, actually.

Mr. NEY. Was it September?

Mr. WEICHER. Yes.

Mr. NEY. I think I said August, which is the second part, you know. I think we got a notice sometime in our final days before the August recess that the fund might not be adequate to address all the eligible applicants for the FHA loan guarantees, and I guess my question is: Will that happen again?

Mr. WEICHER. You have received the notice on the 75 percent mark, and I can assure you, Mr. Chairman, I am tracking the obli-

gations of that fund every day. We will certainly keep you apprised if there is any move in either direction from where we are now.

I think the $4 billion additional commitment authority will be helpful because we have not yet seen any additional business to speak of from the increase in the multifamily limits in high-cost areas, which Congress enacted in December and which we made available to lenders in April.

So we have not yet seen any real business from that. If we see a significant amount of business there, then we could, indeed, need the supplemental.

The first 2 months of last year, in each month, we ran at a rate of about $2-1/2 billion, which would be, for the year, more than $29 billion. So, even at $29 billion, we could run out of funds at the end of the month and the first couple of months.

Mr. NEY. But I note to you, last year, when the department called—I cannot remember who called, but the department called—it was so late. It was like the last 1 or 2 days left, and there was no way we could do anything, which then put us in a position beyond recess, and, you know, people are definitely going to be hurt.

But with the notification we received, should we have done a stand-alone bill this week? Were there steps we should have taken?

Mr. FRANK. Mr. Chairman? Mr. Chairman, would you give me 15 seconds, if you would yield on that, because it is so important?

Mr. NEY. Yes.

Mr. FRANK. I mean, here is one where there is no down side to this. My understanding is the bill has been filed in the Senate for the $4 billion, and I would hope maybe the administration could speak in favor of that. If they could do that quickly, we could have it sent back here, held at the desk, do it by UC. I mean, there is zero down side, only up side.

So I would just encourage it. You know, I know we are working for it here. If the Senate would just get that through, we could get it over here, and it would be done before we get out of here.

Mr. NEY. Yes, that is the point I want to make again. We do not want to get into the final days. Should we have, you know, done this this past week? Is there something we need to do permanently to ensure these funds?

Mr. WEICHER. Well, the President sent a letter to the speaker a week ago proposing the additional $4 billion in commitment. The administration certainly supports that additional $4 billion in commitment authority, and we are prepared to work with both Houses in any way that is useful to bring that to pass. We do not want to close down these programs any more than anyone else wants to close down these programs.

Mr. NEY. But do you think we should do a stand-alone bill?

Mr. WEICHER. If you can do it quickly.

Mr. NEY. I mean now.

Mr. WEICHER. If you can do it quickly, I think that would be prudent. The question might be: If you come back at the beginning of September and we have a potential problem, how quickly can Congress act in that situation?

Mr. NEY. My time is expiring, but, you know, that is something that we need to look at. Also, I think we need to look at some type of more permanent solution to ensure the funds.

The gentlelady of California?

Ms. WATERS. Mr. Chairman, I may have missed something here, but I do not understand what HUD is saying to us about the expense of this problem. I really want to understand as clearly as I can how many affordable housing units are actually being lost, how many do we anticipate are going to be lost, and when are we going to get the data and the formats for the data so that it can be viewed and printed without the need for a separate database management software.

I understand that HUD said that, by May 31, 2004, it would solicit the comments and suggestions from the four trade associations. To date, it appears that that has not been done, that HUD has not created a page on its Web site that provides relevant data on all the projects that are available in this format.

So I am trying to understand what does HUD know, what kind of a handle does HUD have on the problem, and how can we have access to all of that information and that data.

Mr. WEICHER. Ranking Member Waters, we do have the information on the Web site, and the information is accessible. I personally accessed it from my home computer to prove that it was accessible to the average not particularly computer literate individual.

The data is there for all of the 200,300 mortgages which will expire in the next 10 years. The data can be organized by year. It can be organized by State. It can be organized by congressional district. I can give you the link which we have provided to the trade associations.

It is accessible. I made a point of looking at that because I know from working with the HUD Web site and with other agency Web sites that sometimes it is hard to find what you are looking for.

Ms. WATERS. Well, my staff is telling me they are having problems because of the format, that it is not in PDF format, it is only available in Access 2000 and Dbase 3. Do you know anything about this format and whether or not it makes it less available?

Mr. WEICHER. I accessed it in PDF format myself, Ms. Waters.

Ms. WATERS. I beg your pardon.

Mr. WEICHER. I personally accessed it in the PDF format myself.

Ms. WATERS. Oh, you did? Okay. Well, that is very good. I will get to my staff and tell them to access it so that we can see what you have.

Mr. WEICHER. If there is a further problem, they should contact us directly, and we will sort it out. But I accessed it myself.

Ms. WATERS. Okay. Good. I am sure if you got it, we should be able to get it, too. Thank you very much.

Mr. NEY. The gentleman from Wisconsin, Mr. Green?

Mr. GREEN. Thank you, Mr. Chairman.

First, Mr. Chairman, I want to concur with your remarks and the remarks of the ranking member on the action we can and should take with respect to the additional commitment authority. I think it does warrant immediate action. It would make a difference.

Secondly, I was pleased to hear of the confidence that HUD has with respect to the units that are covered by mortgages reaching maturity. I think the concern that all of us have is that up to 2013

the number of units, the sheer volume will present challenges to us that, obviously, we will all have to work towards together.

I want to turn to a portion of your written statement that I would like to learn more about. I am looking at page 2 on at least what was handed out to us.

It says, "Due to the increasing number of sponsors desiring FHA insurance to refinance these aging projects, the department has been reviewing its procedures to provide more flexibility in underwriting an FHA-insured loan to replace the Section 202 loan. In recognition of the great need, the department is preparing a notice to allow these loans to be underwritten at the existing Section 8 rent, even if above market levels."

Could you elaborate on that a little bit? It is interesting, and I think it is something that warrants discussion.

Mr. WEICHER. Yes, I would be happy to, Representative Green.

HUD put out a notice on the refinancing of Section 202s last year, and, at that point, we said that we would permit underwriting at the lesser of the Section 8 rent or the market rent. We heard from many people in the industry that that was too restrictive. We saw not very much business under that.

So we are in the process of issuing a notice which will liberalize that and will permit loans to be underwritten at the existing Section 8 rent, even if it is higher than the market rent. So, from the people I have talked to in the industry, that will enable a lot more project owners and sponsors to refinance the loans on a basis which makes it possible for them to get the funds that they need to rehabilitate the project and to continue operating as affordable housing for the elderly.

Mr. GREEN. So the initial feedback has been good?

Mr. WEICHER. Yes.

Mr. GREEN. Any projections on what that will do for the challenge that we are all here to discuss today as we go out toward 2013, what kind of numbers that will help with?

Mr. WEICHER. Well, the Section 202 projects amount to about one-third of the total number.

Let me put it this way, Mr. Green. We have about 7,000 Section 202 projects, we have about 7,000 other projects which receive FHA insurance and a subsidy, and we have about 7,000 projects which are subsidized but are not insured by FHA. So Section 202 was about one-third of the total in terms of number of projects, less than that in terms of number of units. These tend to be a little smaller on average.

But this should enable those older projects, the ones financed as direct loans from the Treasury from 1959 through 1990, to go on providing affordable housing.

Mr. GREEN. Are those older projects a greater percentage of the overall projects that are coming to maturity in the next 5 years? You indicated there was a group.

Mr. WEICHER. They are not particularly coming to maturity in the next 5 years, but they are projects which have wanted to take advantage of the lower interest rate environment, as we do as homeowners, to take advantage of that environment to refinance at a lower interest rate and to use the difference, the savings to reha-

bilitate the property and provide affordable rental housing for the elderly for quite a while to come.

So it is a straight refinancing to obtain funds for rehabilitation on a basis which makes it feasible for the project sponsor.

Mr. GREEN. Great. Very good.

That is all I have, Mr. Chairman. I yield back.

Mr. NEY. Ms. Lee? The gentlelady from California?

Ms. LEE. Thank you, Mr. Chairman.

Let me just ask, Mr. Weicher. I wanted to find out how the Section 8 program can help with subsidizing the potential cost to tenants affected by mortgage maturity when, in fact, the administration is really, it appears, dismantling the Section 8 program.

Then, secondly, I know in the report there were no real recommendations in terms of the GAO report as to what to do, i.e. additional funding, additional vouchers, enhanced vouchers, just what exactly will happen once these mortgages are lost. What are your thoughts on that?

Mr. WEICHER. Well, as I think we both said in our statements, Ms. Lee, if an owner of one of these properties opts out of the program, the residents by statute receive enhanced vouchers, and those vouchers will be provided. That is part of the department's ongoing program.

Ms. LEE. They will be provided, but is the money there?

Mr. WEICHER. The money is there. The money is part of the administration's budget proposal.

Ms. LEE. To cover the entire problem.

Mr. WEICHER. To cover the enhanced vouchers.

Ms. LEE. One hundred percent of those that we would lose?

Mr. WEICHER. Yes, if the owner opts out. If the mortgage simply goes to maturity, then we have been providing vouchers to the residents going forward. Those are not enhanced vouchers because those residents may or may not have been receiving subsidy, but we have been able to do that, and we expect to continue to do that within the Section 8 program. That part of the Section 8 program as well.

This is a relatively small share of the total of Section 8, which amounts to most of the 1.7 million units which are in Section 8 projects and the 1.9 million units which receive vouchers. We are not talking about a large number here. Opt-outs have been running less than 10,000 a year for the last 7 years. So it is not a large number of vouchers that are at issue here.

Ms. LEE. So you are saying we should not really worry about it?

Ms. WATERS. Will the gentlelady yield?

Ms. LEE. Yes.

Ms. WATERS. Would you ask him if this is for more than 1 year?

Ms. LEE. Mr. Weicher, is this for more than 1 year in terms of the dollars that you have for the enhanced vouchers?

Mr. WEICHER. We provide enhanced vouchers. We have been providing enhanced vouchers while the residents remain in the project in which they were receiving assistance, and that is for as long as they stay there.

Ms. LEE. What if the mortgage matures and if they have to move?

Mr. WEICHER. Well, we have been providing vouchers for them in that situation as well, and those vouchers renew year by year, depending on congressional appropriation. The funds have been requested, and they have always been appropriated year by year.

Ms. LEE. Yes. Okay. Is it actually for 1 year or not, though?

Mr. WEICHER. A voucher is by statute a 1-year voucher because it is subject to appropriation, but it is renewable each year if funds are available.

Ms. LEE. If funds are available.

Mr. WEICHER. Funds have been available each year. Congress has funded the outstanding number, provided funds for the outstanding number of vouchers, and the vouchers have continued for those residents. We are on a 1-year funding cycle and have been for, I believe, 10 years now.

Ms. LEE. Okay. So, in high-cost areas, such as Massachusetts, New York, California, the enhanced vouchers for these families that are losing their units in the subsidized mortgage unit, the funding will be there year by year to ensure that they have the proper shelter?

Mr. WEICHER. Yes. Pardon me. The funding is there if the funds are appropriated, and the funding is at a level to enable the resident to stay in the property even as the property goes to a market rent.

Ms. LEE. So you do not see efforts to dismantle the Section 8 program at this point?

Mr. WEICHER. No, I do not. I do not think we are doing that. I know there are matters of concern between the administration and many members of Congress about that, but I do not think we are trying to dismantle the program.

Ms. LEE. And the block-granting of Section 8 does not affect the individuals?

Mr. WEICHER. There is a statutory right for an enhanced voucher established by Congress in 1998, I believe. I am not sure of the year.

Ms. LEE. That will continue?

Mr. WEICHER. That should continue.

Ms. LEE. That will continue. Okay.

But you do not see any reason to be alarmed?

Mr. NEY. The time has expired.

Mr. WEICHER. I am not going that far, Ms. Lee. I am answering the specific question. We certainly agree on the number of units at issue.

Mr. NEY. The time has expired.

Ms. LEE. Yes. Okay. Thank you very much.

Mr. NEY. Thank you.

The gentlelady from Pennsylvania?

Ms. HART. Thank you, Mr. Chairman.

Thanks, Mr. Wood and Mr. Weicher, for your testimony.

I come from an area that has a really high percentage of senior citizens, and it is probably going to get higher. Can either of you from your experience tell me out of all these dwellings that we are talking about, are there a significant number of them or can you give me a ballpark percentage of how many of them are available specifically toward senior citizens, to serve senior citizens?

Where I am, in my home county, there is a 6-month waiting period for HUD-assisted senior housing, and I am sure that we are not unique. Can either of you can enlighten me a little bit on the specific service to seniors situation?

Mr. WOOD. I can tell you that of the properties in our study with mortgages that are going to be maturing by 2013, 41 of them were Section 202, which, by definition, is for the elderly, and those properties had a total of 3,200 units. That is the only real data I have.

I have also seen estimates that an even greater number of seniors are served by Section 8 than are served by the 202 program, and a fair number of the properties in our database of those with expiring mortgages also have Section 8.

Ms. HART. Go ahead.

Mr. WEICHER. Ms. Hart, we have about 7,000 Section 202 projects which are by definition to serve the elderly, and I believe the average number of units to be about 80. In addition, as Mr. Wood is saying, a substantial number of families served in the Section 8 projects and, for that matter, in the voucher program and in public housing are elderly.

We can provide you with those numbers. I do not know them off the top of my head, but a substantial fraction of our assistance does go either explicitly as in 202 by statute to the elderly or goes to the elderly in programs which are not restricted to the elderly.

I would be happy to provide that.

Ms. HART. Thank you. I would like to know that.

Are there specific things being done? I am not 100 percent certain about the demographic estimates, you know, down the road, but I expect that you are going to find some more demand for senior housing. Is that something that you are planning for?

Mr. WEICHER. Well, I think we all can see that coming. The baby-boom generation will be turning 65 at the end of this decade and beyond, and I think we continue to fund Section 202, and we continue to maintain the level of incremental funding from year to year. Certainly, for projects that are funded by tax credits and the preservation efforts, we are doing our best to make sure that there is housing available for the low-income elderly as those numbers increase.

Ms. HART. It is a little off the subject, but not really. What is specifically being done for areas like ours where there is such a long waiting list? Are they targeting critical areas like ours to make sure that there is going to be more housing available?

Mr. WEICHER. We are not targeting specific areas in that respect. Within the 202 program, we have a fund that we allocate funding by a HUD program office based on a formula which takes account of the number of elderly in a jurisdiction, and then we fund the highest scoring applications in each of those areas.

Then, with funds that are left over, we combine them because the dollars never quite add up to the dollars of the successful applications. Then we go on funding, as far as we can, the highest ranking remaining applications. So funds are allocated roughly in proportion to the need as best we can do it by formula.

Ms. HART. Okay. I have time for another quick question, and it kind of goes to the whole issue of the likelihood of the increase in rent after the mortgage expires. I mean, obviously, the assistance

to the owner for the financing for this kind of housing is required. Otherwise, these buildings, in a lot of cases, would not be made available. I assume that is still a valid reason for doing the HUD-assisted mortgages.

So, once the mortgage expires, I mean, just generally, is there any reason why we should have an expectation that the rents should remain low? I mean, these people are in the business of renting property.

Mr. NEY. The time has expired.

Mr. WEICHER. There can be projects where the market demand has risen, and so the market rents would be significantly higher than they were when the project was built. The GAO evidence is that the projects where mortgages have expired, those projects have remained affordable.

Mr. NEY. The gentleman from Massachusetts?

Mr. FRANK. Mr. Weicher, as I understand it, your view is that this question of expiring use is really not a problem because the administration's voucher policy will meet whatever need exists in this area? Is that correct?

By problem, I mean people not being able to afford to continue to live where they were living.

Mr. WEICHER. Mr. Frank, let me state the policy. For opt-outs, we provide enhanced vouchers, as you know, for families who have been receiving assistance. If the mortgage matures, then there are not enhanced vouchers, but we have been providing vouchers to the residents when the mortgage matures.

Mr. FRANK. Okay. And you think that takes care of the problem?

Mr. WEICHER. It takes care of the problem of the individuals who are affected by mortgage maturity or by opt-out.

Mr. FRANK. I have a couple of questions. I am told, in the budget this year, the administration has proposed a curtailment of enhanced vouchers. Is that accurate in your budget proposal for the next fiscal year?

Mr. WEICHER. We are proposing to continue to provide enhanced vouchers year by year.

Mr. FRANK. What does that mean, year by year? What is the current law?

Mr. WEICHER. I am sorry. The current law is that enhanced vouchers are provided for the resident while the resident remains in the project.

Mr. FRANK. In a prepaid project?

Mr. WEICHER. In a project which has opted out, yes.

Mr. FRANK. And you are proposing we change that how?

Mr. WEICHER. We are proposing to change that so that the voucher is provided on a year-by-year basis as funds are available to the individual rather than determined in advance.

Mr. FRANK. Okay. So now that is the first problem I have because one of the things we are trying to do here is to avoid displacement, and we now have a policy in effect that says to the tenant, "If your mortgage has been prepaid, you can continue to stay there with this enhanced voucher." You would change that to say to the tenant, "You have a year, and we cannot tell you what is going to happen next year." Is that correct?

Mr. WEICHER. That is approximately correct.

Mr. FRANK. I think that is a significant problem. When you have elderly people, as the gentlewoman from Pennsylvania mentioned, to tell a 77-year-old man or woman who has been living in this place for 15 or 20 years, "Well, here's the change we are making in the law. You are good for next year, but we cannot tell you about the following year. It depends on the budget. It depends on all these other things. It depends on whether those people in Washington ever get around to adopting a budget on time," that seems to me, Mr. Weicher, unnecessary cruelty.

I do not know how much money you are going to save from that, but it would introduce that element of extreme uncertainty into the lives of these older people. Again, we are talking about them having to leave their homes, and you acknowledge that there are cases where the rents are high or otherwise we would not need enhanced vouchers. I mean, the enhanced vouchers by definition go to where the rents are above the regular Section 8, and to introduce that level of uncertainty seems to me very unfortunate.

My second point: With regard to enhanced vouchers, once the mortgage has matured under your proposal or under existing policy, as you would have it, there would be no enhanced voucher? Is that correct?

Mr. WEICHER. Under existing policy, there are vouchers, but they are not enhanced vouchers.

Mr. FRANK. They are not enhanced vouchers. So, if the mortgage matures and at that point the rents go up, there are individuals who might be forced to leave, even people who are on rental assistance, because you say here, "We only give enhanced vouchers if there is already rental assistance."

I am glad you are getting some help here because we may get into serious stuff. You can sit down. You do not have to kneel. Why do you not sit? I do not want you to get a cramp. You can sit next to him. It is okay. I do not want to worry about your knees.

You are changing the policy this way: You say, right now, you can get an enhanced voucher if you have rental assistance and there is a prepayment, but, if the mortgage matures, after the mortgage matures and the landlord is under no further constraint, the situation the gentlewoman from Pennsylvania was mentioning, you know, I do not blame the landlord. They are in business to make money. They have loans. They have obligations. They may have stockholders.

They then raise the rent to market levels, and, if the market levels should be above the Section 8 level, then that person has to move out, is that correct, or find some other resources? Why deny enhanced vouchers in those situations, at least to the existing tenants?

Mr. WEICHER. Well, of course, enhanced vouchers as a legal matter were established to address——

Mr. FRANK. I understand that. I am talking about the policy now. We are not in court arguing the point.

Mr. WEICHER. Going forward——

Mr. FRANK. As a matter of public policy, why should we not say people here—you know, they have been living there 15, 16, 18, maybe 23 years, it is a 40-year-old mortgage, and as a result of this program expiring—these people are in their maybe 70s, maybe

80s—the Section 8 voucher will no longer cover the rent for that place. They have to move. Why do we not give them an enhanced voucher? What is the policy reason not to change the law to allow them enhanced vouchers in that situation?

Mr. WEICHER. Our judgment based on both the GAO study and our own analysis is that residents of these projects are typically in better position to be able to afford higher rents if higher rents occur.

Mr. FRANK. Okay. Typically, right, but there is an income level here. So that is typically. You see, it seems to me your argument is somewhat contradictory. What you are saying is there would not be that much need for enhanced vouchers. You have confidence that these landlords would not be raising the rents in many cases.

Mr. NEY. The time has expired.

Mr. FRANK. You have said that the rents would not be going up. Given that it would not be likely to cost much, in the atypical situations, why have a situation where these 70-and 80-year-old people will be forced to move?

Mr. NEY. The time has expired, but please answer the question.

Mr. WEICHER. Our feeling is, Mr. Frank, that with the limited funds that we have available, the funds should go first to the people who are going to be the most in need, and those are the people who have been receiving Section 8 assistance and whose incomes are generally lower than the residents of these projects who have not previously been receiving assistance.

Mr. FRANK. I would like to just for 10 seconds, Mr. Chairman, say this is part of the problem.

This is where we differ. We think the existence of these units as affordable units is a real asset. You are prepared to let these units go out of the affordable inventory and then shift whatever burden remains on to a voucher program, which is already overstrained. That is the problem.

We think that, in fact, exactly that, that it would be cheaper in terms of providing affordable housing to try and preserve some of these units in a variety of ways as affordable, and your alternative is let them all go out of the inventory and let's pick up some of these people on the voucher program, which, as I said, is already overstrained.

Thank you, Mr. Chairman.

Mr. NEY. I thank the gentleman.

Before we go to the second panel, I have an order question for the committee, if I could. I just want to clarify the August deadline so I have it, you know, straight in my mind.

On one hand, we are told that the program should be good through October. Now that would be without the $4 billion. Is that correct, that the program will work through October without the $4 billion?

Mr. WEICHER. At this point, Mr. Chairman, at the continuing rate, the program would be all right until the beginning of October, but that is exactly the situation we were in last year at this time.

Mr. NEY. Well, it was not okay.

Mr. WEICHER. It was not all right because there was an upsurge in the latter part of August and September.

Mr. NEY. So we are not guaranteed then. It could.

Mr. WEICHER. That is right.

Mr. NEY. It could maybe not be.

Mr. WEICHER. There is no guarantee. Mr. Chairman, at this time last year, we were reasonably sure that we would not hit the $23 billion limit at the time, and we did.

Mr. NEY. So a stand-alone bill would be a backup. I mean, I cannot speak for appropriations, but I am trying to imagine how in the next 3 or 4 days they can do that. Maybe they can, and that is why I am just wondering about a stand-alone bill.

Mr. WEICHER. Well, we are prepared to work with Congress to alleviate the concern, whatever you and the appropriators think is useful.

Mr. NEY. Well, I thank the panel. Appreciate your time.

We will move on to the second panel.

I want to thank the panel for being here today with the Housing Subcommittee.

The first panelist is Michael Bodaken, and he is the president of the National Housing Trust, a position he has held for over eight years. During his tenure, he has seen the trust rise to become the primary national non-profit organization dedicated to the preservation and improvement of affordable multifamily homes.

O. Angie Nwanodi is the director of policy at the National Housing Development Corporation. The corporation seeks to preserve affordable housing by working with local communities to empower individuals and revitalize neighborhoods by raising capital to purchase large-scale, at-risk properties, renovating and repositioning these properties, and then distributing ownership of these properties to qualified local organizations capable of providing high-quality asset management.

Charlotte Delgado is the western vice president of the National Alliance of HUD Tenants. Since its creation in 1991, the alliance has worked to preserve and improve affordable housing, protect tenants' rights, promote residential control and ownership, as well as develop tenant empowerment and improve the quality of life in HUD-assisted housing, while at the same time, making HUD more accountable to those living in HUD-assisted homes.

I am going to defer to Congressman Frank of Massachusetts to introduce the next panelists.

Mr. FRANK. Thank you, Mr. Chairman.

I am particularly pleased to introduce two witnesses from Massachusetts, although I am also particularly glad to see the National Alliance of HUD Tenants represented because that is an organization that is very well represented and very active and very helpful to us in Massachusetts.

But the two witnesses I am about to introduce are not only from Massachusetts, but they both represent the private sector. They both represent the business community, and I think this is important to note. We are talking here about trying to preserve one of the best examples of private-public cooperation for general good that we have, and it is one where we have taken the profit motive, we have taken socially responsible effective and efficient business people, and it would be a shame if we were the ones to preside over the dissolution of this program by just letting this go out of business.

The first witness, William Kargman, is a man with a very distinguished record in housing development. His entire family has, in fact, been very active in this regard. He is president and CEO of First Realty Management, and he is a member of the Massachusetts and federal bar. He is a former president of the Rental Housing Association.

He owns and manages a significant number of units in Massachusetts, and I have worked with him and benefited from his advice for a very long time, going back at least to 1961 when we graduated from college together. So he has a very distinguished pedigree here, but he has been very important, and we in Massachusetts have taken so advantage of his programs. He has been very helpful.

In addition, we have another businessman who has done great work here, Todd Trehubenko, who leads Recapitalization Advisors, and they have been very important in getting private capital into this and the importance of harnessing private capital. We are talking here about both people who build, people who manage and people who invest, and maintaining this cooperation is very important.

Now let me just say Mr. Trehubenko and Recap have done an excellent job, and, once again, we have benefited both from their specific work and from their advice.

One of the things that most troubles many of us about the problems now with the Section 8 voucher program is the extent to which responsible private business people, investors, property managers, landlords are being driven out of the program. We do not want to be left with those private-sector people who cannot find other uses for their money and their property, and it is very important that we show our appreciation and willingness to take advantage of them.

So I am delighted to welcome both Mr. Kargman and Mr. Trehubenko here, and I thank you for your courtesy, Mr. Chairman.

Mr. NEY. The gentlelady from California?

Ms. WATERS. Thank you very much, Mr. Chairman.

I certainly appreciate your introduction of the Californian who is here, but I wanted to add just a few comments.

Ms. Delgado is a resident of Sacramento who has been the National Association of HUD Tenants' vice president for the West for most of the past decade, and she was a co-founder of the organization in 1991. Ms. Delgado also serves as the president of the Statewide Alliance of Tenants, known as SWAT, in California, which represents HUD tenants from across the state.

She is also the president of the Washington Squares I and II Tenants Association where she lives in Sacramento. Washington Squares is a 103-unit complex where the owners prepaid their HUD mortgage and converted the property to high-market rent. Ms. Delgado was able to stay in her home at Washington Squares only because she received aid through an enhanced voucher.

I would like to thank her for coming, and I appreciate an opportunity to add a few comments about her, Mr. Chairman. Thank you.

Mr. NEY. Well, I thank the gentlelady.

And to introduce the last witness, the gentleman from Illinois, Congressman Emanuel.

Mr. EMANUEL. Thank you, Mr. Chairman. Thank you for this opportunity, and I also thank Ranking Member Waters for allowing me this opportunity.

Gene Moreno serves as director of advocacy for the Chicago Rehab Network, where she coordinates policy advocacy at the national, state and local level.

Gene says she is a little nervous today. I have seen her at work in the city. Do not let that fool you. It is a good head fake because I have seen her be a tenacious advocate on behalf of people for affordable housing. In my own district in Albany Park and other parts of my district, they have done wonderful work.

Chicago Rehab Network is a coalition of non-profit housing organizations working to create and preserve affordable housing in the Chicago area. It was founded in 1977. Over 40 organizations are member organizations of CRN, and it represents well over 60 different neighborhoods in the City of Chicago.

They have built and are responsible for well over tens of thousands of affordable housing for Chicago citizens. I'd like to specifically cite one area, Albany Park, only because that was the neighborhood that, when my grandfather came over in 1917 from Russia, he settled in. My uncle is now a sergeant in the police force in that neighborhood, I now represent it, and I often say, "We have traveled many miles, but never gone very far."

You have done a wonderful job in Albany Park, and it is coming back as a strong neighborhood in part because of what we have done on affordable housing. So I appreciate CRA's great work, and I am glad Ms. Moreno is taking the time to be with us today.

Thank you, Mr. Chairman.

Mr. NEY. I thank the gentleman from Illinois.

I want to thank the panelists for coming here to the capital today on a very important topic. I would also note I want to thank Congressman Green from Wisconsin who will be chairing the subcommittee.

We begin with Mr. Bodaken.

STATEMENT OF MICHAEL BODAKEN, PRESIDENT, NATIONAL HOUSING TRUST

Mr. BODAKEN. Good morning.

Thank you, Chairman Ney, Ranking Member Waters and Ranking Member Frank, for allowing the trust to testify today.

I am Michael Bodaken. I am head of the National Housing Trust, and we are the only national non-profit organization in the nation dedicated solely to the preservation of federally assisted and insured housing. As mentioned in the opening, we have preserved and improved over 16,000 apartments, 90 percent of which are Section 8 subsidized or the subject of H.R. 4679, and I want to thank you for the opportunity to testify today.

Today's testimony covers really only two discreet areas, one is the context in which H.R. 4679 is being introduced, and the second are a few minor suggestions that can make the already excellent work of the committee perhaps achieve its ends at a cost acceptable to the American taxpayer.

Ranking Member Waters mentioned in her remarks that we find ourselves in a situation not unlike one of vanishing housing resource. The GAO report, which provided the catalyst for, in fact, this bill, mentions a number of 1.7 million units that are subject to HUD's programs.

What the GAO failed to point out is that that number has shrunk to 1.4 million units. Yes, over 300,000 of that existing stock has now been converted to market rate rental. Already, we have lost over 15 percent of what we are talking about.

So the numbers we are talking about are important.

It is also important to note that this stock is not stand-alone stock. Markets affect whether or not owners are going to stay in the program. This stock is very economically well integrated and is located in nearly every nook and cranny of our nation.

H.R. 4679 attempts to stem this rising tide of affordable housing loss. The state of the nation's housing put out by Joint Center for Harvard said it best: "The already scarce supply of low-cost housing continues to shrink because of physical deterioration and gentrification. Long-term Section 8 contracts for subsidized rental units continue to expire, placing huge demands on our limited supply."

Nor is this housing isolated to California or to Massachusetts or Illinois. Take a look at the GAO's own statistics. Over half the States of this nation stand to lose about 20 percent of their existing HUD stock if something is not done about maturing mortgages.

In the State of California, it is 25 percent. In the State of Wisconsin, represented here by Mr. Green, it is 15 percent. In the State of Pennsylvania, it is over 17 percent. In the State of Ohio where Mr. Ney is from, it is 17 percent. Again, in Wisconsin, it is 15 percent.

Hundreds of thousands of units are really at risk throughout the nation. It is not isolated to one place, not isolated to California or Massachusetts at all.

There are two things, I think, that could be done to help the bill with its impact, and they are very simple fixes to the bill.

When we look at affordable housing loss, we sometimes treat our society as if we are just managing a decline. It is kind of a pessimistic kind of matter. But, in fact, State and local agencies are stepping up to the plate and preserving this housing en masse.

We did a study approximately a year ago which shows over 40 states are preserving housing with low-income housing tax credits. In the State of Wisconsin, 40 percent of your long-term housing tax credits are being used to preserve this housing stock.

One simple fix for the bill would allow developers who are using tax credits to take the funds as either a loan or a grant so they can get more equity to preserve this stock. In the State of California, there is a plethora of programs available at the local and state level that would be benefited by this 1 technical change.

There is two other problems with the bill that affect non-profits. The first is non-profits need to be allowed to raise rents as do for-profits. The second is non-profits should be allowed to use the funds for acquisition.

I will close by asking the subcommittee to support H.R. 3485. It is a tax bill which allows the owners of this housing to benefit. It

has been introduced by Congressman Ramstad and Cardin on the tax side. I know you do not have jurisdiction of tax, but the subcommittee is very important with respect to housing matters generally in Congress. It is a bipartisan bill introduced in the Ways & Means Committee, it has significant industry support, and I would urge the subcommittee to consider supporting it.

Adoption of H.R. 4679 today can mitigate the affordable housing laws that we have tomorrow. I urge its adoption, and I thank you for allowing me to share my remarks with you today.

[The prepared statement of Michael Bodaken can be found on page 41 in the appendix.]

Mr. NEY. I thank you for your testimony.

Ms. Nwanodi?

STATEMENT OF O. ANGIE NWANODI, DIRECTOR OF POLICY, NATIONAL HOUSING DEVELOPMENT CORPORATION

Ms. NWANODI. Good morning.

Thank you very much for the opportunity to be here and share testimony with the committee regarding this very important issue of preserving affordable housing.

The GAO report focuses on one subset of the stock, which is stock with maturing mortgages, and the fact that that stock faces some of the same challenges that the opt-out and prepayment stock faced in previous years. The National Housing Development Corporation, which I represent, is a non-profit organization that is dedicated to preserving existing affordable housing using innovative mechanisms.

The GAO report, although it does address one issue of preservation, as some of the members have mentioned, does not address the broader issue, which is the fact that existing affordable housing with federal subsidy in it will always expire.

There is a contract associated, there is a finite resource, a finite commitment that an owner makes, and so we are always going to be in the position, unless we look to more comprehensive policies for preservation, to respond with incentives for owners to stay in for an extended period of time with regulatory changes that make it more likely that folks will stay in the program.

The National Housing position is that the committee ought to consider ways to break this cycle of rapid response to crises that are foreseeable, based on the fact that these are contracts or that these are finite programs, and create tools, including funding, that will help to permanently address the problem of all kinds of multifamily housing that at some point will face a preservation crisis.

One of the things that we focus on at National Housing are the unique factors attributable to preservation. Representative Frank mentioned some of those. That is on a per-unit basis, it is cheaper to preserve the existing housing and the subsidies that over the years the federal government has placed into this housing than it is to produce a new unit.

That is not to say that new construction, whether it is through the tax credit program or any other program, is not necessary to meet our ongoing housing needs. But in a situation where we are losing units—as Michael said, 15 percent of them already gone, out the back door—one of the most cost-effective ways for the federal

government to continue to provide housing is to spend what is necessary to re-up these units into long-term affordability.

Preservation is also more politically palatable in many neighborhoods, and that is not a good or a bad thing. That is a matter of fact. It is a lot more difficult for the NIMB elements that Congresswoman Waters mentioned to come in and say to the city council, "We do not want that building fixed. We do not want that building preserved," versus trying to oppose something that is ground up.

So, in many States where the tax credit is available, deals die. Community opposition, various reasons, and federal dollars at a much lower per-unit rate could be preserving units that already exist in these communities.

One of the other issues that I think is very important to note in light of some of the findings of the GAO report is that the existing federal funding programs, in many ways, increase the costs of preservation, even though preservation is already cheaper than new construction. The fact that groups have to wait to get tax credit, have to hope that they get HOME or CDBG drives up the cost of housing when you are talking about acquiring an existing property because owners do not want to take that risk.

So, if you have an owner that may want to wait and may be interested in retaining affordability but still wants out, there is a disincentive with the current funding programs that are being used for those folks to stay involved with buyers that do want to preserve affordability.

What we recommend, therefore, is that a new program of some sort be created that creates an interim source of funding so that organizations like ours, like Michael's, like Recap Advisors' clients can access interim capital to preserve these properties when they are at risk and give them the opportunity to go through the normal channels of tax credits and so on and so forth to be preserved.

Finally, we support Representative Frank's bill that addresses this particular issue and would also urge the passing of H.R. 3485, the exit tax provisions, recognizing again that this committee does not have jurisdiction over that issue, but it will be very difficult to solve preservation challenges in the long run without addressing the tax side as well.

[The prepared statement of O. Angie Nwanodi can be found on page 104 in the appendix.]

Mr. NEY. Thank you for your testimony.

Ms. Delgado?

STATEMENT OF CHARLOTTE DELGADO, VICE PRESIDENT/ WEST NATIONAL ALLIANCE OF HUD

Ms. DELGADO. Thank you.

On behalf of the National Alliance of HUD Tenants, I am pleased to testify before this committee today and to express our strong support for H.R. 4679, the Displacement Prevention Act, filed by Representative Frank and other committee members.

Founded in 1991, NAHT is the only nationwide membership organization that represents over two million families who now live in private-owned, HUD-assisted, multifamily housing. Our membership today includes voting member tenant groups and area-wide coalitions in 26 states.

NAHT strongly supports the extension of enhanced vouchers for the currently unprotected 101,000 or more families in non-Section 8 units who would otherwise lose their homes when HUD mortgages mature.

For me and about 180,000 others who have already received enhanced vouchers to date, I can personally tell you that this has made all the difference in the world, the difference between having a decent home and a roof over our head to being out on the street.

We would also urge Congress firmly to reject the proposals now before you to abolish enhanced vouchers after one year and to reduce the Section 8 Voucher program by 600,000 families by the year 2009. These proposals, if adopted, will inevitably lead to tenant displacement, increased homelessness, and the further destruction of the nation's affordable housing stock.

Homeland security should begin with a home and must begin with a home. The elderly, disabled and low-income working families who live in these buildings, many of us veterans who have served our country and worked all of our lives to build our communities, deserve nothing less.

H.R. 4679 would also help preserve at-risk housing. Enhanced vouchers are clearly not enough. In my own development, only 21 apartments with enhanced vouchers remain out of 103 units since the owners prepaid, and the rest have been converted to high-market rents.

A NAHT report in October 2002 documents the permanent loss of 199,764 privately owned, HUD-subsidized housing units lost due to owners' decisions to opt out of HUD contracts between 1996 and 2001. The NAHT report also showed that the Mark Up to Market program, which Congress adopted in 1999, has failed to slow the loss of affordable housing.

The GAO Report on expiring mortgages notes that in the next 10 years, project-based Section 8 contracts aiding 1.1 million families will expire. Even in the absence of the expiring mortgage problems, the steady erosion of affordable housing will likely continue at the rate of approximately 41,000 units a year.

The new crisis in expiring HUD mortgages will only accelerate the loss. Housing for up to 101,000 families could be lost if owners convert their non-Section 8 units to market rents on their mortgage maturity.

In addition, many of the 135,000 project-based Section 8 units in expiring mortgage buildings could be subject to owner opt-out decisions as regulatory agreements linked to the mortgage expire. So we can expect to see an increase in the overall rate of Section 8 opt-outs as their mortgages expire.

In my own state, California, who has the highest number of developments affected by this crisis, 278 apartment complexes, fully 12 percent of the national total, the superheated housing market touches all corners of my state. People making $85,000 a year are living out of their cars in the Silicon Valley because they cannot afford an apartment. We can expect a huge number of these apartments converting to high rent as soon as their owners have a chance.

There is some evidence also that your GAO has been undercounted with expiring mortgages.

In Massachusetts alone, we found 10 developments with expiring HUD mortgages totaling 3,222 units, which are not included in the GAO report at all, fully 44 percent of the 7,297 units reported by the GAO in that State.

And, by the way, one of them, the Milliken apartments is in Mr. Barney Frank's district.

This is a potentially large undercount and, if that error is systematic, we would urge the committee to request that HUD and the GAO take another look at this issue and make it much more closely and to make appropriate corrections where needed.

Clearly, voluntary incentives, such as the Mark Up to Market programs, are insufficient to deter owners who choose not to extend expiring HUD contracts, especially in high-market areas.

NAHT believes that Congress should reestablish a national regulatory framework to limit owners' ability to opt out, prepay or to extend the programs such as the Title VI that was phased out by Congress in 1996. Title VI was a mandatory program that provided additional HUD——

Mr. NEY. Ms. Delgado, if you could summarize your testimony, please.

Ms. DELGADO. All right. Thank you.

We would also like to say that while we are asking for you to support this bill completely, we want to make clear that we need to refund our advocacy. They are absolutely the only ones that are tracking these throughout the United States. Neither HUD nor your local government is.

Thank you again for allowing me to testify and we support your bill.

[The prepared statement of Charlotte Delgado can be found on page 83 in the appendix.]

Mr. NEY. Thank you for your testimony.

Mr. Kargman, welcome.

STATEMENT OF WILLIAM M. KARGMAN, PRESIDENT, FIRST REALTY MANAGEMENT CORPORATION

Mr. KARGMAN. Thank you, Mr. Chairman, and members of the committee, I also would like to acknowledge that the committee has recognized and taken an interest in a very important issue with respect to certain federally subsidized housing programs whose mortgages are due to be fully paid in the next few years. There is currently no protection for certain tenants residing in this housing, as evidenced by the GAO report and by the testimony of the previous panel.

Some residents living in Section 221(d)(3) and Section 236 housing are currently paying below-market rents and do not receive Section 8 subsidies. Their rents remain below market because of FHA-interest subsidy which reduces the debt-service payment and, therefore, reduces the amount of rent.

Some of the other residents of these properties do receive Section 8 assistance and this was added during the mortgage term. The purpose of adding the Section 8 assistance was to address rising operating costs impacting low-income families and as an incentive under the Emergency Low-Income Housing Preservation Act now known as ELIHPA and its successor, the Low-Income Housing

Preservation and Residential Home Ownership Act of 1990, called LIHPRHA.

I mention these Section 8 units for two reasons. First, tenants receiving Section 8 are not impacted by the expiring mortgages or by the subject of H.R. 4679. This is because their subsidy is separate from the mortgage and continues as long as the owner renews the Section 8 contract. If the owner does not renew the Section 8 contract, the current law provides for enhanced vouchers to be used to protect those Section 8 tenants or residents.

Second, those properties under Title VI, as mentioned by my colleague, the LIHPRHA program, are locked in for the remaining life of the housing, and, therefore, they are not in jeopardy. When the mortgage itself will be paid off, they are still locked in by law and have Section 8 subsidies.

My concern here today is with the ELIHPA properties—the properties are mentioned in H.R. 4679—and those with affordability restrictions that expire in the Section 221(d)(3) and 236 mortgages and where the residents do not have Section 8.

I am a general partner and manager of 10 such properties which contain 2,494 family apartments. Nine of these properties have some Section 8 subsidies as a result of our participation in ELIHPA. The remaining units are occupied by families with incomes ranging from 51 percent to 95 percent of area median income who will be affected by the expiration of the mortgage and its accompanying restrictions. The oldest mortgage in my portfolio is scheduled to be fully amortized as early as September 2006. The rest will follow between 2006 and 2013.

The legislation's intent to provide enhanced vouchers to the non-Section 8 families in these buildings is essential to their being able to remain in what are their homes. I am familiar with enhanced vouchers because I prepaid a Section 236 mortgage in 1996 when Congress restored the right to prepay. At that time, 177 residents, both elderly and families, received enhanced vouchers that allowed them to remain in an upgraded apartment in a low-vacancy area without a change in their rent. Ninety of these tenants still reside in the property today.

When Congress provided enhanced vouchers for prepayment and Section 8 opt-outs, the mortgage maturation issue was not on their radar screen. We appreciate this committee and the GAO recognizing the problem and proposing to provide enhanced vouchers to affected residents.

I want to be able to say to our residents, as I did to those who reside in the building I prepaid in 1996, that they can look forward to living in the community they call home as long as the federal government will help them pay the comparable market rent.

Naturally, as we have heard in prior testimony, I am concerned about the current voucher funding shortfall, and its impact on the ability of our residents to feel confident that they will not be subject to a loss of these funds.

H.R. 4679 has other notable provisions involving grants and other assistance to maintain affordable rents. These may be attractive to other for-profit and non-profit owners. However, for owners such as myself whose properties do not need rehabilitation, the en-

hanced vouchers remain the key to protecting our current residents.

Thank you very much for your consideration of my view.

[The prepared statement of William M. Kargman can be found on page 91 in the appendix.]

Mr. NEY. Thank you for your testimony.

Ms. Moreno, welcome.

STATEMENT OF GENE MORENO, POLICY/ADVOCACY DIRECTOR, CHICAGO REHAB NETWORK, TESTIFYING ON BEHALF OF THE NATIONAL LOW INCOME HOUSING COALITION

Ms. MORENO. Good morning, and thank you for inviting me to testify at this hearing.

Better? Okay. Great.

The Chicago Rehab Network is a coalition of community development organizations. I am testifying today on behalf of the National Low Income Housing Coalition which is dedicated solely to ending America's affordable housing crisis. The Chicago Rehab Network is a proud member of the National Low Income Housing Coalition.

We would like to thank Chairman Oxley and Ranking Member Frank for having the foresight to request the GAO study released January 2004. The study provides a critical snapshot of a pressing preservation problem.

I am here to discuss the 100,000 families who will be left without any protection from rising rent, unlike their counterparts in properties with Section 8 rental assistance. This is a key issue that Congress will need to address.

Additionally, I would like to thank the GAO for their work in putting together the report as well.

We are pleased to see that in response to the GAO report, Ranking Member Frank has introduced the Displacement Prevention Act of 2004. In Illinois, there are more than 3,100 units of rental housing financed through the Section 236 and 221 programs.

We particularly applaud the authorization of $675 million in previously appropriated housing funds that can be instrumental in preserving those units for seniors, disabled people, and other vulnerable population in need of affordable housing.

The legislation allows tenants in these properties to be eligible for enhanced vouchers. It also requires notice be given to tenants 9 months in advance of mortgage maturity and offers owners three forms of grant assistance: rehabilitation assistance, assistance to facilitate purchase by not-for-profit entities, annual payment assistance to cover the difference between subsidized rents and comparable market rents.

We offer several specific recommendations for making the bill even more valuable in our written statement which has been handed to you.

Nationally, local entities are creating public and private partnerships to deal with this issue of preservation. We are working closely with our state agencies and other entities to create policy changes in administration and resources to preserve existing affordable housing units.

Just last week in Illinois, Governor Blagojevich signed extensive preservation legislation that we had been working on for several

years. Among other things, the Illinois law increases the number of situations in which owners of assisted housing must give tenants notice and extends the notice period from 6 months to 12 months.

While this new law is ground-breaking for its scope and the tenant protections, there is no resources attached to it. H.R. 4679 will go a long way in providing those critical resources to allow for the rehabilitation and acquisition of these buildings.

A current tool that is vital for any preservation effort is the Section 8 choice voucher program. The National Low Income Housing Coalition contends that all 236,000 households in projects with either maturing mortgages or expiring Section 8 rental assistance contracts between 2003 and 2013 described in the GAO report are at risk of rising rent. The Section 8 program is at risk, and, thus, any reliance on enhanced vouchers to protect Section 8 residents is at risk as well.

The fiscal 2004 and 2005 budgets that attacks the voucher program can only lead to uncertain and reduced resources as local communities struggle to preserve affordable housing units. While Ranking Member Frank's legislation is a major tool, there are a few others I would like to mention to be included in a federal preservation strategy.

H.R. 3485 introduced by Representative Ramstad and Cardin provides tax incentive to preserve affordable housing. Another is H.R. 4289. It was introduced by Representative Frank Lucas that would allow mod rehab projects to use low income housing tax credits for preservation efforts.

And a simple legislative change to amend the Low Income Housing Preservation Resident Home Ownership Act, known as LIHPRHA, would halt the preemption threat to States and local preservation laws.

We also urge the committee to consider H.R. 1102, the National Housing Trust Fund Act of 2003. A National Housing Trust Fund would provide much needed dedicated resources of funds to acquire at-risk affordable housing properties, something H.R. 4679 does not do at this time.

Mr. NEY. If you could wrap up, Ms. Moreno.

Ms. MORENO. Okay.

Preserving affordable housing stock is not an easy task, but, with strong leadership, we believe that the tide on our battle to preserve affordable housing would work, and we look forward to working with you in this effort.

Thank you.

[The prepared statement of Gené Moreno can be found on page 95 in the appendix.]

Mr. NEY. Thank you for your testimony.

Mr. Trehubenko, welcome.

STATEMENT OF TODD TREHUBENKO, SENIOR VICE PRESIDENT, RECAPITALIZATION ADVISORS, INC.

Mr. TREHUBENKO. Thank you.

Mr. Chairman, Representative Waters, members of the subcommittee, I am pleased to be invited here today.

My name is Todd Trehubenko. I am senior vice president of Recap Advisors in Boston. We are a private consulting company

that specializes in the revitalization and preservation of the housing stock described in the GAO report. Since 1989, we have directly preserved directly over 450 properties covering approximately 60,000 apartments located in 39 states.

We are grateful for the interest in this portfolio shown by the Committee on Financial Services and this subcommittee, and we agree with many of the observations in the GAO report. But we respectfully suggest that lack of access to data is not the problem. The problem that faces this portfolio is that existing preservation programs do not work well with these assets.

The maturing mortgage problem is bigger than GAO suggests, in that there are an additional 814 mortgages that will mature in the three years after the period studied by GAO, covering 93,000 apartments, and the loss of affordability will likely occur sooner. The report mentions that there are 100 properties covering 13,000 households that will mature through 2007, but what it does not describe is that owners are motivated to exit the portfolio in many cases prior to maturity.

Right now, HUD does not offer any incentives to extend the affordability of these properties when the mortgages mature. HUD's commitment to the properties is unclear, and owners cannot be sure now, what resources HUD will offer. This type of ad hoc approach is influencing owner behavior even now in some cases many users before the mortgage matures, as they make decisions about the future of their property. In other words, just getting to mortgage maturity is a significant problem with this inventory.

We know that these properties are good housing. These complexes were built under the same programs and served the same resident groups as many other properties that Congress has already moved to preserve through other programs, specifically the ELIHPA and LIHPRHA preservation programs, enhanced vouchers for mortgage prepayment, the Mark to Market program, the Mark Up to Market program and other initiatives adopted by HUD, with support from Congress such as 236 decoupling, and most recently, the Section 202 refinancing program.

Each of these programs delivered a set of benefits to the properties and to the residents and to their communities, including new rents at levels that are sufficient to properly maintain the properties going forward, new financing to address property needs and partnership needs, new funding for reserves, and new or revitalized ownership of the property.

The portfolio of properties that we are discussing today is what has been left behind out of these other initiatives. It is a problem of adverse selection, and the portfolio is easier to describe with negatives than it is with positives.

The properties we are talking about today are defined by low cash flow, very low budget-based rents in properties without Section 8 sufficient to maintain the property, low upkeep as a result, low reserves for future needs and, in many cases, unmotivated owners because it is not clear that the current situation can be sustained in the years remaining to mortgage maturity.

We have a strange policy situation where, for many of these properties, a prepayment of the mortgage would introduce enhanced vouchers into the property to protect residents, but yet sim-

ply waiting through the remaining term of the mortgage and paying off the mortgage the day that it is due does not extend those same tenant protection benefits to the residents.

The properties may be a bit dated, but they provide a good quality of life for their residents, the seniors and families that live there. They serve a real important need in the communities. As another panelist has observed, in many communities where it is difficult to build new housing, communities are very quick to defend and want to preserve the stock that they do have.

We know from our experience the tools that are needed to preserve these properties. We use them on other properties all the time. We need Section 8 enhanced vouchers to permit rents to increase to market while still protecting residents, we need project-based rents at market also protecting the residents to improve the cash flow and support new financing, and we need rehabilitation funding through new financing or grants.

These solutions should be offered to owners in exchange for new affordability covenants, and it should be discretionary. Only the best properties should be targeted. Properties that do not deserve preservation should not be preserved.

Congress has acted before to preserve other cohorts in this inventory. We ask that Congress now act again to ensure preservation of these remaining properties.

Specifically, we urge Congress to adopt the measures described in H.R. 4679; we urge Congress to extend Section 8 enhanced voucher eligibility to properties that currently do not qualify, such as non-profit-owned properties or properties with rent supplement assistance or older Section 202 properties; we urge Congress to encourage HUD to expand its current preservation initiatives, such as Mark Up to Market and 236 decoupling to cover more properties; and we encourage HUD to develop clear policies to set the rents for properties with maturing mortgages but continuing rent subsidy.

We need these measures now to help preserve this housing stock and protect vulnerable low-income families and seniors.

That concludes my remarks. I would be delighted to answer your questions.

[The prepared statement of Todd Trehubenko can be found on page 116 in the appendix.]

Mr. NEY. Great. Thank you for your testimony.

Thanks to all the witnesses for their testimony.

Mr. Bodaken, if I understand your testimony correctly—HUD testified that they were not at all certain that as these mortgages matured there would be the loss in units that many of us fear—I take it you are a little more pessimistic than HUD is in that assessment.

Mr. BODAKEN. Yes. I mean, the facts are the facts. We know over the last seven-and-a-half years we have lost over 300,000 of the self-same stock, mainly through conversion to market rate rentals, some to physical deterioration, but mainly through market-rate rentals. For those units that we have been able to track, the average rent hike is 45 percent. That is a significant chunk.

I do not believe it is fair to say that a small slice, a study by GAO of some 16 properties, is anywhere indicative of what we are seeing in the private market today. I mean, the facts are the facts.

The cruel irony is that in the rest of real estate inflation helps many of us in this room who own homes. It helps us very much. Subsidized housing renters are put at more risk because owners have options that they did not have before.

Mr. NEY. A number of the witnesses have cited or mentioned favorably the Ramstad tax legislation. Is there anyone on the panel that opposes that legislation? I mean, if we take a look at this problem, I am also sensing from the witnesses that perhaps one of our deficiencies in the past has been a piecemeal approach, and maybe it is time to do a number of things, and I guess this seems to be part of it. Does anyone on the panel oppose or see flaws with that legislation? Okay.

Ms. Nwanodi, a couple of witnesses have talked about the importance of providing flexibility to non-profits in terms of rental levels. What are your thoughts on that? Do you see that as being a useful tool here?

