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# LEGISLATIVE PROPOSALS TO PRESERVE PUBLIC HOUSING

## HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

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# LEGISLATIVE PROPOSALS TO PRESERVE PUBLIC HOUSING

**Wednesday, April 28, 2010**

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

The subcommittee met, pursuant to notice, at 10:09 a.m., in room 2128, Rayburn House Office Building, Hon. Maxine Waters [chairwoman of the subcommittee] presiding.

Members present: Representatives Waters, Cleaver, Green, Ellison, Donnelly, Driehaus; Capito, Marchant, and Jenkins.

Also present: Representative Castle.

Chairwoman WATERS. Good morning. This hearing of the Subcommittee on Housing and Community Opportunity will come to order.

I would like to thank Ranking Member Capito and the other members of the Subcommittee on Housing and Community Opportunity for joining me today for this hearing on legislative proposals to preserve public housing.

The public housing program is facing a crisis. After years of chronic underfunding, many public housing units are in a state of disrepair. HUD estimates that the current backlog of deferred repairs amounts to $24.6 billion, and that is why I fought to include $4 billion in the stimulus bill for public housing and capital repairs. Unfortunately, given the massive amount of funding needed by the program, this funding, however essential, was only a drop in the bucket.

Perhaps in response to this funding crisis, some public housing agencies have decided to get out of the public housing business. Current Federal law provides three avenues for agencies to eliminate public housing: demolition; disposition; or conversion to vouchers. I am concerned about all of these actions, especially because there is no Federal law to require the one-for-one replacement of lost units.

Due to the lack of a one-for-one replacement requirement, over 200,000 public housing units have been permanently lost since 1995. The City of Atlanta has demolished all of its 25,000 public housing units. The San Diego Housing Commission has converted its entire stock of 1,366 public housing units to tenant-based vouchers. And I am hearing more and more reports of public housing agencies wanting to leave the program and serve families with vouchers.

I am concerned about the use of vouchers to replace public housing for several reasons. First, public housing is more effective than vouchers at serving low-income families in areas with a limited supply of affordable housing, low participation rates in the voucher program, and high rates of gentrification.

Second, public housing serves a population of people who cannot be served well with vouchers. Public housing is generally home to the hard-to-house families who have certain challenges that prevent them from renting a unit in the private rental market. For these people, public housing is their housing of last resort.

Finally, public housing is always there. There are always ebbs and flows in the private rental market, which is why we cannot rely entirely on it to serve our most vulnerable populations. That is why Chairman Frank and I have drafted legislation to preserve our public housing stock.

My draft bill, the Public Housing One-for-One Replacement and Tenant Protection Act, would require the one-for-one replacement of all demolished, disposed, or converted public housing units, and provide essential protections for tenants in these properties.

Mr. Frank's draft bill, the Public Housing Preservation and Rehabilitation Act, would provide public housing agencies with the financial tools they need to achieve one-for-one replacement and repair units before they are too far gone.

Both of these proposals are long overdue. The Administration has its own proposal to preserve public housing, which will be the focus of a separate hearing next month. I am pleased that we have an Administration that has taken the crisis in public housing seriously. And I look forward to working with them on preserving this valuable resource.

I am eager to hear the testimony of our witnesses today, and I would now like to recognize our subcommittee's ranking member to make an opening statement. Mrs. Capito?

Mrs. CAPITO. Thank you, Madam Chairwoman, and thank you for holding this hearing on public housing in general, and specifically on the two draft bills offered by Chairman Frank and Chairwoman Waters to reform public housing units.

The issues surrounding public housing are complex, and have generated lively discussions over the years that center on how best to address the needs of low-income families.

According to an article written by Howard Husock, with the Manhattan Institute, entitled, "Public Housing and Rental Subsidies," Federal operating subsidies for public housing have risen from $6.5 million in 1969 to $4.4 billion by 2009. Mr. Husock points out that about 1.1 million households currently inhabit federally-financed public housing, down from a peak of 1.4 households in 1991.