Ms. NWANODI. Absolutely. I think one of the lessons that we have learned from the way that we have approached this issue in the past is that not-for-profit does not mean you do not need to make a profit. Particularly as properties age, they will develop capital needs and more complicated management needs that non-profits need access to as well.

So, on the one hand, you have privately owned for-profit owners that are struggling with lack of incentives to rehabilitate properties, and, on the other hand, where you have a non-profit that is dedicated to keeping the property affordable, in many cases, they are denied the very tools that would allow them to maintain the stock in a manner that prevents it from being lost to affordability due to deterioration.

Mr. NEY. I am assuming you would be looking for some sort of index in terms of what the rental adjustment could be?

Ms. NWANODI. I think there are a number of ways to look at it, but we absolutely would oppose any structure that would discriminate between what works for a for-profit and what works for a non-profit because, as the report indicates, the critical issue, the most important factor surrounding the entire preservation issue, regardless of the kind of housing, is the fact that the market is what will drive the owners' decisions. So the market does not recognize that you are a non-profit, and those tools need to be available to owners regardless of their tax status.

Mr. NEY. Thank you.

Mr. Trehubenko, in your testimony, you talked about the losses that we have already suffered, and you also laid out in your written statement some of the tools that we do have and that have been available over the last 15 years that perhaps have not worked as well as we had hoped in terms of preserving some of these units.

Do you have recommendations as to how some of these measures can be enhanced? Again, I bring it up because it seems to me that we need a comprehensive approach to this challenge, not a single piece of legislation but a number of pieces. Do you have thoughts have some of those other tools can be enhanced?

Mr. TREHUBENKO. I do, and I would speak first about enhanced vouchers. When that program was created, it was directly in response to the end of the LIHPRHA preservation program and im-

plemented to protect residents as owners prepaid their mortgages. The original definition of properties eligible to receive the enhanced vouchers reflected that reality.

Over time, the definition was changed to also include Section 8 opt-outs, which were not in the original definition. And later, flexible subsidy properties were added as eligible as long as it was in the context of a preservation transaction. That has been helpful and more properties have been preserved.

If we now extended that to other types of properties which need HUD approval to prepay, the key definitional point, such as nonprofit-owned properties, properties owned by profit-motivated owners with rent supplement, which is a forerunner to the Section 8 program, and also the earliest Section 202 properties, which did not initially have Section 8 where really it was like a 236 property in many ways, there is no way to get enhanced vouchers into any of those three cohorts right now.

Mr. GREEN. My time has expired, but the committee would appreciate it if you could offer some further written thoughts on those particular measures because I think they are of interest to us.

Mr. TREHUBENKO. I will do that.

[The following information can be found on page 212 in the appendix.]

Mr. NEY. I would appreciate that.

The Chair recognizes the gentlelady from California, Ms. Waters, for her questions.

Ms. WATERS. Thank you very much, Mr. Chairman. Let me just say that this hearing is very informative,.

I am appreciative, first of all, for the owners who wish to provide low-income housing and who work through these complications in order to do it, and I think a real lesson for us today is to see the kind of discrimination that is occurring. As far as I am concerned, whether you prepay the mortgage or the mortgage matures, it is one and the same, and it should be treated the same.

I think there is an equal protection question here that even if, for some reason, we did not fix it, I would think the owners would want to go to court and make the argument for equal protection because, again, whether it is maturity or prepaying, it seems to me it is almost synonymous.

Now, having said that, the fact that owners and tenants are aligned and together on these issues, I think, is extremely important to both sides of the aisle, and it seems to me it is that kind of unity that is going to force this Congress to deal with this issue of maintaining affordable housing.

I think that Ms. Delgado makes a point, and we are going to learn about this, Ms. Delgado. We were told that the information was available to us that has done the assessment for what the loss is going to look like. But you are telling me we need to look a little deeper and a little further at this, and we are going to take your recommendation for doing that so that we can have a true picture of what is going on here.

So let me just use this as an opportunity to thank everybody for being here. I think that your input has been tremendously important.

I, some years ago, began to explore with some of the non-profits their ability to take over and manage some of these properties, and that is a tall order. It is a tall order.

As you said, the market does not recognize that you are non-profit as opposed to profit, and you do need the kind of capital to keep up these places and to make sure that you do not just end up with properties that become another part of a barrio, a ghetto where you have not had the money to do what was necessary to keep them safe and secure.

So, you know, any proposed formulas for transition of housing to non-profits, do not even look at them unless the assistance is there from HUD to make sure you do not fail. I do not know what those formulas should be and we would look to the non-profit community for that advice, but I would just hope that non-profits would not fall into the trap of trying to preserve this housing.

Again, I think we made a commitment, Ms. Delgado, to try and get advocacy funding to make sure that you are protected, and we are going to follow through with that.

So, again, thank you all very much.

Mr. NEY. And I wish to concur with the comments of the gentlelady from California. I think this has been an excellent hearing, and I have learned a great deal.

Without objection, three additional sets of comments will be inserted for the record: a testimony or a statement from the National Housing Conference; a statement from the American Association of Homes and Services for the Aging; and a statement from the Rural Housing Service Department of Agriculture.

The Chair notes that some members may have additional questions for this panel which they wish to submit in writing. Without objection, the hearing record will remain open for 30 days for members to submit written questions to these witnesses and to place their responses in the record.

Seeing no other business before us, this hearing is adjourned.

[Whereupon, at 12:05 p.m., the subcommittee was adjourned.]

A P P E N D I X

July 20, 2004

Opening Statement

Chairman Michael G. Oxley

Financial Services Committee

Subcommittee on Housing and Community Opportunity
Hearing on
"GAO Report entitled 'Multifamily Housing: More Accessible HUD Data Could Help Efforts to Preserve Housing for Low-Income Tenants'"

Tuesday, July 20, 2004

Thank you Chairman Ney for holding this hearing today on the January 2004 General Accounting Report on an issue critical to preserving affordable housing.

In December 2002, Ranking Member Barney Frank and I asked the General Accounting Office to conduct a study on the preservation of low-income housing rental developments that are scheduled to reach mortgage maturity soon. Over the year, GAO updated the Committee with the status of the report and the magnitude of the problem.

While the issues raised in this report do not pose an immediate crisis or threat to affordable housing, I believe it is prudent that this Committee begin the dialogue on a policy issue that will affect future generations. We learned through this report that approximately 1.7 million rental units, within 23,000 privately owned developments, have provided subsidized rental housing for low-income families.

Currently in 2004, there are 11, 267 subsidized developments containing 91, 441 units. Approximately 2,324 of these properties will have mortgages maturing by 2013. In Ohio alone, 129 of these properties will have mortgages maturing by 2013.

One of our responsibilities here today will be to understand what happens to all these tenants, many of them possibly elderly, when these mortgages expire or mature. In some cases, there are provisions either through the Federal or state and local governments that will assist in finding or preserving affordable housing. In other instances, however, there will be no assistance and development owners will be free to charge market rates that could be out of the tenant's reach. Today's hearing will begin to lay the foundation for our understanding of the complexity of this issue.

Notwithstanding the tenant's concerns, however, I think we should also applaud the owners of these developments for their participation in these affordable housing programs. In a country such as ours, free enterprise allows owners of private property to use the property as they please. I am hopeful that some of these owners will find it fruitful and great business to continue to provide affordable housing to low income tenants. How we address their needs as owners will greatly impact how we can preserve a very successful private-public partnership that leverages private capital to achieve public policy goals.

Mr. Chairman, thank you for your leadership on this issue. I look forward to hearing today's testimony.

Statement for Hearing on Affordable Housing Preservation

GAO Report 04-20 (January 2004) and
H.R. 4679, the Displacement Prevention Act of 2004

July 20, 2004
10:00 A.M.

Thank you, Mr. Chairman for scheduling this hearing to consider both the recent GAO report that Ranking Member Frank and Chairman Oxley requested on affordable housing preservation, and H.R. 4679, the Displacement Preservation Act of 2004, a bill offered by Mr. Frank that I am proud to have co-sponsored.

Mr. Chairman, as Mr. Bodaken correctly observes in his prepared testimony, the nation's supply of decent, affordable housing for the poor and the elderly does not meet the demand for such housing. Yet the Bush Administration has no real production program to create additional affordable housing, and it also has taken many steps that jeopardize the Section 8 program.

These dire circumstances make it all the more urgent that we preserve our existing inventory of federally assisted affordable housing. We must do all that we can to prevent the loss of any affordable housing units. Yet the recent GAO report, the April 2004 report of the National Housing Trust, and the testimony of our witnesses today will clearly demonstrate that we are failing to do so.

The April 2004 report of the National Housing Trust establishes that 300,000 project-based affordable housing units have been lost in the past eight years. The additional vouchers funded during this time period to prevent displacement of tenants have not been sufficient to prevent a loss of affordable housing. The National Housing Trust estimates that there has been a net loss of at least 74,000 rental subsidies between 1995 and 2003.

Mr. Chairman, there is every reason to believe that this problem will worsen as more mortgages mature if we do not act decisively to address it. As the recent GAO report observes, "HUD does not offer incentives to keep properties affordable upon mortgage maturity" and "tenants in over 101,000 units without rental assistance are at risk of paying higher rents after mortgage maturity because no requirement exists [such as enhanced vouchers] to protect tenants when HUD mortgages mature."

According to the GAO, over 193,000 subsidized units will be lost in the next 10 years when the mortgage covering a property matures and the mortgage subsidy and low-income affordability restrictions related to the property terminate.

Tenants who live in units financed through the Section 221(d)(3) Below-Market Interest Rate (BMIR) Program or the Section 236 Program will risk having to pay market level rents when the mortgages for these properties mature because these units have no rental assistance contract attached to them.

Mr. Chairman, with the Administration's support, a total of $703 Million in Section 236 funds, have been rescinded in the FY 2004 and FY 2003 appropriations bills, and in the FY 2002 Supplemental Appropriations bill. These were funds that were authorized for

the rehabilitation of low-income subsidized housing units that could have been used to preserve the supply of affordable housing.

In its FY 2005 budget, the Administration compounds the prior injury by proposing to rescind an additional $675 million in funds previously appropriated for Section 236 subsidized housing projects.

Mr. Chairman, H.R. 4679 would help to preserve affordable housing where the owners of Section 221 (d)(3) or Section 236 properties choose not to observe prior affordability restrictions when the mortgages mature.

It would make low and certain moderate-income tenants in units not covered by a rental assistance contract eligible for enhanced vouchers if the owners of such units choose not to continue the affordability restrictions. H.R. 4679 would require notice to tenants at least 9 months prior to mortgage maturity if an owner chooses not to maintain affordability restrictions when the mortgage matures.

Finally, the bill would authorize the use of the $675 million in Section 236 funds targeted by the Administration for rescission to provide one-time rehab grants to owners, one-time grants to help non-profit organizations purchase properties and continue them as affordable, and to make annual payments to owners to cover the difference between subsidized and market rents for low-income and certain moderate-income tenants.

Affordable housing preservation initiatives like H.R. 4679 are a cost-effective method to maintain our affordable housing stock while avoiding the "Not in My Backyard" ("NIMBY") problems that sometimes attach to new housing projects. I urge my colleagues to support H.R. 4679.

Mr. Chairman, when you factor in the impact of the proposed cuts to the Section 8 program on affordable housing inventory, it's clear that we will continue to lose units at a rapid rate if we don't act to remedy this ongoing problem. HUD must do more than simply take steps to make data about properties with maturing mortgages more accessible to the public. We need to fund the preservation of these units.

I look forward to the testimony of our witnesses and yield back.

# # #

Changes to Project-Based Multifamily Units in HUD's Inventory Between 1995 and 2003

Number of Affordable Project-Based Units Declines by 300,000

ABSTRACT

Since the 1960s, HUD has provided several different types of subsidies to encourage private developers to construct or rehabilitate affordable multifamily rental housing. The number of units made affordable to low-income families, seniors and persons with disabilities through these subsidies, however, has declined significantly in recent years. Analysis of HUD data finds that between 1995 and 2003, the number of such units dropped from 1.7 million to 1.4 million. The loss of 300,000 affordable rental units is substantially larger than previous estimates. This loss is especially concerning in light of the shortage of other available affordable housing for extremely low-income households across the country.

To help cushion the loss of affordable rental units and avoid displacement of low-income households, Congress funded additional housing vouchers. Yet this increase in "tenant-based" assistance did not fully offset the reduction in affordable units: there was a net loss of at least 74,000 rental subsidies between 1995 and 2003.

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EXECUTIVE SUMMARY

In recent years, concern has increased about the loss of privately owned housing made affordable to low-income families and seniors through HUD project-based housing assistance. These losses have been precipitated by the expiration of long-term Section 8 contracts and the ability of owners to prepay their HUD-assisted mortgages. This paper examines the change in HUD's project-based inventory since 1995 and the extent to which units lost from this inventory were replaced by other forms of HUD assistance.

Data compiled from various HUD documents and sources show a loss of approximately 300,000 project-based units. The number of project-based units subsidized through HUD rental assistance and mortgage subsidy programs has declined from 1.7 million units in 1995 to 1.4 million units in 2003. There are various reasons for this decline, including owners' decisions not to renew (or to "opt out" of) Section 8 contracts upon expiration, termination of Section 8 contracts by HUD due to enforcement actions, and prepayment of HUD-insured mortgages.

HUD-Assisted, Project-Based Multifamily Units from 1995 to 2003

	1995	2003	Loss
Project-Based Rental Assistance	1,464,426	1,302,085	162,341
Section 236	146,539	64,484	82,055
Section 8 Moderate Rehabilitation	105,845	46,830*	59,015
TOTAL	1,716,810	1,413,399	303,411

Project-Based Rental Assistance. The majority of these units, currently more than 1.3 million units, are subsidized through rental assistance programs, including project-based Section 8, Rent Supplement, and Rental Assistance Payments (RAP). These subsidies, sometimes called "deep subsidies," cover the difference between an affordable, income-based rent paid by a household and the actual rent of the unit. Since 1995, more than 160,000 units have lost their project-based rental assistance due to opt-outs or termination of contracts by HUD due to enforcement actions.

Section 236. Units with project-based assistance provided through a mortgage subsidy under the Section 236 mortgage insurance program have also declined, from approximately 146,500 units in 1995 to 64,500 in 2003. This loss of more than 82,000 units reflects the prepayment of mortgages by owners, which terminates the requirement to keep rents affordable. Assistance on these units, sometimes referred to as "shallow subsidies," typically provides less rental assistance per household than Section 8 and usually reduces the rents by some small fixed amount.

Section 8 Moderate Rehabilitation. Another rental assistance program, Section 8 Moderate Rehabilitation (Mod Rehab), has suffered a decline of between 51,000 and 67,000 units. Although data on this housing is limited, available data show a drop from nearly 106,000 units in 1996 to between 40,000 and 55,000 units at the end of 2003.

* The report defines a range of Section 8 Moderate Rehabilitation units due to a difference between HUD data sources concerning the number of Mod Rehab units. This number reflects the average of this range (39,173 to 54,487).

The National Housing Trust appreciates the invaluable assistance provided by the Center on Budget and Policy Priorities (CBPP) in the development of this analysis. We have relied on CBPP's research for the components of the report concerning new vouchers and the change in the number of Moderate Rehabilitation units.

From 1995 to 2003, HUD awarded nearly 170,000 tenant protection vouchers in connection with the loss of HUD-assisted, project-based units. Assuming that HUD fully compensated public housing agencies for the loss of Section 8 Mod Rehab units over this period, HUD awarded a total of between 221,000 and 236,000 vouchers over this period. This resulted in a net decline of at least 74,000 housing subsidies between 1995 and 2003.

The overall loss of more than 300,000 HUD-assisted, project based units and the net decline in housing subsidies is particularly troubling given the current shortages of affordable rental housing across the nation, especially for low and extremely low-income households. Questions remain about whether tenant-based assistance provides an equivalent substitute for project-based assistance, particularly at the local level. Further study needs to be undertaken to examine how this change from project-based assistance to vouchers impacts communities.

NARRATIVE

Since the 1960s, HUD has provided a variety of different types of subsidies to encourage and support the construction or rehabilitation of affordable multifamily rental housing by private developers and to help low-income families afford their rents.

- Some of these subsidies may be characterized as "deep subsidies," which means they cover the difference between an affordable income-based rent paid by a household (approximately 30 percent of income) and the actual rent of the unit (or some equivalent). As a general rule, deep subsidies are needed to make housing affordable to poor or near-poor households, even when such households include a full-time wage earner. This type of assistance is typically provided through rental assistance payments from HUD to owners, the majority of which is provided through various components of the project-based Section 8 program. Under project-based Section 8, HUD typically entered into long-term contracts with property owners, usually between 20 and 40 years, to serve low-income families. Other deep subsidy programs include the Rent Supplement and Rental Assistance Payments (RAP) programs.

- "Shallow subsidies," by contrast, provide less assistance per household and usually reduce the rents by some relatively small fixed amount. This type of assistance was provided during the 1960s and 1970s through a mortgage subsidy under HUD's 221(d)(3) Below Market Interest Rate (BMIR) and Section 236 mortgage insurance programs. In exchange for participating in these programs, owners were required to make units available to low-income families at HUD-approved rents for the term of the mortgage, typically referred to as use restrictions. Many of these properties later received some form of rental assistance to help them cope with the rapidly rising operating costs of the mid-1970s.

Since the mid-1990s, the number of properties with project-based subsidies has decreased with the conversion of many of these units to market-rate housing. Beginning in the mid-1980s, prepayment restrictions on HUD-subsidized mortgages began expiring, allowing owners to prepay the mortgages and thereby terminate the property's use restrictions. After a period in the late 1980s and early 1990s when prepayment of these mortgages was prohibited, owners were again permitted to prepay their low-interest mortgages and convert the property to market-rate housing or another use.

In addition, project-based Section 8 contracts began expiring in the mid-1990s. Upon expiration, owners could discontinue (or "opt out" of) their contracts or renew contracts on a year-to-year basis. Since the mid-1990s, many units of housing with project-based assistance have been lost from the overall portfolio of project-based units as owners have prepaid their mortgages and/or opted out of their contracts.

This analysis examines the changes in the HUD project-based housing stock since 1995 and data on the replacement of units lost from the inventory with other forms of HUD assistance, primarily Section 8 tenant-based vouchers. Using data from a variety of HUD sources, it analyzes specific questions concerning HUD-assisted multifamily housing.[1]

The data in this analysis have been compiled from a number of different HUD documents and sources. To permit others to verify the information provided, detailed source notes are provided in the Data Appendix. Definitions of the HUD terminology referenced in this document, including brief descriptions of the covered programs, are provided in the Glossary.

How many deeply subsidized, project-based multifamily units were in HUD's inventory in 1995 and how many are there currently?

This question focuses exclusively on the privately owned multifamily units in HUD's inventory that provide deep subsidies through project-based rental assistance. Most of these units are subsidized through the project-based Section 8 program. In addition to project-based Section 8, this question covers the much smaller Rent Supplement and RAP programs. Together, these programs subsidize the vast bulk of HUD's deeply subsidized, project-based multifamily stock operated by private owners.[2] Data on a fourth HUD deeply subsidized project-based program operated by private owners—the Section 8 Moderate Rehabilitation (Mod Rehab) program—are set out separately for a number of technical reasons discussed in the Glossary.[3] The few deep subsidy HUD multifamily programs that have been excluded are noted in the Endnotes.[4]

Analysis of HUD data shows that in 1995 approximately 1,464,000 units were deeply subsidized through one of the following HUD project-based multifamily programs: Project-based Section 8, Rent Supplement, and Rental Assistance Payments. As of October 2003, approximately 1,302,000 deeply subsidized units through these programs remained.[5] Unit counts for each program are in the Data Appendix.

As shown in the following table, the total number of deeply subsidized units administered by the Office of Housing declined by approximately 162,000 units between 1995 and October 2003. In addition, there was a decline of between 51,000 and 67,000 deeply subsidized, project-based units in the Section 8 Mod Rehab Program.[6] **In all, the data show a total loss of approximately 221,000 deeply subsidized, project-based units in HUD's inventory.**

The principal cause of the decline in deeply subsidized HUD multifamily units between 1995 and 2003 was the decision by owners not to renew or otherwise to opt-out of their Section 8 (or other deep subsidy) contracts upon expiration of the contracts. Some of the decline may also be attributable to enforcement actions by HUD to terminate or decline to renew the contracts of owners who were out of compliance with HUD rules (for example, by not properly maintaining their properties).

What was the overall loss of HUD-assisted, project-based multifamily units, with both deep and shallow subsidies, between 1995 and 2003?

This question takes a broader look at the HUD-subsidized, privately owned multifamily stock. It examines units with deep subsidies administered through the Office of Housing, in the project-based Section 8, Rent Supplement, and RAP programs, and through local housing authorities, in the Section 8 Mod Rehab program. It also includes units with shallow subsidies through a HUD-subsidized mortgage program, such as Section 236 or Section 221(d)(3) BMIR. Data collected on these programs show the net loss of HUD-assisted, project-based multifamily units between 1995 and 2003. Due to data limitations, units with mortgages subsidized under the Section 221(d)(3) programs are not included in this analysis.[7]

As noted above, there was a net loss of approximately 162,000 deeply subsidized project-based multifamily units administered by the Office of Housing between 1995 and 2003. The analysis determined that there was an additional loss of between 51,000 and 67,000 Section 8 Mod Rehab units and approximately 82,000 Section 236 units over the same time period. **In all, these data show an *overall* loss of 295,000 to 311,000 HUD-assisted, project-based multifamily units between 1995 and 2003.**

Net Decline in HUD-Assisted Multifamily Subsidies between 1995 and October 2003[i]

Project-Based Multifamily	**1995**	**2003**	**Reduction**
Deep Subsidies, Office of Housing[ii]	1,464,426	1,302,085	162,341
Section 8 Mod Rehab	105,845	39,173 - 54,487	51,358 - 66,672
Section 236	146,539	64,484	82,055
Subtotal: Project-Based Unit Loss	**1,716,810**	**1,405,742 - 1,421,056**	**295,754 - 311,068**
Tenant-Based Vouchers Issued for Conversion Actions, 1995 - 2003			
Tenant-Protection Vouchers related to Office of Housing Conversions			(169,932)
Tenant-Based Vouchers related to Mod Rehab Conversions[iii]			(51,358 - 66,672)
Subtotal: Tenant-Based Vouchers			**(221,290 – 236,604)**
Net Loss of HUD-Assisted Multifamily Subsidies:			**74,464**[iv]

[i] The Data Appendix provides source notes and more detailed unit counts.

[ii] Includes Project-based Section 8, Rent Supplement, and Rental Assistance Payments (RAP).

[iii] Assumes HUD fully compensated public housing agencies for the loss of Section 8 Mod Rehab units over this period by issuing an identical number of tenant-based vouchers.

[iv] The actual decline is likely to be larger, as data limitations prevent the incorporation of data on the loss of Section 221(d)(3) BMIR properties.

To what extent has the reduction in project-based multifamily units between 1995 and 2003 led to a "net" reduction in the number of rental subsidies provided by HUD?

This question examines the net effect on the number of HUD-funded subsidies for privately owned multifamily housing. It compares the loss of project-based units to HUD's issuance of tenant protection vouchers to protect families facing significant rent increases because of opt-outs or prepayments of HUD-assisted multifamily properties. It considers the extent to which this loss of project-based units was compensated, at least in part, by the issuance of tenant protection or other tenant-based vouchers. Because housing vouchers are not attached to a specific project or property, but rather move with the tenant to a unit of the tenant's choice, these vouchers are known as tenant-based subsidies. Other subsidies covered in this paper are project-based subsidies that are attached to specific properties.

As explained in more detail in the Glossary, tenant protection vouchers are tenant-based Section 8 vouchers (also known as Housing Choice Vouchers) that are issued by HUD to residents when certain HUD-assisted multifamily housing properties cease participation in HUD's programs or when public housing units are demolished or sold.[8] Qualifying residents of the affected properties receive first priority for the vouchers.

From the period beginning with fiscal year 1995 and ending with fiscal year 2003, an analysis of the data shows that between 221,000 and 237,000 tenant protection vouchers were issued by HUD. This total results from the following:

- HUD awarded an estimated 170,000 tenant protection vouchers related to opt-outs, prepayments, or HUD enforcement actions (collectively known as conversion actions) associated with properties administered by HUD's Office of Housing.[9] Additional information on tenant protection vouchers issued since 1995 is included in the Data Appendix.
- It is likely that the decline of between 51,000 and 67,000 Section 8 Moderate Rehabilitation units in this period was fully compensated by the award of tenant-based housing vouchers. However, HUD does not publicly announce the award of vouchers related to the conversion of Section 8 Moderate Rehabilitation units; therefore, we cannot confirm whether full replacement, in fact, occurred.[10]

As noted above, there was an overall loss of 295,000 to 311,000 HUD-assisted, project-based multifamily units between 1995 and 2003. Assuming HUD fully compensated public housing agencies for the loss of Section 8 Mod Rehab units, **the total number of vouchers issued was between 221,000 and 237,000, resulting in a net decline of about 74,000 subsidies.**[11]

CONCLUSION

This loss of more than 300,000 HUD-assisted, project based units and the net decline in available subsidies is particularly troubling given the current shortages of affordable rental housing across the country, especially for low and extremely low-income households. According to recent data:

- The shortage of affordable housing is geographically widespread. In no housing market in the nation can a household earning today's minimum wage reasonably afford a modest one-bedroom rental apartment.[12]
- More than 5 million very low-income households pay more than half of their income for housing or live in severely distressed housing.[13]
- In 2001, the 9.9 million renters earning less than $17,500 outnumbered the supply of affordable rental units by 2 million and 2.7 million of these affordable units were occupied by higher-income households.[14]

Construction of new multifamily rental units has barely kept up with the losses, with a net increase of only about 100,000 units since 1993.[15] These new units are too expensive for the lowest income renters—the median monthly rent is about $850 for a newly built apartment compared to the $375 maximum affordable rent for the lowest-income renter households.[16]

While it is clear that there was a significant loss of project-based housing and available subsidies, a number of other matters require further exploration that are not addressed in this analysis. One of these is the fundamental change in the character of the subsidies when tenant-based assistance is provided by HUD in an attempt to offset the loss of project-based assistance. This is a highly significant change whose possible implications are beyond the scope of this paper. Another issue is the impact of the conversion from project-based to tenant-based subsidies on local communities. Certain communities may have experienced greater losses in the number of subsidies than others.[17] Both of these issues deserve further scrutiny.

ENDNOTES:

[1] As indicated in the Data Appendix, the unit counts for 1995 and 2003 come from different data sources. While each represents the best available data source for that point in time, comparisons across data sources inevitably raise questions about data compatibility and comprehensiveness. Readers should therefore exercise some degree of caution in interpreting the changes in unit counts over time.

[2] Deep rental subsidies provided through public housing agencies—public housing and housing vouchers—are not part of this analysis.

[3] Section 8 Mod Rehab was designed in 1978 to be an expansion of the rental certificate program to stimulate moderate levels of rehabilitation to upgrade and preserve the nation's housing stock. Like project-based Section 8, it provides project-based rental assistance for low- and very low-income families, but the contract is between the owner and a local housing authority.

[4] This paper does not cover the following newer HUD multifamily subsidy programs that provide deep rental subsidies to elderly and disabled households through HUD contracts with private owners because there is little reason to believe they are in immediate danger of leaving the subsidized inventory: Section 202 PAC (awarded in 1989 and 1990) and Section 202 and Section 811 PRAC (awarded from 1991 through the present). The paper also does not cover housing vouchers that public housing agencies have chosen to attach to a specific development (i.e., to project-base). Under the new project-based voucher authority that Congress enacted in October 2000, families can retain voucher assistance when they move (using the next voucher available to the PHA) and the vacated units remain under a contract for project-based voucher assistance to serve families from the waiting list. HUD does not maintain data on the number of vouchers that PHAs have project-based. The term "project-based Section 8" as used in this paper does not include project-based vouchers.

In addition, unless the properties have project-based Section 8 or another form of HUD-funded project-based rental assistance covered by this paper, data on the following properties have been excluded from this paper: Section 202 Direct, Low-Interest Loans; Section 202 Direct, Formula Interest Rate Loans; Section 221(d)(3) properties other than 221(d)(3) BMIR; and Section 231. FHA-insured properties that are not subsidized by HUD are also excluded from this paper, as are properties that are funded through the Low-Income Housing Tax Credit program, the Tax-Exempt and 501(c)(3) Bond program, or other non-HUD sources that do not have HUD-funded project-based rental subsidies. Multifamily properties funded by states and localities with funds provided by HUD through the HOME Investments Partnerships Program or the Community Development Block Grant (CDBG) program are also excluded.

[5] In addition, in October 2003, there were approximately 40,000 to 54,000 units of deeply subsidized multifamily housing financed through the Section 8 Moderate Rehabilitation program administered by local and state public housing agencies (including approximately 6,235 units with direct contracts with the Office of Housing for properties that have gone through Mark-to-Market), plus an additional 11,357 single room occupancy units for the homeless subsidized through a special component of the Section 8 Moderate Rehabilitation program authorized and funded as part of HUD's homeless assistance programs. The range given for Mod Rehab units is due to two apparently irreconcilable HUD data sources concerning the number of Mod Rehab units administered by PHAs that expire in 2004.

[6] In 1996, there were 105,845 units of deeply subsidized multifamily housing financed through the Section 8 Moderate Rehabilitation program, not including the SRO Mod Rehab units. The decline of approximately 51,000 to 66,000 project-based Moderate Rehabilitation units between 1996 and 2003 is not discussed because vouchers issued by HUD to compensate for the loss of Mod Rehab units are not counted as tenant-protection vouchers and no information is publicly available on how many such vouchers have been issued.

[7] We were unable to include Section 221(d)(3) BMIR units without rental assistance in this analysis due to limitations in the data sources. The mortgages for a substantial share of Section 221(d)(3) BMIR properties have been assigned to HUD. There is insufficient publicly available information about which of these properties remain ir HUD's inventory to permit inclusion of this program. Because there has almost certainly been a loss of Section 221(d)(3) BMIR properties due to prepayment, the effect of this exclusion is to underestimate the loss of privately owned, project-based multifamily units between 1995 and 2003.

[8] The totals above, however, exclude tenant protection vouchers associated with the demolition or disposition of public housing. The vouchers are generally administered by a public housing agency in the same community as the property leaving HUD's inventory.

[9] This analysis focuses solely on tenant protection vouchers issued in relation to opt-outs or prepayments of project-based housing administered by HUD's Office of Housing. This analysis does not consider the extent to which the award of tenant-protection vouchers by HUD's Office of Public and Indian Housing has fully compensated for the loss of public housing units through demolition, disposition, and such programs as HOPE VI.

[10] In a notice issued April 22, 2004, HUD announced that the policy of full replacement of expiring Mod Rehab contracts that are not renewed has changed. The notice states: "Funding for the replacement vouchers may be limited to the number occupied at the time of HAP (contract) expiration." (Notice PIH 2004-7, p. 8)

[11] The actual "net decline" is probably larger, as this analysis does not consider the loss of Section 221(d)(3) BMIR units due to data limitations.

[12] *State of the Nation's Housing: 2003*, Joint Center for Housing Studies of Harvard University, 2003, p. 27.

[13] *Trends in Worst Case Needs for Housing, 1978-1999: A Report to Congress on Worst Case Housing Needs Plus Update on Worst Case Needs in 2001*, Office of Policy Development and Research, U.S. Department of Housing and Urban Development, December 2003.

[14] *State of the Nation's Housing: 2003*, Joint Center for Housing Studies of Harvard University, 2003, p. 28.

[15] *Ibid*, p. 20.

[16] U.S. Census Bureau,

[17] While the number of tenant protection vouchers awarded in connection with Office of Housing programs between 1995 and 2003 appears to be essentially the same as the decline in deeply subsidized units administered by that Office over the same time period, some of these vouchers were awarded in connection with the prepayment of properties that only have a shallow subsidy (i.e., Section 236 or Section 221(d)(3) BMIR properties that do not have rental assistance such as Section 8). For this reason, it is likely that at least some communities that experienced a loss of deeply subsidized, project-based units did not receive an equivalent number of tenant-protection vouchers as compensation.

DATA APPENDIX

Changes in Unit Counts

The following are more detailed unit counts, along with source notes, for the properties discussed in this analysis.

	1995[1]	2003[2]	Reduction
1. Project-Based Section 8[3]	N/A[4]	1,266,202	
A. Section 8 NC/SR[5]	[897,000]	[830,492]	66,508
(i) Section 202 w/ § 8[6]	[223,699]	[206,253]	[17,446]
(ii) Non-202 NC/SR[7]	[673,301]	[624,239]	[49,062]
(a) HFDA[8]		[221,080]	
(b) RHS 515 w/ § 8[9]		[44,581]	
(c) All other NC/SR		[358,578]	
B. Section 8 LMSA[10]	[462,691][11]	[334,961]	91,847[12]
C. Section 8 Property Disposition	[54,706]	[58,490]	(3,784)
D. Section 8 Preservation	[50,029][13]	[42,259]	7,770[14]
2. Rent Supplement	[incl. in § 8 LMSA]	16,954	
3. Rental Assistance Payments (RAP)	[incl. in § 8 LMSA]	18,929	
Subtotal: Deep Subsidies, Office of Housing[15]	**1,464,426**	**1,302,085**	**162,341**
4. Section 8 Mod Rehab	105,845	39,173-54,487[16]	51,358-66,672
5. Section 236[17]	146,539[18]	64,484[19]	82,055
Totals	**1,716,810**	**1,405,742-1,421,056**	**295,754-311,068**

[1] Data in this column come from *HUD's Picture of Subsidized Households, 1996*, unless otherwise noted. The data in this publication for Section 8 project-based assistance and other Office of Housing programs are derived from a HUD data file dated 10/1995. This means that these data actually reflect conditions in 1995, rather than 1996. The data for Section 8 Moderate Rehabilitation units are derived from a HUD data file dated September 1996.

[2] Unless otherwise noted, data in this column come from HUD's Multifamily Assistance and Section 8 Contracts Database, as of October 9, 2003, as published on HUD's Office of Multifamily Housing website, http://www.hud.gov/offices/hsg/mfh/exp/mfhdiscl.cfm. These data reflect a unit count at a point in time and not the average for the prior (2003) or upcoming (2004) fiscal year. In general the averages for the 2003 fiscal year are slightly higher than these figures indicate, and the averages in each category during 2004 fiscal year may be slightly lower due to the loss of project-based units.

[3] Includes all project-based Section 8 programs administered by HUD's Office of Housing with the exception of a small number (about 6,000) of Section 8 Moderate Rehabilitation units administered by the Office of Housing in 2003. See Glossary for a complete list. Does *not* include tenant-based Section 8 (including project-based vouchers) or the majority of Section 8 Moderate Rehabilitation, which have traditionally been administered by HUD's Office of Public and Indian Housing.

[4] A 1995 figure for project-based Section 8 assistance is unavailable because *Picture of Subsidized Households, 1996*, includes Rent Supplement and RAP contracts within the total for Section 8 LMSA. The combined totals of project-based Section 8, Rent Supplement, and RAP are shown under "Subtotal: Deep Subsidies, Office of Housing."

[5] Section 8 NC/SR stands for Section 8 New Construction / Substantial Rehabilitation.

[6] These are properties financed through Section 202 Direct, Low-Interest Loans or Section 202 Direct, Formula Interest Rate Loans that also have Section 8. In *Picture of Subsidized Households, 1996*, HUD included all Section

202 developments with Section 8 within Section 8 NC/SR. We have followed this convention, even though it is likely that some of these Section 8 subsidies are actually Section 8 LMSA. To avoid double counting, none of these subsidies are counted with Section 8 LMSA.

7 Non-202 NC/SR stands for all Section 8 New Construction / Substantial Rehabilitation subsidies other than Section 202 with Section 8.

[8] HFDA stands for Section 8 properties financed or insured through State Housing Finance Agencies.

[9] RHS 515 w/ § 8 stands for RHS Section 515 properties with Section 8.

[10] Section 8 LMSA stands for Section 8 Loan Management Set-Aside.

[11] *Picture of Subsidized Households, 1996* includes Rent Supplement and RAP contracts within the total for Section 8 LMSA.

[12] This represents the difference in the combined sums for Section 8 LMSA, Rent Supplement, and RAP between 1995 and 2003.

[13] No data are available on the number of "preservation" units that existed in 1995. This is the maximum number of preservation units with Section 8 subsidies that HUD's budget documents for fiscal year 2004 indicate could need renewal this year. It is likely that all preservation units are now subject to annual renewal.

[14] The reduction in preservation units could have been greater than indicated if more than 50,029 units were available in 1995.

[15] Includes project-based Section 8, Rent Supplement, and Rental Assistance Payments (RAP). The 1995 data source does not provide separate counts for the latter two programs.

[16] HUD data (November 2003) indicate that 26,414 regular Mod Rehab subsidies are being renewed under the tenant-based portion of the Housing Certificate Fund in FY 2004. In contrast to the November 2003 figure, HUD's 6/30/2003 expiration schedule shows a total of 48,252 Mod Rehab units administered by the Office of Public and Indian Housing in FY 2003, of which 41,113 were due to expire in 2004. In addition, there were 5,620 to 6,235 Mod Rehab units, which HUD includes under the Housing portion of contract renewals due to oversight by that Office after developments go through the Mark-to-Market process. The lower figure is included in HUD's 6/30/2003 expiration schedule and the higher figure in the Congressional Budget Justifications submitted in February 2003. We cannot reconcile these sets of figures, and therefore have used a range. These figures do not include any Section 8 SRO Mod Rehab units for the homeless, which are excluded from this analysis.

[17] To prevent double counting, unit counts for the Section 236 program exclude units that also have project-based Section 8, Rent Supplement, or Rental Assistance Payment contracts.

[18] The figures we report for Section 236 without rental assistance in 1995 are likely to be somewhat lower than the true numbers for 1995. As indicated in HUD's notes on the table for "Housing Sub-programs" in *Picture of Subsidized Housing, 1996*—the source of these data—"The number of subsidized units here is slightly less than in other tables, since active projects in the files with zero units are counted as zero here, but their size is estimated for other tables."

[19] This figure is based on a 9/30/2003 extract of HUD's F47 database. A list of properties identified as Section 236 properties in either the currently insured inventory or the inventory of mortgages that have been assigned to HUD was compiled and then compared against the list of properties with Section 8 assistance in HUD's expiring Section 8 database. The figure reported here is the number of units in those properties that do not appear to have Section 8 rental assistance. The figure we report is almost certainly too high, as many of the properties whose mortgages have been assigned to HUD have either prepaid, opted out, or otherwise terminated participation in the Section 236 program. The exact figure, however, cannot be ascertained from the publicly available data. To prevent double counting, unit counts for the Section 236 program exclude units that also have project-based Section 8, Rent Supplement, or Rental Assistance Payment contracts.

Tenant Protection Vouchers

The following table provides information on the number of tenant protection vouchers awarded in each year covered by this analysis that were related to opt-outs, prepayments, or HUD enforcement actions associated with HUD-assisted housing administered by HUD's Office of Housing.[1]

Tenant protection vouchers issued in connection with the demolition of public housing or Section 23 are not included in these totals. These data also do not reflect vouchers issued in connection with the expiration or termination of Section 8 moderate rehabilitation contracts.

FY	TP Vouchers Related to Opt-Outs	TP Vouchers Related to Prepayment or Expiration of Preservation Contracts	TP Vouchers Related to Property Disposition	Total
1995[2]	7,515	0	3,667	11,182
1996	0	4,526	6,975	11,501
1997	2,289	5,584	2,334	10,207
1998	11,977	10,293	3,499	25,769
1999	11,310	7,304	1,977	20,591
2000	13,840	9,988	4,243	28,071
2001	13,576	9,079	3,538	26,193
2002	7,125	7,553	2,122	16,800
2003	6,609[3]	10,053	2,956	19,618
Total	**74,241**	**64,380**	**31,311**	**169,932**

[1] Data on the number of Office of Housing-related tenant protection vouchers awarded each year were compiled from the following *Federal Register* notices: 61 FR 4455-76 (Feb. 6, 1996) for FY 1995 awards; 62 FR 32,891 – 32,902 (June 23, 1997) for FY 1996 awards; 62 FR 66,648 – 9 (Dec. 19, 1997) for FY 1997 awards; 64 FR 4,688 – 4,695 (Jan. 29, 1999) for FY 1998 awards; 65 FR 17,662-17,671 (April 4, 2000) for FY 1999 awards; 66 FR 12,537-41 (Feb. 27, 2001) for FY 2000 awards; 67 FR 4,458 – 4,468 (Jan. 30, 2002) for FY 2001 awards); 67 FR 71,583 – 87 (Dec. 2, 2002) for FY 2002 awards; and 69 FR 7,779 – 7,786 (Feb. 19, 2004).

[2] The Feb. 6, 1996 funding announcement does not indicate which of the 15,030 certificates or vouchers awarded for "replacement, relocation, opt-outs" are related to opt-outs of Section 8 or other project-based subsidies, as opposed to public housing. For purposes of this analysis, we have assumed that half of the awards are related to opt-outs of Section 8 or other project-based subsidies and half are related to public housing.

[3] Includes 614 vouchers awarded as replacement for Rent Supplement assistance.

GLOSSARY

Deep Subsidy

A government subsidy that covers the difference between an affordable income-based rent paid by a household (approximately 30 percent of income) and the unit's actual rent (or some equivalent). Deep subsidies are generally necessary to make housing affordable to households with incomes below the poverty line and to many households with incomes just above the poverty line.

This paper provides data on three types of deep subsidies administered by HUD's Office of Housing: Project-based Section 8, Rental Assistance Payments, and Rent Supplement. It also provides some data on the Section 8 Moderate Rehabilitation program, a deep subsidy program administered by HUD's Office of Public and Indian Housing.

Two other programs discussed in this paper—the Section 221(d)(3) BMIR program and the Section 236 program—are shallow subsidy programs that provide significantly less assistance per household than deep subsidy programs. The average incomes of households served by shallow subsidy programs tend to be higher than those of deep subsidy programs.

Opt-Out

This is a decision by an owner of a project-based Section 8 or Rent Supplement property not to renew its housing assistance payment contract with HUD upon expiration of the owner's contract with HUD. (It is not clear whether HUD classifies a decision by a RAP property not to renew upon expiration as an opt-out.)

Under the Section 8 and Rent Supplement programs, private owners entered into contracts with HUD (or a state housing finance agency that had a contract with HUD) for an extended period of time (i.e., 20 or 40 years). During the contract period, the owners made their properties available to low-income households who paid approximately 30 percent of their income for rent and utilities. HUD paid the owners a subsidy based on the difference between the residents' contributions and agreed-upon rents for the units.

Upon expiration of their contracts with HUD, owners have the option to continue to participate (possibly subject to new conditions) or to opt-out of the program. Owners that opt-out of the program are usually free to use their property as they wish, unless they are subject to restrictions based on receipt of other subsidies.

Prepayment

This is a decision by an owner of a Section 236 property or a Section 221(d)(3) BMIR property to prepay the owner's subsidized mortgage.

The rights of owners to prepay their mortgages have varied over time, but at present, owners have fairly broad flexibility to prepay. Prepaying removes the restrictions associated with the Section 236 or Section 221(d)(3) BMIR program. Some properties that prepay, however, are still under contract with HUD to participate in a deep subsidy program such as project-based Section 8.

Project-Based Section 8

Established by the Housing and Community Development Act of 1974, the project-based Section 8 program currently provides a deep subsidy to more than 1.2 million households. In some HUD-assisted properties, Section 8 is the only form of government rental subsidy. In others, Section 8 is combined with another HUD subsidy program such as Section 221(d)(3) BMIR or Section 236, with Low Income Housing Tax Credits, or with other government subsidies. By definition, project-based Section 8 assistance remains with the unit. If a family assisted with project-based Section 8 moves, the family loses its subsidy. (See below concerning project-based vouchers.)

There are many variants of project-based Section 8, including:

- Section 8 New Construction / Substantial Rehabilitation. These Section 8 subsidies were issued to support the financing of new construction or substantial rehabilitation of properties for low-income families. No new commitments have been issued since 1983.

- Section 515 / Section 8. These are properties that have both project-based Section 8 assistance and Section 515 subsidized loans from the Rural Housing Service of the U.S. Department of Agriculture. They are located in areas that were rural at the time of the original awards in the late 1970s and early 1980s.

- Section 8 Loan Management Set-Aside (LMSA) Contracts. This program provided rental assistance to FHA-insured properties experiencing financial difficulties.

- Section 8 Property-Disposition Contracts. This program was used to provide rental assistance in connection with the sale of HUD-owned properties or the foreclosure of HUD-held mortgages for properties that formerly had FHA insurance.

- Section 8 Preservation. These are project-based Section 8 contracts awarded as part of a package of preservation incentives authorized by the Emergency Low Income Housing Preservation Act of 1987 (ELIHPA) and the Low Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA).

NOTE: Project-based Section 8 does not include Section 8 Housing Choice Vouchers that public housing agencies have chosen to attach to a specific development (i.e., to project-base). Unlike project-based Section 8 subsidies, project-based vouchers allow families to retain voucher assistance when they move (using the next voucher available to the PHA) and the vacated units remain under a contract for project-based voucher assistance to serve families from the waiting list.

Rental Assistance Payments (RAP)

Established by the Housing and Community Development Act of 1974, RAP provides a deep subsidy to residents of some Section 236 properties. It works much like the project-based Section 8 program.

Rent Supplement

Established by the Housing and Urban Development Act of 1965, Rent Supplement was a predecessor to the project-based Section 8 program that provided a deep subsidy to residents of properties insured and/or subsidized by HUD. Most Rent Supplement contracts were converted to project-based Section 8 assistance, but a small number remain.

Section 8 Moderate Rehabilitation (Mod Rehab)

Although most of HUD's project-based, deep subsidy programs are administered by the Office of Housing, the Section 8 Moderate Rehabilitation (Mod Rehab) program has traditionally been administered by the Office of Public and Indian Housing. This is because the Mod Rehab program has been run through public housing agencies, rather than directly through private owners. (The small number of Mod Rehab properties that have gone through Mark-to-Market are now administered by the Office of Housing.)

Mod Rehab subsidies supported the financing of moderate rehabilitation of multifamily housing for low-income families. The program provides families with a deep subsidy much like a project-based Section 8 subsidy. (The Section 8 Mod Rehab program has also been used to finance the development of single-room occupancy (SRO) units for the homeless under the McKinney-Vento Act. Mod Rehab SRO units are not covered by this fact sheet.)

Vouchers issued in connection with the expiration or termination of Mod Rehab contracts are not included in the awards of tenant protection vouchers periodically announced by HUD in the *Federal Register*. Nor are they publicly disclosed in any other source. Rather, HUD treats them as an internal accounting matter as part of the administration of HUD's housing assistance payment contracts with public housing agencies. Accordingly, such vouchers could not be included within question 3. To preserve the symmetry between questions 1 and 2 on the one hand and question 3 on the other, Mod Rehab totals are set out separately in questions 1 and 2.

Section 221(d)(3) Below-Market Interest Rate (BMIR)

This program insured and subsidized mortgage loans to facilitate the new construction or substantial rehabilitation of multifamily rental housing for low- and moderate-income households. Residents generally play a flat rent called the BMIR rent that is not dependent on their income. It provides a shallow subsidy. As explained in the Endnotes to the principal text, data limitations prevent inclusion of this program in this analysis.

Section 236

Established by the Housing and Urban Development Act of 1968, the Section 236 program is a shallow subsidy program that combines federal mortgage insurance with interest-reduction payments that lower the effective interest rates of properties to as low as one percent. Although most families in the Section 236 program pay a flat rent known as the Section 236 basic rent, some families pay an income-based rent and others pay a ceiling rent known as the Section 236 market rent.

Tenant Protection Vouchers

These are tenant-based Section 8 vouchers (also known as Housing Choice Vouchers) that are issued by HUD when certain HUD-assisted, multifamily housing properties cease participation in HUD's programs or public housing units are demolished or sold. The vouchers are generally administered by a public housing agency in the same community as the property leaving HUD's inventory. Qualifying residents of the affected properties receive first priority for the vouchers.

Households that receive a voucher either stay in their current unit or locate other housing of their choice in the private market, with the voucher helping to subsidize their rents. Participating households generally pay about 30 percent of their income for rent.

The primary purpose of tenant protection vouchers is to protect the low-income residents of the affected properties who are unable to afford market rents. Some tenant protection vouchers (particularly a form known as "enhanced vouchers") help residents to stay in their properties even after the properties have been converted to market-rate housing. The vouchers also help to minimize the net loss of federal housing subsidies in the communities affected by opt-out, conversion, or HUD enforcement actions.

The rules for determining how many and what kind of vouchers to issue in different circumstances have changed over time. At present, most opt-outs and some prepayments lead to the award of enhanced vouchers, which provide higher subsidy levels as long as the households receiving the vouchers continue to stay in the property that is opting out or prepaying. (They convert to regular vouchers when the recipients move or when the vouchers are reissued to new families.) Other opt-outs and prepayments lead to the award of regular vouchers.

This fact sheet does not cover tenant protection vouchers issued in connection with the demolition or disposition of public housing units.

NOTE: Some properties have multiple subsidy types. To avoid double counting, the data for Section 236 properties in this paper are limited to those properties that do *not* also have a deep subsidy. Section 236 properties that also have a deep subsidy are counted under that deep subsidy. For example, Section 236 properties with project-based Section 8 are counted as project-based Section 8 properties.

Working Paper

State and Local Housing Preservation Initiatives

Faced with a growing affordable housing crisis, state and local governments are increasingly turning their attention to preserving existing multifamily, affordable homes. Many states and localities are devoting their precious resources, including low income housing tax credits, private activity bonds, and other state and local funds, to this end.

Two years ago, the National Housing Trust (NHT) conducted an informal survey of state housing finance agencies to determine which agencies were prioritizing or setting aside low income housing tax credits to preserve federally-assisted or insured, multifamily housing. At that time, fewer than six states were concerned enough about the loss of federally-assisted housing to dedicate a portion of their most plentiful housing resource—low income housing tax credits—to preserve and improve affordable, multifamily homes. Today, more than 40 city and state agencies prioritize preservation, through points or a specific preservation set-aside, in their Qualified Allocation Plans (QAPs).

We are interested in adding any state or local initiatives that either set-aside funds for or prioritize preservation projects. If you determine that an initiative described in this document no longer reflects the current state of affairs or have any information that would update or add to this document, please let us know. Please contact Tracy Kaufman at the National Housing Trust (tkaufman@nhtinc.org; 202-872-1911 ext. *820).

The attached information is part of NHT's ongoing effort to identify state and local level initiatives that preserve affordable, multifamily housing. This is a work-in-progress and does not necessarily reflect to depth of any one initiative or the breadth of initiatives around the country. However, we have made a good start. The information we have gathered includes preservation initiatives related to State QAPs for Low Income Housing Tax Credits, private activity bonds with 4% low income housing tax credits, and housing trust funds, as well as other state and local initiatives.

Please Note:
This document is no substitute for one's own research. Specifically for state Qualified Allocation Plans (QAPs), scoring will vary widely. For the purposes of this document, NHT has reviewed each QAP to determine what, if anything, was mentioned about housing preservation. A particular state QAP may appear at first blush to encourage preservation, but that the competition within the state and/or mixing of "preservation points" with other tax credit priorities makes the preservation "priority" more or less meaningful.

Much of the information on the allocation of 2003 Low Income Housing Tax Credits and Private Activity Bonds was generously provided by *Affordable Housing Finance* magazine (Alexander & Edwards Publishing, Inc.; 800-989-7255; www.housingfinance.com).

National Preservation Initiative
1801 K Street, N.W., Suite M-100 ■ Washington, D.C. 20006 ■ 202-872-1911 ■ FAX: 202-872-0719

WORKING PAPER

State and Local Housing Preservation Initiatives

Alabama

Low Income Housing Tax Credits (9% Credits)

The draft 2004 QAP awards 2 points to HUD and USDA RD distressed properties (defined as at risk of foreclosure) and 5 points for rehabilitation of existing multifamily residential rental housing (minimum $10,000/unit).

Allocations: In 2002, $8 million in tax credits were reserved for 19 projects, with the median project size of 72 units. The Alabama Housing Finance Authority indicate they are seeing more rehabilitation of existing units.

Private Activity Bonds with 4% Credits

Allocations: The Alabama Housing Finance Authority indicates that they prefer acquisition and rehabilitation projects. Of the eight projects financed with private activity bonds in 2002, six were for acquisition and rehabilitation, totaling 877 units.

Alaska

Low Income Housing Tax Credits (9% Credits)

2004 QAP provides a 10% set-aside for Rural Development Section 515 properties.

Allocations: Six projects received $2 million in low income housing tax credits in 2003.

Private Activity Bonds with 4% Credits

Allocations: Alaska receives about $225 million for its private activity bond program and applications are accepted on a continuous basis.

Arizona

Low Income Housing Tax Credits (9% Credits)

The draft 2004 allocation plan provides a set-aside for one acquisition/rehab development located in an urban area where 100% of the units undergo rehabilitation and one acquisition/rehabilitation development located in rural area where 100% of the units undergo rehabilitation.

25 points are available for projects that are newly funded by USDA such as the Section 515/514/516 and Section 538 programs.

Allocations: In 2002, $9.6 million in tax credits went to 21 projects with 1,394 units. $1.9 million of those reservations were for acquisition/rehabilitation. In 2003, 20 projects received a total of $9.9 million in tax credits.

Private Activity Bonds with 4% Credits

Allocations: In 2003, Arizona's tax-exempt housing bond program received $40.9 million. Applications for rental housing were triple the supply. Arizona distributes private activity bonds by lottery. Projects selected are required to meet criteria as evaluated through a feasibility/marketability hearing.

Arkansas

Low Income Housing Tax Credits (9% Credits)

2004 allocation plan awards 10 points when a project "involves preservation and rehabilitation of existing affordable housing." The state also provides 10 points for projects involving "rehabilitation of existing structures (minimum $10,000 per unit)."

Allocations: Tax credits were awarded to 25 projects, six of which were rehabilitation projects, in 2003. There were 44 applications in 2003, up from 33 the previous year.

Private Activity Bonds with 4% Credits

Allocations: Arkansas had a $284.3 million private activity bond cap in 2003, including $37 million for rental housing.

California

Low Income Housing Tax Credits (9% Credits)

5% set-aside for "at-risk" projects defined as projects with subsidies (including tax credits) that expire within two years prior to or after the application date. First generation tax credit projects (allocated credits between 1987-89) with expiring compliance and affordability periods are classified as at-risk projects in order to compete under the at-risk set-aside.

10 points are provided to at-risk properties as meeting housing needs.

Allocations: Overall, the at-risk set-aside in the tax credit program was oversubscribed. The set-aside had been reduced from 10% to 5% in 2003 because this category had been undersubscribed for the past few years. In 2003, 4 at-risk projects were awarded 9% federal credits totaling to more than $2.96 million. CTCAC also awarded 2 of these at-risk projects with approximately $1.68 million in state credits. In 2004, about $62 million will be available in tax credits.

Private Activity Bonds with 4% Credits

The California Debt Limit Allocation Committee (CDLAC) increased the basis adjustment multipliers in the 4% program by 20% for all tax-exempt bond projects, making it easier to raise enough equity to make preservation acquisitions with minor to mid-level renovations feasible. CDLAC also provides federally-assisted at-risk projects with up to 20 points for projects applying for tax-exempt bonds.

Allocations: The demand for tax-exempt private activity bonds increased dramatically in 2003. CDLAC awarded a total of $1.56 billion for rental housing in 2003. The 2003 allocation helped preserve 1,380 income and rent restricted units that were at-risk of losing affordability restrictions. For 2004, the overall volume cap is $2.84 billion, with rental housing capped at $1.55 billion.

The tax credit and bond allocation committees decided to direct the majority of the preservation financing toward bonds as the main vehicle to finance preservation. In California today there is less demand for bond allocation (1 to 1 demand for 2003) then 9% credits, consequently there is greater utilization of these two resources.

Housing Trust Funds

Los Angeles

In February 2003, the Los Angeles City Council approved guidelines for expenditure of the Affordable Housing Trust Fund. Those guidelines include 10% that will remain flexible with the priority going toward preservation of housing that is at risk of converting to market rate. The guidelines also establish that 60% of the Trust Fund will be for multifamily rental projects serving households at or below 60% of the area median income.

The local HUB in Los Angeles has implemented a innovative type of trust. For those 236 projects that are sold by non-profits and HUD must approve the prepayment, 75% of the sales proceeds are deposited in a trust to promote additional or preservation of affordable housing. The non-profit the may access those funds (which are kept separate) for future preservation or development transactions. The trust monies can also be used for making loans or paying predevelopment costs.

Other Preservation Initiatives

Since it was approved by voters in November 2002, Proposition 46 has funded a state Multifamily Housing Program (MHP) in the amount of $150 million per year for five years and this program also provides extra points for at-risk projects and is not available to projects applying for 9% credits.

Along with the MHP funding from Prop 46 mentioned above, the bond act also authorized a preservation acquisition fund. The bond provided $45 million of acquisition monies that would be levered 3 to 1 with CalHFA funds to provide short term acquisition funds (ex. Acquisitions price of $10 million, Prop 46 funds contribute $3 million , CalHFA $7 million), Loan guidelines call for expedited processing with the loan due in two years. In the event the permanent financing is inadequate to cover all projects (acquisition and rehab), then a portion of the Prop 46 funds may remain on the project as a residual receipts subordinate loan.

California Housing Finance Agency (CalHFA) uses the following to foster preservation of affordable housing: (1) facilitating rapid acquisition financing by nonprofits by utilizing an internal warehouse line of funds which in turn are reimbursed by pooled 501(c)(3) bond offerings; (2) purchase of Fannie Mae's portfolio of HUD Section 236 loans to help implement IRP decoupling; (3) facilitating the acquisition of several large at-risk properties by one for-profit preservation buyer, using interest only and mezzanine financing during rehabilitation.

In addition, CalHFA will lend against the Section 8 increment depending on the position of market rents and the length of the contract. This "B" piece structure has been used effectively on existing Agency Section 8 loans (essentially refinancings involving a sale) and for other Section 8 brought into the Agency's portfolio.

HUD 202 loans will also be financed by the Agency where the loan amount is set to the existing Section 8 rent levels (with potentially some adjustment for market) for a 20 or 30 year term. These loans are insured under FHA Risk Share.

RHS 515 loans have been financed using RHS's ability to offer their loans at 1%. The rents on these projects are generally low, consequently the level of rehabilitation that can be undertaken is limited.

Los Angeles

In June 2003, the LA City Council created the LA Affordable Housing Preservation Program, modeled after similar programs in Denver, Sacramento and San Francisco. The program includes the creation of a new noticing ordinance, new financing guidelines and a new position for a preservation coordinator.

Pacifica

Last year, the City of Pacifica entered into a "friendly condemnation" to secure affordability of a federally-assisted development serving seniors in that community. City funds were mixed with CalHFA funds to facilitate transfer to an existing nonprofit. CalHFA used 501(c)(3) bond debt as the long term financing vehicle. Agency funds were used on an short term basis to fund the acquisitions quickly to meeting the timeframe imposed by the Court.

San Francisco

San Francisco guarantees lenders, owners & purchasers of federally-assisted housing that it will "make up the difference" between restricted rents and market rent if the federal government fails to provide Section 8 subsidies to existing properties. Restricted rents are the tax credit eligible or tax-exempt bond eligible rents that typically range from 45-60% of adjusted median income. The San Francisco Redevelopment Agency has stringent notice and code enforcement requirements to compel owners to cooperate with the SFRDA in maintaining affordability. The SFRDA also uses a leasehold structure where they City purchases the land and executes a lease to the new owners. This method insures the project remains affordable for as the City requires.

Colorado

Low Income Housing Tax Credits (9% Credits)

The 2004 QAP provides 15 points for preservation developments, defined as: (1) developments eligible for acquisition/rehab credits that have federally-subsidized rental assistance and are likely to lose that subsidy, and their low income use, within 2 years from the time of application without federal LIHTCs, or (2) developments that currently have rents that, although not restricted by any federal or state program, are within the federal tax credit rent limits. For acquisition/rehabilitation developments or rehabilitation only, hard costs for rehabilitation must be at least $6,600 per unit in order to be eligible for tax credits.

Allocations: Tax credit applications are accepted on an "open" basis during the first full business day of every month, beginning February 2, 2004 until November 1, 2004. CHFA has about $8 million in LIHTC authority each year and often grants "preliminary reservations" of credits, carrying forward these credits into the next calendar year and they also make some reservations in advance for the next year. In 2003, , more than $12 million in credits were reserved, of which about $1.4 million went to acquisition/rehabilitation projects. In 2004, 11 applications for a total of $6.7 million in credits are under review by CHFA, 4 of which involve acquisition/rehabilitation.

Private Activity Bonds with 4% Credits

Colorado often uses 4% credits for preservation.

Allocations: CHFA has about $90 million in bond cap in 2004 - about the same as the bond cap in 2003, but up from $40.6 million in 2002. In 2002, municipalities and Colorado's Department of Local Affairs (DoLA) used an additional $98.5 million of 2002 bond cap for multifamily housing and $53.2 million for mortgage revenue bonds. DoLA started 2003 by allocating a statewide balance of $19.1 million to multifamily housing in the Denver area.

Other Preservation Initiatives

Colorado has also used the Colorado Housing and Finance Authority's (CHFA) internally funded subsidy source to fund 2nd positions at 1%, lowering the total overall interest rate to acquisition borrowers to 5%.

Since 1999, CHFA has had a multifamily refinance program in place for existing borrowers, both within and outside of the CHFA portfolio. The main highlights of the Multifamily Refinance Program include offering loans of up to 100% of the total project cost, along with providing additional funds to complete rehabilitation. For loans within the CHFA portfolio previously financed by tax-exempt private activity bonds, CHFA can re-cycle funds into a new bond issue, thereby leveraging more funds without using new bond cap.

CHFA has internal funding pools used to make very low interest loans on smaller transactions (under $500,000). We also use these internal sources to "blend" with bond monies to create a lower interest rate to the borrower when needed.

CHFA has also been able to offer interest rate reductions to borrowers in situations where the property is struggling to meet debt service. These relief efforts are more carefully reviewed, however.

Connecticut

Low Income Housing Tax Credits (9% Credits)

Provides priority to the development of housing that "preserves the existing stock of Federally assisted low-income housing, where loss of low income service is possible upon prepayment of a mortgage or expiration of housing assistance contracts." LIHTCs will be allocated first to nonprofit set-aside applicants, then to applications from General Class I, then to the extent available to applications from General Class II. Applications for assistance necessary to preserve Federally assisted units that will be lost due to mortgage prepayment, subsidy contract opt-out or subsidy contract termination are considered General Class II. State Plan provides that Class I priority projects "add a larger proportion of units with more than two bedrooms." This seems to conflict with a policy that preserves existing projects without reconfiguring to "add" 2 or more bedroom units.

Allocations: Connecticut had $6 million in allocating authority for tax credits in 2003, minus the $2 million in 2003 authority that the state had forward-reserved in 2002. The state reserved $1.7 million from its 2004 authority in 2003 to makeup for that forward reservation, bringing the 2003 total to $5.7 million. Winners were announced in May, with nine projects receiving tax credits, including three neighborhood rehabilitation projects that will fix up abandoned buildings and the second phase of work at a large 236 development (SANA Apartments). CHFA is allocating tax-exempt bonds on a case-by-case basis for multifamily projects.

Private Activity Bonds with 4% Credits

Allocations: The Connecticut Housing Finance Authority allocates tax exempt bonds on a case-by-case basis for multifamily projects and usually receives 60% of the state's total $246 million in private activity tax exempt bond allocating authority.

Delaware

Low Income Housing Tax Credits (9% Credits)

DSHA has set up pools for allocating tax credits. Developments will compete only within their respective pools. Developments are ranked within those pools and the highest scoring developments in each are separately evaluated to determine the amount of tax credits required. Each year DSHA establishes the percentage of available credits for each Pool. For 2003, the Preservation Expiration Pool has approximately $300,000 of Tax Credit Authority. The following types of projects are eligible for this pool: (1) Any Pre-1990 tax credit housing development, which has completed its compliance period that is in need of substantial rehabilitation, and at risk of losing its affordability and (2) Any currently occupied subsidized housing development in need of substantial rehabilitation and/or at risk of losing its affordability.

Allocations: In 2003, Delaware reserved tax credits for 6 projects. $746,683 in tax credits were reserved for two projects with a total of 149 units in the preservation pool.

Private Activity Bonds with 4% Credits

Allocations: While the state had a $225 million private activity bond cap with a $37.8 million set-aside for housing in 2002, there were no applications for multifamily housing bonds.

Housing Trust Funds

According to the Center for Community Change, a coalition of financial services and nonprofit housing community organizations in Delaware has proposed a 5 year strategic housing plan that includes using the state's Housing Development Fund (a housing trust fund supported through document recording fees) to preserve existing affordable rental housing with federal subsidies.

District of Columbia

Low Income Housing Tax Credits (9% Credits)

The DC Department of Housing and Community Development (DHCD) provides 5 points for the preservation of housing with expiring Section 8 assistance for tax credits applicants.

Allocations: The demand for tax credits in DC exceeded supply by 4 to 1, with reservations of $1.5 million.

Private Activity Bonds with 4% Credits

The District of Columbia Housing Finance Agency (DCHFA), the provider of tax-exempt private activity bonds and 4% credits for the District of Columbia, provides 10 "bonus points" for proposals that preserve subsidized housing with an expiring use restriction and 10 additional points for projects that limit rent hikes to no more than 10% per year.

Allocations: In 2003, the private activity bond cap was $228.6 million. Applications are accepted on a rolling basis.

Housing Trust Funds

The newly created Washington Area Housing Trust Fund (WAHTF) launched a join initiative with the National Housing Trust Community Development Fund (NHTCDF). NHTCDF agreed to provide up to $1 million in matching loans to developments that meet both organizations' underwriting requirements. The Enterprise Foundation also agreed to collaborate on preservation deals.

On June 6, 2003, the DHCD released an RFP making $25 million in local Housing Production Trust Fund money available. $7 million of that funding is specifically targeted for the preservation of rental housing with expiring federal subsidies. DHCD also provides 5 points for the preservation of housing with expiring Section 8 assistance for DC's Housing Production Trust Fund applicants.

Other Preservation Initiatives

On June 6, 2003, DHCD released an RFP targeting $1.5 million of the $8.5 of CDBG/HOME funds towards the preservation of properties with expiring federal subsidies. DHCD also provides 5 points for the preservation of housing with expiring Section 8 assistance for HOME and CDBG applicants.

Florida

Low Income Housing Tax Credits (9% Credits)

Allocations: The demand for tax credits in Florida exceeded supply by almost 4 to 1, while they have more tax-exempt bond cap to distribute in 2003 than they have applications. Total authority in 2002 was $29 million in tax credits, with 36 projects receiving credits.

Private Activity Bonds with 4% Credits

Although the State of Florida does not have a specific set-aside, it is worth noting that the state's entire $299 million housing bond allocation and the companion 4% tax credit has been earmarked for multifamily housing developments (both new and existing) in 2003. Any local bond money not allocated by November 2003 is redirected to the State (FHFC) and then is typically used for both single family and additional multifamily housing.

Allocations: Florida Housing has more tax exempt bond cap to distribute in 2003 than it does applications.

Georgia

Low Income Housing Tax Credits (9% Credits)

Up to 5 points are awarded for preservation of existing affordable housing defined as a project with low income housing tax credits that will expire in 2003. Up to 4 points are awarded for an application that proposes the preservation of a previously HUD or USDA-funded affordable non-public housing project. Up to 2 points are awarded for an application that proposes the preservation of any other affordable housing project. To receive the 2 points, the Sponsor must provide documentation of the rent and income restrictions applicable to that property. The agency will not award points for preservation on projects that have "affordable" rents but no actual rent or income restrictions.

Allocations: The Georgia Department of Community Affairs (DCA) received 61 applications for tax credits in 2003. Applicants requested nearly $28.9 million in tax credits, while the state only has about $15.9 million in authority.

Private Activity Bonds with 4% Credits

Allocations: In 2003, Georgia has $272.9 million in state tax-exempt private activity bond cap for housing programs. Applications are accepted all year and allocations for multifamily housing projects are made on a first come, first served basis followed by a rating system if necessary.

Hawaii

Low Income Housing Tax Credits (9% Credits)

2003 QAP provides up to 6 points for a project that "will be receiving project based rental assistance subsidies which would result in eligible tenants paying approximately 30% of their gross monthly income towards rent." Eligible programs include, but are not limited to, Section 515 or Section 8 programs.

Allocations: The demand for tax credits decreased significantly in 2003. While the state has approximately $2.3 million in authority, only four applicants requested $1.4 million in tax credits in 2003.

Idaho

Low Income Housing Tax Credits (9% Credits)

The state awards 10 points to developments that preserve existing low-income units (defined as a development that will be converted to market rate units at the end of its affordability regulatory agreement). The state will award 20 points to acquisition/rehabilitation developments with an existing project based assistance contract that will be retained under the new ownership.

Allocations: Idaho reserved $2.65 million in tax credits to 10 projects with a total of 416 units in 2003.

Illinois

Low Income Housing Tax Credits (9% Credits)

$3 million set aside (up from $2.5 million in 2003 and $1.5 million in 2000) in state QAP for rehabilitation of currently occupied low-income housing developments whose eligibility for conversion to market rate housing is imminent (2-3 years) or projects otherwise in danger of being lost due to need for substantial rehabilitation. If not fully utilized in Round 2, remaining funds go into the general pool. Applies to (1) preservation-eligible projects under ELIHPA or LIHPRHA, (2) projects with expiring Section 8 contracts, regardless of whether the Owner has given notice of its intent to allow such contracts to expire, (3) projects with HUD-held mortgages, and (4) qualifying projects originally funded by RHS.

In addition, up to five points are provided in the general scoring categories for properties with project-based assistance (McKinney, Housing Choice Vouchers, Housing Choice Voucher Conversion, USDA Rural Development project-based

Allocations: IHDA has $18 million in available tax credits during 2004. In December 2003, IHDA had received 59 applications for the first round of the 2004 tax credits. Award recommendations of $1.5 million were made for 2 preservation projects. In the second round, 44 applications were received in total, with 7 seeking qualification under the preservation set-aside. In 2003, all $18 million of the state's 2003 tax credits were reserved. Four projects had funds reserved under the preservation set-aside.

Chicago

The City of Chicago has listed preservation as one of its preferences for awarding 9% credits.

Allocations: In 2004, Chicago's Department of Housing will allocate $5 million in tax credits, as it did in 2003. In 2002, $1 million of that year's $5.4 million in tax credits financed rehabilitation projects.

Private Activity Bonds with 4% Credits

Allocations: In 2004, IHDA requested that $150 million of the $945 million bond cap go to housing. In 2003, IHDA was allocated $60 million in tax-exempt private activity bond cap to be used for multifamily housing. By December 31, 2003, $121 million in tax-exempt bond financing had been provided to six multifamily projects.

Chicago

The City of Chicago has devoted a substantial amount of private activity volume cap and 4% credits to preservation.

Housing Trust Funds

According to the Center for Community Change's Housing Trust Fund Project, the Illinois Affordable Housing Trust Fund made a specific grant of $100,000 to Tenants United for Housing, to provide technical services for tenants statewide who live in HUD-assisted properties eligible for Mark-to-Market. Services include outreach, training, and organizing of tenants to assure protection and preservation of units reserved for low-income tenants. Loans from the Trust Fund may also be used to refinance existing mortgages that will facilitate the preservation of affordable housing and for acquisition and rehabilitation of existing housing. Approximately $35 million is available each year, with a maximum award of approximately $750,000.

Other Preservation Initiatives

Illinois has created the Illinois Affordable Housing Tax Credit (IAHTC) which allows individuals or organizations to donate cash, securities, personal property or real estate to participating non-profit housing developers in exchange for a state income tax credit of 50 cents on a dollar. Aggregated amount of donation must be at least $10,000. Under the program, $1 million is earmarked for technical assistance and general support and $2 million for Employer Assisted Housing. Funds must be used for projects that meet the definition of affordable housing. IHDA is the IAHTC administrator for the state and gives preference to projects that "emphasize preservation, serve lower-income people, are ready to proceed financially and serve special needs populations. The Chicago Department of Housing is the IAHTC administrator for the City of Chicago.

Within the Multifamily Department, IHDA works with existing owners to help meet the rehabilitation needs of older developments and to encourage owners to keep their developments in the afforable housing stock. The department helps IHDA-financed properties to refinance to help rehab and preserve the property and acts as a PAE in HUD's Mark-to-Market process.

Cook County

The Cook County Class S Program was set up to preserve project-based Section 8 multifamily rental housing as decent, safe and affordable for low- and moderate-income households in Cook County. This incentive allows a 50% tax assessment reduction for those units that remain affordable through the project-based Section 8 program. Eligible properties are those subject to a project-based Section 8 contract in an area where market-rate rents exceed otherwise allowed rents through the project-based Section 8 program. Qualified properties must renew their contracts through the HUD Mark Up To Market (MUTM) program, and Section 8 units must be retained during the five-year term of the renewed MUTM contract. The assessment reduction is calculated according to the proportion of Section 8 units in the building.

The county's Class 9 Program offers a 50% reduction to developers who complete major rehab on multifamily buildings and keep rents below certain levels. Properties are eligible for a 16% assessment level for a period of 10 years that can be renewed for additional 10-year periods.

Indiana

Low Income Housing Tax Credits (9% Credits)

Indiana's draft 2004 QAP--which pertains to tax credits, tax exempt bonds, HOME funds and the state's Low Income Housing Trust Fund money--has a 10% set-aside for developments which involve the substantial rehabilitation of a currently occupied low income housing development with a minimum 25% occupancy rate and/or a development otherwise in danger of being lost as affordable housing. This includes developments being removed by a federal agency developments utilizing HOPE VI funding, and the conversion of existing market rate housing to affordable housing. Rehab cost must be at least $10,000/unit to be considered in this category ($7,000 for other set-asides).

Indiana also provides 3 points for federally assisted low-income housing developments with at least 50% of its units in danger of being removed by a federal agency from the low-income housing market due to eligible prepayment, conversion or financial difficulty.

Allocations: In 2003, three preservation projects received tax credit allocations through the preservation set-aside. A total of $1.24 million in tax credits were allocated to these projects, preserving 211 units.

Private Activity Bonds with 4% Credits

Allocations: While almost $92 million in private activity bond cap was designated for rental housing, only $37.5 million in bonds were issued for 9 projects.

Iowa

Low Income Housing Tax Credits (9% Credits)

The 2004 QAP includes a 20 percent set-aside of the annual State Ceiling for the preservation of qualifying Projects. Projects applying for this set-aside must be one or more of the following: (1) federal, state, or locally assisted housing preservation including low-income housing units subsidized under Section 236, Section 221(d)(3), Section 8 project-based rental assistance, Section 221(d)(4), Section 515 or similar programs; (2) adaptive reuse of existing buildings; and (3) conversion of existing market rate developments to affordable housing.

Additionally, Preservation Projects will receive 15 points (down from 30 points in 2003). Preservation Projects are defined as a Project that has federal subsidy (HUD Section 8 or USDA Section 515) and is likely to lose their low-income status (HUD-opt out notice or USDA prepayment filed), or in need of repair or a pre-1990 Section 42 Project that has successfully completed their 15-year compliance period.

A rehabilitation threshold of at least 10% of adjusted basis or $6,000/low-income unit (up from $3,000 in 2003) is required. IFA reserves the right to award additional credits, if available, to projects involving acquisition/rehab, adaptive reuse or historic preservation if project costs exceed original cost estimates.

Allocations: 48 projects, 9 of which were preservation projects, applied for $13.7 million in tax credits in 2004. More than $6 million was awarded to 19 projects, with 3 of those involving preservation or adaptive reuse. As of March 2004, more than $4.4 million had been reserved, with 8 projects involving acquisition/rehabilitation and one other project involving rehabilitation only.

Private Activity Bonds with 4% Credits

Allocations: In 2004, the state has $235.5 million in total bond cap, with $22 million for rental housing. In 2003, bond funding of $20.4 million supported four rental properties.

Housing Trust Funds

The Iowa State Housing Trust Fund is held within the Iowa Finance Authority (IFA). There are two programs operated under the Trust Fund--the Local Housing Trust Fund Program and the Project-Based Housing Program. 40% of available money from the Trust Fund is allocated to the Project-Based Housing Program. The Project-Based Housing Program assists in funding the development and preservation of affordable single and multi-family housing units. For 2004, IFA awarded approximately $1.78 million in funds to 12 organizations, $550,000 of which was awarded to 3 organizations under the Project-Based Housing Program. No local housing trust funds received more than $1.2 million

Other Preservation Initiatives

IFA's Multifamily Preservation Loan Program provides loans to nonprofit and for-profit sponsors to preserve existing multifamily affordable housing at risk of being lost from the stock. Activities eligible for assistance include acquisition with substantial rehabilitation (acquisition with minor repairs possible for nonprofit owners), loan restructuring in Mark-to-Market program, restructurting of LIHTC or IFA loan projects pursuant to a workout plan, restructuring of HUD/USDA projects that are held or troubled, restructuring of HAF or IHC loans, restructuring of troubled LIHTC projects, and rehabilitation needed to eliminate health or safety threat (for nonprofit-owned properties only). The maximum loan amount and term is $2 million and 30 years respectively.

IFA also has a Main Street Revitalization Loan program and since 2002 has made 9 loans ranging from a low of $50,000 to a high of $250,000. Loan were made for such things as rehabilitation of 2nd/3rd floors into office/community space; rehabilitation of 2nd floor into apartments; rehabilitation of building for clothing store, restaurant and commercial space. This program is intended to provide financing to facilitate upper floor housing, infill development projects and commercial properties situated in the downtown area of communities participating in the Iowa Main Street Program administered by the Iowa Department of Economic Development. Iowa's Main Street Program currently has 33 active communities. They range from a population of 465 to 80,505. While their sizes vary, their goals are the same: to maintain and develop their downtown areas. Access to affordable loans has been identified as a major obstacle to downtown development. As communities realize the fact that upper floor downtown housing can be part of Iowa's housing shortage solution and that people are willing to live in qualify upper floor housing units, more and more are pursuing this alternative. It supports centralized living; increases the social, physical, economic and political values of a community's heart and soul, its historic downtown.

Kansas

Low Income Housing Tax Credits (9% Credits)

10 points are given to developments that preserve existing low-income properties that would be subject to foreclosure or default if tax credits were not available.

Allocations: By the summer 2002, the state had used up its 2003 tax credits on 27 projects, including at least one acquisition/rehabilitation project.

Private Activity Bonds with 4% Credits

Allocations: In 2002, the state did more than $80 million in tax exempt multifamily bond business, nearly tripling its previous levels.

Kentucky

Low Income Housing Tax Credits (9% Credits)

The 2004 allocation plan specifies approximately $1.2 million to be utilized for projects that are rural or preservation projects. Preservation projects are projects that are the rehabilitation of already existing low income units provided that the rehabilitation will repair or replace components that are either in immediate need of repair or replacement or are functionally obsolete or require modification or enhancements to meet new applicable federal, state or local housing or building code requirements.

In the 2004 allocation plan, 15 points are awarded to projects that involve the acquisition and rehabilitation or rehabilitation of a project to prevent foreclosure and/or loss of the project for use by low-income households. This can be defined as those projects eligible for waiver under IRC Section 42(d)(6), or projects that have previously received Housing Credit and the compliance period has ended. Projects can also receive 10 points for the preservation (excluding acquisition only projects) of other existing housing stock.

Allocations: In 2002, 39 projects received $7.9 million in credits.

Private Activity Bonds with 4% Credits

Allocations: According to the Kentucky Housing Corporation, while they have offered tax exempt bonds for the past two years for multifamily development, there has been minimal interest. Approximately $20 million out of the state's $306 million bond cap is available for multifamily housing.

Louisiana

Low Income Housing Tax Credits (9% Credits)

Seven (7) Congressional Districts are allocated 14.0% each of the State's Credit Ceiling. There are sub-pools in each Congressional District from which qualifying applications may request a reservation of tax credits. The revitalization sub-pool receives 3.25% of the credit ceiling, totaling 22.75% set-aside for any particular sub-pool. The revitalization pool includes Mark-to-Market projects. There are also 50 points awarded for abandoned projects.

50 points awarded for abandoned projects.

Allocations: More than $12.2 million in tax credits were requested in 2003, with more than $7.59 million reserved for 30 projects.

Maine

Low Income Housing Tax Credits (9% Credits)

In Maine's 2004 & 2005 QAP, one of the stated priorities is for "projects involving acquisition and/or rehabilitation, which add to or significantly rehabilitate the existing rental housing stock, and are rent-restricted to the lowest income households." The QAP provides 3 points to projects involving rehabilitation of existing housing stock that also provide protection against displacement and substantial increases in housing costs attributable to the rehabilitation. The QAP also includes a 90-year affordability period as a new threshold requirement.

Allocations: Allocations are capped at $500,000 per project, up from $450,000 in 2003. Five applicants were allocated at total of $1.9 million in tax credits for 134 units in 2003.

Private Activity Bonds with 4% Credits

Allocations: $30 million out of $228.6 million in total private activity bond cap is set-aside for rental housing. Applications are accepted on a case-by-case basis. Seven multifamily projects received bonds in 2003.

Maryland

Low Income Housing Tax Credits (9% Credits)

Allocations: Maryland has an estimated $9.7 million in LIHTC authority for 2004. As of June 2003, $3.1 million from 2004 credits had been reserved. In 2003, 18 projects were awarded tax credit reservations totaling to about $9.7

Private Activity Bonds with 4% Credits

In early 2002, the Department of Housing and Community Development's (DHCD) Community Development Administration secured $50 million in private activity bond funds from the State, specifically devoted to the preservation of multifamily affordable housing that is at risk of loss to the state's affordable housing stock due to conversion to market rate and/or deterioration. It is our understanding that Maryland will commit an additional $50 million from the same source in 2003.

Allocations: Approximately $106 million in new bond cap will be available to DHCD in 2004, but with prior year carryovers, refundings and transfers of authority, considerably more should be available. DHCD anticipates more than $200 million in volume cap could be allocated in 2004 for multifamily financing. An increased number of requests for financing preservation projects emerged in 2003 but only about half of the $409 million private activity bond cap for 2003 was allocated as of June, with $102.4 million going to rental housing.

Housing Trust Funds

The Maryland Affordable Housing Trust (MAHT) awards loans or grants of up to $100,000 to help provide housing for households earning less than 50% of area or statewide median income. Eligible uses of MAHT funds include the acquisition, construction, rehabilitation or preservation of affordable housing, such as the purchase of federally assisted housing to guarantee continuation of federal assistance.

Montgomery County

The Housing Initiative Fund in Montgomery County prioritized the preservation of federally-assisted properties. According to the Center for Community Change's Housing Trust Fund Project, the fund has preserved the county's entire stock of expiring Section 236 housing (preserving 460 units); provided loans to the local housing authority to purchase four 100% project-based Section 8 buildings (preserving 407 units); Memorandum of Agreement between owners of 20% project-based Section 8 properties who were planning to opt-out that resulted in the preservation of 309 units in seven privately held Section 8 properties (county provides tax abatement to bridge the gap between the amount HUD pays in rent and market rate rents, provides bridge loans when HUD rent payments are delayed, reimburses for the cost of market studies and other expenses HUD requires in order to document rent increases and covers the cost of extraordinary damages to a unit).

Other Preservation Initiatives

A large percentage of the Preservation projects we assist are financed with tax exempt bonds under the Multifamily Bond Program (MBP). Many of these projects represent preservation of federally assisted projects in order to preserve the existing project- based rental and interest rate subsidies. Substantial rehabilitation also occurs in order to modernize the units. Until 1/2/04, preservation of affordable units was one of the four threshold criteria needed to qualify for bond financing with Maryland DHCD. Due to sufficient bond cap to assist preservation projects on a first come, first serve basis and the large number of older projects needing revitalization in geographic markets throughout the State, Maryland removed Preservation as a threshold criteria. They are still able to actively provide financing for Preservation projects and have seen no decrease in activity to date. Projects requesting 9% credits and State soft loans are only awarded funds on a competitive basis. Currently, the Qualified Allocation Plan (QAP) and Multifamily Rental Financing Program Guide gives bonus points for rehabilitation. Most of the projects that earn these points are projects that agree to long term use restrictions of at least 40 years and are representative of preservation projects also.

Massachusetts

Low Income Housing Tax Credits (9% Credits)

The first of 10 principles listed in the 2004 QAP is to "redevelop first." The QAP gives "preference to redevelopment of brownfields, preservation and reuse of historic structures and rehabilitation of existing housing and schools."

For 2004, 35% of the allocated credits are awarded to preservation projects, defined as (1) expiring use restriction projects, (2) "opt-out" Section 8 projects, and (3) other "at risk" units located in distressed or foreclosed properties.

Private Activity Bonds with 4% Credits

Allocations: Massachusetts allocated $150 million of its total $526 million in bond cap to multifamily projects in 2003.

Housing Trust Funds

The guidelines for the Affordable Housing Trust Fund describe how funds "may be used to support the acquisition, development or preservation of affordable housing units."

The preservation of federally assisted rental housing is specifically discussed: "In accordance with the Statute, projects for the preservation of existing federally-assisted rental housing that have expiring affordable use restrictions are eligible to receive financing. Applications proposing the preservation of federally-assisted rental housing at risk of loss due to mortgage pre-payment, or non-renewal of rental assistance contracts, as set forth in Section 3 of the Statute, shall be evaluated according to the following criteria: 1. Immediacy of risk loss of long-term affordability, taking into account any and all use restrictions; 2. Presence of economic risk, as measured by indicators including but not limited: to market demand, building condition, and level of equity; 3. Availability of other preservation funding resources; and 4. Impact on existing tenants."

Cambridge

Cambridge launched CITYHOME in July 1995 with $2 million to the Trust Fund. Since then, according to the Center for Community Change's Housing Trust Fund Project, the city has contributed more than $24.5 million to CITYHOME, in an effort to preserve and increase affordable rental and homeownership opportunities for low and moderate income residents. More than 1,300 affordable units have been created or preserved. The Trust Fund provided technical as well as financial assistance to tenants and owners of four properties, preserving more than 1,000 additional affordable units. The fund has also helped local nonprofits acquire multifamily properties at risk of becoming unaffordable to low-income households due to the loss of rent control in the city.

Other Preservation Initiatives

For its own agency-financed, Section 8 developments, the State of Massachusetts has adopted a creative HUD Rent Adjustment Waiver that replaces HUD's "10% rule" with a calculation of initial difference by comparing the existing Section 8 FMR to the original Section 8 Gross Rent at the development. This has resulted in a much better proxy for market rent, keeping existing owners in the Section 8 program.

Michigan

Low Income Housing Tax Credits (9% Credits)

The selection criteria in the 2003 QAP increases the preservation "holdback" of $3.5 million of its $17 million in 9% credits for projects that preserve affordable housing, defined as already existing low income units which are within 2 years of any permitted prepayment or loss of use restriction and which will remain low income for at least 15 years. The credits will be allocated on a first come, first served basis.

Allocations: In 2004, there were 17 Preservation Holdback applicants for almost $5.3 million. The state made 11 reservations under the Preservation Holdback (953 units) for almost $3.4 million. In 2003, 14 allocations for 909 units were made through the preservation holdback for almost $3.1 million.

Michigan has a combined application for the low income housing tax credit, "TEAM" tax-exempt bond lending, 501(c)(3) Preservation Program and the Section 202 and Section 236 Preservation Program. The deadline for project applying under the Preservation Holdback of the tax credit program is August 16, 2004.

Private Activity Bonds with 4% Credits

In 2003, MSHDA allocated $120 million in tax-exempt bonding capacity to the Section 236 and Section 202 Preservation Program. The program is used for the acquisition and preservation of affordable housing units in developments currently assisted under the federal Section 236 and 202 programs. A minimum of $5,000 per unit of rehabilitation is required. MSDHA has a portfolio of more than 10,000 Section 236 units.

In 2003, Michigan also used $75 million in private activity bond cap for their modified pass through program as well as $3.1 million from HOME for preservation.

Other Preservation Initiatives

The State of Michigan has created a "Plethora of Preservation Programs" that won a program excellence award from the National Council of State Housing Agencies in the fall of 2002.

MSHDA's "TEAM" tax-exempt bond lending, 501(c)(3) Preservation Program is a loan program for the preservation of affordable housing units. The program may be used to acquire market units to convert to affordable units. Some level of rehabilitation is required.

The "Section 8 Preservation Program" funded with MSHDA internal funds offers owners an equity take-out, interest rate reduction and increased cash flow for waiving their right to opt out.

Minnesota

Low Income Housing Tax Credits (9% Credits)

For 2004, one of the minimum threshold requirement is: projects which preserve existing subsidized housing, if the use of tax credits is necessary to (1) prevent conversion to market rate use or (2) to remedy physical deterioration of the project which would result in loss of existing federal subsidies.

The state awards 100 points--higher than any other category in the QAP--to Non-Tax-Exempt, Minnesota Housing Finance Agency (MHFA) Credit Ceiling, Competitive Round Projects that preserve federally-assisted units (federally- assisted low income housing which, due to mortgage prepayments or expiring rental assistance, would convert to market rate use or due to physical deterioration or deterioration of capacity of current ownership/management entity would lose its federal subsidies within 2 years of the application date). 10 points are awarded to Tax-Exempt, Non-MHFA Credit Ceiling, and Non-competitive Round Projects for preservation. 100 points are also available to existing MHFA Tax Credit projects applying for tax credits from MHFA's competitive allocation process.

Up to 18 points are given to an owner that has entered into negotiations with a Local Housing Authority to receive Project-Based Rental Assistance.

MHFA had a holdback of HTCs for developments that preserved federally assisted developments in its 2003 and 2004 QAPs. HTCs were awarded to four developments, preserving a total of 168 units. Unfortunately, this holdback is not being offered in the 2005 QAP, however MHFA will continue to have Preservation as a priority in both the HTC program as well as the deferred loan programs.

Allocations: While the amount of tax credits requested in 2003 was more than double the amount reserved, two of the seven cities and counties that suballocate credits returned theirs to MHFA. In 2003, acquisition/rehabilitation projects received only $1.4 million of the $9 million in credits. The tax credit amount per unit doubled in 2003, the median credit reservations decreased by 30% and the median project size went from 56 units to 40 units.

Private Activity Bonds with 4% Credits

The share of the state's tax-exempt bond cap allocated to the housing pool is $133.9 million in 2004, up from $80.5 million in 2001. The MN Housing Finance Agency received almost $93.2 million in entitlement authority in 2004, up from $86.7 in 2003.

Housing Trust Funds

About $4 million provided annually, devoted primarily to physically preserve the existing affordable housing stock as well as the new construction of permanent supportive housing. MHFA also provides rental assistance and/or operating subsidies with this funding source.

Other Preservation Initiatives

One of MHFA's five goals in its 2004-2007 Strategic Plan is to "preserve strategically the existing affordable housing stock." They are acting on this plan through a wide variety of initiatives.

MHFA's Preservation Affordable Rental Investment Fund Program (PARIF) is $9.273 million program subject to biennial appropriations. PARIF is a statewide program that provides low interest-deferred loans to help cover the costs of preserving permanent affordable rental housing with long term project-based federal subsidies that are in jeopardy of being lost. The program provides funds to help cover the costs of acquisition, rehabilitation and debt restructuring of federally assisted developments, as well as equity take-out deferred loans. Eligible developments are those which receive project-based federal subsidies. The subsidies must be at risk of loss within two years, due to owner cancellation, a failing physical inspection and/or diminishing ownership capacity. Since 1998, MHFA's PARIF program has awarded $64 million to 81 developments containing 6,400 units.

The State of Minnesota has also devoted $37 million in General Fund appropriations to the preservation of federally-assisted housing in that state. So far as the Trust is aware, apart from Montgomery County, Maryland, this is the only municipality or state to have devoted its general tax dollars to this type of effort.

MHFA uses its HOME funding as well as state appropriations to provide long term deferred no or low interest loans to promote the development or redevelopment of the state's affordable housing stock. The HOME program's recent expenditures have concentrated about 40% of it's funding on Rural Development preservations.

MHFA has a Redefined Equity II program and also a bond refunding program for FAF developments. Both of these programs are very economical ways to provide financial incentives to owners of federally assisted housing in exchange for longer term commitments to remain in the federally assisted programs. Thru the Spring of 2004, MHFA has preserved 31 developments with over 1,400 units, with a PV of $94 million in Section 8 payments over the course of the preservation, with no financial outlay to the MHFA.

Mississippi

Low Income Housing Tax Credits (9% Credits)

For 2004, the Mississippi Home Corporation will reduce the minimum score required to seventy (70) points (from 75) for preservation developments that are committed to providing one hundred percent (100%) of the units set-a-side for tenants at or below sixty percent (60%) of the county median gross income for forty (40) years or longer.

The 2004 QAP provides 5 points for a development that "preserves existing developments serving low-income residents that would be lost due to conversion to market rate, loss of rental assistance, foreclosure or default, and mortgage prepayment. To be eligible, the development must be currently in danger of conversion, foreclosure, or default.

Allocations: The state forward commits tax credits from the upcoming year's authority. The 2003 projects received $4.9 million in 2004 tax credits, with less than 1% of the credits reserved for acquisition/rehabilitation projects. Developers are able to apply for 2005 credits in the next funding round.

Private Activity Bonds with 4% Credits

Allocations: Mississippi has an estimated $112.5 million in statwide private activity tax-exempt bond authority for housing in 2004. In 2003, MHC provided bond financing for 4 multifamily projects.

Missouri

Low Income Housing Tax Credits (9% Credits)

The non-numerical criteria in Missouri's 2004 QAP includes the "preservation of existing affordable housing."

Private Activity Bonds with 4% Credits

There is no formal selection criteria for bond authority but, according to Affordable Housing Finance magazine, the Missouri Department of Economic Development (DED) has an agreement with MHDC to refer housing projects for evaluation, with a preference for rehabilitation over new construction.

Allocations: In 2003, 5 multifamily projects received bond financing. A greater portion of the bond cap will be awarded to multifamily housing in 2004. DED gave a carryforward allocation of $70 million to MHDC for multifamily housing rehab projects for 2004.

Housing Trust Funds

One of the evaluation factors for the Missouri Housing Trust Fund is: "Does the proposal preserve an existing affordable housing structure?"

Other Preservation Initiatives

The MHDC Rental Housing Production and Preservation Program provides funding to developers for the acquisition and rehabilitation or new construction of rental housing for low and moderate income families. The MHDC funds are typically combined with Low Income Housing Tax Credits to fund affordable Multifamily housing developments. The program provides below market interest rate construction and permanent financing.

MHDC approved funding for 47 affordable rental housing developments as part of its Rental Production and Preservation Program on Friday, Jan. 23, 2004. The proposals were funded after MHDC staff reviewed 114 proposals submitted as part of the program. The funded developments included 17 rehabilitation projects with more than 1,000 units.

During the 2003 tax credit round (Missouri allocates in January for that year's 9% credit), the state stretched its funds by allocating MHDC or HOME funds, but no 9% credit, for a few properties that would work with a bond allocation and 4% credit. According to the State HFA Executive Director, tax credits, HOME or MHDC funds are used for a great number of properties currently funded with RD (rural) mortgages, but in need of preservation. These are done as acquisition properties, preserving the physical asset as well as the Section 8 HAP contract.

Montana

Low Income Housing Tax Credits (9% Credits)

The 2004 QAP awards 2 points for projects that propose the preservation of existing federally assisted housing stock or increases the affordable housing stock through the use of either the Rural Development 515 program, HOME program, the CDBG program or the FHLB Affordable Housing Program (AHP).

Allocations: In 2004, $2.3 million in credits are available. 18 projects requested $4.38 million, including 2 acquisition/rehab projects.

Private Activity Bonds with 4% Credits

Allocations: Of Montana's more than $228.5 million bond allocation in 2003, more than $65.6 was allocated to housing.

Nebraska

Low Income Housing Tax Credits (9% Credits)

Allocations: The Nebraska Investment Finance Authority (NIFA) made tax credits reservations for 11 projects in 2003, for a total of more than $3.3 million for 529 units. Of those 10 projects, 2 were acquisition/rehabilitation projects, totaling $1 million for 188 units.

Private Activity Bonds with 4% Credits

Allocations: Nebraska has a $228.6 million private-activity tax-exempt bond cap, none of which is set aside for housing. There were four multifamily deals completed in 2002 and 2003, totaling more then $900,000 in 4% tax credits.

Nevada

Low Income Housing Tax Credits (9% Credits)

The draft 2004 QAP provides 2 points for "at risk properties as listed in the National Housing Trust Publication".

Private Activity Bonds with 4% Credits

Allocations: Nevada's 2003 state ceiling is almost $228.6 million, with $100 million for multifamily housing.

New Hampshire

Low Income Housing Tax Credits (9% Credits)

For 2004, projects that are located in formally designated community revitalization areas, such as HUD Enterprise Zones, Main Street programs, designated blighted areas, or otherwise targeted areas can receive 2 points for preserving and renovating existing housing.

Allocations: During the first two rounds of 2003, seven projects with 211 units received more than $2.33 million tax credit reservations.

Private Activity Bonds with 4% Credits

Allocations: The New Hampshire Housing Finance Agency (NHHFA) will have $144.3 million in tax-exempt private-activity bond authority in 2004, $26 million of which will be reserved for rental housing.

Housing Trust Funds

The 1988 session of the General Court appropriated the initial $4,000,000 for acquisition, development, and preservation of low-income housing. This initial appropriation was entirely committed by 1989. However, this fund has been replenished through program income, tax-exempt bond fees, earnings, and, in 2002, with a state appropriation of $5 million recapitalization of the Fund.

The fund is used to provide loans and grants to support rental housing, group homes, and manufactured housing cooperatives. Funds are typically reserved for below market rate loans or grants to cover financing gaps or fund projects that cannot support debt. Both for and non-profit sponsors are eligible for financing.

New Jersey

Low Income Housing Tax Credits (9% Credits)

The 2003-2004 allocation plan includes four "funding cycles". The Final Cycle includes a HOPE VI set-aside and a preservation set-aside. The 2nd reservation of credits from the Final Cycle will be given to the highest-ranking eligible application from a preservation project. The QAP defines a "preservation project" as an existing, currently occupied affordable housing project at risk of losing its affordability controls.

Allocations: The New Jersey Housing and Mortgage Finance Agency (NJHMFA) plans to reserve $15.5 million in tax credits in 2004 and expects approximately double that amount in applications. In 2003, the demand for tax credits was twice the available supply, with a total of $31 million in applications and more than $11 million reserved.

Private Activity Bonds with 4% Credits

Allocations: In 2003, the NJHMFA used approximately $90 million of the state's $644 million in total bond cap to finance 13 multifamily projects. Two of the 13 projects were preservation projects. The new financing extended affordability an average of 20 years and funded rehabilitation work of over $10,000 per unit.

Other Preservation Initiatives

The NJHMFA allocated $20 million from their General Funds to fund a Small Rental Project Preservation Loan Program. The program will be used to stabilize and preserve existing occupied small rental housing projects (with 5-25 rental housing units), which require moderate rehabilitation.

The Agency allocated $40 million of reserves to provide a lower than market rate financing. These taxable funds allow a steady flow of dollars into preserving affordable housing and are not reliant on bond funding.

The Agency formed a division of lending whose main focus is financing preservation. The Division of Multifamily Lending currently has a pipeline of 15 projects representing over 3,200 affordable units and $50 million in financing.

New Mexico

Low Income Housing Tax Credits (9% Credits)

The state awards 15 points to projects that preserve affordable housing. Specifically, points are awarded to previously subsidized projects in which rents for 75% of the units are currently in excess of Tax Credit Ceiling rents and will be reduced to Tax Credit Ceiling Rents, or for which use restrictions are to expire on or before December 31st, 2006.

In addition, new allocations can be awarded to projects previously subsidized with credits. Existing projects that previously received tax credit allocations and are now eligible under Code Section 42(d)(2) for new acquisition tax credits may apply for a current allocation. However, the Projects must demonstrate a real risk of loss of affordable units and an addition of significant improvements and services to enhance livability for the tenants.

Allocations: The demand-to-supply ratio increased to 1.63 to 1 for 2003. Median awards increased to $397,691 and median project size increased to 78 units in 2003.

Private Activity Bonds with 4% Credits

Allocations: The New Mexico State Board of Finance allocated $37 million in private activity bonds to 10 multifamily projects in 2003. In 2004, the State Board of Finance's recommendation is to increase this allocation to $45 million, more than 19% of the total allocation, for multifamily housing.

New York

Low Income Housing Tax Credits (9% Credits)

The New York State Division of Housing and Community Renewal (DHCR) is the lead Housing Credit Agency for the State of New York. Of DHCR's $24 million available for LIHTC reservations, up to $2 million may be made available for preservation projects as defined in DHCR's QAP. Preservation is defined as property being rehabilitated to extend its useful life and is (1) consistent with a public agency work out, (2) is part of a community revitalization plan or (3) is in danger of being lost as an affordable housing resource.

DHCR's QAP also indicates that if a project includes the rehabilitation of any occupied residential building(s), the acquisition costs of the building(s) may not exceed 25% of the total development costs of the project unless it is a Preservation Project.

The state's remaining $10 million in credits for 2003 are suballocated to the New York State Housing Finance Agency (HFA), the New York City Department of Housing Preservation and Development (HPD) and a rural housing agency, the Development Authority of the North Country.

Allocations: Historically, demand for tax credits has outpaced supply, with demand exceeding supply by 4 to 1 in 2003. State agencies will award $34 million in credits in 2003. In 2002, the average allocation was about $420,000, with projects averaging 40 units.

New York City

A suballocation of New York State's 9% low-income housing tax credits is provided to the City of New York. New York City publishes its own QAP for this suballocation. The City's QAP does not provide a special priority or "set aside" for the preservation of federally assisted housing.

Allocations: New York City received 105 applications totaling $15.3 million for its $11.8 million share of the state's $34 million in federal tax credits in 2003.

Private Activity Bonds with 4% Credits

The $140 million Housing Opportunities and Preservation in the Empire State (HOPES) program in New York State is a set-aside of private activity bonds with 4% credits for preservation. Administered by HFA, the funding includes $100 million of the state's tax-exempt bond cap, plus $40 million in 4% low income housing tax credits. Section 202, Section 8 and Mitchell Lama Projects are all eligible for HOPES.

Allocations: In 2003, New York will allocate $750 million of its $1.5 billion in private activity bond cap to multifamily housing projects. By the end of May 2003, HFA had allocated bond cap to 10 projects (with plans to finance 5-10 more before the end of the year), six of which are preservation projects. In 2002, HFA provided tax-exempt financing to 11 projects, including 5 preservation projects.

New York City

New York City receives a separate suballocation of the State's tax-exempt bonding authority. The New York City Housing Development Corporation (HDC) is authorized to issue tax-exempt bonds for the development of multifamily housing. HDC does not provide a special priority or set aside for the preservation of federally assisted housing.

Allocations: The city will allocate $175 million in tax exempt bond cap to multifamily projects in 2003.

North Carolina

Low Income Housing Tax Credits (9% Credits)

The State will award up to the lesser of the following amounts to projects proposing rehabilitation of existing housing: 1) twenty percent (up from 10% in 2003) of the state's total federal tax credit ceiling, or 2) the amount required for 10 projects (up from 5 in 2003). Rehabilitation projects will not be eligible for credits other than in this set-aside. In order to be eligible for rehabilitation funding, a project must a) have committed mortgage subsidies from a local government in excess of $5,000 per unit or federal project-based rental assistance for at least 30% of the unts, b) have been placed in service on or before December 31, 1986, c) require rehabilitation expenses in excess of $15,000 per unit, d) not have an acquisition cost in excess of 60% of the total replacement costs, e) not be feasible using tax exempt bonds, and f) have less than $7 million total or $100,000 per unit in replacement costs.

In the 2004 QAP, NCHFA is permitted to allocate 2004 tax credits outside of the normal process to projects that meet one of five requirements including preventing the loss of federal investment.

Allocations: For 2002, the state received requests for triple the amount of credits than it had to allocate.

Private Activity Bonds with 4% Credits

North Carolina will allocate the multifamily portion of the state's tax-exempt bond authority and accompanying 4% credits in the following order of priority: 1. Projects that serve as a component of an overall HOPE VI revitalization effort 2. Rehabilitation projects 3. Adaptive re-use projects and 4. Other new construction projects.

Allocations: Out of the $128 million in private activity tax exempt bond cap requested for multifamily housing, $57 million had been allocated as of May 2003, including five acquisition/rehabilitation projects. An estimated $75 million will be set aside in 2004 for multifamily housing.

North Dakota

Low Income Housing Tax Credits (9% Credits)

10% of the state's housing credit ceiling (minimum $200,000) was set aside for applications involving preservation of existing affordable housing properties in 2003. Both acquisition with rehabilitation and rehabilitation-only applications were eligible under this set aside.

Federally assisted properties, including existing Housing Credit properties currently serving low income residents which are "at-risk" of being lost from the state's affordable housing inventory were not tax credits allocated, receive 10 points.

Allocations: The state has $2.3 million in tax credit authority in 2003. By the Fall of 2003, formal reservations had been granted for $1.56 million in tax credits. Awards included $234,910 to preserve 40 units of affordable housing in 2

Ohio

Low Income Housing Tax Credits (9% Credits)

In the 2004 QAP, 15% of the low income housing tax credits are set aside in a "preservation pool." Applicants can participate in the pool if they are eligible for at least 90% of points in "at-risk" criterion or received allocation of credits in 1987, 1988 or 1989.