The Federal Government began funding the production of housing for low-income families, or public housing, during the Great Depression. While well-intended, most people agree that large public housing projects have done little to promote a better life for low-income families seeking assistance. Instead, public housing developments have become, in some cases, places that were characteristics of large concentrations of poverty, high crime, and poor academic achievement.

The Section 8 Voucher Program and the HOPE VI Program both were established as an answer to the public housing model that turned into cities of despair. As we have come to grips with the failure of the public housing model, hundreds of thousands of public housing units have been demolished. While I recognize that there is a general concern, and I share the concern over the loss of these units, implementing policies such as one-for-one replacement and bans on the demolition of dilapidated public housing only force us, I believe, to repeat some of the mistakes of the past.

These housing units should be an opportunity to better oneself, not trap individuals into a troubling situation. Congress should, instead, seek innovative solutions that promote public/private partnerships to housing, and that do not include a hefty price tag for the taxpayer.

Chairwoman Waters, I look forward to hearing our witnesses today, and to working with you to find new cost-effective solutions that will allow us to help those in need. I yield back.

Chairwoman WATERS. Thank you very much. Mr. Cleaver, for 2 minutes.

Mr. CLEAVER. Thank you, Madam Chairwoman. I agree 100 percent with Ms. Capito, that we made some monumental mistakes with public housing. There is absolutely no way to look at it but that we made mistakes.

I lived in public housing until I was almost 13 years old, and my father eventually bought a house outside the Black community where we lived, and where all the Black people lived, and then had it moved to that community. And it created a level of pride that I cannot articulate.

But I also understand that there is a very serious need for low-income housing. In 1937, when public housing came into existence, we had about 128 million Americans who lived below the poverty guidelines. Today, we have 309 million. And so, if you look at percentages, we have a much greater need for public housing today than we did in 1937.

One of the things we have to do is to make sure that there is always safe, affordable housing. One of the problems, when people live in dirty, dilapidated, decrepit housing, is that they are subjected to things that people don't even imagine, like eating lead paint off the walls, and doing enormous damage to their capacity to learn later on in life. And then, eventually becoming the stereotype, because of where they have come from.

So, I think that we need to really look at this issue, try to avoid mistakes, learn by the mistakes of the past, and then continue a program that has served our Nation well. I yield back, Madam Chairwoman.

Chairwoman WATERS. Thank you very much. Mr. Donnelly?

[No response.]

Chairwoman WATERS. And I think Mr. Driehaus is there.

Mr. DRIEHAUS. Thank you, Madam Chairwoman. I just want to say thank you for holding this hearing and the hearing next month. Obviously, public housing is a challenge for all of our communities, and certainly there have been mistakes made in the past.

But as we move forward and think about the balance that we need to strike between preservation of units, construction of new

units, and how the voucher program ties into that, I think answering the very tough questions is critically important for this committee.

So, I applaud you for having the hearing, and I look forward to working with you on the legislation.

Chairwoman WATERS. Thank you very much. I am pleased to welcome our first distinguished guest. Our first witness will be the Honorable Sandra Henriquez, Assistant Secretary for Public and Indian Housing, United States Department of Housing and Urban Development. Thank you for appearing before the committee today. And, without objection, your written statement will be made a part of the record.

You will now be recognized for 5 minutes to summarize your testimony.

**STATEMENT OF THE HONORABLE SANDRA B. HENRIQUEZ, ASSISTANT SECRETARY FOR PUBLIC AND INDIAN HOUSING, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Ms. HENRIQUEZ. Thank you. Good morning, Chairwoman Waters, Ranking Member Capito, and members of the committee. And thank you for this opportunity to appear before you to talk about HUD's vision for the preservation of affordable housing.