The maximum allocation for non-preservation projects is $1.1 million. However, a user may be eligible for $400,000 in additional credits for projects eligible to participate in the preservation pool.

A developer may also receive 25 points for "at-risk" housing--defined as Section 8 expiring by December 31, 2006, troubled USDA Rural Development Projects, Portfolio Reengineering Projects, Section 202 or 811 projects placed in service prior to 1979, and existing Section 236 Projects. Partially-assisted projects can receive the 25 at-risk points on a pro-rated basis.

Allocations: There was increased demand for tax credits in 2003, with $48.5 million requested and $20.1 million reserved. Preservation project applications more than doubled, with 24 applicants in 2003. The median tax credit award rose to $575,697 in 2003 from $312,996 in 2002. The median project size also increased to 66 units in 2003 from 42 units in 2002. Approximately 58% of the 2003 authority went to new construction projects, while acquisition/rehabilitation received three times as many credits as substantial rehabilitation.

Private Activity Bonds with 4% Credits

Allocations: In the last couple of years, demand has been less than supply for multifamily set-aside awards, so all qualifying applicants have received awards. For 2003, the tax-exempt private activity bond set-aside for multifamily housing was increased to $120 million from $56 million. All 18 qualifying applicants were funded. Many of the projects (70%) were acquisition/rehab, with most preserving Section 236 or Section 8 properties.

Oklahoma

Low Income Housing Tax Credits (9% Credits)

Allocations: Oklahoma's 2003 tax credit allocations for both Round 1 and Round 2 totaled 20 projects with 1,059 units for almost $6.8 million.

Oregon

Low Income Housing Tax Credits (9% Credits)

In the draft 2005-2006 Qualified Allocation Plan, the state maintains the 25% set-aside for preservation projects. Preservation projects include but are not limited to those federally financed existing projects where at least 25% of the project's units have project based rental assistance or are expiring LIHTC which are currently offering rents below market. Projects participating in, but limited to the following programs, are considered federally financed: HUD, USDA Rural Development, and the Federal LIHTC programs. Preservation projects also include projects participating in programs that include the replacement of existing affordable housing units including the HOPE VI program.

Allocations: In 2003, the state reserved about $6.2 million in tax credits, with $1 million going to acquisition/rehabilitation. Oregon Housing and Community Services indicated that as much as 40% of the 2004 credits might go to preservation.

Private Activity Bonds with 4% Credits

Allocations: Approximately 40% ($124.5 million) of the state's 2004 total bond cap would be allocated to Oregon Housing and Community Services, with as much as $100 initially available for multifamily housing.

Other Preservation Initiatives

Portland

The City of Portland requires owners to provide a 210 day notice of intention to opt out of a Section 8 contract and specifically mention that the City may issue condemnation proceedings to pay the owner fair market value if the City chooses to do so. During this time, the owner may not take action that would preclude the City of Portland from succeeding under the HUD contract or negotiating purchase of the building. The process is complex, requiring at least 2 appraisals of the property. In order to effectuate the ordinance, the City has established a Preservation Line of Credit (agreement with a local lender) that provides short-term resources to complete the transaction within 120 days.

The City of Portland prioritizes HOME, CDBG and tax increment dollars for preservation of Section 8 housing.

The City is exploring a proposed regional real estate transfer tax for preservation capital.

Pennsylvania

Low Income Housing Tax Credits (9% Credits)

PHFA continued its two-cycle application for 2004, one in October and one in April. The 2004 QAP increases the preservation set-aside to 20% (up from 10% in 2003) for "at risk" developments defined as within 2 years of prepayment or contract expiration, with a "likely conversion to market rate housing or equivalent loss of low income use restrictions." This preservation set-aside may also be used for rehabilitation of an existing Section 8 development for immediate repair needs and/or for modifications required by new building requirements where improvements are greater than $10,000/unit.

PHFA also combined the application for its PennHomes, no interest loan program, and low-income housing tax credits.

Allocations: PHFA had almost twice as many low-income housing tax credits as developers requested in 2003 ($15.1 million in applications for $27.4 million available credits). PHFA indicates that increases in operating expenses have made it more difficult to get deals done. PHFA plans to reserve $21.6 million in tax credits in 2004.

Private Activity Bonds with 4% Credits

The bond program typically funds a few multifamily projects each year, totaling approximately $50 million. Qualified projects tend to receive allocations, with HOPE VI and preservation deals commonly receiving allocations.

Allocations: Applications will be accepted anytime before September 2004 for an allocation of 2004 tax-exempt bond financing.

Housing Trust Funds

Philadelphia

More than 60 organizations in Philadelphia, PA endorsed a housing trust fund proposal released on October 21, 2003. According to the Center for Community Change, the trust fund's primary mission will be to support housing production--both rehabilitation and new construction--by nonprofit community development organizations, including partnerships with for profit developers. Supporting housing preservation will also be an important purpose of the housing trust fund. While the proposal still needs to secure both state legislation and the city's approval, Philadelphia Mayor John Street is on record in support of the concept of a housing trust fund.

Rhode Island

Low Income Housing Tax Credits (9% Credits)

For competitive 9% tax credits, the Rhode Island agency does not appear to have a strict set aside, but the QAP observes that the State of Rhode Island's local criteria for distributing tax credits includes, but is not limited to, "The need to preserve affordable rental housing threatened by expiring federal subsidies or eligibility for prepaying subsidized mortgages."

Allocations: In 2003, more than $3.8 million in tax credits were requested. Five out of eight applications were awarded a total of $1.9 million in tax credits. The 9% applications funded were new production. Usually, but not exclusively, the Agency endeavors to use 9% credits for new production and the 4% credits are typically used for preservation and/or mixed income deals.

Private Activity Bonds with 4% Credits

Reports are that the Rhode Island Housing and Mortgage Finance Program has experienced an increase in the a state program that uses tax exempt bonds and 4% tax credits to preserve the affordability of Section 8 projects with RIHMFC mortgages. The properties must stay affordable for up to 40 years beyond the expiration of the current affordability restriction. In exchange, owners receive access to half of the project residual receipts account. The remainder goes to a state affordable housing trust fund.

Allocations: In 2003, the state had a tax-exempt bond of $228.6 million, none of which is set aside for housing. In 2003, RIHMFC used proceeds of three bond issues totaling $90 million to preserve the affordability of 18 Section 8 developments with expiring contracts, preserving more than 1,874 units.

Housing Trust Funds

Proceeds from the residual receipt accounts from Preservation transactions are deposited in a Housing Trust Fund. In some instances, the Corporation will make loans from the Trust Fund to Borrowers to ensure the Preservation of the property. Depending on the deal, the loan may be amortizing or it may be repaid through available cash flow.

Other Preservation Initiatives

RIH's website states "We will finance the purchase of or re-finance existing Section 8 apartments in exchange for extending the affordability restrictions beyond the term of the original HAP contract. This program also can give Section 8 owners access to a project's residual reserves." RIH's Preservation Program is intended to provide owners or buyers of Section 8 developments with incentives to maintain these developments as quality affordable housing for a period of 40 years beyond any current use restrictions. Certain procedures are established to obtain the RIH's approval of mortgage loans, additional financing, distributions of residual receipts, and the allocation of tax credits, which are intended to further these objectives. The primary sources of financing are tax-exempt bonds, proceeds from the sale of 4% LIHTC's and the development's existing reserves. Taxable loans are also available if owners choose to refinance without a sale.

In 2003, the State of Rhode Island plans to float an up to $50 million in taxable and tax exempt bonds to preserve the affordability of as many a 15 Section 8 New Construction projects.

South Carolina

Low Income Housing Tax Credits (9% Credits)

South Carolina State Housing Finance and Development Authority (SHFDA) sets aside 25% of the general pool for rehabilitation projects in 2004.

Allocations: In 2003, South Carolina awarded tax credits to a total of 25 projects, 3 of which were acquisition/rehabilitation projects.

South Dakota

Low Income Housing Tax Credits (9% Credits)

South Dakota's 2004-2005 QAP specifically states "an analysis will be made to determine the risk of prepayment or opt out of any existing federal rental subsidy contract (e.g. HUD Section 8 contract) and therefore the risk of losing affordable housing supply. Those properties that are financially feasible are located in a market with substantiated need and indicate the greatest risk for converting to market rate housing will be given priority for funding." SDHDA will allocate 60 percent of the total annual credits available for rehabilitation and/or acquisition and rehabilitation projects.

Projects involving existing development receive 50 points while new construction projects receive up to 10 points.

Allocations: In 2003, SDHDA reserved more than $1.7 million in tax credits for 10 development with 250 low-income units.

Tennessee

Low Income Housing Tax Credits (9% Credits)

Up to 35 points are provided in the 2004 QAP for rehabilitation developments involving replacement of major building components as identified in the physical needs assessment. A development which is part of a restructuring pursuant to the Multifamily Assisted Housing Reform and Affordability Act of 1997 remains eligible to apply for Tax Credits in an amount which would not produce syndication proceeds in excess of 17% of rehabilitation costs required under that program.

Allocations: The state had $10.4 million in total tax credit authority in 2003. 47 applicants applied for those tax credits, with a more than 2 to 1 ratio of demand to supply in the state. A total of $13.38 million was allocated in 2003 (both reserves and carry over) for 3,193 units.

Private Activity Bonds with 4% Credits

On January 28, 2004, THDA authorized the allocation of $99 million in tax-exempt bond authority for multifamily developments. Tax-exempt bond authority will be allocated only to eligible applications on a first come, first served basis.

Texas

Low Income Housing Tax Credits (9% Credits)

For 2004, the Texas Department of Housing and Community Affairs (TDHCA) apportions tax credits among the Uniform State Service Regions based on each region's need for housing assistance. At least 15% of the allocation to each Region is set aside for "at risk" developments. To be eligible, project's affordability restrictions must expire within two years, or the mortgage must be prepayable or be capable of being fully paid off within two years. Projects must renew or retain any federal assistance for which they remain eligible. TDHCA allows expiring tax credits to apply under the "at risk" set-aside.

Allocations: While demand for tax credits more than doubled the supply available in 2003, requests fell slightly from last year. In 2003, 68 projects received approximately $38.7 million in tax credit reservations with 121 applicants seeking more than $82 million in tax credits. The rural and at-risk set-asides were undersubscribed. In 2002, the median tax credit award was $551, 425 and the median project size was 110 units. About $34 million went to new construction projects, $2.3 million to acquisition and rehabilitation and $1.6 million to substantial

Private Activity Bonds with 4% Credits

20% of the multifamily cap is reserved for TDHCA thru Auguest 15, 2004. The Texas State Affordable Housing Corporation will receive 10% and the remaining 70% of the multifamily cap is reserved for local issuers until August 15. TDHCA moved from a strict lottery system to a merit-based system in 2004.

Allocations: Texas will have $1.66 billion in total private-activity bond authorization in 2004, with rental housing estimated to receive approximately $366.6 million.

Housing Trust Funds

TDHCA's Housing Trust Fund (HTF) had $2 million available in 2004 to finance, acquire, rehabilitate, and develop safe, decent and affordable rental housing for low, very low, and extremely low income individuals and families.

Other Preservation Initiatives

TDHCA maintains lists of affordable housing portfolios on its website and classifies each property by its priority for being preserved. In addition, their website provides a bulletin board that allows affordable housing property owners interested in selling their properties to get in touch with potential buyers interested in maintaining affordable housing.

TDHCA's demonstration program, the Multifamily Housing Preservation Incentives Demonstration Program, finances existing multifamily rental properties which have previously been financed or subsidized through a state or federal housing program, and which are encumbered by regulatory restrictions to provide housing for families of low, very-low, or extremely low income. Eligible activities include acquisition, rehabilitation, acquisition and rehabilitation, or new construction for the purpose of replacing existing or previously existing multifamily properties. The maximum application amount is $20,000 per rental unit, not to exceed $1,000,000 in total.

Utah

Low Income Housing Tax Credits (9% Credits)

In the 2003 QAP, Utah sets aside approximately 65% of the Credit Ceiling Amount into a general pool. Within the general pool, 25% is set aside for rehabilitation and another 25% is set aside for preservation of HUD projects. The preservation pool is only available to those projects maintaining a HUD Housing Assistance Program or RD 515 assistance contract.

Allocations: Tax credit applicants requested $7.6 million in credits while only $4.5 million were available in 2003. The 17 projects that received tax credit had a median of 51 units and received a median of $263,894 in tax credits per project.

Private Activity Bonds with 4% Credits

Allocations: In 2004, the Small Issue Account (multi-family affordable housing and manufacturing facilities) has a volume cap of more than $56 million, 24% of the total volume cap.

Housing Trust Funds

Utah's Olene Walker Housing Trust Fund prioritizes gap financing to preserve at risk federally subsidized projects. According to the Center for Community Change's Housing Trust Fund Project, nonprofit developers are funded to buy and manage projects where owners are opting out or prepaying mortgages of federal project-based section 8 properties. They are also monitoring potential rent increases to market rate on Low Income Housing Tax Credit properties with lapsing rent restrictions.

Vermont

Low Income Housing Tax Credits (9% Credits)

The third of four evaluation criteria in the 2004-2005 allocation plan states that "Preference must be given for the acquisition and rehabilitation of existing federally subsidized projects, where the preservation of a project's existing affordability is at risk." Federally subsidized and at risk is defined as a development currently occupied by low-income households that faces, within the next five years: (1) a loss of deep rental assistance or other operating subsidy; and (2) faces prepayment of its mortgage or other action by its owner that would terminate federal low income use restrictions). Preference may also be provided to any project(s) that is slated to receive federal funding specifically for the preservation of the units as affordable housing. Examples include but are not limited to RD 515, Section 8, Section 23, Section 236, and Section 221(d)(3).

Allocations: Competition for tax credits in the state increased in 2003. Almost $2 million in tax credits were reserved and allocated for eight projects, including one acquisition/rehabilitation project and one rehabilitation project.

Virginia

Low Income Housing Tax Credits (9% Credits)

Virginia awards 20 points to developments subject to HUD's Section 8 or Section 236 programs or Rural Development's Section 515 program. In addition, 10 points are awarded to developments receiving new project-based subsidy from HUD or Rural Development for the greater of 5 units or 10% of the units of the proposed development. Points are also awarded for commitments by the applicant to provide relocation assistance to displaced households.

Allocations: In 2003, $16 million in tax credits were reserved for 53 projects with more than $20.9 million in tax credits requested.

Private Activity Bonds with 4% Credits

Allocations: In 2003, Virginia Housing Development Authority (VHDA) received a private activity bond allocation of $147.6 million in addition to $97 million from the governor's discretionary fund and $71.4 million from the industrial development bond pool.

Other Preservation Initiatives

The State of Virginia set aside $2 million of the Virginia Housing Fund for below market loans for the preservation of Section 8 and Section 236 through refinancing in the summer of 2002.

The State of Virginia also created its own Community Development Financial Institution (CDFI) to attract private sector funds for small grants, bridge or predevelopment loans. The CDFI's express purpose is to aid in the preservation of affordable units for low-income renters.

Washington

Low Income Housing Tax Credits (9% Credits)

One of the selection criteria in the Washington State Housing Finance Commission's (WSHFC) qualified allocation plan is to "preserve federally assisted projects as low-income housing units." Points are given for projects where at least 50% of the existing units are at-risk of conversion to market rate within 5 years of the application date.

Allocations: For 2004, more than $19 million in total credits for 42 projects were requested for the $11.5 million in total authority. In 2003, more than $20.1 million was requested, with $10.2 million allocated to 28 projects for 1,001 units. Of those, 5 were preservation projects with 263 units.

Private Activity Bonds with 4% Credits

Allocations: Approximately $138 million in tax-exempt private activity bonds is available for housing in 2004. Two preservation projects with 203 units were allocated 4% credits and tax-exempt bonds.

Housing Trust Funds

Washington's Housing Trust Fund was increased by $2 million from the previous budget for a total of $80 million. The Housing Trust Fund has helped preserve the housing stock through rehabilitation of existing structures and through investment in formerly federally-assisted housing that is at risk of being converted to market rate housing.

Other Preservation Initiatives

The Washington State Housing Finance Commission (WSHFC) proposed a "Multifamily Affordable Housing Preservation Program" in the fall of 2002. It proposes to dedicate a significant portion of WSHFC's resources to preservation. The program proposed to use up to 20% of existing tax credits and multifamily bonds to fund preservation. Applications would be accepted and decisions made throughout the year. A final report on Stakeholder Feedback was issued in January 2003. Initial implementation of the program was postponed in order to comply with state regulations and the Commission ultimately decided to stay with points and set-asides in existing programs versus a special allocation of credits and bonds.

WSHFC provided initial funding to Impact Capital, a fund that provides pre-development, bridge and other financing for projects developed or rehabilitated by nonprofit organizations. The Commission devoted nearly $5 million of its own earned income to the loan fund. Private banks, non-profits, foundations and local governments have contributed to this loan fund as well, bringing the total funds available to nearly $23 million. In 2003, 8 preservation projects with 422 units received funding from the Impact Capital fund.

12 USDA preservation projects with 405 units were issued nonprofit bonds for setting aside 20% of their units but will likely maintain all units as low income.

Seattle

The City of Seattle has actively used local and federal resources to preserve affordable housing. Since 1999, the City has preserved four Section 8 buildings with a total of 126 units. The City used a combination of long-term, low interest loans and credit enhancement to preserve these units.

The City also has a bridge loan program designed to help non-profits acquire buildings while they are arranging permanent financing. The City has used this tool to preserve 205 units in an important downtown Section 8 building.

In September 2002, the City of Seattle approved a $86 million housing levy over 7 years (2003 through 2009). More than 65% of the levy will fund rental preservation and production.

West Virginia

Low Income Housing Tax Credits (9% Credits)

2003-2004 QAP has a 20% set-aside for "HUD Preservation or New Construction (includes HOPE VI)". This category is exclusively for either preservation of existing HUD low-income residential rental units or for a newly constructed property financed or guaranteed through any qualified HUD financing or guarantee program to produce newly constructed low-income residential rental units.

Within the "HUD Preservation or New Construction" set aside, 30 points are awarded to rehabilitation projects with less than 51 units, 20 points to rehabilitation projects with more than 50 units, and 10 points to acquisition and rehabilitation projects with less than 51 units.

Allocations: $4.4 million in tax credits are available in 2003 (including $1.2 million carried forward from 2002).

Wisconsin

Low Income Housing Tax Credits (9% Credits)

Wisconsin's amended 2003-2004 QAP increases the preservation set-aside to 40% of its credits ($3.809 million), an increase from 35% in the original 2003-2004 QAP and up from 20% in 2001. Applicants can qualify for this set-aside in 3 ways, including Federally Assisted Properties which are currently subsidized under the following or similar programs: Section 236, Section 221(d)(3) Below Market Rate, Section 221 (d)(3) with rental assistance, Section 8 project-based new construction, Section 221 (d)(4) and Section 515 Rural Housing. Neighborhood preservation in targeted census tracks as well as conversion of existing market rate development to affordable housing also qualify for the preservation set-aside.

Allocations: For 2004, $8.8 million was allocated for 1,559 units. Of that total, $3.9 million was allocated for the preservation of 789 units. Reservations of $9.5 million in tax credits were announced for 2003. These tax credits financed 32 projects with 1,626 units.

Private Activity Bonds with 4% Credits

Allocations: For 2004, the state's tax exempt private activity bond authority is approximately $408 million, more than half of which can be used for rental housing, home loans and beginning farmer bonds.

Other Preservation Initiatives

WHEDA offers current owners of existing WHEDA-financed Section 8 loans preservation financing to restructure existing loans to preserve affordable housing. They offer Equity take-out loans that allow owners to get cash out to use for other purposes. They also offer below-market interest rates to help make providing affordable housing profitable.

In March 2004, Governor Jim Doyle announced WHEDA's $10 million initiative to help preserve affordable housing for seniors and other lower income Wisconsin residents. The Wisconsin SOS program, "Saving Our Stock" of Affordable Housing, will focus on project-based Section 8 housing developments.

The governor also named 12 public members to a Task Force for Housing Preservation. Staffed and assisted by WHEDA, the task force will look at additional measures the state and other organizations can implement to preserve affordable housing. Task force members include professionals from the housing development industry, financial experts, community organizations, and government officials.

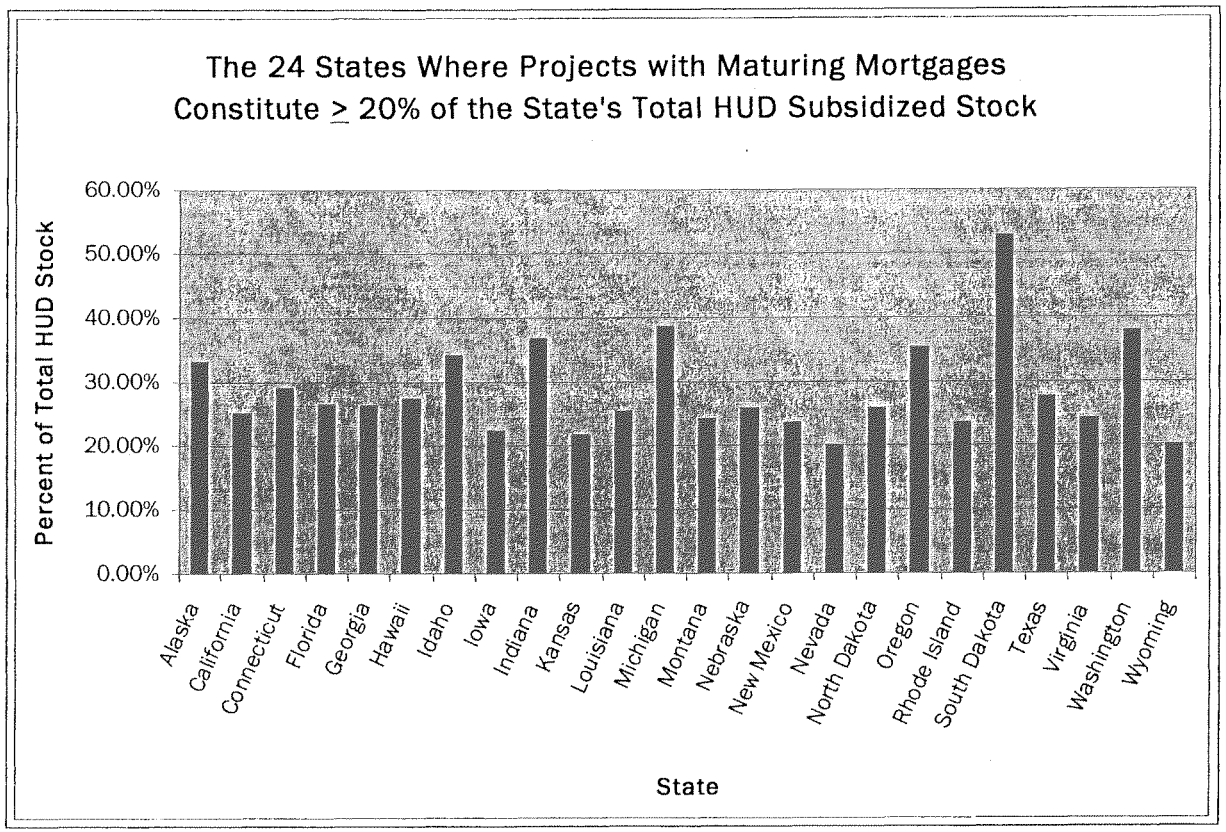
WHEDA is working on a 3 year strategic plan to be approved by its Board, with one of the largest components of the plan being the preservation of affordable housing.

Wyoming

Low Income Housing Tax Credits (9% Credits)

The 2004 QAP for Wyoming does not contain any set-aside or prioritization for preservation.

PLEASE NOTE: Most of the allocation information was provided by Affordable Housing Finance magazine (Alexander and Edwards Publishing, Inc.; 800-989-7255; www.housingfinance.com).


The 24 States Where Projects with Maturing Mortgages
Constitute ≥ 20% of the State's Total HUD Subsidized Stock
Percent of Total HUD Stock
60.00%
50.00%
40.00%
30.00%
20.00%
10.00%
0.00%
Alaska
California
Connecticut
Florida
Georgia
Hawaii
Idaho
Iowa
Indiana
Kansas
Louisiana
Michigan
Montana
Nebraska
New Mexico
Nevada
North Dakota
Oregon
Rhode Island
South Dakota
Texas
Virginia
Washington
Wyoming
State

Statement To

Committee on Financial Services
United States House of Representatives

Testimony on the Expiring HUD Mortgage Crisis and the Need for Federal Action to Save Our Homes

By Charlotte Delgado, Vice-President/West
National Alliance of HUD Tenants
July 20, 2004

Prepared Statement of Ms. Charlotte Delgado
Vice-President/West
National Alliance of HUD Tenants

Financial Services Committee Hearing
Tuesday, July 20, 2004--Rayburn 2128

On behalf of the National Alliance of HUD Tenants (NAHT), I am pleased to submit these comments regarding the emerging crisis of expiring HUD-assisted mortgages. NAHT appreciates the opportunity to testify before the Committee today, and to express our strong support for H.R. 4679, the Displacement Prevention Act filed by Rep. Frank and other Committee members.

Founded in 1991, NAHT is the nation's only membership organization representing the two million families who live in privately-owned, HUD-assisted housing. Our membership today includes voting member tenant groups and area wide coalitions or organizing projects in 26 states and the District of Columbia. We are governed by an all-tenant board of Directors elected by member organizations from HUD's 10 administrative regions at our annual June Conference.

I have been a NAHT Board member and Vice President for the West for most of the past decade, and was a co-founder of the organization in 1991. I also serve as the President of the Statewide Alliance of Tenants (SWAT) in California, which represents HUD tenants from across our state. I am also the President of the Washington Squares I & II Tenants Association where I live in Sacramento. Washington Squares is a 103 unit complex where the owners prepaid their HUD mortgage and converted to high market rents, with some residents, including myself, able to stay in our homes only with the aid of Enhanced Vouchers. So far, Congress has provided Enhanced Vouchers to buildings where owners prepay their 40 year mortgages before mortgage maturation, or when they opt out of expiring project-based Section 8 contracts.

NAHT strongly supports the provisions of H.R. 4679 which would extend Enhanced Vouchers for the currently unprotected 101,000 or more families in non-Section 8 units who would otherwise lose their homes when HUD mortgages mature. For me and more than 180,000 others who have received Enhanced Vouchers to date, I can personally tell you that this made all the difference in the world--the difference between having a decent home and being out on the street.

We also urge that Congress firmly reject the Bush Administration's proposals to abolish Enhanced Vouchers after one year, and to reduce the Section 8 Voucher program by 30%, or 600,000 families, by 2009. These proposals, if adopted, will break faith with landlords who count on HUD honoring Enhanced Voucher rent contracts, and will inevitably lead to tenant displacement, increased homelessness, and the further destruction of the nation's affordable housing system-- which seems to be the ungodly strategy of the Bush appointees at HUD.

These proposals go exactly in the wrong direction. Tenants like myself live in constant fear and insecurity because Voucher renewals are "subject to annual appropriation" by Congress. Not too many years ago, Section 8 funding was appropriated for five or more years at a time, giving elderly and low income tenants some measure of security and peace of mind. Now, even the promise of annual renewals has been destroyed by the reckless proposals of the Bush Administration, driven by the gigantic structural deficits caused by their tax cuts for the wealthy and their war in Iraq.

NAHT urges the Committee to work toward long-term contractual funding security for Section 8 tenants.

Homeland security should begin with a home. The elderly, disabled, and low income working families who live in these buildings--many of us veterans who have served our country and worked all our lives to build our communities--deserve nothing less.

The Nation Continues to Lose Affordable Housing at an Alarming Rate

Besides protecting tenants from displacement, H.R. 4679 will also help preserve at-risk affordable housing. Enhanced Vouchers are clearly not enough--in my own development, only 21 apartments with Enhanced Vouchers remain out of 103 units since the owners prepaid; the rest have been converted to high market rents. When NAHT last testified before the Congress in October 2002, we submitted a report documenting a loss of 199,764 privately-owned HUD-subsidized housing units lost due to owner decisions to prepay or "opt out" of expiring project-based Section 8 contracts, between 1996 and 2001. As Enhanced Voucher tenants move out or pass away, these units are permanently lost as affordable housing.

NAHT was the only national organization to speak out against Congress' repeal of the mandatory regulatory structure of the Title VI Preservation Program in 1996. Title VI provided additional HUD subsidies to owners in exchange for guaranteed repairs, permanent affordability, and the promotion of transfers to nonprofit and tenant ownership. We warned of dire consequences for the nation's affordable housing stock if this regulatory program were repealed. Unfortunately, the data show that these predictions have come true.

To slow the loss, Congress in 1999 adopted the voluntary Mark Up to Market program, which offered higher Section 8 subsidies for owners who chose to renew their expiring contracts in high market areas. NAHT's 2002 report showed that the average annual affordable housing loss remained roughly the same before and after the adoption of Mark Up to Market--about 41,000 units continue to be lost each year. Recent data from the National Housing Trust, which show a loss of 300,000 HUD units as of 2003, have confirmed this trend. While no doubt this figure would be even higher without Mark Up to Market, clearly we need to do more to preserve the nation's affordable housing stock.

The GAO Report on expiring mortgages notes that in the next 10 years, project-based Section 8 contracts aiding 1.1 million families will expire. Even in the absence of the expiring mortgage problem, the steady erosion of affordable housing would likely continue at the rate of 41,000 units each year.

Expiring Mortgages Will Accelerate Loss of Affordable Housing

The new crisis in expiring HUD mortgages will only accelerate this loss. Clearly, unless action is taken now by Congress, up to 101,000 families could be displaced and an equivalent number of units lost if owners convert non-Section 8 units to unrestricted market rents upon mortgage maturation.

My own state, California, has the highest number of developments affected by this crisis--278 apartment complexes, fully 12% of the total nationally. Given the superheated housing market in virtually all corners of my state--people making $85,000 a year are living out of their

cars in Silicon Valley--we can expect a huge number of these apartments converting to high rents as soon as their owners have the chance.

In addition, many more of the 135,000 project-based Section 8 units in expiring mortgage buildings could be subject to owner opt-out decisions as well. Because these units are currently under HUD rent regulatory agreements, owners have strong incentives to renew Section 8 contracts. But as HUD mortgages expire, owners in high rental markets will be tempted to opt out of these Section 8 contracts as well. Although some may choose to renew under HUD's Mark Up to Market program, others will not, so we can expect to see an increase in the overall rate and number of Section 8 opt outs as HUD mortgages expire.

GAO Report May Undercount At-Risk Units

There is some evidence that GAO Report may have undercounted the problem of expiring mortgage units. In Massachusetts, the Mass Alliance of HUD Tenants has discovered 10 Massachusetts developments with expiring HUD mortgages, totaling 3,222 units, which are not included in the GAO Report. All were refinanced under HUD's Title II Preservation Program in the early 1990's.[1] Under Title II, HUD's project-based Section 8 incentives and new Use Restrictions expire at the end of the original 40 year mortgage term.

Although Title II owners typically took out second or third "equity take-out" loans, often insured with HUD mortgage insurance under the 241(f) program, these loans do not entail any extension of affordability restrictions after the original mortgage term. At High Point Village in Boston, for example, the original HUD mortgage and Title II Use Restriction expire in September 2006, yet the 540 units at High Point, including 221 not receiving project-based Section 8, do not appear in the GAO Report.

The GAO list for Massachusetts includes 40 developments totaling 7,297 units. The exclusion of 3,222 units (44% of the total reported by the GAO) represents a potentially large undercount, if this represents a systematic error in either HUD's database and/or GAO methodology. Although the 10 missing developments are all Title II extensions, there are other Title II buildings which do appear on the GAO list, so it is not clear what the basis of the error is, or how extensive it is. We urge the Committee to request HUD and the GAO to look at this issue more closely and make the appropriate corrections.

Congress Should Adopt a New Regulatory Program to Save At Risk Housing

It is now clear that voluntary incentives, such as the Mark Up to Market Program, are insufficient to deter owners who choose not to extend expiring HUD contracts in high market areas. NAHT believes that Congress should reestablish a national regulatory framework to limit owners' ability to opt out, pre-pay, or not extend Use Agreements attached to expiring mortgages. Restoring the regulatory framework of the Title VI Preservation Program and extending its concepts to expiring HUD mortgages and Section 8 contracts would preserve more units and be cheaper in the long run than replacing lost units with new construction.

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[1] The 10 developments are: Georgetowne I (601 units), High Point Village (540 units), Brandywine (402 units), Burbank (173 units), Camelot Court (160 units), all in Boston; Milliken (201 units) in Fall River; Cromwell Court (124 units) in Barnstable; Battles Farm (320 units) in Brockton; Mountain Village (200 units) in Worcester; and Clarendon Hills (501 units) in Somerville. Several of these properties are owned by First Realty Management, which is testifying before the Committee today.

For example, Congress could enact rent restrictions for former HUD-subsidized buildings, require owners to accept HUD subsidy offers, and provide tenants and tenant-endorsed nonprofits a Right of First Refusal when owners sell. NAHT urges Congress to consider these approaches to complement the voluntary incentives for owners provided by Mark Up to Market and proposed in H.R. 4679.

Ironically, in buildings where HUD is executing five to twenty year Mark Up to Market contracts, the cost of additional annual Section 8 Budget Authority and outlays is approaching, and possibly exceeding, the cost of the Title VI Preservation Program, but with none of the benefits. Although Congress repealed Title VI due to concerns about costs, at least residents and HUD negotiated major repair programs, permanent affordability, and transfers to nonprofit purchasers benefitting 30,000 families.

The equivalent expenditures of Mark Up to Market yield none of these offsetting benefits--in fact, short term extensions of five years leave residents and HUD at continued risk that owners will opt out down the road. As long as owners have an unrestricted choice to opt out of HUD programs, they will be able to leverage ever-increasing subsidy commitments from HUD--which residents and communities will doubtless support--since the alternative of losing affordable housing is unacceptable. The restoration of a Title VI-type regulatory program will in fact save money, since mandatory negotiations will lessen owner windfalls and ensure that Congress receives guaranteed benefits on its investment.

The argument for re-regulating expiring mortgage buildings is particularly compelling in light of the massive taxpayer financed windfall profits HUD housing owners have enjoyed for the past 40 years. Owners typically have invested little of their own funds, benefitting from risk-free investments guaranteed by HUD, operating and capital subsidies, and huge windfall profits through the sale of tax shelters when the properties were built. Many owners have been able to reap a second or third windfall profit through resyndications and/or HUD's lucrative Title II Preservation Program.

For example, in a typical Title II building like High Point Village in Boston, the owner was able to take out a $18.9 million "equity take out" loan in 1993 while investing only $2.2 million in repairs--paid for by huge increases in Section 8 subsidies and rent increases which displaced many moderate income families. Interest payments on these equity loans were exempt from taxes as well. Subsequent increases in Section 8 subsidies are now used to finance improvements to the property in preparation for a potential market conversion when the 40 year mortgage expires in 2006. Imposing regulations on this building going forward will ensure that the public's huge investment in this resource does not morph into a third windfall profit for the owner at the expense of affordable housing when the mortgage matures.

Deregulation is a strategy that has failed in the energy, telecommunications, banking, and airline industries in the US and in countries around the globe. The evidence is in--deregulation is a failure in the subsidized housing industry as well. Congress should act now to restore regulations to save our homes.

H.R. 4679 Will Provide Important Incentives to Save Affordable Housing

NAHT recognizes that Congress today does not have the political will to enact a new regulatory framework for expiring HUD mortgage properties. In this context, NAHT supports

additional voluntary incentives such as the provisions of H.R. 4679 which would provide grants and operating subsidies to encourage owners to extend Use Restrictions on non-Section 8 assisted units. These provisions would be a welcome complement to the Mark Up to Market program which has encouraged owners to renew expiring Section 8 contracts in many cases.

In addition, we urge Congress to complement H.R. 4679 with one or more strategies to provide capital funds for acquisition and repair of at-risk buildings as a further incentive for owners to stay in the program. Generally, formulating federal assistance in the form of capital grants with lower on-going outlays for debt service wherever possible will preserve housing at the least long-term costs to the government. In this session, NAHT urges the Committee's support for the Preservation Matching grant (H.R. 445) filed by Rep. Jerrold Nadler (D-NY) and the National Housing Trust Fund bill (H.R. 1102) filed by Rep. Sanders (I-VT), also incorporated in the Bring America Home Act (H.R. 2897) filed by Rep. Carsons (D-IN).

Strengthen Congress' Goal of "Enhanced Vouchers for All"

NAHT applauds H.R. 4679 for proposing to extend Enhanced Vouchers to currently unprotected tenants in expiring mortgage buildings. We had proposed this in our Senate testimony in October 2002, and are pleased to see it incorporated in this bill.

We encourage the Committee and sponsors of H.R. 4679 to use this opportunity to incorporate other technical adjustments to make the goal of "Enhanced Vouchers for All" work better. For example, NAHT has proposed more flexible "occupancy standards so that Section 236 moderate income tenants are not forced out or into smaller units when tenants receive Section 8 Preservation Vouchers. Congress should also eliminate the problem of unnecessary "rescreening" of tenants in good standing by local Housing Authorities when voucher conversions occur. NAHT supports language proposed Senator Sarbanes (D-MD) in his Voucher Reform bill, introduced in the last session of Congress.

In addition, we urge the Committee to require a five year phase-in of rent increases to those Section 236 tenants who are income-eligible for Enhanced Voucher assistance, but who would are forced to pay huge rent increases to raise their rents to the required 30% of income minimum required by the Enhanced Voucher program. Many of these moderate-income, hard-working families are faced with rent increases as much as 80-100% overnight when owners raise their rents to high market levels.

For example, a family of four earning $25,000 a year may have paid $400 for a two bedroom apartment in Dallas prior to prepayment or mortgage maturity. After prepayment, the rent increases to $600+. The family gets the $480 deduction for two children, bringing their adjusted gross income to $24,120 a year. Their rent at 30% of income would be $603 per month. If the new rent increases to $653 per month, they get an Enhanced Voucher worth $50 and a $200 per month rent increase.

A Congressionally mandated phase-in would minimize this problem for Section 236 tenants in expiring mortgage buildings, as well as where owners prepay. Alternatively, Congress could raise the allowable income deductions for children and elderly or disabled family members to the IRS standard deduction, or return to the former 25% of income standard for affordability in the Section 8 program.

Repeal Preemption Language in LIHPRHA

While Congress may not be willing to enact regulations governing rents and occupancy in buildings where owners opt out of federal contracts, it should not prohibit state and local governments that do. We are pleased that H.R. 4679 addresses this issue by clarifying that the nine month Notice to tenants and communities in the bill does not pre-empt state or local laws which may provide for a longer Notice period.

Similarly, the Committee and bill sponsors should seek amendment or repeal of Section 232 of the now-defunct Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA), which makes it more difficult to enact tenant protections at the local level in the event that federal ones are ended through prepayment or expiring mortgages. Owners argued for this provision to protect their appraisals under the previously mandatory program. In the absence of a federal regulatory framework such as LIHPRHA, the federal government should not interfere with the right of state and local governments to protect residents in accordance with local needs and conditions. Such efforts have been adopted or are under way in Massachusetts, Washington, Oregon, California, Denver and New York. Unfortunately, federal courts in California and Minnesota have struck down two-year Notice laws in those states because, in part, Section 232 was read to pre-empt these laws in favor of the one-year federal Notice statute.

Where I live, in Sacramento, tenant groups and the California Coalition for Rural Housing are working hard to enact a local ordinance to save at-risk HUD housing. Every year, NAHT comes up here and asks for help in repealing Section 232; I ask that you make this a priority this year, either in H.R. 4679 or some other legislative vehicle.

Encourage Tenant Participation

NAHT is pleased that H.R. 4679 includes language to require owners to notify tenants and communities before mortgage expiration dates, to give residents and local officials an opportunity to engage in dialogue with owners about preserving affordable housing. NAHT encourages the Committee and bill sponsors to extend this period to one year, rather than nine months, both to afford residents, owners and localities more time to come up with alternatives and to make the Notice period the same as that required for expiring Section 8 contracts.

More important, NAHT urges the Committee and bill sponsors to amend H.R. 4679 to authorize Technical Assistance Funds to enable tenants to more readily participate in the decisions affecting our homes. Most residents in expiring mortgage buildings are today not organized and are completely unaware of the risks and opportunities ahead. In particular, funds must be made available to qualified third-party nonprofit tenant outreach organizations to enable residents of expiring mortgage buildings to respond effectively.

Congress' previous investment in tenant outreach funds, particularly through HUD's Outreach and Training Grant (OTAG) program, was highly effective in helping many of us to save our homes. I would not be sitting here today--in fact, I'd be homeless today--were it not for the invaluable assistance which tenants in my building received from the California Coalition for Rural Housing (CCRH), HUD's OTAG grantee in Sacramento. Almost all of the 30,000 families whose homes were purchased by nonprofit or tenant organizations under the Title VI Preservation Program were able to do so because of the early-stage assistance they received by HUD's nine OTAG grantees who received three-year grants in 1994, supplemented by smaller Intermediary Technical Assistance Grants (ITAGs) provided by third-party agencies. Most of the success stories of tenant participation in HUD's Mark to Market program similarly resulted

from HUD's 26 OTAG grants in 1998, funded pursuant to the $10 million in annual Section 514 funding authorized by Congress since 1997.

Unfortunately, since August 2001 the current Administration has largely destroyed the OTAG and ITAG programs. It has illegally shut off funds to 18 out of 32 active grantees, failed to provide $600,000 owed to the Corporation for National and Community Service for a HUD-funded VISTA Volunteer program, and refused to appoint anyone to run the Section 514 Program, despite former Secretary Martinez' false pledges before this Committee in 2002.[2] Far from running Section 514, since 2001 HUD has acted to punish the small nonprofits who have attempted to assist tenants. HUD's leadership want us to go away so that our voices won't be heard when they try to dismantle affordable housing in our communities.

Nonetheless, the 14 OTAG grantees who were allowed by HUD to continue have further demonstrated the value of this approach. In Northern California, for example, SWAT has worked closely with CCRH to help preserve or extend affordable housing at several developments which would almost certainly have been lost without OTAG assistance. The Eastern Massachusetts OTAG grantee has helped tenants save thousands of expiring Section 8 units in a variety of scenarios since 1998. Today, we are submitting for the hearing record a Report prepared by OTAG grantees on the effectiveness of the OTAG, ITAG and VISTA programs in empowering tenants to save our homes, including detailed recommendations on how HUD can better administer these programs.

It is clear that HUD has no intention of operating the Section 514 program without further direction from Congress. Moreover, HUD has recently determined that Section 514 "sunsets" in September 2006, and that it has no authority to obligate any of the $10 million currently authorized for Section 514 each year beyond that date. In addition, HUD has recently restricted the remaining grantees to narrow and unworkable definitions of "eligible properties"

Accordingly, we ask that the Committee direct HUD to honor its contracts and invoices with existing Section 514 grantees by lifting the illegal funding suspensions, and to clarify that existing grantees can assist tenants in expiring mortgage properties--at least the ones with project-based Section 8. In addition, we ask you to direct HUD to provide the $10 million annually authorized by Congress for new OTAG and ITAG contracts and to restart the HUD-funded VISTA Volunteer program in multifamily HUD housing. Finally, we ask that the Committee and bill sponsors provide for a new Technical Assistance program for OTAG and ITAG-type assistance in expiring mortgage and expiring Section 8 properties after the current program expires in 2006.

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We would be happy to provide more information to the Committee upon request. Thank you for holding this hearing and allowing NAHT to submit its views.

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[2]The Inspector General audits authorized by Congress in Section 1303 of the Defense Appropriations Act of 2002 have largely exonerated Section 514 grantees of the allegation that grantees had spent federal funds on "lobbying," the ostensible purpose of the audits. The IG audits identified only $11,002 in four grants out of $13 million audited as potentially linked to federal "lobbying," despite an unprecedented 100% audit review with no standard for material error. Subsequent investigation by OMHAR has reportedly reduced this amount to no more than $1,062, which is vigorously disputed by the grantee. HUD's use of the "no materiality" standard evidently led to "false positive" lobby allegations; for example, five grantees were cited even though the IG could not actually identify any dollar amounts spent on "lobbying." Nonetheless, HUD illegally suspended 21 active grants in August 2002, with no notice or due process as required by HUD grant agreements, statutes, and HUD's own Audit Resolution Handbook. Most remain suspended today; several organizations are bankrupt.

TESTIMONY OF WILLIAM M. KARGMAN

FIRST REALTY MANAGEMENT CORPORATION

BOSTON, MA

BEFORE THE HOUSE FINANCIAL SERVICES COMMITTEE

JULY 20, 2004

Mr. Chairman and members of the committee, first I would like to acknowledge that the Committee has recognized and taken an interest in a very important issue with respect to certain federally subsidized housing programs whose mortgages are due to be fully paid in the next few years and there exists no protection for a class of tenants that are currently residing in this housing as pointed out by the GAO Report.

I am here to tell you about tenants living in sections 221(d)(3) & section 236 housing who are currently paying below market rents, do not receive section 8 subsidy, and who will face increases in rent when mortgages are fully paid and HUD regulation terminates. This class of tenants under current law are not eligible for enhanced section 8 vouchers because under the current tenant protection legislation, enhanced section 8 vouchers are only available when mortgages are ***pre-paid.*** Members of this class of tenants are low and moderate income families whose incomes range from 51% to 95% of median income.

I would like to take a moment to describe to you the housing programs that will be substantially affected if some action is not taken. Both the section 221(d)(3) program and the section 236 were originally designed as low and moderate mixed income programs. The 221(d)(3) program did not originally have any deep subsidy such as section 8, where-as the section 236 program, which succeeded the 221(d)(3) program usually had a 20 or 25% low income deep subsidy component. In the mid 1970's, after an OPEC oil price increase which translated in substantial rent increases for tenants in these programs, HUD awarded project based section 8 contracts to many of the housing communities in these programs to protect the low income tenants from paying rents in excess of 30 percent of their income. The percentage of section 8 tenants usually ranged from 20 to 30 percent of the total resident population.

In 1987, because the Federal Government had virtually shut down new housing production programs, tenant organizations expressed concerns that owners of the section 221(d)(3) and sections 236 properties which were reaching their 20th mortgage year, were about to ***pre-pay*** their mortgages which would jeopardize the current tenants and cause massive displacements because there was no new alternative assisted housing being produced by the Federal Government. As a result of these assertions, legislation was passed by the Congress denying owner's rights to ***pre-pay*** their mortgages and offering incentives under a new Act called the Emergency Low Income Housing Preservation Act (ELIHPA). This law provided incentives to owners, such as refinancing mortgages, equity take out loans and additional section 8 for qualified tenants. At that time, Congress drew a distinction between For- Profit Owners and Non-Profit Owners with respect to the amount of section 8 that would be awarded to a housing community. For- Profit Owners received section 8 only for families whose incomes were at 50% of the Median Income or below. Non-Profit Owners received Section 8 for all families whose incomes were at 80% of Median Income or below. The non- section 8 tenants were to pay rents that ranged from

approximately 28% of their income to 32% of their income depending on the individual Plan of Action that was filed by each owner and accepted by HUD. Finally, the ELIHPA program extended the HUD regulatory restrictions for the remaining term of the original mortgage.

In 1994, the Congress ended the ELIHPA program and replaced it with a new Law called the Low Income Housing Preservation and Rehabilitation Homeownership Act (LIHPRHA). This law offered similar incentives as ELIHPA but required in return that Owners commit to be regulated for the remaining useful life of the property or 50 years.

I am before you to advocate the passage of the parts of the proposed legislation that would provide enhanced section 8 vouchers for tenants in ELIHPA housing and sections 221(d)(3) and 236 housing who would otherwise be faced with rent increases after HUD regulation terminates when the mortgage is fully amortized and paid.

I am a General Partner and Manager of ten 221(d)(3) and 236 properties which contain 2494 family apartments. Nine of these properties participate in ELIHPA. In my portfolio, mortgages begin to fully amortize as early as September 1, 2006 and as late as 2013. The majority of my properties will have their mortgages fully amortized between 2008 and 2010. All of these ELIHPA properties have mixed income populations where the very low income families (50% of median and below) receive section 8 and the balance have incomes ranging from 51% to 95% of median income. It is this latter class of tenants that are in jeopardy because, under current law, they are not eligible for enhanced section 8 vouchers.

Enhanced section 8 vouchers have been effective in preventing the displacement of long term tenants in HUD properties that were allowed to ***pre-pay*** their mortgages after Congress changed the law in 1996 to restore owner's prepayment rights. In my portfolio, I have a mortgage that was ***pre-paid*** in 1996 where approximately 177 tenants out of 227 received enhanced section 8 vouchers and 90 of these tenants still reside in the property today. Enhanced section 8 vouchers made it possible for the tenants to continue to live in a building that was substantially upgraded and rehabilitated to a market rate building without any funding from the Federal or State government. The building is located in a low vacancy area and without the enhanced vouchers, the tenants would have had great difficulty finding decent housing at affordable rents.

Mr. Chairman, 40 years ago I entered into a partnership with the Federal Government to produce low and moderate income housing and agreed to restrict my profits in return for mortgage subsidies for a term of 40 years. At the time contracts were made with the Federal Government, it was believed that the mortgages would be pre-payable after 20 years. As I mentioned earlier, in 1988 the Federal Government unilaterally changed this contract and denied owners

the right to refinance or pre-pay their properties. The past 40 years has been an invaluable learning experience for me. I have learned how to help improve the lives of low income families by developing resident programs. I have learned how to manage mixed income housing complexes and make them function more as communities than as clusters of apartments. However, I have learned that a partnership with the government can radically change when Congress takes action that alters that partnership. I have also learned that consistency in the enforcement of regulations depends on the knowledge and experience of the regulators and that constant turnover creates changes and inconsistencies which can dramatically affect the operations of my business and the opportunity to earn a reasonable profit.

HUD should have prepared for this time when the public private partnerships are coming to an end after 40 years. I have been alerting members of HUD about the issues contained in the proposed legislation for the past three years.

I strongly endorse most of the ideas in H.R. 4679 as a means of protecting the homes of residents who were invited into a program by the Federal Government and have made the housing communities their homes. I would like to be able to say to my tenants, as I did to those who reside in the building I pre-paid in 1996; that they can look forward to living in the community they call home as long as the Federal Government will help them pay the market comparable rent. I am a strong supporter of preventing the displacement of these residents by making them eligible for enhanced vouchers. Naturally, I am concerned about the current voucher funding shortfall and its impact on the ability of our residents to feel confident that they will continue to be assisted by the Government in the future and will not face the possibility of being displaced.

As an owner, the enhanced voucher provisions in H.R. 4679 are the most important, but I would like to point out that there are for-profit owners who would be interested in grants or other incentives outlined in the bill in exchange for extending the affordability restrictions formerly imposed by the mortgage regulatory agreement.

Thank you for your consideration of my views.

Dedicated solely to ending America's affordable housing crisis

Testimony of
National Low Income Housing Coalition
U. S. House of Representatives Financial Services Committee
Subcommittee on Housing and Community Opportunity
July 20, 2004

Chairman Ney, Ranking Member Waters, and Members of the Housing and Community Opportunity Subcommittee, my name is Gené Moreno and I am Policy/Advocacy Director at the Chicago Rehab Network. I am testifying on behalf of the National Low Income Housing Coalition, which is dedicated solely to ending America's affordable housing crisis. The Coalition considers preserving assisted housing a key in solving our housing problems. The Chicago Rehab Network is a member of the National Low Income Housing Coalition. Other members of the National Low Income Housing Coalition include non-profit housing providers, homeless service providers, fair housing organizations, state and local housing coalitions, public housing authorities, housing researchers, private property owners and developers, state and local government agencies, faith-based organizations, residents of public and assisted housing and other people and organizations concerned about low income housing across the country.

The Chicago Rehab Network (CRN) is a coalition of community development organizations. CRN works to promote neighborhood development without displacement, and empower communities to preserve and create affordable housing for low and moderate-income families throughout Illinois. Traditionally, our role has been to develop public private partnerships to sustain affordable housing through innovative policy, administrative changes, and new resources. Our goal in preservation is to create the policies, practices, and resources needed to preserve Illinois' federally assisted housing stock.

GAO's January 2004 Report

GAO's January 2004 report, *More Accessible HUD Data Could Help Efforts to Preserve Housing for Low Income Tenants* (GAO-04-20), provides a critical snapshot of a pressing preservation problem. From the report, we know that 2,328 mortgages on HUD subsidized rental properties will mature within the next 10 years. Of the units represented by these properties, 101,000 families will be left without any protections from rising rents unlike their counterparts in properties with Section 8 rental assistance contracts. For example, they are not eligible for enhanced vouchers and property owners are not subject to any notification requirements. The report also notes that HUD does not offer any assistance for either the rehabilitation or transfer of these properties to organizations that agree to maintain affordability units when the mortgages mature. These are key issues that we urge Congress to address.