Like you, Chairwoman Waters, I have dedicated my entire career to developing, managing, and preserving affordable housing. And, for me, the goal has always been to provide a unit that families can be proud to invite friends to, to raise a family in, and a real place to call home.

So, for me, providing rental assistance to those families is, by far, the Department's single most important purpose. Public and assisted housing is a critically important resource for 4.6 million families today. Many of these families, including 70 percent of the public housing residents, have extremely low incomes. And although that number of families served seems impressive, the reality is that the demand for safe, decent, affordable housing far exceeds the supply.

With much of the federally-assisted housing portfolio more than 30 years old, we are losing units at an alarming rate. And since the 1990's, we have lost over 150,000 public housing units, primarily as a result of deterioration. Public housing authorities have had little choice but to either demolish or dispose of units that were unsalvageable. And today, through redevelopment, demolition, disposition, and conversion to Section 8 vouchers, we lose more than 10,000 public housing units every year.

The public housing program in particular is wrestling with a very old physical stock, and a backlog of unmet capital needs that may exceed $20 billion. The capital needs of our Nation's affordable federally-assisted housing stock too are substantial, and are too urgent for us to continue in this model.

Given the current fiscal environment, it's clear that the Federal Governmental loan will not be able to provide the funds needed to bring properties up-to-date and to preserve them for future generations. We must identify new funding streams for public and assisted housing.

In addition to finding new resources to recapitalize the inventory, we must also establish ground rules for the redevelopment of public housing. This Administration believes that one-for-one replacement should be the default position. You have seen it in our Choice Neighborhoods legislation, and you will see it echoed in the Transforming Rental Assistance bill that we hope to get before you in the next few weeks.

Chairwoman Waters, you know these issues all too well. On behalf of the Department, I want to thank you for your passion and your vision and your leadership on affordable housing preservation.

I also want to acknowledge your legislation to support preservation by revising the laws governing public housing demolition and disposition. The Department supports the intent of the Public Housing One-for-One Replacement and Tenant Protection Act of 2010 to stem the loss of public housing, and to protect the voice of tenants in local land use and development decisions.

Responsibly, the bill recognizes that some public housing developments are obsolete, and must be reconfigured, even to the point of fewer units on site, and that some sites are simply not suitable for housing. We support the bill's solution in these cases to allow off-site development to fulfill that requirement.

We note that the bill would also allow public housing units to be funded through other means, such as project-based assistance. And, as I will discuss later in my testimony, I believe that the goals of public housing can be met without relying on traditional funding resources.

However, housing authorities will not necessarily have the resources to fund the amount of housing production envisioned by the bill. In that regard, the bill hearkens back to the early 1990's, where distressed housing remained vacant or, worse yet, housed low-income families, largely because housing authorities had insufficient resources to replace the units on a one-for-one basis.

I would also like to recognize the many contributions to affordable housing preservation made by Chairman Frank, who most recently introduced the Housing Preservation and Rehabilitation Act of 2010. The driving force behind both pieces of legislation is a strong desire to have a true, permanent, public, and assisted housing preservation strategy.

And of course, as great as the capital needs are, we know that the depth of human need is even greater. Countless residents still remain trapped in neighborhoods of concentrated poverty, because moving means giving up their subsidy. These families not only lack mobility, they lack the opportunity to choose where and how they want to live.

And so, today we face a choice of our own. We can approach these challenges piecemeal, as we have for decades, or we can deal with them now, together, in a comprehensive way to put our rental assistance programs on a more sustainable footing for years to come.

Now is the moment to reverse permanently the long-term decline in the Nation's public and assisted housing portfolio, and help move HUD's rental housing programs into the housing market mainstream. And to address these issues, HUD proposes to launch an ambitious multi-year preservation effort called "Transforming

Rental Assistance." It would preserve public and assisted housing for the long term by providing a subsidy stream similar to project-based vouchers and project-based Section 8. It would allow housing agencies to obtain more private financing than existing public housing subsidies do. And by providing a reliable funding stream, and placing participating properties on a sustainable footing from both a physical and a financial standpoint, owners will be able to leverage private financing to address immediate and long-term capital needs, freeing them from the need for separate and annual capital subsidies.

In the 2011 budget, the phase of TRA will provide $350 million to preserve approximately 300,000 units of public and assisted housing, increase administrative efficiency, leverage private capital, and enhance housing choice for residents. With this request, we expect to leverage approximately $7.5 billion in other State, local, public, and private capital investment—$290 million will be used to fill the gap between operating and capital funds otherwise available for converting properties to the first-year costs of the new contracts.

We have proposed also using $50 million in services to expand families' housing choices and supporting informed decisions by residents who choose to move, including resources to encourage landlords in a broad range of communities to participate in the Housing Choice Voucher Program.

In closing, TRA reflects HUD's commitment to preserving affordable housing with a reliable, property-based, long-term rental assistance subsidy, supporting affordable housing reinvestment, neighborhood revitalization efforts, and bringing enhanced opportunity and choice to residents.

I hope that as we move through this process, we can count on your support in advancing what we believe is a real breakthrough in public and assisted housing preservation efforts.

Thank you again, and I welcome any questions you may have at this time.

[The prepared statement of Assistant Secretary Henriquez can be found on page 42 of the appendix.]

Chairwoman WATERS. Thank you very much. I would like to make sure I have the numbers right here. The capital fund is the fund that you fund the capital cost for public housing out of, is that right?

Ms. HENRIQUEZ. That's correct.

Chairwoman WATERS. And what is that fund, presently? How much is that? Is that $2.45 billion?

Ms. HENRIQUEZ. In the 2011 budget, it's proposed at $2.044 billion, I believe, or thereabouts.

Chairwoman WATERS. That's 2011. What is it for 2010?

Ms. HENRIQUEZ. Oh, I'm sorry. That is correct, $2.45 billion, thank you.

Chairwoman WATERS. 2.45—

Ms. HENRIQUEZ. Yes, right.

Chairwoman WATERS. —is what we're operating under now, is that correct?

Ms. HENRIQUEZ. That's correct, in 2010.

Chairwoman WATERS. And the request for funding year 2011 is 2.044?

Ms. HENRIQUEZ. That's correct.

Chairwoman WATERS. So that's a reduction.

Ms. HENRIQUEZ. Yes.

Chairwoman WATERS. Tell me about that.

Ms. HENRIQUEZ. The change in the amount was tied to the $4 billion that was granted by the Congress toward housing authorities to use under the stimulus package. And, indeed, that money was used in addition to ongoing capital needs for those housing authorities.

The Department made—and the President's budget made—hard decisions about what to fund, and how to fund it. And so the issue for HUD was to fully fund its Rental Assistance Program. And, subsequently, other programs across the HUD Department took some cuts.

Chairwoman WATERS. So what we are hearing is that you share my concerns and Mr. Frank's concerns about preservation of public housing, and understand that we need money in order to revitalize or to renovate, to—I don't even know if we are talking about expansion. But yet we have a reduction in the capital fund that would accomplish that. Is that right?

Ms. HENRIQUEZ. I guess I would characterize it a little bit differently there. What we are looking for is that moving to a stabilized funding system, such as the transformation of rental assistance, would get us out of the mode of having to rely on annual appropriations that have been uneven over the past several decades, in order to get capital improvements done by housing authorities and multi-family owners.

Chairwoman WATERS. How do you do one-for-one replacement if you have decreasing amounts in the capital fund?

Ms. HENRIQUEZ. One-for-one replacement, I think, is really not a capital item as it is—capital, I think of as preserving the existing units in which people live, or bringing back some units that have yet not been demolished and are salvageable and able to get back into re-occupancy.

The capital program, as it is currently constituted, really is not situated to develop and produce new units. Other mechanisms are needed to do that.