Access to Data on Maturing Mortgages
An important part of creating incentives and policies to both encourage owners to renew their contracts or to encourage transactions by extended use purchasers is timing and access to accurate information. Local governments and community groups, working in collaboration, can set up systems of notification between buyers and sellers to preserve these scarce affordable rental units. But the critical key in opening the door to these collaborations is quality information on the status of HUD mortgages.

Chicago Rehab Network and other local preservation advocates regularly access the HUD opt-out, prepayment, and terminated mortgages databases and work to confirm the information with local activities. There is no question that these additional data on maturing mortgages would be useful to those working on creating extended use transactions. As the GAO report notes, these data should be more easily accessible and user-friendly.

We support the recommendations in the GAO report suggesting that HUD solicit the views of state and local agencies to determine (1) the specific information concerning HUD-subsidized properties that would be most useful to their affordability preservation efforts and (2) the most effective format for making this information available. Then, HUD should use the results to modify the current means of conveying the data on these properties to make the data more widely available and useful.

H.R. 4679
Beyond reliable data, another critical component to preserving affordable rental stock is resources. We are pleased to see that in response to the GAO report Ranking Member Barney Frank has introduced the "Displacement Prevention Act of 2004," which specifically addresses the issue of preservation and mortgage maturity. It is crucial for Congress to work on this issue to prevent displacement of families before it occurs. In Illinois, there are over 3,100 units of rental housing financed through the Section 236 and 221(d)(3) programs. This legislation could be instrumental in preserving those units for seniors, disabled people and others in need of affordable housing. NLIHC's March 2004 report, *Losing Ground in the Best of Times*, found that there were only 43 units of affordable and accessible housing for every 100 extremely low income renter households in the U.S. in 2000.

We especially applaud the provision in H. R. 4679 authorizing the use of $675 million in previously appropriated housing funds to maintain the affordability of these 101,000 units. NLIHC feels strongly that these funds, appropriated for just these properties, remain with this stock to protect the affordability of these units.

The legislation makes tenants in these properties eligible for enhanced vouchers, requires notice be given to tenants nine months in advance of mortgage maturity and offers owners three forms of grant assistance: (1) rehabilitation assistance; (2) assistance to facilitate purchase by nonprofits entities; or (3) annual payment assistance to cover the difference between subsidized rents and comparable market rents. We are especially pleased to see the focus on nonprofit purchasers that recognizes the mission-driven nature of nonprofit developers and their commitment to long-term affordability and rent levels.

As the Subcommittee moves forward on H. R. 4679, we hope that you will consider the following suggestions:

1. Because many 221(d) (3) BMIR and 236 projects are burdened with flexible subsidy loans that will come due with accrued interest at HUD mortgage maturity, we believe this could jeopardize their continued affordability. We recommend a provision be included requiring HUD to forgive or rollover/defer these loans where owners agree to extend affordability for the term of the deferment or a minimum of 20 years.

2. We suggest that the form of assistance be either grants or deferred loans, at the owner's option.

Illinois' Preservation Efforts

The Chicago Rehab Network, like many preservation groups around the country, has been working on solutions – both public and private – to affordable housing challenges with a variety of stakeholders for many years. Recent successes in Illinois include county level tax abatements for rental housing, a new statewide donations tax credit of $26 million, and just last week, new legislation signed by Governor Blagojevich to preserve assisted housing with expiring contracts

H. R. 4679 will directly assist Illinois developers, particularly given the new legislation signed last week by Governor Blagojevich. Our state's new Federally Assisted Housing Preservation Act expands the scope of the existing Illinois act in several areas to provide an opportunity to preserve more expiring buildings. The Act:

- Expands building eligibility include buildings financed with federal low-income housing tax credits, Section 8 subsidies, and various HUD mortgage insurance programs.
- Increases the number of situations in which owners of assisted housing must give tenants notice.
- Extends notice period from 6 months to 12 months.
- Offers tenants the opportunity to purchase their buildings to preserve their affordability or to hire a developer to do so.
- Grants tenant associations the ability to partner with non-profit development agencies or other private parties in making these purchases.

While this new Illinois law is groundbreaking for its scope and tenant protections, there are no resources attached to it. H.R. 4679 will go a long way in providing those critical resources to allow for the rehabilitation and acquisition of these buildings.

The Chicago Rehab Network's 2003 research shows that the need for quality and affordable housing is widespread. Statewide, more than 420,000 families pay more than 35% of their income for rent, including 258,000 who are paying more than 50% of income for rent. That is 28% of all Illinois renter households. Almost 370,000 owner-occupants are paying more than 35% of their income for housing. Another measure of affordability is the number of overcrowded households, including families that have

doubled up to save on rent. Statewide, 222,000 households are living in overcrowded housing units. More than 77,000 households are on waiting lists for public housing, and another 56,000 for housing choice vouchers.

Within this context of great need, the 33,000 assisted housing units in Illinois that are expiring before 2009 have become the highest priority of our work. Public dollars were invested in Illinois and other communities around the country and we risk losing more government invested dollars with every unit lost. This public investment has resulted in billions of dollars and thousands of units of affordable housing for Illinois citizens ensuring they pay no more than 30% of their incomes to housing costs. To replace these units at today's rehabilitation and construction costs would be cost prohibitive. The federal government must take action to protect its investment

Section 8 and Preservation

A vital component of any preservation effort is the Section 8 Housing Choice Voucher Program. According to the GAO report, about 134,000 tenants, or 57%, of the rental units in the 2,328 properties, are protected by rental assistance contracts. They are protected only because they have been able to rely on enhanced vouchers. This reliance is now in jeopardy. NLIHC contends, based on the current assault on the Section 8 voucher program, that all 236,000 households in projects with either maturing mortgages or expiring Section 8 rental assistance contracts between 2003 and 2013 are at risk of rising rents without the protection of an enhanced voucher. Enhanced vouchers are used when HUD properties with rental assistance contracts through the Section 8 program cease participation in HUD's programs. Residents who qualify receive first priority for the vouchers. These vouchers pay the difference between 30% of the tenant's income and the actual market rent as long as the tenant remains in those units.

Unfortunately, the Section 8 program is under attack by the Bush Administration. This attack is having disastrous effects on the program and the families that rely on this federal assistance for affordable housing. First, on April 22, HUD released their 2004 Section 8 renewal announcement, PIH 2004-7, that said renewals would be based on the costs and utilization as of August 2003, plus an annual adjustment factor, rather than on actual costs. As a result many housing authorities are facing a funding shortfall. Housing authorities are freezing turnover, withdrawing vouchers and in some cases terminating voucher holders due to lack of funds. Developers working with housing authorities are finding that they are unable to get the voucher commitments they need to move forward on their projects because of the uncertainty created by the 2004 renewal notice. And, housing authorities may not have the funds available for the enhanced vouchers so necessary to keep tenants in their homes.

The devastating effects of the FY04 notice will greatly intensify if the Administration's FY05 proposed cuts and program changes are enacted. An FY05 funding shortfall of $1.6 billion would force 250,000 voucher holders to lose their vouchers. Programmatic proposals would strip the voucher program of its basic tenets: serving the lowest income and being affordable. The Flexible Voucher Program proposal in HUD's FY05 budget request explicitly includes flexibility regarding administration of the enhanced voucher program (Sec.223 (a)(2)). Enhanced vouchers' existence and use would be totally at the discretion of the housing authorities. These targeted attacks on the Section 8 program

can only lead to uncertain and reduced resources as local communities struggle to preserve affordable housing units.

Additional Proposals to Promote Preservation
Representative Frank's legislation is a major step in helping to preserve the Section 221(d)(3) and 236 housing inventory. However, there are other proposals that could be part of a federal preservation strategy to assist in the ever-increasing need for preservation.

One simple legislative change would halt the preemption threat to state and local preservation laws. Over the last few years a number of states and localities have established preservation policies. However, recent federal appellate court decisions in *Forest Park (*MN, 8th Cir.) and *Topa Equities (*CA, 9th Cir.) threaten the authority of state and local governments to enact their own preservation laws to suit their own housing conditions. These cases find that the Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA) preemption still applies, even to non-participating properties that did not or cannot use LIHPRHA.

We urge Congress to act to amend LIHPRHA to clarify that it does not apply to properties that are not regulated by a LIHPRHA plan of action, while further clarifying that state and local preservation initiatives for at-risk federally subsidized properties are not preempted. This change is need to ensure that the state and local prepayment notice laws in RI, CT, MD, ME, MN, TX, IL, WA, CA, DC, Denver, San Francisco, Portland, Los Angeles, Santa Cruz and Stamford, and other areas are not jeopardized.

Another preservation tool, H.R. 3485, has been introduced by Representatives Jim Ramstad (R-MN) and Ben Cardin (D-MD). H. R. 3485 provides tax incentives to preserve affordable housing. The Millennial Housing Commission recommended the creation of a mechanism to encourage the transfer of affordable housing properties to entities that agree to maintain these properties and keep them affordable. Because of tax law changes in 1986, which created depreciation recapture taxes due at sale, owners, may of whom are now elderly and would like to sell their properties, are reluctant to do so.

This legislation, H.R. 3485, which the National Low Income Housing Coalition supports, provides that state housing finance agencies allocate a tax credit to exiting sellers to offset the recapture and, in exchange, the new owner is required to keep the property affordable.

Another tool that would be extremely beneficial to preservation efforts is a change in Section 42 of the tax code that would allow the use of housing credits with properties financed under the Section 8 Moderate Rehabilitation (Mod/Rehab) program. On May 5 of this year, Representative Frank Lucas (R-OK) introduced H. R. 4289, which would eliminate this prohibition. The National Low Income Housing Coalition supports this legislation.

New Preservation Initiative
We also urge the Committee to consider H.R. 1102, the National Affordable Housing Trust Fund Act of 2003. A national housing trust fund would provide a dedicated

source of funds to build, preserve and rehabilitate rental housing targeted to the lowest income people. NHTF funds, for example, could be use by non-profits to acquire at risk affordable housing properties, something H.R. 4679 does not fund. There are currently 213 House co-sponsors; 5,077 organizations and state and local officials have endorsed the legislation. This legislation offers a real solution to our affordable housing crisis and we urge this committee to take up H.R. 1102.

Preserving our affordable housing stock is no easy task. But with the strong leadership of Chairman Oxley, Ranking Member Frank and others we hope to turn the tide on our battle to preserve affordable housing. We urge Congress to move forward on all of the legislative initiatives described in our testimony and we look forward to working with the Subcommittee and others in Congress to achieve this goal.

Gené Auxila Moreno

Summary of Experience

Focus on social justice issues affecting underserved and vulnerable populations to increase public and private resources access for underserved communities. Extensive experience in leadership capacity building and organization a capacity building.

Experience

1998 – Present Chicago Rehab Network Chicago, IL
Director of Advocacy

- Coordinate the Policy and advocacy activities at the National, State, City, County level.
- Coordinated advocacy activities to create state resources for affordable housing development, The Donation Tax credit $13 million which was enacted resulting in more than $130 million over 5 years.
- Recruited and supervise research interns on various policy research activities.
- Provide leadership development and organizational capacity building to members and community-based organizations.
- Coordinate a 3 days Chicago affordable housing conference – Valuing affordability. Facilitated and coordinated all logistics and outreach to speakers. Presenter and participants. Over 600 participants attended from Illinois and neighboring states.

1995-1998 Chicago Mutual Housing Network Chicago, IL
Director of advocacy and outreach

- Coordinated the Network's advocacy and marketing efforts.
- Build partnerships with tenant rights groups/organizations and community development community.
- Participated in local, national, and international dialogue to promote cooperative and mutual housing development for low-to moderate-income families.
- Provide technical assistance for cooperative and mutual housing development and teriant organizations.
- Directed the Tenant Ownership Pilot Project (TOPP) to create 800 units of affordable cooperatives in 4-targeted communities in Chicago.

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- Interfaced with public sector to solicit funding resource for cooperative housing development and TOPP.
- Secured over $1.3 million in funding for pre-development activities and community involvement process of TOPP.
- Interfaced with financial institution to recognized cooperative development and negotiated the creation of loan products geared toward cooperative housing development.

1994-1996 Lead Elimination Action Drive Chicago, IL
Outreach and Advocacy Coordinator

- Build relationships and partnerships with public and private sectors to build awareness and access resources to address the issue of Childhood lead poisoning.
- Facilitate an advocacy agenda to promote, enhanced awareness and targeting the need of at risk communities throughout the City of Chicago.
- Participate in national efforts to establish legislation and funding resources to end childhood lead poisoning
- Solicited and awarded $6.3 million in resources for the Community based Lead abatement research project from the National Center of Disease Control in collaboration with Chicago Department Health.
- Participate in international arena to promote the awareness of lead base products and health consequences to at risk populations.
- Promoted job creation and training of over 100 residents in communities most affected on lead containment and removal. Lead paint and Asbestos removal, Certified inspectors, and Project managers.
- Advocated for and facilitate access to resources for litigation and governmental intervention for families at risk.
- Assist in the organization's overall fundraising activities.

1983-1986 North Ave Day Nursery Chicago, IL
Head Teacher

- Oversaw classroom for Special need preschooler's ages 2.5 to 3 years old.
- Developed curriculum that would promote self-awareness, confidence and understanding of rudimentary skills of age group.
- Coordinate parent teacher fundraising activities
- Evaluate overall programming for 2.5 –3 years old students.

1980-1982 Chicago Youth Center- Project Care Chicago, IL
Case manager Referral specialist

- Interfaced with young female teens to promote early health care intervention and pregnancy prevention.
- Intervened with pregnant teens to promote proper prenatal and postnatal care.
- Worked with families to promote awareness of the teen's needs and programs available to them.
- Community target: Near Westside and Near North side in Chicago.

Education

1980–1986 Roosevelt University Chicago, IL
B.A -Early childhood Education

1980-2000 Professional Training Chicago Illinois
Illinois Department of Health

- Certification in Crisis intervention
- University of Illinois

Certified Lead inspector Chicago, IL

Midwest Academy Chicago, IL

- Community Organization and Leadership Development

National Cooperative Coalition New York, NY

- Training for Trainers

Interests and Affiliations

National and International Human rights organization

National and international community development organization

Member of NGO Central America – Centro sin fronteras

Member of United Church of Christ – Homeland ministries

Member of Advisory committee of San Lucas Church – Homeless ministry

Member of Illinois Housing Council – Board of Directors

Board member – Stone soup cooperative

Advisory affiliate to CEDO minority student group – University Of Chicago

Board member – Partnership to End Homelessness

Member of Urban Developers Program – University of Illinois at Chicago

Languages

Fluent in:
French Creole Spanish Haitian Portuguese

STATEMENT OF NATIONAL HOUSING DEVELOPMENT CORPORATION (NHDC)

on the January, 2004 General Accounting Office (GAO) Report on Maturing HUD Mortgages:
"Multifamily Housing: More Accessible HUD Data Could Help Efforts
to Preserve Housing for Low-Income Tenants" (GAO-04-20)

before the

HOUSE FINANCIAL SERVICES COMMITTEE

Testimony Presented by O. Angie Nwanodi, Director of Policy

July 20, 2004

I am pleased to have the opportunity to testify before the House Committee on Financial services regarding the GAO report "Multifamily Housing: More Accessible HUD Data Could Help Efforts to Preserve Housing for Low-Income Tenants" published in January 2004.

On behalf of National Housing Development Corporation (NHDC), I commend Chairman Oxley and Representative Frank for commissioning the report and thank the Subcommittee on Housing and Community Opportunity for its continued interest in preserving affordable multifamily housing. I would also like to acknowledge Comptroller General Walker and his staff at the GAO for a job well done and for adding to the body of data available on at-risk units that need to be preserved.

NHDC is a national nonprofit dedicated to preserving the affordability of existing multifamily housing. Our mission is "to preserve affordable housing in partnership with local communities, empowering individuals and revitalizing communities." NHDC's vision is of a comprehensive national preservation policy designed specifically to address our nation's ongoing need for long-term affordability and recapitalization in aging multifamily housing.

Since its inception in December 1999, NHDC has preserved more than 3,000 multifamily units in seven states, most with some form of federal subsidy and generally considered to be 'at-risk' of imminent or impending loss of affordability.

CONCURRENCE WITH THE GAO REPORT

Overall, NHDC concurs with the GAO report's findings regarding mortgage maturity and the accessibility of HUD data. Specifically,

1. No current HUD program exists to specifically address potential loss of affordability due to mortgage maturity;

2. Virtually no focus exists at the state and local level on the issue of mortgage maturity;
3. Data available through HUD Databases, though widely available and easily accessible via the world wide web, could be more user friendly;
4. Some states and localities have, with some success, made efforts to prioritize traditional preservation transactions (primarily opt-outs / pre-pays) through a variety of means, including federal sources of funding and unique state and local initiatives and vehicles such as housing trust funds and property tax incentives.
5. Market conditions and owner motivation are the primary factors in determining whether mortgage maturity (or other preservation-triggering event, i.e. opt- out or prepayment) will adversely affect the long-term affordability of a property or make likely the displacement of its residents.

That said, however, we believe the scope of the GAO's report should have been broader, and should have raised, even if unable to answer them, some of the critical questions that must be answered if Congress is to take next steps to ensure that opportunities and tools to preserve at-risk units exist.

My comments this morning will focus on the unique and recurring challenges inherent to preservation precisely because market factors (including property condition) and owner motivation largely control whether federally subsidized properties will leave the affordable inventory, as well as on recommendations for more effective preservation efforts going forward.

THE NATURE OF PRESERVATION: ATTRIBUTES OF THE AT-RISK INVENTORY

To have an effective dialogue around preservation, we must recognize its key attributes and how they differ from the issues and challenges attendant to new construction.

As a general rule, the following principles hold true for preservation transactions:

1. Preservation is **cheaper** than new construction on a per unit basis.[1]
2. Preservation is **more politically palatable** than new affordable developments. NIMBY forces generally do not oppose the rehabilitation of an existing property, whereas many new tax credit or other affordable developments can and have been stopped by local opposition.

   In fact, we believe a successful preservation project can serve to galvanize community stakeholders, including NIMBYs, and may ultimately serve to build positive attitudes towards affordable housing generally.
3. Preservation is a **more cost-effective** use of current federal housing funds than new construction deals, and helps retain past federal investments in housing.

[1] In making this observation, NHDC does not intend to infer that funding for new construction should be cut, nor does it contend that new construction is not a necessary part of our national housing policy.

4. Preservation is **necessary** if we are to meet federal housing goals and are to avoid falling further behind in meeting the ever-growing national demand for affordable housing
5. Preservation transactions represent **a perpetual crisis** waiting to happen. By their nature, federal programs, contracts and subsidies are finite sources available to a property or owner for a finite term. Therefore, unless we formulate an appropriate response, we will always face the question of 'what happens when ...' and, if past performance is a predictor of future response, we will search for answers immediately before or just after the crisis is upon us.

   For this reason, we must establish and fund a national policy of recycling existing multifamily assets when they come to the end of their regulated affordability, regardless of the source.
6. Preservation transactions are **extremely difficult to do**. Preservation deals are difficult to acquire and are equally (if not more) difficult to manage. As difficult as it is, the test of successful preservation is not acquisition. Cash flow and residual value are the true tests --- that is, the long-term viability of projects.
7. The structure of our **existing federal funding programs increases the cost of preservation**, and unnecessarily so. To successfully compete for at-risk assets in the marketplace, preservation acquirers need *interim* capital rather than permanent finance.

COMMENTS ON THE GAO REPORT IN LIGHT OF THESE PRESERVATION PRINCIPLES

1) We Cannot Take Program Funding Availability For Granted

In its report, the GAO mentions program funding availability as a factor that could affect the future rate of rental assistance contract renewals. It does so, however, in a way that appears to minimize the potential negative effects lack of such funding could have on the ability of families to remain in affordable housing after mortgage maturity.

While it is true that to date a high percentage of rental assistance contracts have been renewed, it does not necessarily follow that the trend will continue, particularly as we approach the later years of the study when large numbers of units face both mortgage maturity and rental assistance contract expiration.

This year's debate over the calculation of Section 8 voucher funding as well as recent concerns regarding the rising costs of funding Section 8 should cause us to pay close attention to whether full funding for existing subsidies is likely to exist by the end of the coming decade, particularly given the persistent growth in demand for affordable units and rental assistance nationwide.

As the report notes and Assistant Secretary Weicher's letter confirms, where market conditions make a conversion the owner's likely choice, residents do not have 'as of right' protection of the rental subsidies they received before their property's mortgage matured. Although they may be "eligible to apply" and may even qualify for enhanced vouchers, as the report emphasizes, impediments such as high security deposits could serve to effectively displace low-income renters.

Even if the federal government were to authorize and fund the much needed preservation programs we believe it should, rental assistance and other existing subsidies will still be necessary to reach many of our nation's low-income renters.

2) State and Local Agencies Alone Cannot Solve the Preservation Dilemma

Although the GAO report does not claim that state and local agencies can be the preservation panacea, some of the report's conclusions could be interpreted to mean that the most significant part of the preservation challenge is a lack of access to HUD data by these agencies.

However, long after HUD data becomes more accessible and user friendly to state and local agencies, these agencies will continue to face tough choices in funding transactions, and many preservation transactions will fall by the wayside. In some instances, market rate conversions may occur due to a failure to prioritize preservation at the local level. However, even where states and localities target preservation through set-asides and other mechanisms, the fact remains that they are splitting existing pots of money, almost universally oversubscribed, to meet a myriad of housing needs.

3) State and Local Funding Is Insufficient to Meet the Overall Preservation Need

Although the GAO report references state and local funding sources to encourage owners to keep their properties in the affordable inventory, in those states and localities where

affordable housing production and preservation has been prioritized and federal funding supplemented with state and local dollars, demand still dwarfs supply.

For example, although it was a hard-won victory for Los Angeles housing advocates and is important for the commitment it symbolizes, the City's $100 million Housing Trust Fund doesn't buy or build much in a market where $200,000 - $300,000 per unit is the norm. The Housing Trust Fund is also incremental, scheduled to be funded over multiple years.

In addition, most states and many localities are facing significant shortfalls in their budgets. As a result, some states and localities, such as Texas, which does not have a state income tax, have sought to increase tax revenues by limiting the amount of property tax abatement available to for-profit and out-of-state nonprofit developers.

In California, the state budget crisis affected housing funding so much in 2002 that many existing and badly needed new state programs, including two preservation programs totaling $15 million were only able to be funded through Proposition 46, a historic $2.1 billion voter-approved bond measure.

4) The Federal Programs That States and Localities Have Used to Preserve At-Risk Housing To Date Are Not Flexible or Efficient Enough for Many At-Risk Properties

We wish to recognize that the HOME, CDBG and Low Income Housing Tax Credit (LIHTC) programs referenced in the report are important and necessary tools in the quest to affordably house all Americans.

However, even though states and localities have used these and other federal sources to preserve multifamily units with some success, NHDC does not believe that these funds are the most effective way to preserve at-risk housing. The common denominator that these programs share (along with various soft sources of funding) is that they are competitive, and therefore contingent, resources.

In a housing world where our stated goal is to create incentives for market-driven owners to choose continued affordability or a buyer committed to continuing affordability, we essentially

handicap preservation-minded buyers by limiting their funding sources to a hodge-podge of funding programs, often allocated at separate times, and which routinely take a year or more to access (*if* the resource is awarded).

Naturally, such buyers are at a severe competitive disadvantage as compared to buyers using conventional finance with the ability to guarantee closing within a reasonable timeframe. Those owners who have chosen against extending affordability are highly unlikely to entertain an offer from say, a nonprofit intending to apply for tax credits for the purchase, while those who may entertain such offers essentially demand a premium for enduring the uncertainty and long waits associated with our existing federal programs.

In this way, **our existing (permanent) finance system skews the market, ironically *raising* the cost of acquiring affordable housing** with dollars that are already in short supply.

Much better would be a separate, parallel housing finance system, designed specifically to respond to at-risk properties' needs. The affordable housing community needs access to significant amounts of revolving capital that can be deployed as needed on an interim basis to seize on market opportunities to keep affordable properties in the inventory and to add as many units as possible to the stock.

5) Nonprofit Ownership Does Not Necessarily Reduce the Risk of Affordability Loss

In the GAO analysis of the few properties that have experienced mortgage maturity to date and of the remaining inventory, much seems to be made of the fact that some 38% of properties with HUD mortgages are owned by nonprofits.

While many nonprofits are absolutely dedicated to affordable housing, as properties age, they present new and more difficult challenges than in their younger years. The complexities of ongoing management of (and capital improvements to) decades-old properties can be overwhelming for some nonprofit organizations.

For this reason, funding for ongoing capacity-building and technical assistance for organizations dealing with aging assets will be essential to ensuring that the recapitalization of

nonprofit-owned affordable housing is successful and that it results in an operationally viable, stabilized property with a new useful life and adequate reserves to maintain it properly over its new life.

6) **Creating Incentives To Extend Affordability for Properties with Maturing Mortgages Would Only Be A Temporary Remedy.**

The GAO report contrasts the various incentives HUD has in place for opt-outs and prepayments with the lack of incentives for owners with maturing mortgages. NHDC wishes to concur with and reiterate the GAO's finding that, "these incentives do not directly address the termination of the affordability requirements," for either mortgage maturity or opt-outs and prepayments. The best the incentives do is buy another five years of affordability, after which new approaches for preservation must be attempted.

The **existing incentives to keep properties affordable after a preservation-triggering event occurs do not address our national need for policies that ensure long-term affordability**, protect previous federal investment in multifamily housing and plan for the recapitalization and rehabilitation of our aging stock.

ADDITIONAL PRESERVATION ISSUES THAT CONGRESS SHOULD STUDY

1. Cost Comparison Between New Construction and Preservation
2. Efficiency and Effectiveness of Existing Programs for Preservation Transactions (What is the Cost of Waiting?)

QUESTIONS THE FEDERAL GOVERNMENT MUST ASK AND ANSWER TO SUCCEED AT PRESERVATION

1. Under what circumstances will we preserve the existing multifamily stock? (Viability)
2. If so, who should own it and how do we encourage and reward them? (Capacity)
3. What level of rehabilitation and recapitalization should we strive for? (Vitality)
4. How will we prevent recurring end-of-use crises? (Rapid response vs. proper response)

RECOMMENDATIONS FOR A MORE COMPREHENSIVE FEDERAL APPROACH TO PRESERVATION

1. **Broaden the Definition of Preservation.**

Of course, the current definition of preservation and the benefits that flow to preservation-eligible properties should be expanded to include maturing mortgages, which exhibit the same characteristics and pose the same challenges as opt-out / prepayment properties[2].

Beyond that change however, Congress should further broaden the way it defines preservation as well as the scope of preservation activities for which federal dollars can be used. This more inclusive definition of preservation should **include unsubsidized, market-rate housing** that is currently affordable to low- and moderate-income Americans, and should allow federal dollars to be used to acquire such properties in exchange for long-term affordability. This would allow us to add new units to the affordable inventory before market conditions begin to squeeze out low- and moderate-income families currently in unrestricted apartments that are unprotected from future upswings in the market.

NHDC completed one such bond transaction in which we made a loan to the nonprofit (housing was not its primary mission) owner to cover a gap in financing, and in exchange, placed a regulatory agreement on the property that ensured tax credit rents for fifteen years, while at the same time opening up twenty percent (20%) of the units to Section 8 voucher holders[3].

In addition, Congress should broaden the definition of preservation to include a **focus on risk factors** other than contractual and use-restriction issues, **such as physical needs**. As our housing stock ages, an increasing number of federally assisted units are in need of significant reinvestment, rehabilitation and renovation.

It seems counterintuitive to construct beautiful new tax credit and bond properties while allowing older properties to languish and deteriorate, often in the same communities and

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[2] Representative Frank's new bill, H.R. 4679 (introduced June 24, 2004) would accomplish this if passed.

[3] In the process of negotiating the transaction, NHDC discovered that the local housing authority was having difficulty with voucher utilization, and could not get many owners to accept vouchers.

sometimes on the same block. If neighborhood revitalization is to continue to be a goal in our housing efforts, we must reinvigorate our older properties and recapitalize them to achieve as close to a new useful life as is possible.

2. **Authorize and Fund Preservation Intermediaries**

The Millennial Housing Commission (MHC) made this recommendation in 2002 (http://www.mhc.gov/MHCReport.pdf). The House of Representatives passed such authorization by a vote of 405-5 in the 106th Congress.

NHDC urges the Congress to revive Section 402 of S. 2733[4] (July, 2000; 106th Congress; Parallel legislation: Section 410 of H.R. 202[5]).

Such legislation would authorize national, regional and local nonprofits and intermediaries dedicated to preserving at-risk multifamily properties for long-term affordability. In doing so, Congress would be encouraging the transfer of at-risk assets into the hands of organizations with a commitment to long-term affordability in order to minimize the risk of future end-of-use crises.

In addition, such legislation would fund capacity-building for intermediaries and other preservation entities, ensuring that when at-risk assets with complex challenges enter the market, the preservation community will be well-equipped to respond and to succeed in the long-term.

3. **Create a New, Separate, Revolving Source of Preservation Funding.**

The fund should be substantial, dedicated exclusively to the interim preservation of existing affordable multifamily properties by eligible preservation entities and intermediaries (see Recommendation #2 supra). That is, the fund should be recyclable for the ongoing preservation of at-risk or affordability favorable assets. Interim funds should stay with the property only long enough to stabilize it and access permanent financing.

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[4] http://frwebgate.access.gpo.gov/cgibin/getdoc.cgi?dbname=106_cong_bills&docid=f:h202eh.txt.pdf
[5] http://frwebgate.access.gpo.gov/cgibin/getdoc.cgi?dbname=106_cong_bills&docid=f:s2733is.txt.pdf

Essentially, the housing community needs a revolving fund that is well capitalized and that will permit affordability-minded buyers to compete favorably in the acquisition bidding process against buyers without a commitment to affordability.

In conjunction with the other preservation tools we recommend herein, this tool would serve as an equalizer between affordability-driven buyers and market-rate buyers seeking to convert the units. Such a fund would create a warehouse/refuge for at-risk properties so that preservation buyers could acquire them without overpaying, while simultaneously working to assemble permanent financing.

In today's environment of oversubscribed block grant funds, a revolving fund such as this would allow preservation-oriented acquirers to seek the various existing funds (HOME, CDBG, LIHTC, AHP, etc.) without the downside of losing the deal to market if they do not receive their requested award.

4. **Enact a Preservation Tax Credit (Exit Tax Relief)**

The Millennial Housing Commission (www.mhc.gov) also recommended that Congress enact what many call 'exit tax relief.' Last November, Representative Ramstad concurred. He introduced H.R. 3485[6], the "Affordable Housing Preservation Tax Relief Act of 2004," which would offset the capital gains owed by an owner provided that the sale of the property is a 'qualified preservation transaction' with a capable and committed 'preservation entity.'

In its report to Congress, the MHC found that many owners of assisted housing that needs to be preserved and recapitalized choose to hold on to the property rather than take the large 'exit tax' hit that today's tax code requires.

NHDC strongly urges Congress to move forward with a preservation tax credit that can be allocated to states and used to buy out owners of assisted housing that are for all intents and purposes trapped in transactions made decades ago.

[6] http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h3485ih.txt.pdf

5. **Provide Incentives for Owners To Properly Plan for Rehabilitation**

One of the reasons we have continually faced the deterioration of our privately-held, federally-assisted stock is because our tax code penalizes proper, responsible ownership.

Today, the Internal Revenue Code requires that monies set aside for capital improvements be taxed in the year when they are reserved, and then depreciated as part of an owner's basis once it is spent on rehab.

Instead of promoting what sound property management requires (adequate planning and savings toward future capital needs), our tax code provides a powerful incentive to distribute cash flow to investors rather than set aside a portion in reserve accounts.

If an owner today chooses to set aside $100,000 out of a property's cash flow in a separate reserves-for-replacement account, the account is subject to taxation, usually at a high rate, leaving somewhere around half ($50,000 - $60,000, depending on the tax bracket of the owner or investor) of the intended investment available for future rehabilitation. Even if an owner was willing to take the tax hit associated with the reserve account, an investor in the property is understandably less than eager to receive, say, $200,000 in distributions only to be taxed on $300,000 once the tax due on the phantom income (due to the reserve account deposit) is added to their tax liability.

Congress should eliminate these existing tax barriers to responsible long-term planning for capital needs in multifamily housing. Instead of the policy we have today, we ought to encourage the creation of pre-tax holding accounts for rehab so that owners have an incentive to save today towards the roof replacements and other capital items the property will need in ten, fifteen or twenty years.

In sum, removing this savings disincentive from the tax code would require a two-prong approach. First, allow for pre-tax reserve accounts, and second, disallow reserve account deposits from inclusion in an owner's basis.

CONCLUSION

Together, these policies can work to strengthen the tools already available to affordable housing developers and can create the parallel funding sources for preservation that our nation's housing policy needs in order to break the never-ending cycle of crisis at expiration, whether it be mortgage maturity, opt-out, prepayment, subsidy contract expiration or deferred maintenance.

On behalf of National Housing Development Corporation, I would like to once again thank the Committee for the opportunity to testify on the ongoing preservation needs of our nation's affordable housing stock.

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Subcommittee on Housing and Community Opportunity
GAO Report: "Multifamily Housing: More Accessible HUD Data Could Help Efforts to Preserve Housing for Low-Income Tenants"
Tuesday, July 20, 2004

Testimony of Todd Trehubenko
Senior Vice President
Recapitalization Advisors, Inc.

Chairman Ney, Representative Waters, members of the Subcommittee, I am honored to be invited here today.

My name is Todd Trehubenko and I am Senior Vice President of Recapitalization Advisors, Inc. We are a private consulting firm based in Boston, specializing in the finance of existing affordable housing. In particular, we focus on Section 236, Section 221(d)(3), Section 8, and other types of "expiring use" housing -- assisted properties on which the original affordability protections are or will be ending.

We design and execute what we call "renewed affordability" transactions. These transactions lever an array of public and private resources to financially improve these properties and provide funds for renovation while still protecting low-income residents. I lead this practice area for Recap, and am proud that we have directly preserved over 450 properties totaling nearly 60,000 apartments in 39 states since the company's 1989 founding by David A. Smith.

Recap works closely with for-profit and non-profit owners, buyers, and sellers. Our clients include state housing finance agencies as well as other affordable housing lenders and investors, and we have been privileged to provide analysis and advice to Congress, HUD, GAO, CBO, the Millennial Housing Commission, and others concerned with housing policy in this country.

Our experience operating in this environment over the past 15 years teaches us that:

- The maturing mortgage problem is more significant and more immediate than the GAO report describes.
- This inventory consists of properties left out of other initiatives.
- Substantially all remaining properties in the portfolio are "at-risk" today.

- These properties should be preserved, but current tools are inadequate.
- Congress should act now to ensure preservation of these properties.

GAO's January, 2004 report on this inventory ("Multifamily Housing: More Accessible HUD Data Could Help Efforts to Preserve Housing for Low-Income Tenants") indicates that lack of data access is a significant issue with respect to this portfolio. We respectfully suggest it is not; the problem is lack of access to the tools and resources necessary to successfully recapitalize these aging properties. The problems with the portfolio are both greater in magnitude than suggested by the GAO report, and more immediate. We urge Congress to act now to create the necessary tools – such as those included in H.R. 4679 introduced by Representative Frank -- to preserve and improve these affordable housing assets.

1. The maturing mortgage problem is more significant and more immediate than the GAO report describes.

The GAO report found that HUD mortgages on 2,328 properties (236,650 apartments) will mature over the next ten years, through 2013. Virtually all of these properties were financed under the Section 236 and Section 221(d)(3) programs, although the total also includes some older Section 202 elderly housing properties.

While a ten-year horizon is a common and not inappropriate frame of reference, in this case it obscures the magnitude of the problem. A chart we have compiled using HUD source data, included as Exhibit 1, depicts the entire wave of maturing Section 236 and Section 221(d)(3) mortgages by year. The data shows that an additional 814 Section 236 or Section 221(d)(3) mortgages, on properties consisting of more than 93,000 apartments, will mature in the three years following the period GAO studied.

And the problem is upon us now, as mortgages on over 100 properties in this inventory, representing more than 13,000 apartments, will come due by the end of 2007. In many cases, even for properties with later mortgage maturities, owners are motivated to prepay their loans in order to capture Section 8 enhanced voucher resources that are not available to them on the day the mortgage otherwise comes due. These properties will exit the affordable portfolio early and never make it to mortgage maturity. While the residents will be protected through vouchers, project-based affordability is likely to be lost.

2. The maturing mortgage inventory consists of properties left out of other initiatives.

The inventory we are discussing today is what we have left after having selected out of the subsidized mortgage portfolio several previous groups of properties that each took advantage of particular programs:

- *Preservation.* From 1989 to 1996, we preserved many properties under ELIHPA and LIHPRHA. These properties increased their project revenues, captured new Section 8 to cover the increased rents, and funded rehab with a new combined acquisition or equity takeout loan.
- *Prepayment.* From 1996 to 1998 (and ongoing), many subsidized mortgages were prepaid. The residents were protected with Section 8 enhanced vouchers, newly created for the occasion, to cover the rents that increased to market. Enhanced vouchers have since become one of the principal tools in maintaining resident protections in properties originally financed with subsidized mortgages.
- *Mark-to-market.* From 1999 to 2004 (and ongoing), many properties went through mark-to-market. In these transactions, rents were reset down to market, debt was restructured (with new flexible soft loans provided under mark-to-market), and properties were rehabbed with proceeds from the newly reconstituted first loan.
- *Renewed affordability.* Starting in 1999 (and ongoing), we have used renewed affordability tools such as Mark Up to Market (MUM), Section 236 IRP decoupling, and flexible subsidy loan restructurings to help properties raise new capital for renovations and to address other needs.
- *Section 202 recapitalization.* In 2000, non-profit owners gained greater ability to refinance Section 202 mortgages to raise funds for property needs and to enter into new partnerships with private investors to revitalize these assets. These programs provide important new tools for Section 202 properties, but work best for properties developed after 1975. Earlier Section 202 properties, with subsidized below-market interest rates and little or no Section 8 assistance, struggle to take advantage of these initiatives.

Each of these previous programs addressed a particular cohort of properties within the subsidized mortgage inventory. With rare exception, each was the result of targeted legislation passed by Congress and was voluntary in the sense that project owners could elect to participate in the program or choose to do nothing. And each program stimulated property recapitalizations that delivered to successful participants the following benefits in exchange for extended affordability or resident protections:

- New rents, usually at or close to market.
- New financing commensurate with the revised Net Operating Income (NOI).
- New rehab funding out of the transaction.
- New or revitalized property ownership.

The portfolio at issue today consists of those properties that did not participate in previous programs. It is characterized by adverse selection, more easily summarized by negatives than by positives. These properties have been *unable* to access the new array of renewed affordability tools – increased rents, enhanced vouchers, new debt financing – available to the other groups. These properties have not been renovated or repositioned. The original owner groups, for-profit or non-profit, have not been reinvigorated or replaced.

These properties have been unable to do anything else. This is the group left behind.

3. Substantially all remaining properties in the portfolio are "at-risk" today.

Because of the adverse selection, the properties we confront today generally have these things in common:

- *No economics* (because of a contractual prohibition) or *low economics* (because their current rents are at or near market). They thus lack an essential economic fuel for revitalization.
- *Low rents*, because the budget-based rent structure and limited availability of Section 8 have held rents down.
- *Low upkeep*, because they have had no ability to access rehab-type tools available to the other cohorts.
- *Low debt*, because they are still carrying their original loans, which have been amortizing for 30 or more years. Many balances are now down below $10,000 per apartment.
- *Low reserves*, because coping with low rents and low upkeep have prevented the properties from accumulating capital. These properties typically have less than $1,000 per apartment in accumulated reserve balances.
- *Low owner energy*, because lacking a transaction, many of these owners have been emotionally carrying their properties for thirty-plus years. The business has become much tougher and more complex in that interval, and many of these owners are at a loss as to what can be done to revitalize their properties.

And yet these properties are good housing. Even if a bit dated, they provide a good quality of life and are genuine and successful communities of residents.

They serve a real and important need. Residents are glad to live there and think of these complexes as their homes of long standing.

And communities are glad to have them. These developments are well established. Cities and towns – even those that resist new affordable housing – are eager to retain these properties as assets in their communities.

We are at risk of losing these properties as quality affordable housing. As GAO points out, HUD does not offer any incentives to keep these assets in the affordable inventory upon mortgage maturity. HUD's commitment to the property once the loan is paid off and the FHA insurance liability is eliminated is unclear. From the owner's perspective, in the current environment there is little comfort can be taken that *any* Federal financial assistance will continue beyond maturity, or that subsidies that do continue will be sufficient to cover debt service on the new mortgage financing or rehabilitation loans these properties need.

This lack of certainty influences owner behavior even now, many years before actual maturity. Because Section 8 enhanced vouchers are available for most properties in the context

of mortgage prepayment but not mortgage maturity, owners have an incentive to exit the portfolio before the end of the loan term if at all possible. We expect many owners of properties remaining in the portfolio to eventually prepay, once the current loan balance is low enough, if only to capture resources necessary to remain economically viable.

Other properties will not prepay, due to a contractual prohibition or because a transaction is not viable. These properties are at risk in a different sense – risk of owner disinvestment over the final years of the mortgage term, or complete physical deterioration due to lack of operating or rehabilitation funds.

4. These properties should be preserved, but current tools are inadequate.

These properties were built under the same programs and serve the same resident groups as many other properties that Congress has already acted to preserve as affordable housing. Reinvesting in these remaining properties prior to or at mortgage maturity is sound policy and financially attractive relative to the cost of new housing. Recapitalizing these properties with incremental resources will be much cheaper, and much better policy, than losing them and trying to replace them later.

The properties require modernization and financial recapitalization. We know what resources and tools are needed to accomplish these goals, because we use them now, on other properties already eligible for existing preservation programs. These include:

- *Section 8 enhanced vouchers.* Currently, these are not available to properties at mortgage maturity, or upon prepayment/preservation of non-profit owned properties, Rent Supplement properties, or early Section 202 properties without full Section 8 coverage.

- *Project-based rents at market* (with resident protections) through Section 8 Mark up to Market or related programs. These HUD programs work well for some properties but only those that meet fairly narrow criteria. For example, properties without full Section 8 coverage, or those with comparable rents much higher than current rents but less than the HUD "Fair Market Rent", are unable to derive significant benefits from these programs.

- *Replacing old debt with new financing on better terms.* Properties without a means to protect residents from necessary rent increases generally cannot support new debt sufficient to address property and ownership needs.

- *Rehabilitation funding within new financing.* Similarly, suitable rehab financing is difficult to support under the existing affordability structure. Some Section 236 properties, particularly those being sold, have been able to fund improvements through the IRP decoupling program. But this tool is relatively unattractive to owners wishing to retain ownership, because of HUD's effective prohibition on any owner equity takeout in conjunction with the preservation transaction (despite mandatory extension of affordability).

So for a variety of reasons, we are precluded from using effective renewed affordability tools on many properties remaining in the inventory. And that preclusion inhibits the revitalization of these assets, and is therefore bad for owners (for-profit and non-profit alike), bad for residents, and bad for the real estate.

Access to these tools, which can be effectively combined with other established private, federal, state, and local resources, should only be granted in exchange for extended affordability covenants from the owner or a mission-oriented purchaser. Many owners and purchasers would gladly make this trade in order to address the underlying needs of these aging properties.

5. Congress should act now to ensure preservation of these properties.

Congress has time and again passed legislation to ensure preservation of many property cohorts within the maturing mortgage portfolio. We urge Congress to act now to stimulate long-term preservation of worthy properties remaining in the portfolio – the portfolio of projects left behind that we have been discussing today. Specifically, we ask that Congress:

- *Adopt the measures outlined in H.R. 4679 filed by Representative Barney Frank.* These include Section 8 enhanced vouchers at mortgage maturity and targeted grants for properties willing to extend affordability protections for at least another 10 years beyond mortgage maturity.

- *Extend Section 8 enhanced voucher eligibility* to expiring use properties owned by non-profits, properties assisted by Rent Supplement, and Section 202 properties developed in the earliest stages of the program, provided that such enhanced vouchers are provided only in the context of a preservation transaction.

- *Encourage HUD to modify its administrative guidelines* to broaden eligibility for existing preservation initiatives such as Mark up to Market and IRP decoupling.

- *Encourage HUD to develop clear rent-setting policies* to recognize all legitimate operating and financial costs for properties achieving mortgage maturity, including debt service on replacement and/or renovation financing, to reduce owner and purchaser uncertainty on these issues.

We need these measures to help preserve this housing stock and protect vulnerable low-income residents.

Mr. Chairman, Representatives, that concludes my remarks. I would be delighted to answer your questions.

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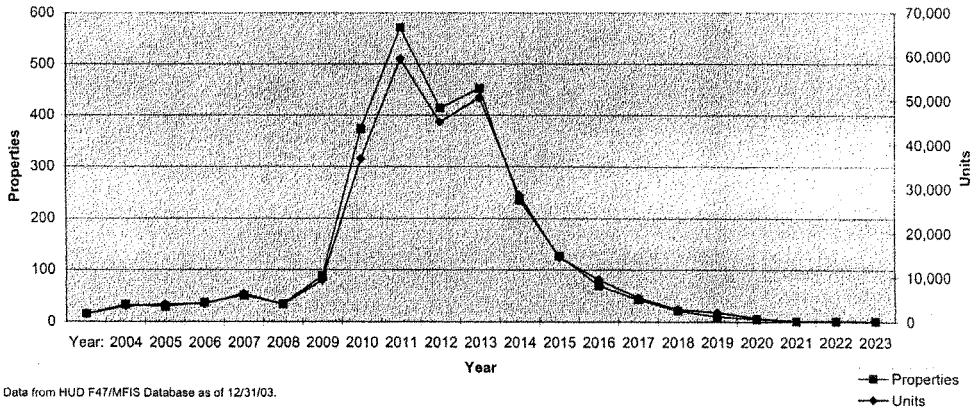
Summary of Section 236 and 221(d)(3) mortgages by year of maturity



Data from HUD F47/MFIS Database as of 12/31/03.

For more information, contact Ethan Handelman, Associate, Recapitalization Advisors, Inc. at ehandelman@recapadvisors.com or (617) 338-9484 x218.

Recapitalizing and preserving existing affordable housing via innovative financial transactions.

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Exhibit 1, Page 2 of 2

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Summary of Section 236 and 221(d)(3) BMIR mortgages by year of maturity

Year:	*Properties*	*Units*
2004	15	1,723
2005	33	3,495
2006	29	3,955
2007	37	4,016
2008	51	6,346
2009	34	3,917
2010	88	9,337
2011	373	36,750
2012	571	59,428
2013	414	45,103
2014	452	50,646
2015	235	28,530
2016	127	14,469
2017	70	9,480
2018	43	5,454
2019	21	2,810
2020	10	2,099
2021	5	795
2022	1	185
2023	1	217
2025	1	115
Total	**2,611**	**288,870**

Data from: HUD F47/MFIS Database as of 12/31/2003

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Senior Vice President

Todd Trehubenko is a Senior Vice President of Recapitalization Advisors, Inc. Since joining Recap in 1992, he has structured and closed more than 65 transactions nationwide, including preservation sales and refinancings, Mark to Market debt restructurings, conventional refinancings, and workouts. These transactions involved approximately $425 million in real estate value and nearly 10,000 units of affordable housing located in about 20 different states and the District of Columbia.

Todd currently leads Recap's Renewed Affordability practice, specializing in transactions designed to help owners and acquirers recapitalize and preserve affordable housing properties through use of federal, state, and local resources. These transactions are highly customized, but often take advantage of current federal housing initiatives such as Section 236 IRP decoupling, Section 202 refinancing, and Section 8 renewal policies.

Todd also assists many of Recap's state and local housing finance agency clients in meeting their preservation objectives, including those in Puerto Rico, Connecticut, Michigan, and Texas. An experienced conference and workshop presenter, Todd formerly served as a member of the Editorial Advisory Board of Multi-Housing News and the Mark to Market moderator for Housing Professionals Online, an online discussion group for professionals in the affordable housing industry.

Prior to joining Recap, Todd was a Multifamily Housing Representative with the Boston HUD office, where he assisted in the development of new affordable housing properties through a broad variety of federal subsidy and mortgage insurance programs. He is a 1989 summa cum laude graduate of Fordham University.

STATEMENT OF JOHN C. WEICHER

Assistant Secretary for Housing – Federal Housing Commissioner

U.S. Department of Housing and Urban Development

BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
HOUSING AND COMMUNITY OPPORTUNITY SUBCOMMITTEE

July 20, 2004

Chairman Ney, Ranking Member Waters, distinguished members of the Subcommittee on Housing and Community Opportunity, thank you for inviting the Department to testify on the GAO report entitled Multifamily Housing: More Accessible HUD Data Could Help Efforts to Preserve Housing for Low-Income Tenants (GAO-4-20).

This Administration and the Department are firmly committed to preserving affordable housing. Historically, the Department's rental housing programs have been designed primarily to develop subsidized projects that have rent affordability requirements for a fixed term. Therefore, the Department has focused on retaining these properties as affordable for at least the fixed term, and has worked with Congress to develop tools and incentives to maintain affordability in cases of rental assistance contract expirations. Although these tools and incentives do not specifically address mortgage maturity, some of these incentive programs such as the Mark to Market and the Section 236 Decoupling have extended the affordability restrictions beyond the maturity of the insured mortgage.

To date, the Department has been very pleased with the success of the role of these programs in assisting in the Department's efforts to preserve the affordable housing stock. Under this Administration, we have over 1,000 projects with over 86,000 units processed under the Mark to Market Program, over 350 projects with approximately 32,000 units processed under the Section 236 Decoupling Program and approximately 800 projects with some 80,500 units processed under the Mark Up to Market Program. In these three programs combined, the Department has preserved the affordability of over 2,000 projects with about 200,000 units.

The Section 202 Prepayment Program also allows owners to prepay their HUD loans and obtain other financing, but keep the affordability use restriction until the maturity of the original loan. The refinancing of these loans allows additional funds to be made available to modernize and rehabilitate these projects to ensure their long-term affordability even beyond the prepayment of the loan. Due to the increasing number of sponsors desiring FHA insurance to refinance these aging projects, the Department has been reviewing its procedures to provide more flexibility in underwriting an FHA-insured loan to replace the

Section 202 loan. In recognition of the great need to assist these affordable elderly housing projects and preserve this housing stock, the Department is preparing a notice to allow these loans to be underwritten at the existing Section 8 rent even if above market levels. This change should enable substantially more Section 202 projects to be refinanced through FHA and provide capital needed to make necessary repairs and improvements to improve long-term viability.

Although the incentives to extend affordability do not directly address the termination of the affordability requirements resulting from mortgage maturity, the Mark Up to Market, Mark to Market and Section 236 Decoupling Programs all provide incentives to owners to continue to provide affordable housing on a long-term basis and beyond the mortgage prepayment while improving the physical and financial viability of the properties. These incentives have substantially decreased the actual numbers of insured mortgages that would normally be maturing in the next 10 years. In the GAO Report, they reviewed properties with HUD mortgages that originated from 1959 through 1962 and found that only 8, or 11% of the properties had reached mortgage maturity. This data supports the Department's position that these incentives are preserving affordable units for an extended period of time beyond the original mortgage maturity date.

Currently, there is no statutory authority for the Department to offer residents special protections, such as enhanced vouchers, when a mortgage matures unless rental assistance is also provided. In some of the programs such as Section 221(d)(4) and Section 207 addressed by the GAO study, there is not and never was an interest rate subsidy. However, some residents receive rental assistance, and depending on the type of rental assistance a resident receives, a resident may be eligible to receive a voucher or continue with the project-based rental assistance notwithstanding the section of the Act even though the mortgage has matured.

As the GAO report states, there are a total of 236,650 units in 2,328 properties where the mortgages are scheduled to mature through 2013. Of this universe, 134,087 units (57%) receive project-based Section 8 assistance or other rental assistance. These residents will

continue to benefit from affordable rents and be protected, regardless of when the mortgage matures, as long as there is a rental assistance contract. Under current rules, if the rental assistance contract expires or the owner elects not to renew the contract (opts out of the contract), eligible residents are provided vouchers. Historically, Congress has always provided appropriate renewal funds for these contracts.

The remaining 43% of the units in the GAO study (101,730) receive the benefit not from rental assistance but rather through the mortgage rate interest subsidy. * In properties financed under the Section 221(d)(3) BMIR and Section 236 programs, many residents do not receive rental housing assistance. The question has been raised as to whether the residents who do not receive rental assistance are able to afford the potential increased rents upon the mortgage maturing. It should be noted that residents of these projects typically have a higher income than those under the rental assistance programs. The Section 236 program has no income limitations, and properties financed under the Section 221(d)(3) BMIR program allow residents with incomes of up to 95 percent of area median income. These are in contrast to project-based Section 8 which limits residents' incomes to less than 80 percent of area median income. It is also important to note that unassisted residents of Section 221(d)(3) BMIR and Section 236 projects have average household income that is somewhat greater than that of residents who receive rental assistance. In a 1998 HUD study, residents in the Section 221(d)(3) BMIR without rental assistance had an average household income that was 83% greater than that for residents in a Section 221(d)(3) BMIR project with rental assistance. The average income of a household in a non-rental assisted unit was $22,000 as compared to an average income of $12,000 for a household in a rental-assisted unit. Households in Section 236 units without rental assistance had an average household income that was 30% greater than that for residents in Section 236 project with rental assistance. The average income of a household in a non-rental assisted-unit was $13,000 as compared to an average income of $10,000 for a household in a rental-assisted unit. Based on these statistics, these residents potentially

* The residents of only 833 units (less than 1%) receive no rental assistance or benefit of a mortgage interest rate subsidy since they reside in market rate properties insured under sections 221(d)(3), (d)(4), or 231. This is the entry to balance with the GAO's total universe.

should have the ability to afford higher rents. And in the case of the Section 236 program, many of these residents may have been paying these higher rents throughout the mortgage term.

Actual history shows that many projects remain affordable after loan maturity. Data gathered in conjunction with the GAO report indicate that there were 32 properties where the HUD-insured mortgage had matured between January 1, 1993 and December 31, 2002. Of these 32 properties, sixteen are still serving low-income residents through rental assistance contracts and ten properties that have no rental assistance contracts were identified as affordable to residents with incomes below 50% of area median income. After mortgage maturity, over 80% of the properties (26 of 32) remain affordable to low- and moderate-income residents.

Therefore, because of incentives provided currently, such as vouchers and actual experience, it would appear that there are few projects at risk of losing the affordable housing units. For those projects where the mortgages do mature, the projects are remaining affordable despite the mortgage maturity.

The Department certainly concurs with GAO that it is helpful to notify our partners, both local and state governments, when HUD-insured properties have the potential to leave HUD programs. In accordance with GAO's recommendation in the Report, in the past thirty days, the Department has begun posting a listing of HUD-insured mortgages and Section 202 loans expiring in the next 10 years. The Department will continue to post information and applicable data regarding expiring rental assistance contracts on HUD's website.

The Department is also planning to solicit comments from our industry partners on the information and data that is being provided so that we are able to continue to improve the format and if necessary, modify the current means of conveying the data on these properties to make the data more widely available and accessible.

That concludes my testimony. I would happy to respond to questions that you may have at this time.

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Housing and Community Opportunity, Committee on Financial Services, House of Representatives

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MULTIFAMILY HOUSING

More Accessible HUD Data Could Help Efforts to Preserve Housing for Low-Income Tenants

Statement of David G. Wood, Director
Financial Markets and Community Investment

GAO-04-992T

July 20, 2004

GAO
Accountability • Integrity • Reliability

Highlights

Highlights of GAO-04-992T, a report to the Committee on Financial Services, House of Representatives

MULTIFAMILY HOUSING

More Accessible HUD Data Could Help Efforts to Preserve Housing for Low-Income Tenants

Why GAO Did This Study

The Department of Housing and Urban Development (HUD) has subsidized the development of about 1.7 million rental units in over 23,000 privately owned properties by offering owners favorable long-term mortgage financing, rental assistance payments, or both in exchange for owners' commitment to house low-income tenants. When owners pay off mortgages—the mortgages "mature"—the subsidized financing ends, raising the possibility of rent increases. Based on a report issued in January 2004, this testimony discusses (1) the number and selected characteristics of HUD-subsidized rental properties with mortgages scheduled to mature in the next 10 years, (2) the potential impact on tenants upon mortgage maturity, and (3) the tools and incentives that HUD, the states, and localities offer owners to keep HUD properties affordable upon mortgage maturity.

What GAO Recommends

In its report, GAO recommended that HUD solicit the views of state and local housing agencies to determine what information on HUD-subsidized properties is needed and the most effective format to convey this information. HUD concurred with the report's conclusions and recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-04-992T.

To view the full product, click on the link above. For more information, contact David G. Wood at (202) 512-8678 or WoodD@gao.gov

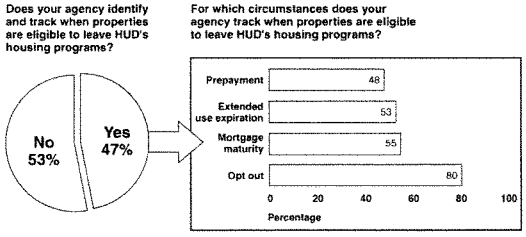
What GAO Found

Nationwide, the HUD mortgages on 2,328 properties—21 percent of the 11,267 subsidized properties with HUD mortgages—are scheduled to mature in the next 10 years, but among states this percentage varies significantly: from 7 percent in Alabama, to 53 percent in South Dakota. About three-quarters of these mortgages are scheduled to mature in the last 3 years of the 10-year period. As part of our analysis, we developed a searchable database available on a CD-ROM, showing property-level data for each of HUD's subsidized rental properties scheduled to mature in the next 10 years.

Impacts on tenants depend on tenant protections available under program statutes and regulations, as well as on property owners' decisions about their properties. No statutory requirement exists to protect tenants from increases in rent when HUD mortgages mature, absent the existence of rental assistance contracts or other subsidies. Without tenant protection requirements, tenants in over 101,000 units that do not receive rental assistance may have to pay higher rents or move when the HUD mortgages on these properties mature and rent restrictions are lifted. During the past 10 years, HUD-insured mortgages at 32 properties reached mortgage maturity, and the majority of these properties are still serving low-income tenants.

HUD does not offer incentives to owners to keep properties affordable upon mortgage maturity. While many state and local agencies GAO surveyed offered incentives to preserve affordable housing, they have not directed them specifically at properties where HUD mortgages mature. Most of the agencies do not track HUD mortgage maturity dates for subsidized properties. In addition, although HUD's Web site contains detailed property-level data, some state and local agencies perceive that the information is not readily available.

State and Local Agencies' Efforts to Identify and Track Properties that May Leave HUD Programs



Source: GAO.

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to be here today to discuss our report to you on properties with mortgage financing provided through the Department of Housing and Urban Development (HUD).[1] Since the 1950s, HUD has subsidized about 1.7 million rental units in over 23,000 privately owned properties that are generally affordable to low-income tenants—those with incomes 80 percent or less of area median income. HUD supported the development of affordable housing by offering property owners favorable mortgage financing, long-term rental assistance contracts, or both in exchange for owners' commitment to house low-income tenants for at least 20 years and, in some cases, up to 40 years. However, many of these commitment periods will be completed in the next 10 years as the HUD mortgages reach their scheduled maturity dates and long-term rental assistance contracts expire. These subsidized properties represent a significant source of housing that is affordable to low-income households.

My statement today, which is based on our January 2004 report, discusses (1) the numbers and selected characteristics of HUD-subsidized rental properties that are scheduled to reach mortgage maturity through 2013—roughly the next 10 years; (2) the potential impact on tenants when mortgages reach maturity; and (3) the tools and incentives that HUD, the states, and localities offer owners to keep HUD properties affordable when mortgages mature. In preparing the report, we analyzed HUD databases to identify the characteristics of those properties with mortgages that have already reached maturity as well as those that are scheduled to reach maturity by December 31, 2013.[2] We surveyed 327 state and local housing and community development agencies to obtain information on what tools and incentives they use to keep HUD-subsidized properties affordable to low-income tenants. In addition, we reviewed statutes and regulations and interviewed HUD officials to identify tenants' protections when mortgages on subsidized properties mature. We performed our work from January through November 2003 in accordance with generally accepted government auditing standards.

[1]U.S. General Accounting Office, *Multifamily Housing: More Accessible HUD Data Could Help Efforts to Preserve Housing for Low-Income Tenants* GAO-04-20 (Washington D.C.; January 23, 2004).

[2]To have 10 full years of data, our analysis covered the period from April 15, 2003, through December 31, 2013.

To summarize:

- Nationwide, 21 percent or 2,328 of the 11,267 subsidized properties with HUD mortgages are scheduled to reach mortgage maturity through 2013, but among states this percentage varies significantly: from 7 percent in Alabama, to 53 percent in South Dakota. These properties contain 236,650 units. Nearly all of these 2,328 properties were financed under three specific HUD programs, two of which operated only between 1961 and 1973. About three-quarters of the mortgages are scheduled to mature in the last three years of the 10-year period.

- Impacts on tenants depend in part on tenant protections available under program regulations and statutes, as well as on owners' decisions about their properties. No statutory requirement exists to protect tenants from increases in rent when HUD mortgages mature, absent the existence of rental assistance contracts or other subsidies. Without tenant protection requirements, tenants in over 101,000 units that do not receive rental assistance may have to pay higher rents or move when the HUD mortgages on these properties mature and rent restrictions are lifted. Further, owners are not required to notify tenants when a property's mortgage is about to mature. In contrast, owners are required to notify tenants up to 1 year in advance of their intent to prepay mortgages or decline renewal of rental assistance contracts. Property owners' decisions on whether they continue to serve low-income tenants after their HUD mortgages mature depend on many factors, such as neighborhood incomes, the condition of their properties, and owners' missions. During the past 10 years, HUD-insured mortgages at 32 properties reached mortgage maturity, and the majority of these properties are still serving low-income tenants.

- HUD does not offer any tool or incentive to keep properties affordable after HUD mortgages mature, although it does offer incentives to keep properties affordable under certain other circumstances, such as the expiration of rental assistance contracts or prepayment of HUD mortgages. According to officials from the four national housing and community development organizations we contacted, because few HUD mortgages have matured to date, their member state and local agencies have not experienced the need to develop programs to deal with mortgage maturity specifically. They noted that their member agencies could offer tools and incentives, such as loans and grants, to keep properties affordable after mortgage maturity. However, over 50 percent of the state and local agencies that responded to our survey reported that they have no system in place to identify and track properties that may leave HUD's

programs, and about three-quarters of them did not track the maturity dates of HUD mortgages.[3]

Based on our findings, we recommended that HUD provide more widely available and useful information for state and local agencies to track subsidized properties that may leave HUD programs.

Background

Prior to the early 1970s, the federal government provided affordable multifamily housing for low- and moderate-income households by subsidizing the production of either privately owned housing or government-owned public housing. Under production programs, the subsidy is tied to the unit (project-based), and tenants benefit from reduced rents while living in the subsidized unit. HUD's mortgage financing programs include:

- *Section 202 Elderly and Disabled Housing Direct Loan*, which provided below-market interest rates on up to 40-year mortgages to developers of rental housing for low-income elderly and persons with disabilities from 1959 to 1991. Congress changed Section 202 to a grant program in 1990.
- *Section 221(d)(3) Below-Market Interest Rate (BMIR)*, which provided subsidized financing on private 40-year mortgages to developers of rental housing from 1961 to 1968.
- *Section 236*, which provided monthly subsidies to effectively reduce interest rates on private 40-year mortgages for rental housing from 1968 to 1973.
- *Sections 221(d)(3) and 221(d)(4)*, which insured private mortgages to developers of rental housing from 1961.
- *Section 231*, which insured private mortgages to developers of rental housing for the elderly from 1959.

In order to reach lower-income tenants, a portion of the units in many properties developed under these production programs were further subsidized by provision of rental assistance, under programs such as Rent Supplement, Rental Assistance Payments (RAP), and project-based Section 8.

[3]Additional details on the results of our survey are available on the Internet at www.gao.gov/cgi-bin/getrpt? GAO-04-211SP.

In the early 1970s, questions about the production programs' effectiveness led the Congress to explore options for using existing housing to shelter low-income tenants. The Housing and Community Development Act of 1974 included both approaches—a project-based new construction and substantial rehabilitation program and a tenant-based rent certificate program for use in existing housing (currently named the Housing Choice Voucher program)—all referred to as Section 8 housing.[4] Project-based and tenant-based Section 8 assistance is targeted to tenants with incomes no greater than 80 percent of area median income, and tenants generally pay rent equal to 30 percent of adjusted household income. The project-based Section 8 program also provides rental assistance to owners of properties that were not financed with HUD mortgages.

Beginning in the late 1980s, owners of some subsidized properties began to be eligible to leave HUD programs by prepaying their mortgages or opting out of their project-based Section 8 rental assistance contracts. Once these owners removed their properties from HUD programs, they were no longer obligated to maintain low rents or accept rental assistance payments. In response, in 1996, Congress created a special type of voucher, known as an enhanced voucher, to protect tenants from rent increases in these properties.[5]

Not all property owners repay mortgages as originally scheduled. For example, an owner may refinance the mortgage to pay for improvements to the property. Other owners may experience financial difficulties and default on their mortgages. From January 1993 through December 2002, HUD data show that the agency terminated the insurance on 231 mortgages. About 14 percent were due to mortgages that matured; other reasons included owners' mortgage prepayment (37 percent) and foreclosure (22 percent).

[4]Funds provided by other federal programs, such as HUD's Community Development Block Grant and HOME programs, can be used by states and localities to subsidize housing for low-income tenants. Also, the Low-Income Housing Tax Credit program provides tax incentives for private investors to develop housing affordable to low-income tenants.

[5]Enhanced vouchers differ from regular tenant-based housing vouchers in that they (1) may provide a greater subsidy (that is, may be used to rent more expensive units) and (2) give tenants a right to remain in their units after conversion to market rent.

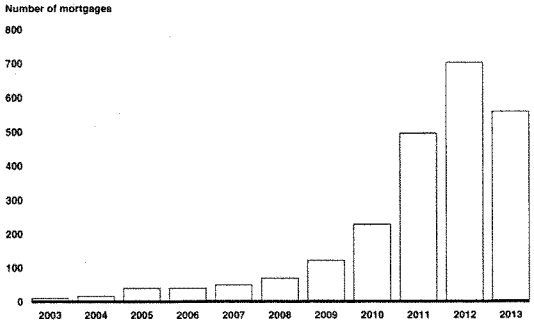
About One-Fifth of HUD's Mortgages Are Scheduled to Mature through 2013

Nationwide, 21 percent of subsidized properties with HUD mortgages have mortgages that are scheduled to mature from 2003 through 2013, but the percentage varies significantly by state. Nearly all of these properties were financed under the Section 236, Section 221(d)(3) BMIR, and Section 221(d)(3) programs.

Scheduled Mortgage Maturities Through 2013 Vary by Year and Program

Of the 11,267 subsidized properties (containing 914,441 units) with HUD mortgages, 21 percent (2,328 properties containing 236,650 units) have mortgages that are scheduled to mature from 2003 through 2013. The remaining 79 percent of these mortgages (on over 8,900 properties) are scheduled to reach maturity outside of the 10-year period.[6] Additionally, the bulk of these mortgages (about 75 percent) are scheduled to mature in the latter three years of the 10-year period (see fig. 1). This concentration in the latter part of the 10-year period is attributable to the 40-year Section 221(d)(3) BMIR and Section 236 mortgages that HUD helped finance in the late 1960s and 1970s, respectively.

Figure 1: HUD Mortgages Scheduled to Mature Annually through 2013



Source: GAO analysis of HUD data.

[6]Most of these mortgages were financed under the Section 202, Section 221(d)(4), and Section 236 programs.

As table 1 shows, about 57 percent of the properties with mortgages scheduled to mature in the 10-year period were financed under Section 236, 22 percent under Section 221(d)(3) BMIR, and 19 percent under Section 221(d)(3). Section 202, Section 221(d)(4), and Section 231 accounted for only 3 percent of these properties.

Table 1. Subsidized Properties with HUD Mortgages by Program Scheduled to Mature through 2013

Financing program	Number of properties	Percentage of properties	Total units	Units assisted with project-based Section 8[a]
HUD subsidized mortgage				
Section 236	1,333	57%	139,769	78,139
Insured	1,333	57%	139,769	78,139
Noninsured[b]	0	0%	0	0
Section 221(d)(3) BMIR	502	22%	56,573	18,810
Section 202	41	2%	3,208	871
HUD unsubsidized mortgage				
Section 221(d)(3)	431	19%	35,263	34,711
Section 221(d)(4)	14	[c]	1,239	1,146
Section 231	7	[c]	598	410
Noninsured rent supplement	[d]	[d]	[d]	[d]
Total	**2,328**	**100%**	**236,650**	**134,087**

Source: GAO analysis of HUD data.

[a]Also included are units that receive RAP or Rent Supplement. Project-based Section 8, however, is the dominant form of rental assistance across all financing programs. The Section 8 Moderate Rehabilitation program is not included in this table because HUD's multifamily database does not track this program.

[b]No mortgage was scheduled to mature in this period.

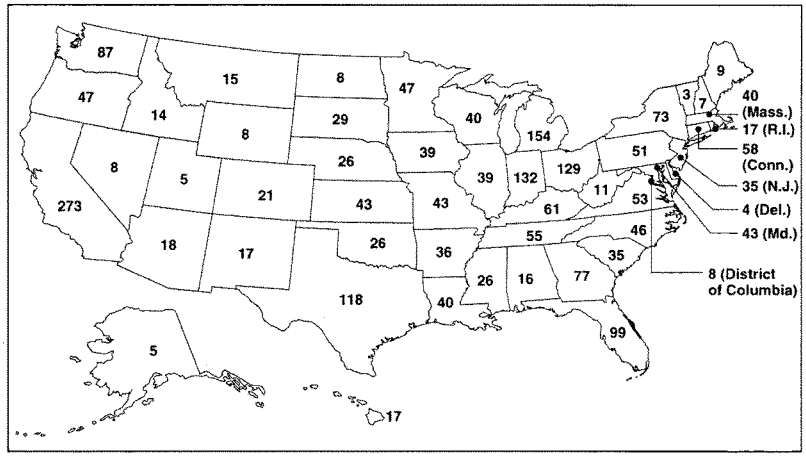
[c]Less than 1 percent.

[d]Since properties with noninsured rent supplement do not carry a HUD mortgage, HUD does not track mortgage-level data on these properties.

Number of Mortgages Scheduled to Mature by 2013 Also Varies by State

The number of mortgages scheduled to mature through 2013 varies greatly by state (see fig. 2). Although the average is 46 mortgages per state (including the District of Columbia), the number ranges from a high of 273 maturing mortgages in California to 3 in Vermont.

Figure 2: Subsidized Properties with HUD Mortgages Scheduled to Mature through 2013, by State



Source: GAO analysis of HUD data.

Note: The figure above includes 2,311 of the 2,328 properties in our analysis—excluded are properties in territories of the United States, such as Puerto Rico and Guam.

The states also vary considerably in terms of the percentage of their respective HUD mortgages on subsidized properties that are scheduled to mature through 2013, ranging from 7 percent in Alabama to 53 percent in South Dakota.

Tenant Impacts Depend on Protections and Property Owners' Decisions

Over the next 10 years, low-income tenants in over 101,000 units may have to pay higher rents or move when HUD-subsidized mortgages reach maturity. This is because no statutory requirement exists to protect tenants from increases in rent when HUD mortgages mature and rent restrictions are lifted. A number of factors may affect owners' decisions regarding the continued affordability of their properties after mortgages mature, including neighborhood incomes, physical condition of the property, and owners' missions.

HUD Does Not Offer Protection for Unassisted Tenants in Properties with Maturing Mortgages

There is no statutory authority that requires HUD to offer tenants special protections, such as enhanced vouchers, when a HUD mortgage matures. However, tenants who receive rental assistance in properties with maturing mortgages would be eligible for enhanced vouchers under rental assistance programs, such as project-based Section 8.

Of the 2,328 subsidized properties with mortgages scheduled to mature through 2013, 480—containing 45,011 units—do not have rental assistance contracts (see table 2). While the remaining 1,848 properties are subsidized with rental assistance, not all units within the properties are covered. According to HUD data, about 30 percent of the units in these properties are not covered—a total of 57,552 units with tenants who do not receive rental assistance. Altogether, the tenants in a total of 102,563 units are not protected under the rental assistance programs. Of these, 101,730 units—most of them in properties with mortgages under the Section 221(d)(3) BMIR and Section 236 programs—could face higher rents after mortgage maturity when the rent restrictions under these programs are lifted.

Table 2. Subsidized Properties with HUD Mortgages Scheduled to Mature through 2013, by Rental Assistance Program

Number of properties					
		Rental assistance program[a]			
Financing program	None	Project-based Section 8	Rent Supplement	Other[b]	Total
HUD subsidized mortgage					
Section 236	166	1,123	40	4	1,333
Insured	166	1,123	40	4	1,333
Noninsured[c]	0	0	0	0	0
Section 221(d)(3) BMIR	294	206	2	0	502
Section 202	20	4	5	2	41
HUD unsubsidized mortgage					
Section 221(d)(3)	0	403	27	0	431
Section 221(d)(4)	0	14	0	0	14
Section 231	0	6	1	0	7
Noninsured rent supplement	[d]	[d]	[d]	[d]	[d]
Total	**480**	**1,766**	**76**	**6**	**2,328**
Percent of total	21%	76%	3%	<1%	100%

Source: GAO analysis of HUD data.

Note: Percentages may not add due to rounding.

[a]The Section 8 Moderate Rehabilitation program is not included in this table because HUD's multifamily database does not track this program.

[b]Includes contracts for service coordinators.

[c]No mortgage was scheduled to mature in this period.

[d]Since properties with noninsured rent supplement do not carry a HUD mortgage, HUD does not track mortgage-level data on these properties.

According to a HUD study, tenants in properties with mortgages under the Section 221(d)(3) BMIR and Section 236 programs have an average household income somewhat greater than that for tenants who receive rental assistance; thus, they may be somewhat more able to afford higher rents. Properties financed under the Section 221(d)(3) BMIR program allow tenants with incomes of up to 95 percent of area median income; in comparison, project-based Section 8 does not serve tenants earning more than 80 percent of area median income.

Tenants in units covered by a rental assistance program—there are about 134,087 such units in the properties with HUD mortgages scheduled to mature through 2013—will continue to benefit from affordable rents, regardless of when the mortgage matures, as long as the rental assistance contract is in force. When long-term rental assistance contracts expire, HUD may renew them. Currently, HUD generally renews expiring long-term contracts on an annual basis but may go as long as 5 years, and in some cases, 20 years. According to HUD, during the late 1990s, about 90 percent of the property owners renewed their contracts, thereby continuing to provide affordable housing. The extent to which the trend continues will depend on the availability of program funding and housing market conditions. If a rental assistance contract expires prior to mortgage maturity and the owner opts not to renew it, assisted tenants would be eligible for enhanced vouchers.

Tenants could potentially be affected by the length of time given to them to adjust to rent increases as well as by the amount of the increase. Property owners are not required to notify tenants when they pay off their mortgage at mortgage maturity. In contrast, property owners electing to opt out of the Section 8 project-based program must notify tenants 1 year in advance of the contract expiration. Owners electing to prepay their mortgages under the Section 236 or Section 221(d)(3) BMIR programs must notify tenants at least 150, but not more than 270, days prior to prepayment.

A Number of Factors Influence An Owner's Decision to Keep a Property Affordable Upon Mortgage Maturity

Many factors could influence an owner's decision to keep a property in the affordable inventory or convert to market rate rents upon mortgage maturity. For a profit-motivated owner, the decision may be influenced by the condition of the property and the income levels in the surrounding neighborhood. If the property can be upgraded at a reasonable cost, it may be more profitable to turn the building into condominiums or rental units for higher income tenants. If repair costs are substantial or if high-income residents are not present in the surrounding area, it may be more profitable to leave the property in the affordable inventory. Tools and incentives offered by state and local agencies may also influence this decision. In addition, because most of these owners have had the right to prepay their mortgages and opt out of their Section 8 contracts for a number of years, the economic factors that drive a decision to convert to market rate are not unique to mortgage maturity.

HUD data show that nonprofit organizations own about 38 percent of the properties with mortgages scheduled to mature in the next 10 years. For a

nonprofit owner, the decision would likely be motivated by cash flow considerations since, in theory, these owners are not primarily motivated by economic returns. Since mortgage maturity results in an improvement in property cash flow, reaching mortgage maturity by itself would not necessarily trigger removal from the affordable inventory. For example, the property manager at one of the 16 properties (nonprofit ownership) whose mortgage matured in the past 10 years and who does not currently have project-based Section 8 assistance told us that no longer having to pay the mortgage left money for repairs needed to keep the units affordable for their low-income senior tenants. Additionally, a nonprofit organization would be more likely to keep the property affordable to low-income tenants because to do otherwise could conflict with its basic mission of providing affordable housing.

Another factor is the loss of the interest rate subsidy that occurs when the mortgage matures. When interest rate subsidies were first paid to properties built in the 1960s and 1970s, they represented substantial assistance to property owners. Over time, inflation has reduced the value of this subsidy. For example, the average interest rate subsidy payment for a Section 236 property with a mortgage maturing in the next 10 years is $66 per unit per month. Price levels have roughly quadrupled since 1970, so to have the same purchasing power would require about $260 in today's dollars. Section 8 and similar project-based rental assistance now provide the bulk of the assistance to these subsidized properties—75 percent of the assistance versus about 25 percent that derives from the Section 236 interest-rate subsidy. Furthermore, inflation will continue to erode the value of the interest-rate subsidy until mortgage maturity, while the rental assistance subsidy is adjusted annually to account for increases in operating costs.

Most Properties with HUD Mortgages That Reached Maturity Offer Rents Affordable to Low-Income Tenants

Our review of HUD's data showed that HUD-insured mortgages at 32 properties matured between January 1, 1993, and December 31, 2002. Sixteen of the 32 properties are still serving low-income tenants through project-based Section 8 rental assistance contracts. For 13 of these 16 properties, the rental assistance covers 100 percent of the units (799 assisted units), and for the remaining three properties it covers 54 percent of the units (174 assisted units).

Using HUD's archived data for inactive properties, we were able to obtain rent information for 10 of the remaining 16 properties.[7] We found that all 10 (none of which have project-based rental assistance contracts) are offering rents that are affordable to tenants with incomes below 50 percent of area median income.[8] Because of the variety of factors that can influence owners' decisions, however, these properties are not necessarily indicative of what will happen to other properties as their HUD mortgages mature.

Various property managers we contacted also provided information about their efforts to keep their properties affordable. For example, a senior complex (nonprofit ownership) continues to generally charge residents about 30 percent of their income for rent as they did when they were in HUD's subsidized portfolio. According to the property manager of two of the properties (for-profit ownership), he unsuccessfully sought incentives from HUD in 2002 to keep the properties in the inventory when the mortgages reached maturity and both properties left HUD's multifamily portfolio. However, both properties are accepting tenant-based vouchers and the rents in both properties are affordable to very low-income tenants.

Tools and Incentives Are Available to Help Keep Properties Affordable, but Are Not Specifically Designed to Deal with HUD Mortgage Maturity

HUD does not offer any tools or incentives to keep properties affordable after HUD mortgages mature, although it does offer incentives to maintain affordability for properties that also have expiring rental assistance contracts. According to officials from the four national housing and community development organizations we contacted, because few HUD mortgages have matured to date, their member state and local agencies have not experienced the need to develop programs to deal with mortgage maturity. They noted that their member agencies could offer tools and incentives, such as loans and grants, which might be used by owners to keep properties affordable after mortgage maturity. However, about three-quarters of the state and local agencies that responded to our survey reported that they do not track the maturity dates on HUD mortgages, and

[7]Of the remaining six properties, we did not include two because they are skilled nursing facilities and do not charge traditional rents. We could not obtain information on the others because there was insufficient contact information in HUD's archived database with which to locate current owners or managers, or the owners or managers were unwilling to provide us with information.

[8]Rent is generally considered affordable if it does not exceed 30 percent of tenant's gross income.

none provided examples of tools or incentives used to keep units affordable after mortgage maturity.[9]

HUD Does Not Offer Incentives to Keep Properties Affordable after Mortgage Maturity

During the 1990s, HUD established incentive programs to deal with the loss of affordable units because owners were prepaying their mortgages and opting out of their Section 8 contracts, but these incentives do not directly address the termination of the affordability requirements resulting from mortgage maturity. Rather, they can extend, under certain circumstances, the affordability period beyond the original term of the mortgage or allow property owners to be better positioned financially to continue providing affordable housing.

State and Local Agencies Identified Tools and Incentives to Preserve Affordable Housing, but Not Specifically for Covering Mortgage Maturity

The state and local agencies we surveyed identified 18 different tools and incentives used to preserve affordable housing. Of the 18, 6 were funded directly by the federal government, while 12 were administered by state and local governments and not directly federally funded. However, there was no evidence that they have been used to protect properties when HUD mortgages mature. This may be because relatively few mortgages have matured to date.

State and local tools and incentives include housing trust funds used to make loans and grants, financial assistance to nonprofit organizations to aid them in acquiring HUD-subsidized properties, and property tax relief to owners of HUD-subsidized properties. These state and local agencies identified several incentives that they believe are the most effective in preserving the affordability of housing for low-income tenants. For example, over 60 percent of the 62 state agencies that responded identified the 4-percent tax credit and HOME programs as effective means for preserving the affordability of HUD-subsidized properties. Of the 76 local agencies that responded, over 70 percent identified HOME as effective and over 60 percent identified CDBG as effective.

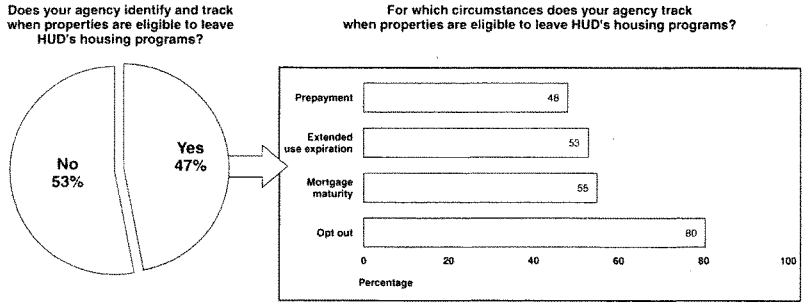
[9]The detailed results of our survey (GAO-04-211SP) are available on our website, at www.gao.gov/cgi-bin/getrpt?GAO-04-211SP.

Fewer Than Half of State and Local Agencies Identify and Track Properties That May Leave HUD Programs

Over 50 percent of the survey respondents reported that they have no system in place to identify and track properties in their states or localities that could leave HUD's subsidized housing programs. Further, about three-quarters reported that they do not track the maturity dates of HUD mortgages. Several respondents to our survey noted that it would be helpful to them if HUD could provide information about properties that might leave HUD's programs.

Of the 102 agencies that indicated they identified and tracked properties, 56 (55 percent) said that they monitored the scheduled maturity dates of HUD mortgages on local properties (see fig. 3). More agencies (82 or 80 percent) reported that they identified and tracked properties that might opt out of HUD project-based rental assistance contracts.

Figure 3: State and Local Agencies' Efforts to Identify and Track Properties That May Leave HUD Programs



Source: GAO

Note: "Extended use expiration" refers to the expiration of the use-agreement period, when owners must continue to keep their tax credit properties affordable to low-income tenants after the initial 15-year affordability period required by the Internal Revenue Code has ended. The length of this extended period of affordability is 15 years or more, depending on individual state requirements.

HUD officials noted that they make property-level information available to the public on HUD's multifamily housing Web site. This Web site contains detailed property-level data on active HUD-insured mortgages and expiring rental assistance contracts. However, according to our survey, some state and local agencies perceive that the information is not readily available. One problem may be that these data are in a format that may not

be sufficiently "user-friendly" for these agencies. The data must be accessed using database software, which requires users to be proficient in these types of software.

HUD officials agreed that the agency could provide more "user friendly" information because the data are not as accessible to state and local agencies as they could be. They also noted that these agencies could benefit from a "watch list" that identifies properties that may leave HUD subsidy programs in their jurisdictions, such as upon mortgage maturity, especially if such data were updated annually and readily available online so that agencies would have the information needed to prioritize and fund efforts to preserve low-income housing in their jurisdictions.

While awareness of the potential for a HUD mortgage to mature or rental assistance to end does not guarantee that state or local agencies will take action to preserve the assisted units' affordability to low-income tenants, such knowledge could better position state and local agencies to use available tools and incentives. Accordingly, we recommended that HUD take steps to provide more widely available and useful information. Using HUD's data that we obtained to respond to your request, we also developed a prototype searchable database, available in CD-ROM format, showing property-level data for each of HUD's subsidized rental properties scheduled to mature in the next 10 years.[19]

Mr. Chairman, this concludes my prepared statement. I would be happy to answer any questions at this time.

Contacts and Acknowledgements

For further information on this testimony, please contact David G. Wood at (202) 512-8678, or Andy Finkel at (202) 512-6765. Individuals making key contributions to this testimony included Mark Egger, Daniel Garcia-Diaz, Rich LaMore, and John McGrail.

[19]This CD-ROM is available as a special GAO product (GAO-04-210SP) and may be ordered via the Internet at www.gao.gov/cgi-bin/ordtab.pl.

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United States General Accounting Office

GAO

Report to the Committee on Financial Services, House of Representatives

January 2004

MULTIFAMILY HOUSING

More Accessible HUD Data Could Help Efforts to Preserve Housing for Low-Income Tenants

GAO-04-20

January 2004

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Highlights

Highlights of GAO-04-20, a report to the Committee on Financial Services, House of Representatives

MULTIFAMILY HOUSING

More Accessible HUD Data Could Help Efforts to Preserve Housing for Low-Income Tenants

Why GAO Did This Study

The Department of Housing and Urban Development (HUD) has subsidized the development of over 23,000 properties by offering owners favorable long-term mortgage financing or rental assistance payments in exchange for owners' commitment to house low-income tenants. When owners pay off mortgages—the mortgages "mature"—the subsidized financing ends, raising the possibility of rent increases. GAO was asked to determine the number of HUD mortgages that are scheduled to mature in the next 10 years, the potential impact on tenants, and what HUD and others can do to keep these properties affordable.

What GAO Recommends

To help state and local housing agencies track properties with maturing mortgages, we recommend that the Secretary of HUD solicit the views of state and local housing agencies to determine what information on HUD-subsidized properties is needed and the most effective format to convey this information.

GAO provided a draft of this report to HUD for comment. HUD agreed with the report's conclusions and recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-04-20.

To view the full product, including the scope and methodology, click on the link above.

To view the survey results (GAO-04-211SP), click on the following link www.gao.gov/cgi-bin/getrpt?GAO-04-211SP. To place an order for a copy of the CD-ROM (GAO-04-210SP) with property-level data, click on the following link www.gao.gov/cgi-bin/ordtab.pl.

For more information, contact David G. Wood at (202) 512-8678 or WoodD@gao.gov.

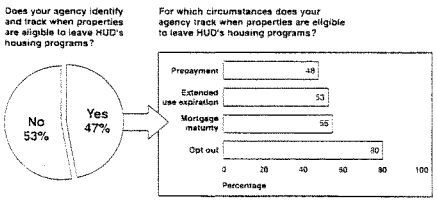
What GAO Found

Nationwide, the HUD mortgages on 2,328 properties—21 percent of the 11,267 subsidized properties with HUD mortgages—are scheduled to mature in the next 10 years, but among states this percentage varies significantly: from 7 percent in Alabama, to 53 percent in South Dakota. About three-quarters of these mortgages are scheduled to mature in the last 3 years of the 10-year period. A CD-ROM (GAO-04-210SP) that accompanies this report provides property-level data for subsidized properties with mortgages scheduled to mature.

Impacts on tenants depend on tenant protections available under program statutes and regulations, as well as on property owners' decisions about their properties. While about 134,000, or 57 percent, of the rental units in the 2,328 properties are protected by rental assistance contracts, tenants in over 101,000 units without rental assistance are at risk of paying higher rents after mortgage maturity because no requirement exists to protect tenants when HUD mortgages mature. Absent specific requirements, property owners' decisions on whether to continue serving low-income tenants after their HUD mortgages mature depend on many factors, including neighborhood incomes, property conditions, and owners' missions. Of the 32 properties with HUD mortgages that matured during the past 10 years, 16 have rental assistance contracts that continue to subsidize at least some units, and 10 of the remaining 16 that GAO was able to contact offer rents that are affordable to tenants with incomes below 50 percent of area median income.

HUD does not offer incentives to owners to keep properties affordable upon mortgage maturity. While many state and local agencies GAO surveyed offer incentives to preserve affordable housing, they have not directed them specifically at properties where HUD mortgages mature. Most of the agencies do not track HUD mortgage maturity dates for subsidized properties. In addition, although HUD's Web site contains detailed property-level data, some state and local agencies perceive that the information is not readily available.

State and Local Agencies' Efforts to Identify and Track Properties that May Leave HUD Programs



Source: GAO.

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Abbreviations

BMIR	below-market interest rate
CDBG	Community Development Block Grant
COSCDA	Council of State Community Development Agencies
FHA	Federal Housing Administration
HUD	Department of Housing and Urban Development
NALHFA	National Association of Local Housing Finance Agencies
NCDA	National Community Development Association
NCSHA	National Council of State Housing Agencies
OMHAR	Office of Multifamily Housing and Restructuring
RAP	Rental Assistance Payment program
REAC	Real Estate Assessment Center
REMS	Real Estate Management System
TRACS	Tenant Rental Assistance Certification System

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United States General Accounting Office
Washington, D.C. 20548

January 23, 2004

The Honorable Michael G. Oxley
Chairman
The Honorable Barney Frank
Ranking Minority Member
Committee on Financial Services
House of Representatives

Since the 1950s, the Department of Housing and Urban Development (HUD) has subsidized about 1.7 million rental units in over 23,000 privately owned properties that are generally affordable to low-income tenants—those with incomes 80 percent or less of area median income. HUD supported the development of affordable housing by offering property owners favorable mortgage financing, long-term rental assistance contracts, or both in exchange for owners' commitment to house low-income tenants for at least 20 years and, in some cases, up to 40 years. However, many of these commitment periods will be completed in the next 10 years. Properties subsidized under these HUD programs represent a significant source of housing that is currently affordable to low-income households.

HUD programs that provide mortgage financing in subsidized properties to private developers are known by the section of the act that authorized them.[1] We consider a property subsidized if HUD provided favorable financing (below-market interest rate mortgages), rental assistance, or both. They include the following programs:

- *Section 202 Elderly and Disabled Housing Direct Loan*, which provided below-market interest rates on up to 40-year mortgages to developers of rental housing for low-income elderly and persons with disabilities from 1959 to 1991.[2] Congress changed Section 202 to a grant program in 1990;

[1]We refer to mortgages made under these programs simply as "HUD mortgages."

[2]The start year for the mortgage financing programs reflects the year of authorization and not necessarily the year when the programs became operational.

- *Section 221(d)(3) Below-Market Interest Rate (BMIR)*, which provided subsidized financing on private 40-year mortgages to developers of rental housing from 1961 to 1968;

- *Section 236*, which provided monthly subsidies to effectively reduce interest rates on private 40-year mortgages for rental housing from 1968 to 1973;

- *Sections 221(d)(3) and 221(d)(4)*, which insured private mortgages to developers of rental housing from 1961; and

- *Section 231*, which insured private mortgages to developers of rental housing for the elderly from 1959.

Frequently, properties that benefited from HUD mortgages were coupled with long-term rental assistance provided under various programs, such as project-based Section 8, Rent Supplement, and Rental Assistance Payment (RAP) programs. (The project-based Section 8 program also provides rental assistance to owners of properties that were not financed with HUD mortgages.) Rental subsidy was also provided through the Section 8 Moderate Rehabilitation program, which is administered by local housing authorities and tied to rehabilitated units. Rental assistance programs basically pay property owners a portion of the monthly rents for units occupied by assisted low-income tenants. Subsidized financing, rental assistance, or a combination of both allows property owners the opportunity to earn financial returns while limiting the rents paid by low-income tenants to a fixed percentage of their household incomes.

Both mortgages and rental assistance contracts are for set periods of time, and subject to specific program provisions, properties become eligible to leave HUD programs when mortgages mature or when HUD or owners elect not to renew expiring rental assistance contracts. HUD mortgages subsidized under Section 202, Section 221(d)(3) BMIR, and Section 236 restrict how much rent an owner can charge. These restrictions are generally effective until the mortgage is paid off. Mortgages financed under Section 221(d)(3), Section 221(d)(4), and Section 231 do not have similar requirements. In addition, certain properties are eligible to leave HUD programs by paying off the mortgage prior to the maturity date.

As agreed with your offices, this report provides information on (1) the numbers and selected characteristics of HUD-subsidized rental properties scheduled to reach mortgage maturity over the next 10 years; (2) the

potential impact on tenants when mortgages reach maturity; and (3) the tools and incentives that HUD, the states, and localities offer owners to keep HUD properties affordable when mortgages mature. The 10 questions contained in your December 10, 2002, letter and summary answers are presented in appendix II.

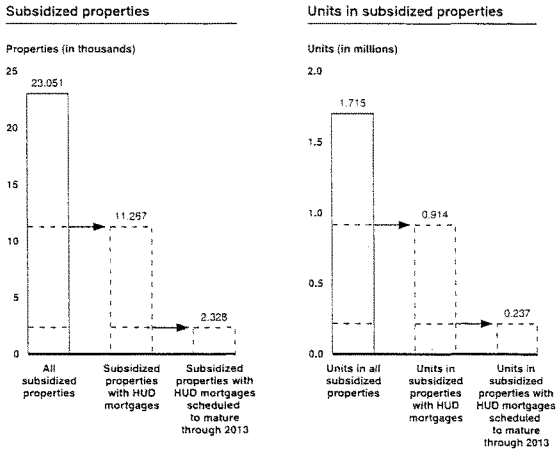
To address these objectives, we analyzed HUD databases, including the Real Estate Management System (as of April 2003), to identify the characteristics of those properties with mortgages that have already reached maturity as well as those scheduled to reach maturity by December 31, 2013.[3] We also interviewed HUD and housing industry officials and reviewed literature on the preservation of low-income housing. Because nationwide data on tools and incentives that can be used to preserve affordable housing do not exist, we used a Web-based questionnaire to survey 327 state and local housing and community development agencies to determine what tools and incentives they use to keep HUD-subsidized properties affordable to low-income tenants and which of the tools and incentives they believed to be effective. We received 226 usable responses, for a response rate of 69 percent. We reviewed statutes and regulations, interviewed HUD officials, and obtained relevant documents to identify tenants' protections when mortgages mature in subsidized properties. Additional details on our scope and methodology, including information on our survey design and participants, are discussed in appendix I. We performed our work from January through November 2003 in accordance with generally accepted government auditing standards.

Results in Brief

Nationwide, 21 percent (2,328) of the 11,267 subsidized properties with HUD mortgages are scheduled to reach mortgage maturity through 2013 (see fig.1), but among states this percentage varies significantly: from 7 percent in Alabama, to 53 percent in South Dakota. Nearly all of these 2,328 properties were financed under the Section 236, Section 221(d)(3) BMIR, and Section 221(d)(3) programs, and about three-quarters of these mortgages are scheduled to mature in the last 3 years of the 10-year period.

[3]To have 10 full years of data, our analysis covered the period from April 15, 2003, through December 31, 2013.

Figure 1: Universe of Subsidized Properties, 2003



Source: GAO analysis of HUD data.

Impacts on tenants depend in part on tenant protections available under program statutes and regulations, as well as on owners' decisions about their properties. No statutory requirement exists to protect tenants from increases in rent when HUD mortgages mature, absent the existence of rental assistance contracts or other subsidies. Without tenant protection requirements, tenants in over 101,000 units under the Section 202, Section 221(d)(3) BMIR, and Section 236 programs that do not receive rental assistance may have to pay higher rents or move to other housing when the HUD mortgages on these properties mature and rent restrictions are lifted. Further, owners are not required to notify tenants when a property's mortgage is about to mature. In contrast, owners are required to notify tenants by up to 1 year in advance of their intent to prepay mortgages or opt out of the rental assistance contracts. Property owners' decisions on whether they continue to serve low-income tenants after their HUD mortgages mature depend on many factors, such as neighborhood incomes,

the condition of their properties, and owners' missions. During the past 10 years, HUD-insured mortgages at 32 properties reached mortgage maturity, and the majority of these properties are still serving low-income tenants.

HUD does not offer any tool or incentive to keep properties affordable after HUD mortgages mature, although it does offer incentives to keep properties affordable under certain other circumstances, such as the expiration of rental assistance contracts or prepayment of HUD mortgages. According to officials from the four national housing and community development organizations we contacted, because few HUD mortgages have matured to date, their member state and local agencies have not experienced the need to develop programs to deal with mortgage maturity specifically.[4] However, they noted that their member agencies could offer tools and incentives, such as loans and grants, to keep properties affordable after mortgage maturity. Yet, over 50 percent of the state and local agencies that responded to our survey reported that they have no system in place to identify and track properties that may leave HUD's programs, and about three-quarters of them did not track the maturity dates of HUD mortgages.[5]

This report contains recommendations to the Secretary of HUD intended to help state and local housing agencies gain access to useful information on HUD-subsidized properties, including mortgage maturity dates.

Background

Prior to the early 1970s, the federal government provided affordable multifamily housing to low- and moderate-income households by subsidizing the production of either privately owned housing or government-owned public housing. Under the production programs, the subsidy is tied to the unit (project-based), and tenants benefit from reduced rents while living in the subsidized unit. These programs include Section

[4]The organizations include the National Council of State Housing Agencies (NCSHA), which represents state housing finance agencies; the Council of State Community Development Agencies (COSCDA), which represents state housing and community development agencies; the National Community Development Association (NCDA), which represents local communities that administer federally supported programs such as Community Development Block Grant (CDBG) and HOME; and the National Association of Local Housing Finance Agencies (NALHFA), which represents local housing finance agencies.

[5]Additional details on the results of our survey are available on the Internet at www.gao.gov/cgi-bin/getrpt? GAO-04-211SP.

202, Section 221(d)(3) BMIR, and Section 236. A portion of the units in properties developed under these production programs received rental assistance under programs such as Rent Supplement, Rental Assistance Payments (RAP), and project-based Section 8 in order to reach lower-income tenants.[6]

In the early 1970s, questions were raised about the production programs' effectiveness: many moderate-income tenants benefited from federal assistance, while lower-income families did not; federal costs of producing housing exceeded the private-sector costs to produce the same services; and allegations of waste surfaced.[7] Interest in a more cost-effective approach led Congress to explore options for using existing housing to shelter low-income tenants. The Housing and Community Development Act of 1974, a major overhaul of housing laws, included both approaches—a project-based new construction and substantial rehabilitation program and a tenant-based rent certificate program for use in existing housing (currently named the Housing Choice Voucher program)—all referred to as Section 8 housing. Project-based and tenant-based Section 8 assistance is targeted to tenants with incomes no greater than 80 percent of area median income, and tenants generally pay rent equal to 30 percent of adjusted household income.

Beginning in the late 1980s, owners of some subsidized properties began to be eligible to leave HUD programs by prepaying their mortgages or opting out of their project-based Section 8 rental assistance contracts. Once these owners removed their properties from HUD programs, they were no longer obligated to maintain low rents or accept rental assistance payments. In response, in 1996, among other things, Congress created a special type of voucher, known as an enhanced voucher, to protect tenants from rent increases in these properties. Enhanced vouchers differ from regular tenant-based housing vouchers in two ways. Enhanced vouchers may provide a greater subsidy (that is, be used to rent more expensive units) and give tenants a right to remain in their unit after conversion to market rent, thus creating an obligation for the owner to accept the voucher. So long as the rent remains reasonable, the tenant's portion of the rent should

[6]HUD has converted most of the original Rent Supplement and RAP contracts to the project-based Section 8 program.

[7]For example, see U.S. Department of Housing and Urban Development, *Housing in the Seventies: A Report of the National Housing Policy Review* (Washington, D.C.: 1974).

not increase.[3] If the tenant elects to move, the voucher becomes a "regular" housing voucher and is subject to the program's standard rent limits.

Not all property owners repay mortgages as originally scheduled. For example, an owner may refinance the mortgage to pay for improvements to the property. Other owners may experience financial difficulties and default on their mortgages. From January 1993 through December 2002, for example, HUD data show that the agency terminated the insurance on 231 mortgages. About 14 percent were due to mortgages that matured; other reasons included owners' prepayment of the mortgage (37 percent) and foreclosure (22 percent).

Funds provided by other federal programs can be used by states and localities to subsidize housing for low-income tenants. The CDBG program, authorized by the Housing and Community Development Act of 1974, distributes grants to local and state governments for community development activities. Rehabilitation and other housing activities now consistently represent the largest single use of CDBG funds. Other funds for housing production have been made available through the HOME program, authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990, which awards block grants to state and local governments primarily for the development of affordable housing. Under the Low-Income Housing Tax Credit Program, authorized by the Tax Reform Act of 1986, state housing finance agencies provide tax incentives to private investors to develop housing affordable to low-income tenants.

In addition to using their HOME and CDBG allocations as well as tax credits, some states and localities have established housing trust funds and other financial mechanisms, which have helped organizations acquire subsidized properties that may leave HUD's programs. Further, the states and localities may use other tools and incentives, such as offering property tax relief, to encourage owners to keep serving low-income tenants.

[3]There are instances where tenants could encounter problems with the issuance and use of enhanced vouchers. These include (1) tenants having to pay a higher security deposit, (2) tenants undergoing a rescreening for voucher eligibility under new selection criteria—thereby disqualifying some tenants who previously received project-based subsidies, and (3) owners electing not to rent the unit.

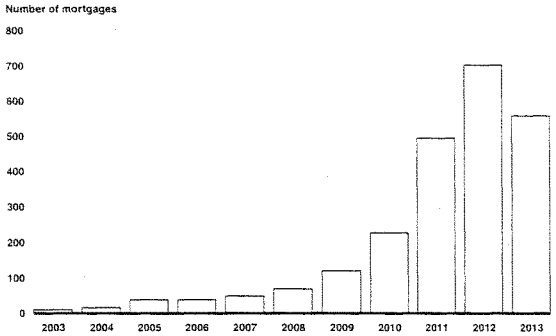
About One-Fifth of HUD's Mortgages Are Scheduled to Mature through 2013

Nationwide, 21 percent (2,328) of the 11,267 subsidized properties with HUD mortgages are scheduled to mature through 2013. The percentage varies significantly by state: from 7 percent in Alabama, to 53 percent in South Dakota. Nearly all of these 2,328 properties were financed under the Section 236, Section 221(d)(3) BMIR, and Section 221(d)(3) programs, and about three-quarters of these mortgages are scheduled to mature in the last 3 years of the 10-year period. The remaining 79 percent of HUD's outstanding mortgages in subsidized properties are scheduled to mature after 2013.

Scheduled Mortgage Maturities through 2013 Vary by Year and Program

Of the 11,267 subsidized properties (containing 914,441 units) with HUD mortgages, 21 percent (2,328 properties) have mortgages that are scheduled to mature through 2013. The remaining 79 percent of these mortgages are scheduled to reach maturity outside of the 10-year period. Additionally, the bulk of these mortgages (about 75 percent) are scheduled to mature in the latter 3 years of the 10-year period (see fig. 2). This concentration in the latter part of the 10-year period is attributable to the 40-year Section 221(d)(3) BMIR and Section 236 mortgages that HUD helped finance in the late 1960s and 1970s, respectively.

Figure 2: HUD Mortgages Scheduled to Mature Annually through 2013



Source: GAO analysis of HUD data.

As table 1 shows, about 57 percent of the properties with mortgages scheduled to mature in the 10-year period were financed under Section 236, 22 percent under Section 221(d)(3) BMIR, and 19 percent under Section 221(d)(3). Section 202, Section 221(d)(4), and Section 231 accounted for only 3 percent of these properties.

Table 1: Subsidized Properties with HUD Mortgages by Program Scheduled to Mature through 2013

Financing program	Number of properties	Percentage of properties	Total units	Units assisted with project-based Section 8[a]
HUD subsidized mortgage				
Section 236	1,333	57%	139,769	78,139
Insured	1,333	57%	139,769	78,139
Noninsured[b]	0	0%	0	0
Section 221(d)(3) BMIR	502	22%	56,573	18,810
Section 202	41	2%	3,208	871

(Continued From Previous Page)

Financing program	Number of properties	Percentage of properties	Total units	Units assisted with project-based Section 8[a]
HUD unsubsidized mortgage				
Section 221(d)(3)	431	19%	35,263	34,711
Section 221(d)(4)	14	[c]	1,239	1,146
Section 231	7	[c]	598	410
Noninsured rent supplement	[d]	[d]	[d]	[d]
Total	**2,328**	**100%**	**236,650**	**134,087**

Source: GAO analysis of HUD data.

[a]Also included are units that receive RAP or Rent Supplement. Project-based Section 8, however, is the dominant form of rental assistance across all financing programs. The Section 8 Moderate Rehabilitation program is not included in this table because HUD's multifamily database does not track this program.

[b]No mortgage was scheduled to mature in this period.

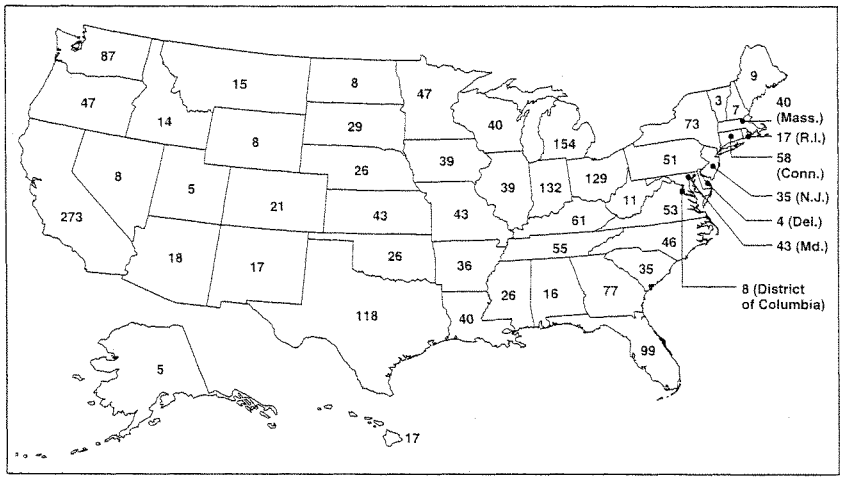
[c]Less than 1 percent.

[d]Since properties with noninsured rent supplement do not carry a HUD mortgage, HUD does not track mortgage-level data on these properties.

Number of Mortgages Scheduled to Mature through 2013 Also Varies by State

The number of mortgages scheduled to mature through 2013 varies greatly by state (see fig. 3). Although the average is 46 per state (including the District of Columbia), the number ranges from a high of 273 maturing mortgages in California, to 3 in Vermont.

Figure 3: Subsidized Properties with HUD Mortgages Scheduled to Mature through 2013, by State

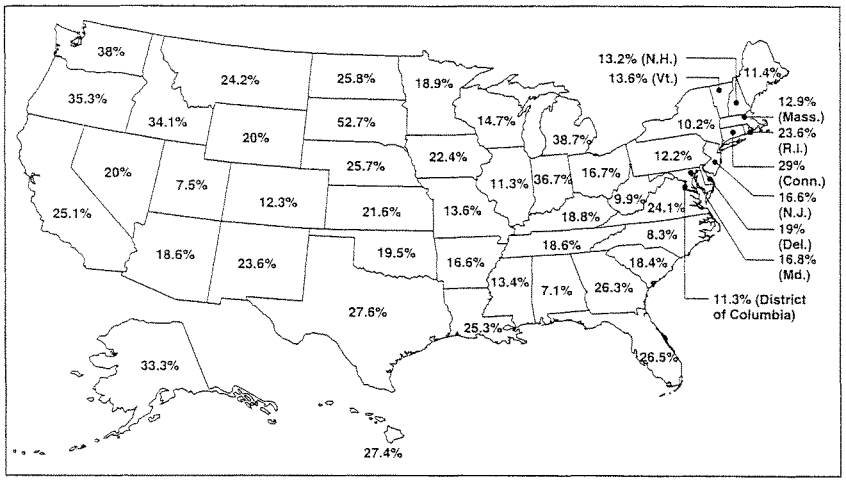


Source: GAO analysis of HUD data.

Note: The map shown here includes 2,311 of the 2,328 properties in our analysis—excluded are properties in territories of the United States, such as Puerto Rico and Guam.

Further, while 21 percent of HUD mortgages on subsidized properties nationwide are scheduled to mature through 2013, individual states have significantly different shares of these mortgages. Figure 4 shows the proportion of each state's inventory of properties with HUD mortgages scheduled to mature in the 10-year period. The percentage varies significantly by state: from 7 percent in Alabama, to 53 percent in South Dakota. The CD-ROM that accompanies this report provides detailed property-level data that allows the users to perform similar analyses to track mortgage maturity by state or other location (congressional district or metropolitan area), as well as by other variables such as property category or rental assistance program.

Figure 4: Percentage of HUD-Subsidized Mortgages within Each State Scheduled to Mature through 2013



Source: GAO analysis of HUD data.

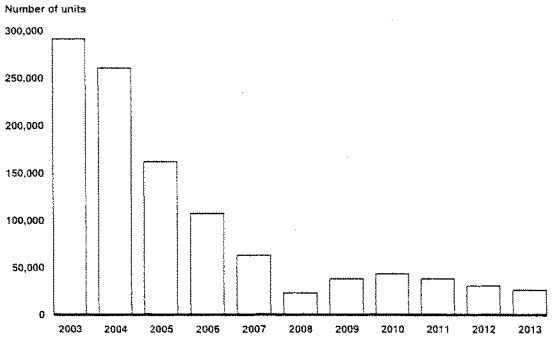
More HUD Mortgages Are Scheduled to Mature after 2013

Over 8,900 properties, containing almost 680,000 units, have outstanding HUD mortgages scheduled to mature after 2013. Most of these mortgages were financed under the Section 202, Section 221(d)(4), and Section 236 programs. About 85 percent of the 680,000 units receive rental assistance. Many of these rental assistance contracts will be expiring through 2013. Specifically, 8,166 properties with HUD mortgages have rental assistance contracts expiring through 2013, affecting about 530,000 assisted units. Thus, while mortgages are not scheduled to mature during the period, these properties have tenants who could potentially face rent increases.

According to HUD data, in the next 10 years, rental assistance contract expiration will affect a total of 18,048 properties—10,382 with HUD

mortgages and another 7,666 without HUD mortgages—containing almost 1.1 million assisted units. Most of these long-term contracts are set to expire in the near future—before the end of 2007 (see fig. 5).

Figure 5: Expiring Rental Assistance Contracts, 2003 through 2013



Source: GAO analysis of HUD data.

Note: The data only reflect long-term contract expirations and not expected annual renewals of these contracts.

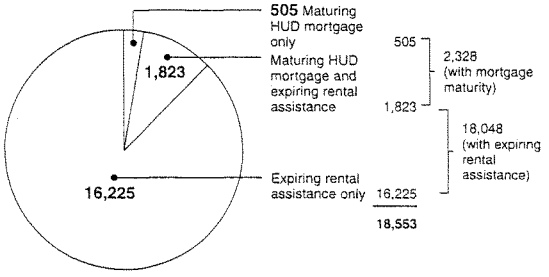
When long-term rental assistance contracts expire, HUD may renew them. Currently, HUD generally renews expiring long-term contracts on an annual basis but may go as long as 5 years, and in some cases, 20 years. According to HUD, during the late 1990s, about 90 percent of the property owners renewed their contracts, thereby continuing to provide affordable housing. A 2001 publication by AARP reported that if past trends continue, 85 to 90 percent of contracts will be renewed.[9] The extent to which the trend continues will depend on the availability of program funding and housing market conditions.

[9]AARP Public Policy Institute, *Section 8 Project-Based Rental Assistance: The Potential Loss of Affordable Federally Subsidized Housing Stock* (Washington, D.C.: February 2001).

As shown in figure 6, mortgage maturity and rental assistance contract expiration will affect a total of 18,553 properties through 2013:

- 505 properties will be affected by maturing mortgages only (480 of these are not covered by rental assistance contracts, and the remaining 25 have rental assistance contracts that expire outside of our 10-year window).
- 1,823 properties will be affected by both events (because they have rental assistance contracts set to expire and HUD mortgages scheduled to mature by 2013).
- 16,225 properties will be affected by expiring rental assistance contracts only (8,166 of these have HUD mortgages, but the mortgages are not scheduled to mature until after 2013).

Figure 6: Properties with Mortgages Scheduled to Mature and/or Expiring Long-Term Rental Assistance Contracts, 2003 through 2013



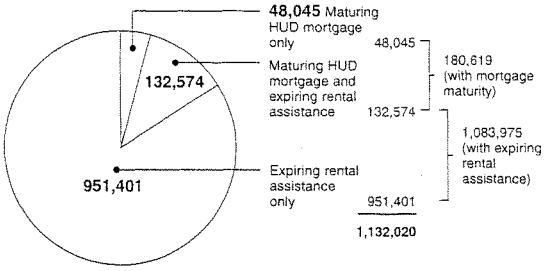
Source: GAO analysis of HUD data.

Note: The 18,553 properties represent about 81 percent of the 23,051 HUD-subsidized properties.

There are about 1.1 million assisted units in those properties with mortgages maturing or rental assistance expiring in the 10-year period. These units make up nearly 81 percent of all assisted units in HUD's inventory. As figure 7 shows, about 48,000 units are in properties with maturing mortgages only, about 951,400 assisted units are in properties that

have expiring rental assistance only, and about 132,600 assisted units (out of the approximate 188,600 total units) are in properties with both mortgages maturing and rental assistance expiring in the 10-year period.

Figure 7: Assisted Units in Properties with Mortgages Scheduled to Mature and/or Expiring Long-Term Rental Assistance Contracts, 2003 through 2013



Source: GAO analysis of HUD data.

Note: 48,045 units with maturing HUD mortgages only are not assisted.

Tenant Impacts Depend on Protections and Property Owners' Decisions

Over the next 10 years, low-income tenants in over 101,000 units may have to pay higher rents or move to more affordable housing when HUD-subsidized mortgages reach maturity. This is because no statutory requirement exists to protect tenants from increases in rent when HUD mortgages mature and rent restrictions are lifted. Over the next 10 years, 480 subsidized properties that do not have rental assistance contracts are scheduled to reach mortgage maturity. Unassisted tenants in some of these properties are at risk of not being able to afford their units if rents are raised. The remaining 1,848 subsidized properties with HUD mortgages scheduled to mature through 2013 have rental assistance contracts, and the protections against rent increases offered under the rental assistance programs will apply. However, not all units in these properties are covered by the rental assistance contracts, thus limiting the number of tenants protected. A number of factors may affect owners' decisions regarding the continued affordability of their properties after mortgages mature, including neighborhood incomes, physical condition of the property, and

owners' missions. While experience with mortgage maturity has been limited, 16 of the 32 subsidized properties that reached mortgage maturity in the past 10 years are still serving low-income tenants through project-based Section 8 rental assistance contracts. Additionally, at least 10 of the remaining properties that reached mortgage maturity over the past 10 years are still serving low-income tenants.

HUD Does Not Offer Protection for Unassisted Tenants in Properties with Maturing Mortgages

There is no statutory requirement for HUD to offer tenants special protections, such as enhanced vouchers, when a HUD mortgage matures. However, tenants who receive rental assistance in properties with maturing mortgages would be eligible for enhanced vouchers under rental assistance programs such as project-based Section 8.

Of the 2,328 subsidized properties with mortgages scheduled to mature through 2013, 480—containing 45,011 units—do not have rental assistance contracts (see table 2). While the remaining 1,848 properties are subsidized with rental assistance, not all units within the properties are covered. According to HUD data, about 30 percent of the units in these properties are not covered—a total of 57,552 units with tenants who do not receive rental assistance. Altogether then, the tenants in a total of 102,563 units are not protected under the rental assistance programs. Of these, 101,730 units under Section 202, Section 221(d)(3) BMIR, and Section 236 could face higher rents after mortgage maturity when the rent restrictions under these programs are lifted.

Table 2: Subsidized Properties with HUD Mortgages Scheduled to Mature through 2013, by Rental Assistance Program

Number of properties

	Rental assistance program[a]				
Financing program	None	Project-based Section 8	Rent Supplement	Other[b]	Total
HUD subsidized mortgage					
Section 236	166	1,123	40	4	1,333
Insured	166	1,123	40	4	1,333
Noninsured[c]	0	0	0	0	0
Section 221(d)(3) BMIR	294	206	2	0	502
Section 202	20	14	5	2	41

(Continued From Previous Page)

Number of properties

Financing program	None	Rental assistance program[a] Project-based Section 8	Rent Supplement	Other[b]	Total
HUD unsubsidized mortgage					
Section 221(d)(3)	0	403	28	0	431
Section 221(d)(4)	0	14	0	0	14
Section 231	0	6	1	0	7
Noninsured rent supplement	[d]	[d]	[d]	[d]	[d]
Total	**480**	**1,766**	**76**	**6**	**2,328**
Percent of total	21%	76%	3%	<1%	**100%**

Source: GAO analysis of HUD data.

Note: Percentages may not add due to rounding.

[a]The Section 8 Moderate Rehabilitation program is not included in this table because HUD's multifamily database does not track this program.

[b]Includes contracts for service coordinators.

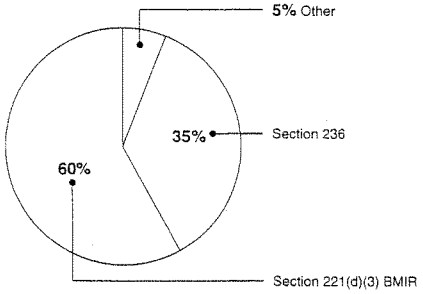
[c]No mortgage was scheduled to mature in this period.

[d]Since properties with noninsured rent supplement do not carry a HUD mortgage, HUD does not track mortgage-level data on these properties.

These unassisted tenants are mostly housed in properties financed under Section 221(d)(3) BMIR and Section 236 (see fig. 8). According to a HUD study, tenants in properties with mortgages under these programs have an average household income somewhat greater than that for tenants who receive rental assistance; thus, they may be somewhat more able to afford higher rents.[10] Properties financed under the Section 221(d)(3) BMIR program allow tenants with incomes of up to 95 percent of area median income; in comparison, project-based Section 8 does not serve tenants earning more than 80 percent of area median income.

[10]In a 1998 HUD study, tenants in Section 221(d)(3) BMIR units without rental assistance had an average household income that was 83 percent greater than that for tenants in Section 221(d)(3) BMIR units with rental assistance. Households in Section 236 units without rental assistance had an average household income that was 30 percent greater than that for tenants in Section 236 units with rental assistance.

Figure 8: HUD Mortgages Scheduled to Mature on Properties without Rental Assistance



Source: GAO analysis of HUD data.

Note: Total of 480 subsidized properties.

Tenants in units covered by a rental assistance program—there are 134,087 units in the properties with HUD mortgages scheduled to mature through 2013—will continue to benefit from affordable rents, regardless of when the mortgage matures, as long as the rental assistance contract is in force. If a rental assistance contract expires prior to mortgage maturity and the owner opts not to renew it, assisted tenants would be eligible for enhanced vouchers.

Tenants could potentially be affected by the length of time given to them to adjust to rent increases as well as by the amount of the increase. Property owners are not required to notify tenants when they pay off their mortgage at mortgage maturity. In contrast, property owners electing to prepay their mortgage or opt out of their Section 8 contract are required to notify tenants. For example, when owners opt out of the Section 8 project-based program, they are required to notify tenants 1 year in advance of the contract expiration. In cases where owners prepay their mortgages under the Section 236 or Section 221(d)(3) BMIR programs, tenants must be given notice at least 150, but not more than 270, days prior to prepayment. Some locations have established even more stringent notification requirements.

A Number of Factors Influence an Owner's Decision to Keep a Property Affordable upon Mortgage Maturity

Many factors can influence an owner's decision to keep a property in the affordable inventory or convert to market rate rents upon mortgage maturity. For a profit-motivated owner, the decision may be influenced by the condition of the property and the income levels in the surrounding neighborhood. If the surrounding neighborhood has gentrified and if the property can be upgraded at a reasonable cost, it may be more profitable to turn the building into condominiums or rental units for higher income tenants. If repair costs are substantial or if high-income residents are not present in the surrounding area, it may be more profitable to leave the property in the affordable inventory. Tools and incentives offered by state and local agencies may also influence this decision. In addition, because most of these owners have had the right to prepay their mortgages and opt out of their Section 8 contracts for a number of years, the economic factors that drive a decision to convert to market rate are not unique to mortgage maturity.

HUD data show that nonprofit organizations own about 38 percent of the properties with mortgages scheduled to mature in the next 10 years.[11] For a nonprofit owner, the decision would likely be motivated by cash flow considerations since, in theory, these owners are not primarily motivated by economic returns. Since mortgage maturity results in an improvement in property cash flow, reaching mortgage maturity by itself would not necessarily trigger removal from the affordable inventory. For example, at 1 of the 16 properties (nonprofit ownership) whose mortgages matured in the past 10 years and that do not currently have project-based Section 8 assistance, the property manager told us that no longer having to pay the mortgage left money for repairs needed to keep the units affordable for their low-income senior tenants. Additionally, a nonprofit organization would be more likely to keep the property affordable to low-income tenants because to do otherwise could conflict with its basic mission of providing affordable housing.

Another factor is the loss of the interest rate subsidy that occurs when the mortgage matures. When interest rate subsidies were first paid to properties built in the 1960s and 1970s, they represented substantial assistance to property owners. Over time, inflation has substantially reduced the value of this subsidy. For example, the average interest rate

[11]This is based on information in HUD's database for 2,237 of the 2,328 properties. For the remaining 91 properties (4 percent of the total), HUD's database did not indicate the ownership type.

subsidy payment for a Section 236 property with a mortgage maturing in the next 10 years is $66 per unit per month. The level of prices has roughly quadrupled since 1970, so to have the same purchasing power would require about $260 in today's dollars. Section 8 and similar project-based rental assistance now provide the bulk of the assistance to these subsidized properties—75 percent of the assistance versus about 25 percent that derives from the Section 236 interest-rate subsidy. Furthermore, inflation will continue to erode the value of the interest-rate subsidy until mortgage maturity, while the rental assistance subsidy is adjusted annually to account for increases in operating costs.

Most Properties with HUD Mortgages That Reached Maturity Are Offering Rent Affordable to Low-Income Tenants

Our review of HUD's data showed that HUD-insured mortgages at 32 properties matured between January 1, 1993, and December 31, 2002.[12] Sixteen of the 32 properties are still serving low-income tenants through project-based Section 8 rental assistance contracts. For 13 of these 16 properties, the rental assistance covers 100 percent of the units (799 assisted units), and for the remaining 3 properties, it covers 54 percent of the units (174 assisted units).

Using HUD's archived data for inactive properties, we attempted to contact the property managers of the remaining 16 properties (consisting of 1,997 units) to determine if the properties currently offer rents affordable to low-income tenants. We were able to obtain rent information for 10 properties.[13] We found that all 10 (none of which have project-based rental assistance contracts) are offering rents that are affordable to tenants with incomes below 50 percent of area median income.[14] According to HUD's database, only 2 of these properties ever had Section 8 project-based contracts, and both expired in early 2000. We could not obtain actual tenant incomes since property managers told us that they are not required to maintain such

[12]In addition, we examined the properties with mortgage insurance that originated from 1959 through 1962. The mortgage maturity dates for these properties had passed, but we found that only 8, or 11 percent of the 76 properties, had reached mortgage maturity.

[13]Of the remaining 6 properties, we did not include 2 because they are skilled nursing facilities and do not charge traditional rents. We could not obtain information on the others because there was insufficient contact information in HUD's archived database with which to locate current owners or managers, or the owners or managers who were not required to provide us with information did not respond.

[14]Rent is generally considered affordable if it does not exceed 30 percent of tenant's gross income.

information for properties without federal use restrictions. Using the reported average rent for a 2-bedroom unit, we estimated the income needed to afford the reported rent (that is, the income needed if no more than 30 percent of gross income would be used for rent). We then compared this estimated income to the area's median household income for 2003. The rent affordability percentages in table 3 express the estimated income needed as a percentage of the area median income. Thus, numbers less than 50 indicate that the unit is affordable to households with incomes 50 percent or less of the area median income. The available data for the 16 properties is summarized in table 3. Because of the variety of factors that can influence owners' decisions, however, these properties are not necessarily indicative of what will happen to other properties as their HUD mortgages mature.

Various property managers we contacted also provided information about their efforts to keep their properties affordable. For example, a senior complex (nonprofit ownership) continues to generally charge residents about 30 percent of their income for rent as they did when they were in HUD's subsidized portfolio. According to the property manager of two of the properties (for-profit ownership), he unsuccessfully sought incentives from HUD in 2002 to keep the properties in the inventory when the mortgages reached maturity, and both properties left HUD's multifamily portfolio. However, both properties are accepting tenant-based vouchers, and the rents in both properties are affordable to very low-income tenants.

Table 3: Data for 16 Properties with Matured HUD Mortgages and without Project-Based Rental Assistance Contracts

Property	Prior FHA mortgage program	Mortgage maturity date	Total units	Number of voucher holders	Average rent for 2-bedroom unit	Rent affordability	Ownership
1.	Section 221(d)(3) BMIR	July 1998[a]	16	3	$500	39%	For-profit
2.	Section 231	August 2001	73	0	$525[b]	39%	Nonprofit
3.	Section 221(d)(3) BMIR	June 2002	82	N/A	N/A	N/A	Nonprofit
4.	Section 221(d)(3)	October 2002	43	0	$185[c]	15%	Co-op
5.	Section 221(d)(4)	October 1999[a]	32	N/A	N/A	N/A	Limited dividend[d]
6.	Section 221(d)(3) BMIR	February 2002	103	10	$695	39%	For-profit
7.	Section 231	July 2000	76	0	[e]	[e]	Nonprofit
8.	Section 221(d)(3) BMIR	April 2000	114	3	$519	29%	For-profit
9.	Section 221(d)(3) BMIR	May 1998	15	N/A	N/A	N/A	N/A

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Property	Prior FHA mortgage program	Mortgage maturity date	Total units	Number of voucher holders	Average rent for 2-bedroom unit	Rent affordability	Ownership
10.	Section 221(d)(3) BMIR	May 2000	477	38	$550	44%	Nonprofit
11.	Section 221(d)(3) BMIR	April 2002	70	10	$710	40%	For-profit
12.	Section 221(d)(3) BMIR	May 2002	135	80	$565	45%	For-profit
13.	Section 231	April 2002	557	61	$340[b]	41%	Nonprofit
14.	Section 231	January 2001	72	0	[e]	[e]	Nonprofit
15	Section 221(d)(3) BMIR	June 2002	80	0	$285[c]	11%	Co-op
16.	Section 221(d)(3) BMIR	November 2000	52	N/A	N/A	N/A	N/A

Source: GAO analysis of information from property managers and HUD.

Note: N/A means not available.

[a]Both of these properties also had project-based Section 8 contracts that opted-out in early 2000.

[b]Average rents for these properties are for 1-bedroom units.

[c]Since these are cooperatives, the rents (monthly fees) only reflect carrying charges, which include such expenses as real estate taxes and insurances but not any individual mortgage payments that a co-op member may have.

[d]For limited dividend owners, the distributions of income are restricted by state law or the Federal Housing Administration (FHA) Commissioner.

[e]These properties are skilled nursing facilities and do not charge traditional rents.

Tools and Incentives Are Available to Help Keep Properties Affordable, but Are Not Specifically Designed to Deal with HUD Mortgage Maturity

HUD does not offer any tools or incentives to keep properties affordable after HUD mortgages mature, although it does offer incentives to maintain affordability for properties that also have expiring rental assistance contracts. According to officials from the four national housing and community development organizations we contacted, because few HUD mortgages have matured to date, their member state and local agencies have not experienced the need to develop programs to deal with mortgage maturity. They noted that their member agencies can offer tools and incentives, such as loans and grants, that might be used by owners to keep properties affordable after mortgage maturity. However, about three-quarters of the state and local agencies that responded to our survey reported that they do not track the maturity dates on HUD mortgages, and none provided examples of tools or incentives used to keep units affordable after mortgage maturity.

The agencies indicated that funds available through HUD's HOME and CDBG programs and the Low-Income Housing Tax Credit program are effective means for preserving the affordability of HUD-subsidized housing. They also identified financial assistance to nonprofit organizations to aid

them in acquiring HUD-subsidized properties as an effective tool. However, over 50 percent of the agencies reported that they have no tracking system in place to systematically identify properties that could potentially leave HUD's affordable housing programs and thus might be candidates for affordability preservation assistance.

HUD Does Not Offer Incentives to Keep Properties Affordable after Mortgage Maturity

HUD does not offer property owners any specific incentive to keep properties affordable to low-income tenants after maturity of their HUD mortgages. During the 1990s, HUD established incentive programs to deal with the loss of affordable units because owners were prepaying their mortgages and opting out of their Section 8 contracts. These incentives are as follows:

- *Mark-up-to-Market* allows owners to increase the rents for units subsidized under the project-based Section 8 rental assistance program up to market levels in exchange for keeping the units in the Section 8 inventory for a minimum of 5 years.
- *Section 236 Decoupling* can be activated when the owner prepays a Section 236 mortgage and obtains conventional financing. By agreeing to keep the property affordable for at least another 5 years beyond the original term of the mortgage, owners can keep the interest rate reduction payments that they were receiving when they had a HUD-financed mortgage.
- *Section 202 Prepayments* allow owners to prepay their HUD loans and obtain other financing, but they must keep the affordability use restriction until the maturity date of the original loan.

These incentives do not directly address the termination of the affordability requirements resulting from mortgage maturity. Rather, they can extend, under certain circumstances, the affordability period beyond the original term of the mortgage, as in the Section 236 Decoupling incentive, or allow property owners to be better positioned financially to continue providing affordable housing, as in the case of Section 202 Prepayments and Mark-up-to-Market.

State and Local Agencies Identified Tools and Incentives to Preserve Affordable Housing, but Not Specifically for Covering Mortgage Maturity

The 226 state and local agencies that responded to our survey commented on the effectiveness of 18 tools and incentives as a mean to preserve HUD's affordable rental housing. Of the 18, 6 were funded directly by the federal government, while 12 were administered by state and local governments and were not directly federally funded. However, there was no evidence that they have been used to protect properties when HUD mortgages mature. This may be because relatively few mortgages have matured to date.

State and local tools and incentives include housing trust funds used to make loans and grants, financial assistance to nonprofit organizations to aid them in acquiring HUD-subsidized properties, and property tax relief to owners of HUD-subsidized properties. These state and local agencies identified several incentives that they believe are the most effective in preserving the affordability of housing for low-income tenants. For example, over 60 percent of the 62 state agencies that responded identified the 4 percent tax credit and HOME programs as effective means for preserving the affordability of HUD-subsidized properties. Of the 76 local agencies that responded, over 70 percent identified HOME as effective, and over 60 percent identified CDBG as effective.[15]

Fewer Than Half of State and Local Agencies Identify and Track Properties That May Leave HUD Programs

Over 50 percent of the survey respondents reported that they have no system in place to identify and track properties in their states or localities that could leave HUD's subsidized housing programs. Further, about three-quarters reported that they do not track the maturity dates of HUD mortgages. Awareness of the potential for a HUD mortgage to mature or rental assistance to end does not guarantee that state or local agencies will take action to preserve the assisted units' affordability to low-income tenants. However, knowing when properties will be eligible to leave HUD's programs could better position state and local agencies to use available tools and incentives at mortgage maturity. Several respondents to our survey noted that it would be helpful to them if HUD could provide information about properties that might leave HUD's programs. Their comments included the following:

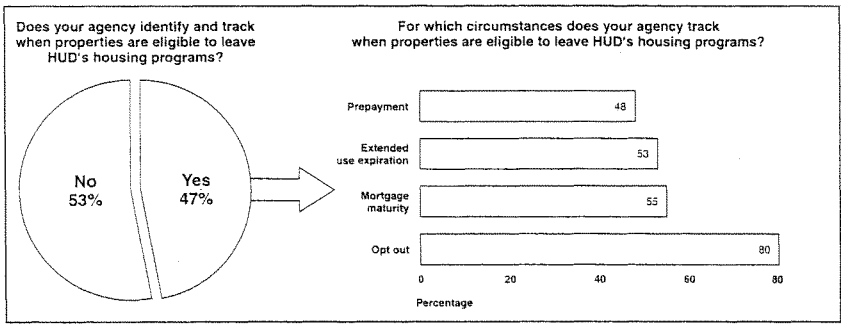
[15]Additional details on the results of our survey are available on the Internet at www.gao.gov/cgi-bin/getrpt? GAO-04-211SP.

- "It would be helpful if HUD would provide local governments periodic reports on the status of HUD properties in the locality."
- "I believe a lot of CDBG entitlement agencies would be willing to track properties that could leave HUD's affordable housing programs if HUD would provide them with a listing of the properties."[16]
- "Communication between project-based property owners, HUD, and local public housing authorities is not very effective."

Of the 102 agencies that indicated they identified and tracked properties, 56 (55 percent) said that they monitored the scheduled maturity dates of HUD mortgages on local properties (see fig. 9). More agencies (82 or 80 percent) reported that they identified and tracked properties that might opt out of HUD project-based rental assistance contracts.

[16]"Entitlement agencies" refers to agencies in entitlement communities that are eligible to receive CDBG funding. These communities must meet certain population thresholds and must develop their own programs and plans, with priority given to low- and moderate-income persons.

Figure 9: State and Local Agencies' Efforts to Identify and Track Properties That May Leave HUD Programs



Source: GAO.

Note: "Extended use expiration" refers to the expiration of the use-agreement period, when owners must continue to keep their tax credit properties affordable to low-income tenants after the initial 15-year affordability period required by the Internal Revenue Code has ended. The length of this extended period of affordability is 15 years or more, depending on individual state requirements.

HUD officials noted that they make property-level information available to the public on HUD's multifamily housing Web site.[17] This Web site contains detailed property-level data on active HUD-insured mortgages and expiring rental assistance contracts.[18] However, according to our survey, some state and local agencies perceive that the information is not readily available. One problem may be that these data are in a format that may not be sufficiently "user-friendly" for these agencies. The data must be accessed using database software, which requires users to be proficient in these types of software.

HUD officials agreed that the agency could provide more "user friendly" information because the data are not as accessible to state and local

[17]See www.hud.gov/offices/hsg/mfh/mfdata.cfm.

[18]Since only insured mortgages are included in this database, direct loans under the Section 202 program are not included.

agencies as they could be. They also noted that these agencies could benefit from a "watch list" that identifies properties that may leave HUD subsidy programs in their jurisdictions, such as upon mortgage maturity, especially if such data were updated annually and readily available online so that agencies would have the information needed to prioritize and fund efforts to preserve low-income housing in their jurisdictions.

Conclusions

HUD's rental housing programs have developed subsidized properties for low- and moderate-income tenants that carry rent affordability requirements for a fixed period. As a result, HUD has focused on keeping these properties affordable for at least that period, and its tools and incentives have mainly addressed mortgage prepayments and rental assistance contract expiration, not mortgage maturity. While a share of the properties with HUD mortgages are scheduled to reach maturity over the next 10 years, it is uncertain how many of these properties will attempt to convert to market-rate housing and raise rents, making the units in these properties unaffordable for many tenants. While state and local agencies might be able to play an important role in maintaining the affordability of properties eligible to leave HUD programs because of mortgage maturity or other reasons, these agencies need to know in advance which properties are eligible to leave HUD's programs, and when, in order to use tools and incentives that can help keep the properties affordable. Even though HUD makes property-level data available to the public on its Web site, state and local agency responses to our survey suggest that HUD data may not be as readily accessible, and therefore as useful, as they could be. HUD officials responsible for maintaining the data on the subsidized properties agreed.

Recommendations for Executive Action

To help state and local housing agencies track HUD-subsidized properties that may leave HUD's programs upon mortgage maturity or for other reasons, we recommend that the Secretary of HUD solicit the views of state and local agencies to determine (1) the specific information concerning HUD-subsidized properties that would be most useful to their affordability preservation efforts and (2) the most effective format for making this information available, and then use the results to modify the current means of conveying the data on these properties to make the data more widely available and useful.

Agency Comments and Our Evaluation

We provided a draft of this report to HUD for its review and comment. In a letter from the Assistant Secretary for Housing (see app. III), HUD agreed with the report's findings, conclusions, and recommendations. HUD also noted that while it believes that a wide array of public and private entities concerned about preserving the affordable housing stock are using the databases currently available through HUD's Web site, it could improve the format and modify the current means of conveying the data on these properties to make the data more readily available. In its letter, HUD also provided technical comments, which we incorporated as appropriate.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to interested Members of Congress and congressional committees. We also will send copies to the Secretary of the Department of Housing and Urban Development and the Director of the Office of Management and Budget and make copies available to others upon request. The report will be available at no charge on the GAO Web site at http://www.gao.gov. A CD-ROM (GAO-04-210SP), which includes property-level data for subsidized properties with mortgages scheduled to mature or expiring rental assistance contracts, will accompany this report and can be ordered at www.gao.gov/cgi-bin/ordtab.pl. The results of our survey of state and local agencies (GAO-04-211SP) will also be available on the GAO Web site at www.gao.gov/cgi-bin/getrpt?GAO-04-211SP.

Please contact me at (202) 512-8678, or Andy Finkel at (202) 512-6765, if you or your staff have any questions concerning this report. Key contributors to this report are listed in appendix IV.

David G. Wood

David G. Wood
Director, Financial Markets and
Community Investment

Appendix I

Scope and Methodology

To develop a state-by-state inventory of multifamily properties with HUD mortgages scheduled to mature and to identify the properties' characteristics, we analyzed and combined information from several HUD databases. We used data from HUD's Real Estate Management System (REMS), which contains information on active properties in Datamart, as well as from the Tenant Rental Assistance Certification System (TRACS), which contains information on Section 8 contracts. We also incorporated data from HUD's Real Estate Assessment Center (REAC) and—through the Office of Multifamily Housing and Restructuring (OMHAR)—data from the Annual Financial Statements submitted to HUD by property owners. To ensure the HUD data were reliable, we performed internal checks to determine (1) the extent to which the data were complete and accurate, (2) the reasonableness of the values contained in the data fields, and (3) whether any data limitations existed in the data we relied upon to do our work. Based on our reliability assessment, we concluded that the data were reliable for purposes of this report. The data obtained from HUD are as of April 15, 2003. To have 10 full years of data, our analysis covered the period from April 15, 2003, through December 31, 2013.

For the properties with existing HUD mortgages, we identified those that also have project-based rental assistance contracts. We then separately identified properties that do not have HUD mortgages, but have project-based rental assistance contracts that are also due to expire through 2013. To obtain occupancy data relating to the individual properties, we used the system containing the financial statements that are prepared and submitted annually to HUD by property owners. For each property, we obtained the following information:

- property identification number,
- property name,
- address,
- city,
- state,
- zip code,
- metropolitan area,

- congressional district,
- total number of units,
- total number of assisted units,
- name of HUD financing program,
- property category,
- mortgage maturity date,
- name of rental assistance program,
- rental assistance expiration date,
- number of rental assistance contracts,
- rental assistance contract status,
- type of client (tenant) served,
- type of property ownership,
- economic occupancy rate,
- subsidy utilization rate, and
- property inspection score (REAC score).

We also used HUD's database to identify properties whose mortgages have matured over the last 10 years. To determine how many properties are still serving low-income tenants, we first identified those that are covered by rental assistance contracts. For 14 of the 16 properties without current rental assistance contracts, we obtained contact information from HUD's archived database (the database did not have sufficient complete information on the other 2). We then contacted these properties via telephone to determine if the management was still serving low-income tenants.

We reviewed HUD regulations to determine the potential impact on tenants when HUD mortgages mature. In particular, we reviewed the eligibility of

tenants to receive enhanced vouchers and other protections against increases in rents when properties leave HUD's programs. We discussed these regulations with appropriate HUD officials and also requested that HUD identify protections available to tenants under the various housing programs.

To identify the incentives that HUD, the states, and localities could offer owners under existing laws and regulations, we interviewed HUD, state, and local officials and reviewed available literature. Because there are no nationwide data available on the utilization of tools and incentives at the state and local level and no single agency is responsible for administrating the various incentives for any state, we surveyed state and local housing and community development agencies via the Internet. We identified the survey participants through lists provided by four national housing industry organizations. Specifically, we surveyed members of the National Council of State Housing Agencies (NCSHA), which represents state housing finance agencies; the Council of State Community Development Agencies (COSCDA), which represents state housing and community development agencies; the National Community Development Association (NCDA), which represents local communities that administer federally supported programs such as CDBG and HOME; and the National Association of Local Housing Finance Agencies (NALHFA), which represents local housing finance agencies. The survey covered (1) their experiences in preserving affordable housing, (2) the incentives used and their effectiveness, and (3) the extent to which they identify and track properties that could leave HUD's programs.

In developing the survey, we met with officials at the four national organizations to gain a better understanding of the issues and modified our questions based on their comments. We then pretested with several state and local agencies throughout the country, such as the Department of Community Development in Amarillo, Texas; the Department of Neighborhood Development in Boston, Massachusetts; and the Ohio Housing Finance Agency. During these pretests, we observed the officials as they filled out the survey over the Internet. After completing the pretest survey, we interviewed the respondents to ensure that (1) the questions were clear and unambiguous, (2) the terms we used were precise, (3) the survey did not place an undue burden on the agency officials completing it, and (4) the survey was independent and unbiased. On the basis of the feedback from the pretests, we modified the questions as appropriate. Information about accessing the survey was provided to a contact person at each of 327 state and local housing and community development

agencies in 50 states, the District of Columbia, and Puerto Rico. The survey was activated on May 12, 2003; it was available until September 5, 2003. To ensure security and data integrity, we provided each agency with a password to access and complete the survey.

We originally included 373 potential respondents in our survey, but eliminated 46 for various reasons, including those agencies having no authority over affordable housing and those with no HUD properties in their jurisdictions. As a result, 327 potential respondents remained—46 from NCSHA, 65 from COSCDA, 130 from NCDA, and 86 from NALHFA. From the 327, we obtained 226 usable responses—38 from NCSHA, 47 from COSCDA, 83 from NCDA, and 58 from NALHFA—for an overall response rate of 69 percent.

Questions from December 10, 2002, Letter from the House Committee on Financial Services

We would like the following questions answered in this General Accounting Office report:

1. *This letter includes a list of the privately owned, publicly assisted multifamily housing mortgage programs.*

- *221(d)(3)*
- *Market rate with rent supplement*
- *Below Market Rate Interest Rates (BMIR) with rent supplement or section 8*
- *236:*
  - *Insured and Noninsured*
  - *Rental Assistance Projects (RAP)*
  - *Rent Supplement*
  - *Section 8*
- *221(d)(4) with all or partial Section 8*
- *202s with rent supplement or Section 8*
- *231s with rent supplement*
- *Section 8 moderate rehabilitation (not funded through HUD, maybe PHA)*
- *Noninsured rent supplement projects (12 projects only in NY and Minnesota)*

Please update the list if there are other programs that should have been included and include any omitted programs in your answers to the other questions requested in this report.

We did not identify any programs to add to the list. The report encompasses all of these programs with the following exceptions: (1) HUD does not collect mortgage information on noninsured rent supplement properties

because the properties do not use HUD financing. HUD does have data on the rent supplement contracts alone, which we included in the CD-ROM; (2) Section 8 Moderate Rehabilitation properties are excluded because HUD does not track these properties in its multifamily database and maintains no aggregate data on properties in the program.

2. *What is the potential impact on the renewal of those Section 8 contracts in projects where FHA mortgages mature, the principal is paid off entirely, and the affordability restrictions attendant to the mortgages expire?*

The impact of a matured HUD mortgage, by itself, on an owner's decision to renew a Section 8 contract is uncertain because there are a number of other factors that can affect the decision. For a profit-motivated owner, the decision to renew would likely be influenced by the condition of the property and the income levels in the surrounding neighborhood. If the surrounding neighborhood has gentrified and if the property can be upgraded at a reasonable cost, it may be more profitable to turn the building into condominiums or rental units for higher income tenants. If repair costs are substantial or if high-income residents are not living in the surrounding area, it may be more profitable to keep the property in the affordable inventory by renewing the Section 8 contract. Tools and incentives offered by HUD, state, and local agencies may also influence these decisions.

For a nonprofit owner, the decision would likely be motivated largely by cash flow considerations since, in theory, these owners are not primarily motivated by economic returns. HUD data show that nonprofit organizations own about 36 percent of the properties with mortgages scheduled to mature in the next 10 years. Since mortgage maturity results in an improvement in property cash flow, reaching mortgage maturity would not by itself necessarily trigger removal from the affordable inventory. Additionally, a nonprofit organization would be more likely to keep the property affordable to low-income tenants because to do otherwise would conflict with its basic mission of providing affordable housing. Thus, nonprofit owners would likely continue to renew Section 8 contracts.

3. *We request an inventory, in chart form, of all the units that will reach maturity in the next 10 years. The inventory should include:*

- *Property name, city, and state*

- *Property MSA (metropolitan statistical area)*
- *Month and year of mortgage maturity*
- *Type of multifamily program for each development*
- *Number of units for each development*
- *Expiration date of Section 8 contract for each development (if any)*
- *Contract status of Section 8 contract for each development (if any)*
- *Number of section 8 units for each development (if any)*
- *Total number of units covered under each of the programs and their location by state*
- *Total number of units for all developments*
- *Total number of units that are occupied*
- *Total number of section 8 units*
- *Type of families housed, i.e. families, elderly, etc.*
- *Whether the unit is owned by a profit or nonprofit organization*

All the data elements cited above are included in the CD-ROM that accompanies this report. Data on property inspection scores, subsidy utilization rates, street addresses, and the congressional district in which the property is located are also included.

4. *What will happen to the units and hence the families occupying the units once the mortgages expire? What rights, if any, do these tenants have regarding their rent costs subsequent to the expiration of the mortgage term and pay off of the entire mortgage principal?*

Provided there is no other subsidy, owners of properties whose HUD-subsidized mortgages have matured are generally no longer required to charge reduced rents to tenants that meet HUD's income limits, and the tenants do not have any rights or protections. Depending on the owner's decision, tenants could face higher rents and, if they were unable to afford

them, would have to move. However, if the units are covered by a rental assistance contract, the tenants would not be affected by the mortgage maturity. As long as the rental assistance is in force, these tenants would continue to benefit from subsidized rents.

5. *Under existing laws and regulations, are there Federal government incentives that HUD could offer the owners of the multifamily housing developments to keep properties affordable upon maturity of the FHA mortgage and pay off the principal? Under existing law and regulations, what types of incentives are available for each state and the District of Columbia that could be made available to the owners of the multifamily housing developments? Have they been successful?*

HUD does not offer property owners any specific incentive to keep properties affordable to low-income tenants after maturity of their HUD mortgage. During the 1990s, HUD established incentive programs to deal with the loss of affordable units because owners were prepaying their mortgages and opting out of their Section 8 contracts. These incentives include the Mark-up-to-Market program, Section 236 Decoupling, and Section 202 Prepayments. These incentives do not directly address the termination of the affordability requirements resulting from mortgage maturity. Rather, they can extend, under certain circumstances, the affordability period beyond the original term of the mortgage, as in the Section 236 Decoupling incentive, or allow property owners to be better positioned financially to continue providing affordable housing, as in the case of Section 202 Prepayments and Mark-up-to-Market.

State and local agencies identified tools and incentives to preserve affordable housing, but not specifically for addressing maturing HUD mortgages. The 226 state and local agencies that responded to our survey commented on the effectiveness of 18 tools and incentives as a mean to preserve HUD's affordable rental housing. Of the 18, 6 were funded directly by the federal government, while 12 were administered by state and local governments and were not directly federally funded. However, there was no evidence that they have been used to protect properties when HUD mortgages mature. This may be because relatively few mortgages have matured to date.

6. *What are the possible effects if the Section 8 contract maturity date is shorter than the FHA mortgage maturity date?*

The effects depend largely on the owner's decision about the future use of the property. As noted in our response to question 2, an owner's decision to renew a Section 8 contract can be influenced by a number of factors, such as neighborhood incomes, the condition of the property, and owner's mission. Consideration of these factors would likely also apply to properties where the Section 8 contract expiration date is earlier than the scheduled maturity date on the HUD mortgage.

When mortgage maturity is imminent, an owner may also consider what the impact of losing the interest rate subsidy as well as paying off the HUD mortgage will be on the property's cash flow. When interest rate subsidies were first paid to properties built in the 1960s and 1970s, they represented substantial assistance to property owners. Over time, inflation has substantially reduced the value of this subsidy relative to the rental assistance subsidy, which is adjusted annually to account for increases in operating costs. Project-based rental assistance now provides the bulk of the assistance to these subsidized properties. Therefore, it is possible that, under certain circumstances, such as where a surrounding neighborhood has gentrified and the property can be upgraded at a reasonable cost, a for-profit owner may decide to forgo the remaining interest rate subsidy payments and prepay the mortgage at the time the project-based contract expires. However, because most owners have had the right to prepay mortgages and opt out of their Section 8 contracts for a number of years, the economic factors that drive the decision to convert to market rate when mortgages mature are no different than in the past.

From the tenant's perspective, if the owner elects to enter into a new Section 8 contract, the tenants in assisted units will be protected for the duration of the contract. If the owner elects not to enter into a new Section 8 contract with or without prepaying the mortgage, the tenants in the units that previously received rental assistance would receive enhanced vouchers. Enhanced vouchers give the tenants the right to stay in their units and generally protect them from rent increases in the properties after the Section 8 contract expires, regardless of the maturity date of the HUD mortgage.

7. *For those mortgages that have reached mortgage maturity or are soon to do so, what actions, if any, have been taken by state, local, or other bodies to ensure that affordability has been maintained after the FHA mortgages are extinguished or are about to be paid off in their entirety? Have the efforts been successful?*

According to officials from the four national housing and community development organizations we contacted, because relatively few HUD mortgages have matured to date, their member state and local agencies have not experienced the need to deal with mortgage maturity. They noted that their member agencies can offer tools and incentives, such as loans and grants, to owners to keep properties affordable after mortgage maturity. However, about three-quarters of the state and local agencies that responded to our survey reported that they do not track the maturity dates on HUD mortgages, and none provided examples of tools or incentives used specifically to keep units affordable after mortgage maturity.

8. *Please provide data on how many units/developments have already reached mortgage maturity, the current status of those units/developments, and whether those units/developments are still serving low-income families.*

Our review of HUD's data showed that HUD-insured mortgages at 32 properties matured between January 1, 1993, and December 31, 2002. Sixteen of the 32 properties are still serving low-income tenants through project-based Section 8 rental assistance contracts. For 13 of these 16 properties, the rental assistance covers 100 percent of the units (799 assisted units), and for the remaining 3 properties, it covers 54 percent of the units (174 assisted units).

Using HUD's archived data for inactive properties, we attempted to contact the property managers of the remaining 16 properties (consisting of 1,997 units) to determine if the properties currently serve low-income tenants. We were able to obtain rent information for 10 properties.[1] We found that all 10 (none of which have project-based rental assistance contracts) are still primarily serving low-income tenants and that the current rents are affordable to tenants with incomes below 50 percent of area median income. According to HUD's database, only 2 of these properties ever had Section 8 project-based contracts, and both expired in early 2000. We could not obtain actual tenant incomes since property managers told us that they are not required to maintain such information for properties without federal use restrictions.

[1]Of the remaining 6 properties, we did not include 2 because they are skilled nursing facilities and do not charge traditional rents. We could not obtain information on the others because there was insufficient contact information in HUD's archived database with which to locate current owners or managers, or the owners or managers who were not required to provide us with information did not respond.

9. *The provision of enhanced vouchers does not currently apply to Section 236 or Section 221 (d) (3) mortgages that mature. What is the impact on the current tenant population upon mortgage maturity?*

There is no statutory requirement for HUD to offer tenants special protections, such as enhanced vouchers, when a HUD mortgage matures. However, tenants who receive rental assistance in properties with maturing Section 236 or Section 221(d)(3) mortgages would be eligible for enhanced vouchers under rental assistance programs, such as project-based Section 8. Depending on property owners' decisions, tenants in these properties who do not receive rental assistance could face higher, possibly unaffordable, rents.

10. *What recommendations does GAO propose to address or alleviate the potential loss of affordable housing arising from FHA mortgage maturations?*

Awareness of the potential for a HUD mortgage to mature, while not a guarantee of action, could help state or local agencies' ability to use available tools or incentives for preserving properties' affordability to low-income tenants. Therefore, to help state and local housing agencies track HUD-subsidized properties that may leave HUD's programs upon mortgage maturity or for other reasons, we are recommending that the Secretary of HUD solicit the views of state and local agencies to determine (1) the specific information concerning HUD-subsidized properties that would be most useful to their affordability preservation efforts and (2) the most effective format for making this information available, and then use the results to modify the current means of conveying the data on these properties to make the data more readily available.

Comments from the Department of Housing and Urban Development

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

October 17, 2003

Mr. David G. Wood
Director, Financial Markets and Community Investment
United States General Accounting Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Wood:

Thank you for this opportunity to review and provide comments on the draft report, Multifamily Housing: More Accessible HUD Data Could Help Efforts to Preserve Housing for Low-Income Tenants (GAO-04-20). The report contains GAO's determination of the numbers of HUD properties that are scheduled to reach mortgage maturity or rental assistance expiration in the next ten years, the potential impact on tenant rents, and an assessment of what HUD and others can do to keep these properties affordable.

The Department would concur in the "Results in Brief" comments (draft report, pages 3-6) that "HUD and state and local housing and community development agencies provide a variety of tools and incentives to owners of low-income multifamily properties to keep them affordable to low-income tenants upon mortgage maturity or the expiration of rental assistance contracts." The Department would also concur that in the "Conclusions" (draft report, page 24) that state and local agencies play an important role in maintaining the affordability to low-income tenants of HUD-subsidized properties that become eligible to leave HUD's programs due to mortgage maturity, rental assistance contract expiration, or other reasons and need to know in advance which properties are eligible to leave HUD's programs and when, in order to use the tools and incentives that can keep the properties affordable to low-income tenants."

The draft report has one recommendation:

To ensure that state and local housing agencies have timely and accessible information to track HUD-subsidized properties that may leave HUD's programs, GAO recommends that the Secretary of HUD solicit the views of state and local agencies to determine the (1) specific information concerning HUD-subsidized properties that would be most useful to their affordability preservation efforts and (2) most effective format for making this information available, and use the results to modify the current means of conveying the data on these properties and make the data widely available.

The Department's response:

Over the last few years, our experience with providing information and various data on a variety of HUD programs to the public has taught us that posting downloadable databases on the

2

worldwide web is the most efficient and practical means to provide such information. The Department currently posts information and applicable data regarding expiring rental assistance contracts on the Office of Housing's Multifamily Housing web page. This information and data is used by a wide array of public and private entities that are concerned about low-income housing and the preservation of that housing stock. Also in our experiences, the Department has found that in particular, any local or state agency interested in obtaining this information and data does have the capacity to access the web page in today's computer environment.

However, to the extent that additional information or data about the Department's inventory is needed by these entities, the Department can provide additional information and or data on the web page.

As one of HUD's priorities is to preserve affordable housing, the Department can also continue to improve the format for making this information available and if necessary, modify the current means of conveying the data on these properties to make the data more widely available.

Please note that the draft report does contain inaccurate descriptions of the programs and the use of subsidies, however, the Department will limit additional comments to the following clarifications:

1) The Note on page 12 should be clarified and restated to say:

   Under certain conditions, a lender may transfer or "assign" to HUD the mortgage note. Section 221(g)(4) allows a lender to assign certain 20-year old, current, HUD mortgages to HUD and the Department assumes the role of mortgagee and services the mortgage. Lenders may also assign defaulted mortgages per the terms of the mortgage insurance contract. With the exception of 221(g)(4), the mortgage insurance protects the lender from losses in the event the owner fails to pay the mortgage.

2) On page 18, first paragraph, last sentence should be clarified and restated to say:

   If the rental assistance contract is in force, residents will continue to receive the benefits of project-based rental assistance. If the contract terminates, the residents will be eligible to apply for regular or enhanced vouchers.

3) On page 31, the chart should omit the Section 202 with capital advance and PRAC programs as these programs are not subjects of this report.

4) On page 4, the last bullet of the Statement of Facts should be clarified to say:

   Although HUD is not required to protect tenants from rent increases due to mortgage maturity, most of these tenants would nonetheless be eligible for enhanced vouchers under rental assistance programs, such as Section 8 tenant-based subsidy, if property owners opted out of the expiring rental assistance contract.

5) On page 6, the bullet regarding the Section 236 Decoupling should be clarified to say:

3

Section 236 Decoupling can be activated when the owner prepays the HUD mortgage and obtains conventional financing. By agreeing to keep the property affordable for another five years, the owners can keep the interest rate reduction payments that they were receiving when they had a HUD financed mortgage.

Thank you again for the opportunity to provide comments on this draft report and if additional information can be provided to you, please feel free to contact Beverly Miller, Director of Multifamily Asset Management (202) 708-3730.

Sincerely,

John C. Weicher
Assistant Secretary for Housing –
Federal Housing Commissioner

Appendix IV

GAO Contacts and Staff Acknowledgments

GAO Contacts

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Staff Acknowledgments

In addition to those named above, Mark Egger, Daniel Garcia-Diaz, Nadine Garrick, Curtis Groves, Austin Kelly, John McDonough, John McGrail, Luann Moy, Barbara Roesmann, William Sparling, Thomas Taydus, and James Vitarello made key contributions to this report.

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STATEMENT OF JOHN C. WEICHER

Assistant Secretary for Housing – Federal Housing Commissioner

U.S. Department of Housing and Urban Development

BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
HOUSING AND COMMUNITY OPPORTUNITY SUBCOMMITTEE

July 20, 2004

Chairman Ney, Ranking Member Waters, distinguished members of the Subcommittee on Housing and Community Opportunity, thank you for inviting the Department to testify on the GAO report entitled Multifamily Housing: More Accessible HUD Data Could Help Efforts to Preserve Housing for Low-Income Tenants (GAO-4-20).

This Administration and the Department are firmly committed to preserving affordable housing. Historically, the Department's rental housing programs have been designed primarily to develop subsidized projects that have rent affordability requirements for a fixed term. Therefore, the Department has focused on retaining these properties as affordable for at least the fixed term, and has worked with Congress to develop tools and incentives to maintain affordability in cases of rental assistance contract expirations. Although these tools and incentives do not specifically address mortgage maturity, some of these incentive programs such as the Mark to Market and the Section 236 Decoupling have extended the affordability restrictions beyond the maturity of the insured mortgage.

To date, the Department has been very pleased with the success of the role of these programs in assisting in the Department's efforts to preserve the affordable housing stock. Under this Administration, we have over 1,000 projects with over 86,000 units processed under the Mark to Market Program, over 350 projects with approximately 32,000 units processed under the Section 236 Decoupling Program and approximately 800 projects with some 80,500 units processed under the Mark Up to Market Program. In these three programs combined, the Department has preserved the affordability of over 2,000 projects with about 200,000 units.

The Section 202 Prepayment Program also allows owners to prepay their HUD loans and obtain other financing, but keep the affordability use restriction until the maturity of the original loan. The refinancing of these loans allows additional funds to be made available to modernize and rehabilitate these projects to ensure their long-term affordability even beyond the prepayment of the loan. Due to the increasing number of sponsors desiring FHA insurance to refinance these aging projects, the Department has been reviewing its procedures to provide more flexibility in underwriting an FHA-insured loan to replace the

Section 202 loan. In recognition of the great need to assist these affordable elderly housing projects and preserve this housing stock, the Department is preparing a notice to allow these loans to be underwritten at the existing Section 8 rent even if above market levels. This change should enable substantially more Section 202 projects to be refinanced through FHA and provide capital needed to make necessary repairs and improvements to improve long-term viability.

Although the incentives to extend affordability do not directly address the termination of the affordability requirements resulting from mortgage maturity, the Mark Up to Market, Mark to Market and Section 236 Decoupling Programs all provide incentives to owners to continue to provide affordable housing on a long-term basis and beyond the mortgage prepayment while improving the physical and financial viability of the properties. These incentives have substantially decreased the actual numbers of insured mortgages that would normally be maturing in the next 10 years. In the GAO Report, they reviewed properties with HUD mortgages that originated from 1959 through 1962 and found that only 8, or 11% of the properties had reached mortgage maturity. This data supports the Department's position that these incentives are preserving affordable units for an extended period of time beyond the original mortgage maturity date.

Currently, there is no statutory authority for the Department to offer residents special protections, such as enhanced vouchers, when a mortgage matures unless rental assistance is also provided. In some of the programs such as Section 221(d)(4) and Section 207 addressed by the GAO study, there is not and never was an interest rate subsidy. However, some residents receive rental assistance, and depending on the type of rental assistance a resident receives, a resident may be eligible to receive a voucher or continue with the project-based rental assistance notwithstanding the section of the Act even though the mortgage has matured.

As the GAO report states, there are a total of 236,650 units in 2,328 properties where the mortgages are scheduled to mature through 2013. Of this universe, 134,087 units (57%) receive project-based Section 8 assistance or other rental assistance. These residents will

continue to benefit from affordable rents and be protected, regardless of when the mortgage matures, as long as there is a rental assistance contract. Under current rules, if the rental assistance contract expires or the owner elects not to renew the contract (opts out of the contract), eligible residents are provided vouchers. Historically, Congress has always provided appropriate renewal funds for these contracts.

The remaining 43% of the units in the GAO study (101,730) receive the benefit not from rental assistance but rather through the mortgage rate interest subsidy. * In properties financed under the Section 221(d)(3) BMIR and Section 236 programs, many residents do not receive rental housing assistance. The question has been raised as to whether the residents who do not receive rental assistance are able to afford the potential increased rents upon the mortgage maturing. It should be noted that residents of these projects typically have a higher income than those under the rental assistance programs. The Section 236 program has no income limitations, and properties financed under the Section 221(d)(3) BMIR program allow residents with incomes of up to 95 percent of area median income. These are in contrast to project-based Section 8 which limits residents' incomes to less than 80 percent of area median income. It is also important to note that unassisted residents of Section 221(d)(3) BMIR and Section 236 projects have average household income that is somewhat greater than that of residents who receive rental assistance. In a 1998 HUD study, residents in the Section 221(d)(3) BMIR without rental assistance had an average household income that was 83% greater than that for residents in a Section 221(d)(3) BMIR project with rental assistance. The average income of a household in a non-rental assisted unit was $22,000 as compared to an average income of $12,000 for a household in a rental-assisted unit. Households in Section 236 units without rental assistance had an average household income that was 30% greater than that for residents in Section 236 project with rental assistance. The average income of a household in a non-rental assisted-unit was $13,000 as compared to an average income of $10,000 for a household in a rental-assisted unit. Based on these statistics, these residents potentially

* The residents of only 833 units (less than 1%) receive no rental assistance or benefit of a mortgage interest rate subsidy since they reside in market rate properties insured under sections 221(d)(3), (d)(4), or 231. This is the entry to balance with the GAO's total universe.

should have the ability to afford higher rents. And in the case of the Section 236 program, many of these residents may have been paying these higher rents throughout the mortgage term.

Actual history shows that many projects remain affordable after loan maturity. Data gathered in conjunction with the GAO report indicate that there were 32 properties where the HUD-insured mortgage had matured between January 1, 1993 and December 31, 2002. Of these 32 properties, sixteen are still serving low-income residents through rental assistance contracts and ten properties that have no rental assistance contracts were identified as affordable to residents with incomes below 50% of area median income. After mortgage maturity, over 80% of the properties (26 of 32) remain affordable to low- and moderate-income residents.

Therefore, because of incentives provided currently, such as vouchers and actual experience, it would appear that there are few projects at risk of losing the affordable housing units. For those projects where the mortgages do mature, the projects are remaining affordable despite the mortgage maturity.

The Department certainly concurs with GAO that it is helpful to notify our partners, both local and state governments, when HUD-insured properties have the potential to leave HUD programs. In accordance with GAO's recommendation in the Report, in the past thirty days, the Department has begun posting a listing of HUD-insured mortgages and Section 202 loans expiring in the next 10 years. The Department will continue to post information and applicable data regarding expiring rental assistance contracts on HUD's website.

The Department is also planning to solicit comments from our industry partners on the information and data that is being provided so that we are able to continue to improve the format and if necessary, modify the current means of conveying the data on these properties to make the data more widely available and accessible.

That concludes my testimony. I would happy to respond to questions that you may have at this time.

National Housing Trust Statement to House Subcommittee on Housing and Community Opportunity

House Financial Services Committee

Washington, D.C.

July 20, 2004

Chairman Ney, Ranking Member Waters and members of the Subcommittee, thank you for inviting me to testify today. My name is Michael Bodaken. I am the President of the National Housing Trust ("the Trust") a national nonprofit organization formed in 1986, dedicated exclusively to the preservation of affordable housing. Our Board of Directors includes representatives of all major interests in the preservation area, including tenant advocates, owners and managers, state housing agencies, national and regional nonprofit intermediaries, housing scholars and other housing professionals who care deeply about protecting this irreplaceable resource.

The Trust serves as a preservation clearinghouse to the public and private sector. In addition to its public policy and program monitoring role, the Trust provides technical assistance to nonprofits seeking to protect and secure affordable multifamily housing, makes loans to others to finance such activities and in a joint venture with the Enterprise Foundation, has preserved and improved thousands of apartments which it owns as the managing general partner. Over the past decade, the Trust's technical assistance, lending and ownership efforts have helped save nearly 16,000 apartments in over 30 states. More than 85 percent of these apartments are existing HUD insured and/or subsidized, multifamily housing including Section 236 and 221(d) (3) BMIR properties, properties eligible for preservation in HR4679.

Introduction

Today's testimony will cover the following discrete areas:

- Explain why it is critical to preserve federally assisted, well located, mixed income housing.
- Provide some technical suggestions to the language of HR4679, the "Displacement Prevention Act of 2004."

1. Preserving the Stock of Federally Assisted Housing Is Crucial: This Stock is Geographically Widespread Throughout Every State

The nation's market supply of decent, affordable housing for poor families and elderly does not currently meet the demand for that product. All too often, this fundamental fact is lost in our discussions of contemporary housing and community development policy.

The Trust therefore welcomes the introduction of HR4679. The "Displacement Prevention Act" would help preserve and improve an important segment of the affordable, privately owned HUD subsidized inventory. The bill allows those of us concerned about this issue an opportunity to remind our elected leaders of the endemic loss of this government resource and the role of the federal government in its salvation at an acceptable cost to the American taxpayer.

The January 2004 GAO report "More Accessible Data Could Help Efforts to Preserve Housing for Low Income Tenants" makes clear that since the 1950's, HUD has subsidized approximately 1.7 million rental units in over 23,000 privately owned properties that are generally affordable to low income residents. Indeed, as the tables accompanying the GAO report make clear, this housing is spread across every state and nearly every Congressional district in the nation. According to HUD, the vast majority of those occupying this housing are very low income households; 40 percent are said to be elderly households.

The context in which HR4679 is introduced is a supply of subsidized housing *already* at risk of loss. Indeed, over 15 percent of this housing resource has *already* been taken from our nation's affordable housing inventory. Over the past three decades, real estate inflation has sharply increased the value of many of these properties. As a result, many of the properties have been converted to market rate properties. Indeed, according to a report published by the Trust just two months ago, over 300,000 valuable HUD subsidized units have been lost to this 1.7 million unit inventory just over the past 8 years.

The number of project-based units subsidized through HUD rental assistance and mortgage subsidy programs has thus declined to no more than 1.4 million affordable apartments in 2004. There are various reasons for this decline, including owners' decisions to opt out of Section 8 contracts upon expiration, termination of Section 8 contracts by HUD due to enforcement actions and prepayment of HUD insured mortgages. A copy of the Trust report documenting this HUD subsidized housing loss is attached at **Tab 1**.

Any attempt to stem this rising tide of housing loss is more than welcome. While we agree with the GAO that accessing existing data is a necessary first step, this does not constitute a sufficient response to this pending housing crisis. As recently noted by the Joint Center for Housing Studies of Harvard University:

> "The already scarce supply of low-cost housing continues to
> Shrink because of physical deterioration on the one hand and
> Gentrification on the other. . . . .
> But long term contracts for subsidized rental units continue to expire,
> placing huge demands on the limited supply."
>
> **State of the Nation's Housing, 2004**, p. 28.

Affordable Housing Loss Due to Mortgage Maturation

As the GAO report makes clear, there are affordable HUD subsidized housing losses just on the horizon. The GAO report explains where there is no existing subsidy other than the HUD mortgage in place, elderly and family tenants residing apartments with maturing mortgages are threatened with involuntary displacement. According to the GAO, more than 193,000 apartments may lose their current affordability as property owners who hold mortgages with favorable FHA financing finish paying off their HUD below market rate mortgage. Once the mortgages mature, the owner is generally free to convert the property to market. If the owner prepays the mortgage, tenants receive enhanced vouchers. However, in any event, owner choices as mortgages mature will undoubtedly lead to loss of critically needed affordable housing and potential displacement of tens of thousands of families and elderly households. Indeed, according to the GAO, over 100,000 of these apartments have no other government support which means the 200,000 individuals who reside in these apartments, many of whom are elderly or disabled, are at particular risk of displacement.

While the GAO observed that different states had varying rates of loss due to mortgage maturation, the data indicates the potential loss is geographically widespread. As indicated in **Tab 2**, nearly half of the states stand to lose more than 20 percent of their entire, existing HUD subsidized housing stock unless something is done now to attenuate this issue. For example, in California, more than 25 percent of its existing HUD stock is within the universe surveyed by the GAO. 17 percent of Ohio's HUD assisted stock is in this same circumstance.

HR4679 Authorizes Three Methods to Help Preserve the Affordability of this HUD Housing Resource

Consistent with current federal preservation law, the bill provides incentives to owners of these properties in return for which the properties would remain affordable to low and moderate income households. HR4679 authorizes HUD to use $675 million of previously appropriated, but unused, HUD funds for up to 1,835 properties covered by two of HUD's below market rate insured mortgage programs: Section 221(d) (3) BMIR or Section 236. The bill would allow HUD to provide resources to owners (or purchasers, infra) for one of three purposes:

1. *Rehab Grants*: A one time grant could be provided to owners for rehabilitation of the property who agree to extend the affordability requirements for a minimum of 20 years.

2. *Acquisition Grants*: A one time grant to nonprofits would be provided for the acquisition of Section 221(d) (3)BMIR or Section 236 properties with expiring mortgages in return for the nonprofit agreeing to maintain the affordability requirements for the remaining useful life.

3. *Annual Gap Payments*: Where the subsidized rent was below comparable market rent, the bill would allow current owners to cover the difference between the subsidized rent and the comparable market rent, so long as the owner agreed to extend affordability requirements for not less than 10 years.

Such HUD payments would be targeted to properties that were clearly in need: the bill provides needs based criteria such as the date of mortgage maturation, the extent to which the apartments are occupied by low income residents and to the extent the owner's agreement of affordability exceeds the minimum eligibility thresholds. HUD is free to adopt other criteria in the regulations adopted to implement the bill.[1]

Technical Suggestions to Strengthen
And Further Implement the Intent of HR4679

The Trust strongly supports HR4679. The bill artfully balances the interest of owners and the public interest in maintaining this housing resource. What follows are a few suggestions that we believe will accomplish the goals of the authors and target federal preservation resources to existing state and local preservation resources.

1. *The Form of Federal Assistance Should Be Either Grants or Deferred Loan, at the Owner's or Purchaser's Option. Owner or Purchasers Who Syndicate With Low Income Housing Tax Credit Will Be Able To Access More Tax Credit Equity from States for Preservation if the Federal Assistance Is Structured as a Loan.*

Faced with a growing affordable housing crisis, state and local governments are increasingly turning their attention to preserving existing HUD assisted, multifamily, affordable homes. Many states and localities are devoting precious resources, including low income housing tax credits, private activity bonds and other state and local funds to this end.

Three years ago, the Trust conducted an informal survey of housing finance agencies to determine which agencies were prioritizing or setting aside low income housing tax credits to preserve federally-assisted or insured, multifamily housing. At that time, only six states were concerned enough about the loss of federally-assisted housing to dedicate a portion of their most plentiful housing resource—low income housing tax credits—to preserve and improve affordable, multifamily homes. Today, more than 40 city and state agencies prioritize preservation through points or a specific preservation set-aside in their Qualified Allocation Plans (QAPs).

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[1] In other testimony before the Subcommittee, Recap Advisors observes that owners are more likely to prepay their mortgages as their mortgage balances decline towards the end of the amortization period. The tenants will receive enhanced vouchers, but the nation will still suffer a loss of housing stock. We join Recap in recommending that HR4679 be adopted and that Congress extend Section 8 voucher eligibility to properties owned by nonprofits or assisted by Rent Supplement.

We now estimate that over 30,000 HUD assisted and/or insured, multifamily units were preserved and improved with low income housing tax credits over the past year (See **Tab 3** for the latest NHT Working Paper: "Affordable Housing Preservation Initiatives: A State by State Summary").

HR4679 allows federal resources to play a role together with states and localities. To the extent states and localities are using low income housing tax credits to preserve HUD assisted stock, HR4679 should allow the federal resources to be treated as either a grant or "loan." Current tax credit rules allow the user more "credit" if the resources brought to the transaction are not treated as taxable income. Grants are typically treated as income. Hence, the nonprofit purchaser or owner may well elect to treat the HUD resource as a loan to maximize the tax credit equity available to help preserve the property.[2]

2. *Permit or Require HUD to Defer or Eliminate Flexible Subsidy Loans Made on Maturing HUD Section 236 or 221(d) (3) BMIR Mortgages.*

According to knowledgeable observers, many Section 221(d) (3) BMIR and 236 projects are burdened with "flexible subsidy" loans that will come due, with accrued interest, at the time of HUD mortgage maturity—jeopardizing their continued affordability. HR4679 should include a provision authorizing HUD to forgive or defer these loans where owners agree to extend affordability for the term of deferment, e.g., a minimum of 20 years. The choice of forgiveness or rollover should be at the owner's option; for-profit owners may face adverse tax consequences if debt is entirely forgiven. Because such loan forgiveness or deferral is not counted as part of HUD's appropriation, this suggestion has no appropriations impact. At a minimum, HUD should provide the subcommittee a list of all properties in data gathered by the GAO which have flexible subsidy loans as part of their current financing.

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[2] Although not asked to comment on the matter, the Trust believes that there is sufficient nonprofit capacity to acquire and keep affordable properties sold by owners of properties with maturing mortgages. The overall capacity and sophistication of nonprofits has increased dramatically over the past 5 years. National and regional nonprofit organizations are pursuing preservation like never before. The John D. and Catherine T. MacArthur Foundation has funded a preservation loan and grant program of up to $45,000,000 to foster preservation at the national, regional and local level. Moreover, a number of national nonprofit organizations have formed their own membership group, Stewards for Affordable Housing for the Future ("SAHF" pronounced "SAFE"). SAHF's nonprofit members own more than 62,000 affordable apartments in 46 states.

3. *Make Clear that "Nonprofit Entities" Should Include Limited Partnerships or Limited Liability Corporations controlled by the Nonprofit organization or its affiliate as a Managing General Partner or Managing Member. There is Ample Precedent for this Clarification.*

As explained above, owners and nonprofits are increasingly using low income housing tax credits in the preservation and improvement of existing, affordable HUD multifamily stock. Often the actual ownership organization is required to be legally defined as a limited partnership or limited liability corporation. Hence, the bill should recognize this in its language offering assistance to "nonprofit entities." The eligible nonprofit entity should further be defined to include limited liability corporations, the sole member of which is a nonprofit, as a nonprofit organization under the bill.

There is ample precedent for this change: Appendix C HUD's current Mark-to-Market Program Operating Procedures Guide allows for limited partnerships where the sole General Partner and where the Limited Liability Company's sole managing member is a nonprofit. Further, Chapter 15 of the Section 8 Renewal Policy Guide recognizes that a "nonprofit "controlled" limited partnership" can get Mark-up-to-Market under the nonprofit exception.

4. *Allow Nonprofit Buyers to Use the Acquisition Grant for the Purchase Price of the Property and Allow Nonprofit Purchasers the Rent Subsidy Assistance Offered to Current Owners.*

Section 3(c) (3) of HR4679 covers the eligible uses a nonprofit may use in its acquisition of a multifamily property covered by the Act. HR4679 does not allow for the eligible use to include the purchase price of the property. The Trust urges the Subcommittee to delete this provision to allow the grant to include the purchase price to be an eligible use of the grant.

Section 3(d) of HR4679 permits gap payments to current owners to cover the difference between the subsidized rent and the comparable market rent, so long as the owner agreed to extend affordability requirements for not less than 10 years. This same resource should be available to nonprofit buyers. If nonprofit buyers purchase properties at market prices, they may well need to raise rents to cover the increased debt service/loan costs of acquisition and rehabilitation. The Trust often assists nonprofit buyers who ask HUD for comparable "mark-up-to-market" assistance in such transactions. Essentially,

the provision of such "mark-up-to-market" rental assistance prevents this rent hike from being unfairly foisted upon existing low income renters.[3]

Exit Tax Relief

The Trust understands that this subcommittee does not have jurisdiction over housing tax matters. However we did want to briefly mention how very encouraged and grateful we are by Congressman Ramstad's and Cardin's introduction of legislation to preserve affordable housing. That legislation, the "Affordable Housing Preservation Tax Relief Act," (HR3485) is a welcome attempt to address tax issues associated with the preservation of HUD assisted and insured, multifamily housing. The Trust applauds these efforts.[4]

Congress established the Millennial Housing Commission (MHC) and charged it with taking a thorough look at what the government was doing to fill the huge unmet need in this country for affordable housing. One of the key recommendations in that report was for Congress to provide a "new tool" to encourage the transfer of affordable housing properties to entities that agree to maintain the properties and keep them affordable. The Ramstad-Cardin legislation closely tracks these recommendations and we look forward to continuing to work with the authors to see that their legislation, or some variation of it, becomes law. We encourage the Subcommittee to support their efforts, given the critical role that this Subcommittee plays in affordable housing policy.

Conclusion

Thank you again for the introduction of HR4679. The adoption of HR4679 *today* can mitigate tomorrow's affordable housing loss.

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[3] The Trust strongly supports providing enhanced vouchers to residents of these properties at time of mortgage maturation. Moreover, the notice provision in the Act could prove useful to a locality that intends to make a last ditch effort to save the housing prior to mortgage maturation.

[4] The Joint Center for Housing Studies of Harvard University has observed: "Unless relieved of this 'exit tax,' these owners will remain reluctant to sell their properties at a price that would allow community organizations to purchase and preserve the affordable units. Although preserving low-cost housing can be expensive (especially if lead based paint is involved), replacement is typically even more costly. "**State of the Nation's Housing, 2004,** p. 29.

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Subcommittee on Housing and Community Opportunity
Additional Material for the Record
(Requested by Representative Green on pp. 91-92 of the Transcript)

Submitted by Todd Trehubenko, Senior Vice President
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Both H.R. 4679 (the Displacement Act of 2004) and H.R. 3485 (the Affordable Housing Preservation Tax Relief Act of 2003) introduce important new tools for preserving at-risk affordable housing properties. Recap strongly supports each bill and urges Congress to enact the proposed legislation. We also encourage Congress to broaden the reach of existing preservation initiatives as outlined below, by expanding eligibility for Enhanced Vouchers, clarifying legislative intent regarding Section 236 IRP Decoupling and Section 8 Mark Up to Market, and causing HUD to establish clear asset management policies for properties approaching mortgage maturity. These actions will result in the preservation of many more at-risk properties.

1. <u>Amend statutory authority to expand eligibility for Section 8 Enhanced Vouchers.</u> Section 8 Enhanced Vouchers are an important tool for protecting low-income households from significant rent increases upon expiration of Section 8 contracts and/or prepayment of certain FHA-insured mortgages. While Enhanced Vouchers were originally only available to properties eligible for the LIHPRHA and ELIHPA preservation programs, Congress has at least twice expanded eligibility to cover other types of at-risk properties. Only a small subset of properties, chiefly those owned by non-profit organizations, are not eligible for Enhanced Vouchers upon mortgage prepayment. Congress should now further expand Section 8 Enhanced Voucher eligibility by amending section 8(t) of the United States Housing Act of 1937 [42 U.S.C. 1437(t)] to include these properties:

a. Section 221(d)(3) and Section 236 properties owned by non-profit organizations.
b. Properties receiving Rent Supplement payments pursuant to Section 101 of the Housing and Urban Development Act of 1965.
c. Section 202 properties with subsidized interest rates (generally built prior to 1975).

Consistent with past amendments, properties without unilateral mortgage prepayment rights should receive Section 8 Enhanced Vouchers only in the context of a prepayment/ preservation transaction approved by HUD.

In addition, Congress should make Enhanced Vouchers available to all properties in the Section 221(d)(3), Section 236, and Section 202 portfolios at mortgage maturity, to ensure residents are protected once affordability restrictions end and owners need to raise new capital for renovations and other needs.

2. Clarify legislative intent to improve current preservation initiatives. In recent years, Congress has amended existing legislation to create new preservation initiatives for the Section 236 and Section 8 portfolios (the "IRP Decoupling" and "Mark Up To Market" programs, respectively). Unfortunately, HUD's administrative guidance implementing these initiatives has unduly limited the number of properties able to be preserved:

a. *Section 236 IRP Decoupling.* In 1999, Congress amended Section 236(e) of the National Housing Act to permit retention of Interest Reduction Payments (IRP) following prepayment of a Section 236 mortgage, provided the owner agreed to extend affordable use restrictions for a period equal to the remaining term of the IRP contract plus an additional five years. The retained IRP is only valuable to the extent that HUD does not reduce the project rents by the amount of this subsidy following project preservation, a decision made by HUD on a case-by-case basis. The criteria HUD has established in making this determination are reasonable, with the sole exception of a broad policy to reduce rents by the amount of the IRP if a refinancing owner proposes an equity takeout. The effect of this policy is to negate the value of retaining the IRP, eliminate the incentive to preserve the property, and encourage market-rate conversion. HUD should revise its policy so that a rent reduction is not required when an owner proposes an equity takeout, so long as:

   - property renovation needs are addressed,
   - residents are protected from unreasonable rent increases, and
   - the owner agrees to the required extension to affordability restrictions.

b. *Section 8 Mark Up To Market.* Congress enacted the Mark Up To Market program in FY 2000 through changes to Section 8 rent-setting mechanisms described at Section 524(a)(4)(A) and (C) of the Multifamily Assisted Housing Reform and Affordability Act. This program permits Section 8 project-based rent increases up to market levels in exchange for a minimum five-year renewal by the owner. Currently, to be eligible properties must have market rents that are at least equal to 100% of the HUD "Fair Market Rent" (FMR) for the metropolitan statistical area, but HUD has the discretion, according to statute, to reduce this cap if it is necessary to cover Section 8 projects "with a high risk of non-renewal".

Unfortunately, FMR levels are not necessarily a reliable indicator of local submarket rents or the viability of a Section opt-out; many owners can and do opt out of affordability so long as the market rents are above the rents paid under the expiring Section 8 contract, whether or not these rents exceed the FMR. HUD can more successfully target projects at risk of non-renewal by using its discretion to eliminate the FMR test and instead encourage Mark Up to Market for all properties whose current rents are below comparable market levels.

Congress should clarify for HUD that its intention in amending the Section 236 and Section 8 statutes was to broadly authorize new financial incentives for owners of at-risk properties in exchange for extended affordable use restrictions. To the extent that some of the criteria established by HUD are unnecessarily restrictive and hinder preservation efforts, these standards should be revised.

3. Require HUD to develop clear policies for properties approaching mortgage maturity. As the GAO report notes, HUD does not offer any program of incentives or tools to keep maturing mortgage properties affordable once the loans are paid off. The need for such a program is very clear, and Recap encourages Congress to enact new legislation to address this critical gap in federal housing policy. In the interim, Congress should require HUD to develop clear asset management policies with respect to the maturing mortgage portfolio. The current lack of guidance creates unnecessary uncertainty among owners, lenders, and residents in the years leading up to the scheduled payoff. Some of the most pressing issues to be addressed through administrative guidance are:

a. The extent to which residents of these properties are eligible for rental assistance at mortgage maturity under current law, and whether that assistance is available only to residents currently receiving Section 8, Rent Supplement, or other rental subsidies. HUD should state resident eligibility standards upon mortgage maturity and describe the process for obtaining assistance.

b. Continued applicability, if any, of federal housing quality standards once the mortgages are retired. HUD should specify the applicability of standards and the enforcement process.

c. What methodology HUD expects to use to establish project rent levels if rental subsidy contracts continue following mortgage maturity. If rents are to be budget-based rather than set at comparable market rents, HUD should specify how new financing costs (replacement and/or rehab loans, debt service, lender debt service coverage, etc.) will be recognized in the rents approved for the project.

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Testimony for the Record

American Association of Homes and Services for the Aging

Subcommittee on Housing and Community Opportunity

"Preserving Low-Income Multi-Family Housing"

July 20, 2004

The American Association of Homes and Services for the Aging (AAHSA) is pleased for this opportunity to present written testimony for the record on the recent GAO study completed at the request of Chairman Oxley and Ranking Member Frank on the use of data about HUD's affordable housing inventory, mortgage maturation and preservation for low income tenants; and about Congressman Frank's recently introduced legislation, "The Displacement Prevention Act", HR 4679. AAHSA represents more than 5,300 mission-driven, not-for-profit affordable senior housing facilities, nursing homes, continuing care retirement communities, assisted living properties and community service organizations, of which more than 2300 are housing members. Every day, our members serve more than one million older persons across the country. AAHSA is committed to advancing the vision of healthy, affordable, ethical long-term care for America.

AAHSA is the largest organization representing nonprofit sponsors of senior housing. Our members own and manage more than 300,000 units of federally assisted and market rate housing – and we represent the largest number of sponsors of HUD Section 202 Supportive Housing for the Elderly projects. Housing is the foundation of and a critical part of the long-term care continuum.

That is why we are interested in and supportive of any action that encourages the preservation of affordable housing for seniors, particularly in this era of constrained funding availability. These include accessing better data as in the GAO Report and new federal strategies for preservation that do not require new appropriations. That is also why we are offering our comments on the Report, on the introduced legislation, and other preservation strategies.

Many of our nation's seniors live in poverty and struggle to locate and afford decent, safe and sanitary housing. According to Harvard's *State of the Nation's Housing 2004*, more than one third of the 21.8 million senior households have incomes at or below $17,500 as measured by the American Housing Survey for 2001. Among the 6.5 million lowest income elderly households who rent their homes, 38 percent pay more than 50 percent of

their income for rent and are severely rent burdened. The 2001 Survey of Consumer Finances has even more startling statistics – 46 percent of elderly renters who have incomes of $16,000 or less had net wealth of less than $1000 and 35 percent had less than $250.

In addition, the supply of existing decent affordable housing is dwindling as owners convert affordable housing into market rate housing in hot real estate markets, exacerbating the critical shortage of affordable senior housing. According to the National Housing Trust, nearly 83,000 federally assisted units for the elderly are at risk of leaving the inventory of affordable housing; 15,000 already have been converted by owners simply fed up with HUD or whose housing can command true market rents in booming areas.

AAHSA would like to thank Chairman Oxley and Congressman Frank for requesting the GAO Report well in advance of what appears to be a potential acceleration of the loss of affordable housing. It will give policy makers the opportunity and the time to carefully consider initiatives to forestall any crisis. AAHSA also would like to thank Congressman Frank for introducing legislation that marks a good first step in addressing the findings of the Report and preserving at risk affordable housing.

The GAO Report makes it abundantly clear that impending mortgage maturations represent a potential loss of affordable housing. As well, the limited availability of enhanced vouchers for older, non-profit owned properties in need of recapitalization represents potential displacement for hundreds of very low-income tenants if rehabilitation is undertaken to preserve the properties. Both realizations are critical to preventing displacement of low-income renters and to preserving affordable housing.

The Report finds that more than a quarter million low-income units may no longer be affordable as property owners who hold mortgages with Federally assisted financing pay off the mortgages-or the mortgages mature. Once the mortgages mature, low-income tenants may be required to pay market-rate rent or find another subsidized dwelling. Of the families in those units, nearly half have paid lower rents as a result of favorable financing terms, including lower interest rates, but have no rental assistance that will extend past the mortgage maturation date. While in all likelihood non-profit owners will continue to operate the housing as affordable housing, for profit owners may take the opportunity to convert the housing to market rate housing.

Many of the non profits who make up AAHSA's membership look at the impending mortgage maturations as opportunities to purchase properties owned by for profits, but also as opportunities to recapitalize properties that they own, including by acquisitions. In HR 4679, non profit purchases of for profit owned properties are eligible for assistance in acquisition and rehabilitation and tenants without rental assistance would be eligible for enhanced vouchers; however non profit owners who need to recapitalize their aging properties will receive no assistance; nor will tenants currently without rental assistance

receive enhanced vouchers in the event of necessary rent increases. AAHSA believes not providing incentives and benefits to non-profit owners and unassisted tenants in non-profit owned buildings is a mistake.

Section 202 Properties
Although not covered by HR 4679, Section 202 properties are at risk upon mortgage maturation, simply because they are in need of repairs and recapitalization that can not be paid for by the rents currently in place. The original Section 202 program was a 3% loan for 50 years targeted to low-income elderly and sponsored by non-profits. A total of 289 projects with 42,700 units (59% efficiencies) were built during the initial period (1959-1974). Many of those projects later requested section 8 assistance under the loan management set aside program, or had rent supplement contracts added. However, there remain a number that do not have section 8 contracts for a portion or all of the units in these older buildings. The GAO Report identifies 41 Section 202 properties with mortgages maturing through 2013. Of the 3208 units in those properties, only 871 or 27 percent have section 8 assistance. Tenants are paying extremely low rents (what the market will bear for out of date, typically efficiency apartments, in low income neighborhoods) to remain in their homes and tenant incomes are quite low.

Without infusions of cash to complete major rehabilitation and reconfiguration of obsolete efficiencies, and without enhanced voucher assistance for unassisted residents, these properties are destined to fail and residents will be displaced. Even with the good intentions of non-profit sponsors, these properties are at risk. Therefore, as HR 4679 is considered, AAHSA recommends that Section 202 properties be considered eligible properties for assistance under the legislation.

As an additional preservation and displacement prevention measure, AAHSA also recommends that the Congress expand the eligibility for enhanced vouchers to Section 202 unassisted residents where mortgages are prepaid in acquisitions and in prepayments under the provisions of the American Homeownership and Economic Opportunity Act of 2000 (P.L. 106-569). Currently, when non profit owners of these original projects look into refinancing for the purpose of preserving affordable housing or selling to another non profit to maintain the housing as affordable senior housing, those tenants without section 8 are not eligible for enhanced vouchers or any rental assistance to pay for the inevitable rent increases that will be necessary to cover the costs associated with new financing for rehabilitation. As non-profit sponsored properties, Section 202s were not eligible to receive benefits under the Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA) and, therefore, residents without rental assistance are not eligible for enhanced vouchers.

One of our members is acquiring a property in the Cleveland area that exemplifies these issues. The property was developed in the early 1970's when HUD enticed faith-based and other non-profits to address a severely underserved senior housing market by building small, efficiency units. Sixty percent of the units are efficiencies. The current

non-profit owner has worked hard to maintain the building and keep the rents low, reflective of the neighborhood. Over time, however, apartments that were once desirable and marketable have been overshadowed by newer, more attractive and marketable affordable alternatives for the elderly. Over time, like the residents, the building and its systems have aged, in need of rehabilitation and reconfiguration.

None of the residents receives rental assistance and are ineligible for enhanced vouchers once the rehabilitation is complete. To overcome this dilemma and to avoid displacing low income elderly, the purchaser has had to piece together funding from at least four sources, including the city, the state, tax credit equity, and subordination of existing HUD debt. Had enhanced vouchers been available from the outset, funding streams at least from the city and the state may have been unnecessary and available for other affordable housing projects.

It is for these types of projects that eligibility for enhanced vouchers, as a critical preservation tool, makes sense.

Section 236 and Section 221(d)(3)
Similarly, Section 236 and Section 221(d)(3) properties that are owned by non-profits are at risk as mortgages mature. Like the Section 202 properties, when the mortgages mature and IRP contract has expired, the properties may need recapitalization. Current residents that relied on the IRP paid on their behalf may be forced to pay the market rent. If repairs are necessary with costs that exceed the portion of the current rent that is attributable to debt service, and the market rent is increased, tenants without rental assistance or section 8 will see their rents increase as well. As in properties owned by for profit owners, the risk of loss of affordable housing is very real without capital and enhanced vouchers. Therefore as HR 4679 moves through the legislative process, AAHSA recommends that non profit owned properties be eligible for benefits and incentives to keep the housing in good condition and affordable.

As another preservation tool for non profit owned Section 236 and 221(d)(3) properties that are partially subsidized, AAHSA recommends that unassisted residents upon prepayment of the mortgage in an acquisition or recapitalization prior to mortgage maturation, be eligible for enhanced vouchers. Currently, when non-profit owners prepay their mortgages to undertake a de-coupling, for example, they do so under section 250 of the National Housing Act; and are not subject to LIHPRAA. The thinking then (1990) was that non-profits who are mission driven should not or would not be prepaying their mortgages. But that thinking did not take into account the need for capitalizing the properties for rehabilitation and preservation by de-coupling, refinancing, or acquisition by other non profits in order to preserve the properties, the purpose of HR 4679. In those instances, residents that are not receiving section 8 assistance would not be eligible for enhanced vouchers. In such cases either the residents would be subject to rent increases or displacement or the transactions would not be viable. In these cases, AAHSA believes enhanced vouchers should be available as a preservation tool.

Finally, there are two other preservation tools that merit the Congress' attention as you are considering preservation strategies. One is the implementation of Section 8 (bb) of the US Housing Act of 1937 that permits the transfer of section 8 contract authority to other contracts. Members tell us that as they review projects for acquisition, they run across properties that simply should not be rehabilitated. The costs are prohibitive even with section 8 assistance, tax credits, HOME funds, CDBG funds, and all the gap financing that is available. In those instances, the property should be demolished – the section 8 contract transferred and used elsewhere. HUD now rescinds any section 8 contract authority that will be unused notwithstanding their authority to reuse or transfer such authority.

A second preservation tool although it is not tied closely with mortgage maturation is exit tax relief. For profit owners now considering prepaying their mortgages or selling their properties and leaving the affordable housing inventory may be induced to sell their properties to non profit sponsors who agree to maintain the housing as affordable housing. Often the lack of exit tax relief is all that stands in the way of preservation. AAHSA would encourage members of this Committee to support exit tax legislation with members of the Ways and Means Committee.

Thank you for this opportunity to express our views about the GAO Report, HR 4679, and other preservation strategies. Please direct all inquiries about this testimony to Nancy Libson @ (202) 508-9447 or nlibson@aahsa.org.

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Immediate Past Chairman

Dianne Spaulding
Non-Profit Housing Association of Northern California
Regional Affiliate Representative (CA)

Carol Lamberg
Settlement Housing Fund, Inc.
Regional Affiliate Representative (NY)

Ann B. Schnare
Chairman
Center for Housing Policy

Robert J. Reid
President & CEO
Center for Housing Policy

July 19, 2004

The Honorable Robert W. Ney
Chairman
House Financial Services Committee
Housing and Community Opportunity Subcommittee
B-303 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Ney:

I am writing to request that the enclosed statement by the National Housing Conference on the preservation of existing affordable housing be included in the record at the Housing and Community Opportunity Subcommittee hearing on July 20, 2004.

Sincerely,

Conrad E. Egan
President and CEO

Encl: NHC statement on the preservation of existing affordable housing

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NATIONAL HOUSING CONFERENCE
STATEMENT ON THE PRESERVATION OF EXISTING AFFORDABLE HOUSING

The National Housing Conference (NHC), a prominent and broad-based housing policy organization, supports the continued preservation of existing affordable housing and welcomes the introduction of the "Displacement Prevention Act of 2004" (H.R. 4679) by House Financial Services ranking member Representative Barney Frank (D-MA) to help preserve the existing inventory of affordable, privately owned, HUD-assisted, multifamily housing.

According to a January 2004 General Accounting Office (GAO) report, more than 193,000 subsidized units may be lost as property owners who hold HUD mortgages pay them off. Once the mortgages are paid off low-income tenants may have to pay market-rate rent or find another subsidized unit.

NHC believes that the U.S. Department of Housing and Urban Development (HUD) needs a long-term, well thought out plan to preserve its current inventory. Properties receiving HUD assistance are in many cases aging and in need of repair and in certain instances HUD-assisted properties have become troubled. We see H.R. 4679 as a positive step toward such a plan, taking the financial and physical viability of the inventory into account.

NHC applauds the bill's proposal to use $675 million in previously allocated, but unused, housing funds to prevent the displacement of low- and moderate-income individuals residing in Section 221(d)(3) and Section 236 assisted housing. In our statement on the FY 2005 budget, issued on February 4, 2004, NHC pointed out that the President's budget request included "a proposal that would rescind $675 million in funding that should be used to support the much needed preservation of older assisted properties." NHC is pleased to see a proposed use of these formerly appropriated funds that benefits the current older assisted housing inventory.

NHC appreciates that this valuable resource could be used to fund activities including property rehabilitation, assistance to facilitate purchases of at-risk properties by mission-driven entities and annual payment assistance to help owners cover the difference between subsidized rents and comparable market-rate rents. NHC also supports the concept that in exchange for this assistance, owners would be required to maintain the property as affordable for low-income households for at least 10 years beyond the original date of mortgage maturity.

The National Housing Conference thanks Representative Frank for his leadership on this issue.

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For more than 70 years, the National Housing Conference (NHC) has been the nation's foremost public policy and housing advocacy organization. A coalition of affordable housing experts from the public and private sectors, it is an essential source of broad, nonpartisan information concerning national housing policy. For more information on NHC and its publications, please go to www.nhc.org.

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Russell T. Davis
Administrator, Rural Housing Service
U.S. Department of Agriculture

Before the
House Subcommittee on Housing and Community Opportunity
House Committee on Financial Services

July 20, 2004

Mr. Chairman and members of the Subcommittee, thank you for this opportunity to testify on the preservation of the U.S. Department of Agriculture (USDA) Rural Development financed multi-family housing properties. The efforts to preserve the multi-family housing portfolio remain a top priority of this Administration. At stake is an important affordable housing option in rural communities that addresses a critical need for rural residents with few housing alternatives.

Background

Under the multi-family housing programs, Rural Development makes loans to provide affordable multi-family rental housing for very low-, low-, and moderate-income families, the elderly, and persons with disabilities; and loans and grants for the development of housing for domestic farm laborers. As of May 2004, the nearly $12 billion portfolio consisted of over 460,000 units and over 17,000 properties.

Under the Section 515 program, market rate loans are made for terms of up to 50 years to developers to construct, purchase, or rehabilitate rental housing in rural areas. Subsidized loans are made at an interest rate reduced to one percent through the use of interest credits. Loans are made to for-profit developers, non-profit corporations and public bodies.

Section 514 loans are made to farmers, associations of farmers, family farm corporations, Indian tribes, nonprofit organizations, public agencies, and associations of farm workers. Typically, loan applicants are unable to obtain credit elsewhere, but in some instances, farmers able to get credit elsewhere may obtain loans at a rate of interest based on the cost of federal borrowing. Section 516 grants are made to farm worker associations, nonprofit organizations, Indian tribes, and public agencies.

The Section 538 guaranteed loan program provides federal government guarantees for loans made by commercial lenders to developers of multi-family housing for low- and moderate-income tenants in rural areas. The U.S. Department of Agriculture guarantees up to 90 percent of a loan made by a qualified lender.

Rural Development has two primary types of multi-family housing properties – elderly and regular. Our annual tenant data, last collected in January 2004, show the following characteristics of households residing in multi-family housing properties financed by Rural Development:

- The average adjusted median household income was only $9,452.
- 94.3 percent of the tenant households meet the statutory definition of very low-income, while an additional 4.75 percent meet the definition of low-income. Together, over 99 percent of all households are very low or low-income.
- 57.2 percent are classified as elderly or handicapped/disabled headed households.
- 72.6 percent of households are headed by women.
- 28.5 percent of households are headed by minorities.

Because of the population we serve, Rural Development uses different methods to keep rents affordable:

- Approximately 95 percent of new construction properties financed under the Section 515 program over the past 18 years use low-income housing tax credit proceeds as an additional source of development financing. Additional sources of funds come from State Housing Finance Agency direct loan funds and tax-exempt revenue bonds, U.S. Department of Housing and Urban Development (HUD) HOME funds, and loans made by financial institutions participating under the Affordable Housing Program through the Federal Home Loan Bank network.

  Rural Development is proud of our efforts to encourage partnering in our multi-family housing programs. Leveraging our funding with other loan or grant funds results in savings to our borrowers, who are then able to help reduce rents charged to our tenants.
- Section 521 Rental Assistance is used to further subsidize rents to an affordable level. This is a property-based program that provides the subsidy to property owners in exchange for reducing a certain number of tenants' rents to no more than 30 percent of their incomes. As of May 2004, approximately 269,668 units in the portfolio are aided by rental assistance payments.

The Prepayment Process

An owner seeking to prepay their Section 515 loan must submit to a process required by statute. If Rural Development determines that the owner is qualified to prepay and eligible to receive an incentive, the owner is offered a financial incentive to stay in the program and continue the property's restrictive-use status for at least an additional 20 years. Under restrictive-use status, the borrower ensures that rents will remain affordable for tenants.

Projects funded prior to December 1989 are eligible to prepay. Any pre-1989 projects without restrictive use provisions are also eligible to receive incentives. Incentives include equity loans, increased return on investment, and additional rental assistance. If the borrower accepts the incentive, they sign a new restrictive-use provisions and the property remains affordable. During FY 2003, Rural Development preserved 2,069 units of housing in 76 projects through the incentive and equity loan process, using over $21.5 million in Section 515 funding and $5.8 million in Section 521 Rental Assistance.

If the borrower rejects the incentive package, Rural Development determines if the prepayment will negatively affect housing opportunities for minorities and if there is a continued need for the affordable rental housing.

If the prepayment would negatively affect minorities, Rural Development requires the owner to advertise the project for sale to qualified nonprofit organizations and public agencies. If no offer from an eligible non-profit or public agency is received within 180 days, the borrower may prepay with no further restrictions. Since this outcome could adversely affect tenants, it is critical that an interested and qualified non-profit organization or public agency be available to help prevent the loss of affordable housing.

If the prepayment would have no impact on minorities, but there remains a need for the housing, the borrower may prepay, provided they agree to protect current tenants from profit motivated rent increases, as long as the tenant remains in the property.

If there is no impact on minorities or no need for the housing, the borrower may prepay with no further restrictions. On average over the last four years, approximately 100 Section 515 projects prepay annually, a third of which prepay with no restrictions.

During FY 2004, over 800 Rural Development financed properties became or will become eligible to apply for incentives, having met their 20-year restrictive-use requirement. This adds to the current level of approximately 6,900 projects with no existing restrictive-use agreements. Over the next five years, the number of properties eligible for incentives is expected to grow by about 4,000, as the restrictions expire for the remainder of projects initially funded with 20-year restrictions between 1979 and 1989. The number of projects that either have prepaid or received incentives has been fairly steady over the last five years.

Preservation Initiatives

Recently, Rural Development has refocused our attention on resolving the issues surrounding prepayment and the preservation of the portfolio and has taken a number of positive steps. We designated a State multi-family housing preservation coordinator to concentrate preservation efforts through one individual in each State. Section 515 and Section 521 Rental Assistance funds have also been made available in an attempt to resolve some of the preservation cases currently in court that had the potential to displace tenants.

Rural Development has also made extensive use of existing servicing authorities to facilitate the preservation process. These include the use of subordination authorities to encourage and expand the use of third party funds. We have allowed for new asset management fees to encourage non-profit participation. We will also utilize the advance available to non-profit purchasers, which increased from $10,000 to $20,000.

Earlier this year, we reported that a comprehensive program assessment was being conducted and would provide an analysis of the Section 515 properties in our portfolio. The physical and market analyses have been completed and will be available in the near future.

We are currently developing and examining a number of options that will enable us to offer several positive alternatives to rural housing program borrowers. Progress continues to be made and we can note certain achievements which include:

- Finalization of a new Administrative Notice (AN) that explains how fundamental revitalization principles are incorporated into the transfer program. The transfer program facilitates the transfer of properties, their multi-family housing loans, and rental assistance to new owners. This process is usually completed using a third party. The AN also provides guidance on streamlining the existing transfer process and suggests new methods for using existing rural housing program authorities to make preservation transactions work.
- Collaborating with Rural Development's Rural Business and Cooperative Service to encourage the use of cooperative housing ownership structures to preserve affordable rental housing. The concept of empowering tenants facing displacement to take ownership into their own hands offers an innovative use of program authorities at a time when it is difficult to find conventional entities willing to take on the challenges of rural rental housing property ownership.
- Working closely with Fannie Mae and Freddie Mac to establish a simplified process of securing secondary financing for both rehabilitation and equity loans provided by third party lenders. Both organizations are committing significant time and resources to develop and establish a new, steady source of preservation financing. The process will be facilitated by written guidance issued by both Fannie Mae and Freddie Mac on how lenders are to obtain financing for transactions that support rural rental housing revitalization proposals. We are working with Freddie Mac to administer a pilot that will be implemented in Ohio and Indiana this summer.

The completion of the Adirondack Apartment transfer transaction is a successful example of how Rural Development and Fannie Mae have worked together to preserve a much needed property in upstate New York. By working together, a 40-unit property with Section 8 assistance has been purchased and repaired using financing sold on the secondary market through Fannie Mae. The property is now situated to continue to provide much needed affordable rental housing well into the future.

Interim Rule 3560 – Prepayment Policies and Procedures

Interim final rule 3560 consolidates 13 regulations and a number of administrative notices affecting Sections 514, 515, 516, and 521 multi-family housing programs. A significant number of the 3,000 comments received on proposed rule 3560 focus on the prepayment process. Borrowers commented that the process was complex and difficult to understand. In response, interim final rule 3560, which is expected to be published this fall, will streamline the policies on the prepayment process.

One change will be in the area of incentives. The interim final rule clarifies the policy on incentives and adds several requirements to help ensure that available funding is used efficiently to benefit the program. For example, the interim final rule more clearly outlines the process a borrower must follow when requesting permission to prepay and be deemed eligible to receive incentives.

In addition, the interim final rule clarifies that third party equity loans are an option for borrowers who are seeking equity loans through the prepayment process. The use of third party equity funding stretches incentive funds by providing resources from alternative funding sources. All proposed third-party incentive loans must be underwritten and reviewed to the same standard

as Section 515 lending to ensure that no property is made financially unfeasible as a result of a third party loan.

We continue to work with industry partners to develop options for the preservation of the portfolio. Completion of the comprehensive program assessment and implementation of recommendations to improve program efficiency will enable us to better utilize available resources and identify opportunities for continuing partnership efforts.

Rural Housing Program Update

I am pleased to provide you with an update on current highlights from our other major programs.

Community Programs

The Community Facilities program provides essential community facilities and services such as schools, fire protection, rescue services, public safety, medical facilities, and childcare centers to rural communities.

The Bush Administration has, during the first three quarters of FY 2004, assisted 76 rural communities by investing over $88 million in educational and cultural facilities, $36 million in fire, rescue, and public safety facilities and services to 206 rural communities, and over $154 million in health care facilities in 93 rural communities. Funding for these types of facilities totaled in excess of $375 million. The remaining balance was used for other essential community facilities. Over $81 million of total funds expended financed 126 projects that meet the Bush Administration's 1st Responder Initiative program requirements. For example in Lauderdale,

Tennessee, we provided $21,500 to the Lauderdale County Rescue Squad to finance a watercraft for water rescues. So far in FY 2004, we have funded 290 direct loans totaling in excess of $227 million, 62 loan guarantees totaling in excess of $84 million, and 267 grants totaling almost $6 million. By the end of FY 2004, we project to have participated with local governments, state governments, non-profit corporations, and Federally-recognized Indian Tribes in financing more than 375 new or improved public safety projects, 120 new and/or improved medical facilities, and approximately 110 new and/or improved educational facilities.

In response to the Administration's Faith-Based and Community Initiatives, we have funded 4 projects totaling over $11 million. In the Township of Springfield, Ohio, the Word of Life Outreach Center, Inc. is building a new 5,500 square foot community outreach building to house its food bank, clothing bank, and adult daycare center. Rural Development is providing a direct community facilities loan of $650,000 for this project.

Single Family Housing

Homeownership is the cornerstone of the Bush Administration's efforts to increase economic assets and the financial strength of rural Americans. USDA Rural Development's single-family housing programs provide opportunities for rural Americans with very low- to moderate-incomes achieve homeownership. The Bush Administration has invested more than $11 billion to assist over 130,000 rural families realize their dreams of homeownership.

So far in FY 2004, over $2.3 billion has been made available as loan guarantees of private sector loans. $786 million in direct loans has been used to create housing opportunities for low and very low-income families. In the 504 loan and grant program, over $45 million has already been provided to assist elderly persons and very low-income families that own homes in

need of repair. Additionally, $18.5 million has been provided through our self-help housing program.

In response to President Bush's Minority Homeownership Initiative, in October 2002 USDA issued a Five Star Commitment to expand homeownership opportunities among minorities. Minorities comprise approximately 13 percent of Rural America. As of July 1, 2004, we have provided 32,894 direct and guaranteed homeownership opportunities with approximately 18 percent going to minorities. Of the 27,273 first-time homebuyers receiving assistance from Rural Development, 20 percent are minorities.

In conjunction with the Bush Administration's homeownership initiative, USDA recognized National Homeownership Month in June by holding over 150 events nationwide. These events included housing fairs, homebuyer education seminars, groundbreakings and building of self-help housing developments. Department of Agriculture Secretary Ann Veneman and many high level USDA officials were able to participate in many of these events. In addition, USDA Rural Development, as a Dream Team member, partnered with HUD and participated in Homeownership Expos in Las Vegas, Nevada and Miami, Florida.

Conclusion

Mr. Chairman and members of the Committee, we thank you for your support, and with your continued support, Rural Development looks forward to improving the quality of life in rural America by providing housing opportunities and building competitive, active rural communities.

We recognize that we cannot address the homeownership and rural community facilities issues alone, and this Administration will continue to identify and work with partners to improve

the lives of rural residents. We will continue to reach out to and partner with lenders, the many non-profit organizations, as well as federal, state, local, and Indian Tribal governments to meet the housing and community needs of low-income families and individuals in rural communities.