Chairwoman WATERS. If you had your choice, how much money would you recommend for the capital fund if you had any amount that you could get from this Congress? What is needed?

Ms. HENRIQUEZ. I don't even begin to know how to answer that question.

[laughter]

Ms. HENRIQUEZ. Well, let me try to address it in this way. We believe—and I think you have echoed this as well—that the program, the unmet capital needs for just public housing—we're not talking about the other assisted housing stock—exceeds $20 billion. And that is a stake-in-the-ground number today.

Moving forward, as properties continue to age, and as obsolescence continues to increase, I think those numbers will continue to increase as well, unless there is some definitive program that

stems the tide, that creates enough capital infusion at this present time, so that we don't lose more units.

Chairwoman WATERS. Okay. Let me just say that I was curious about your comments about the backlog of public housing capital repairs. And it seems that the Administration has decided that it will not seek appropriations to address this backlog. Is that an accurate assessment? I think we have gone over that, basically, in that is an accurate assessment. Is that right?

Ms. HENRIQUEZ. I do not believe that is an accurate assessment, that—we really are looking for this transformation of rental assistance as a way to infuse the capital programs and leverage other dollars to really address the capital needs of the portfolio—

Chairwoman WATERS. Okay, you talked about transforming the Rental Assistance Program. But wouldn't that also require additional appropriations?

Ms. HENRIQUEZ. What we have asked for in the 2011 budget, the first phase, is this $350 million, $290 million of which would be the conversion of 300,000 units, both of public housing and assisted housing.

We believe doing that, on its own, would leverage $7.5 billion of capital money outside of the annual appropriation from the Federal Government.

Chairwoman WATERS. Okay. Well, it seems that the Administration is committed to some amount of reinvestment in public housing, but the amount appears to be significantly less than the $24.6 billion backlog.

With that, let me go to Mrs. Capito.

Mrs. CAPITO. Thank you, Madam Chairwoman. I would like to thank the witness. I would like to talk a little deeper about the current appropriated funds for the capital fund. You mentioned that it was $2.45 billion.

How much of that is actually out the door at HUD, and how much do you have in a backlog of funds at HUD that have yet to be appropriated to the housing authorities?

Ms. HENRIQUEZ. [No response.]

Mrs. CAPITO. It's my understanding that you're running a—you can't get the money out the door at HUD to sufficiently—convince me that greater funds is going to be—what I'm wondering is, do you have a backlog at HUD of money that hasn't gone out the door for this—in this capital fund?

Ms. HENRIQUEZ. That question—I am not sure of how much money sits still to be drawn down by housing authorities.

Mrs. CAPITO. Right.

Ms. HENRIQUEZ. The allocations have gone out, people know what their capital needs are. But it's a reimbursement and a drawdown program.

If I can use as an example, the stimulus money, $3 billion was issued to housing authorities. And within approximately 30 days of that money becoming available from the Congress to HUD, that $3 billion was allocated to all of the housing authorities by formula, much like we do our capital fund.

So, getting the money out has not been a problem. In addition, housing authorities obligated that money within the timeframe that was allocated by the bill. And so, there is clearly an ability

for housing authorities to use the money, to use it expeditiously. They have planned for it, and they put it to good use as soon as they get their contracts in place, and the work is awarded.

Mrs. CAPITO. So, in the stimulus bill, there was a timeframe that was allotted that it had to be obligated and used. And if it wasn't, it would go back, probably, into the formula, I would imagine.

But—and so, I guess maybe the presumption I am dealing with—and must be erroneous—that there isn't a current backlog of $20 billion in the HUD capital fund where maybe it is obligated but it hasn't—since it's in a reimbursement formula, it hasn't been actually been sent off to the—

Ms. HENRIQUEZ. No, I think there is probably a little bit of a disconnect.

When we talk about $20 billion in unmet need, it's what is out there that should be fixed, that needs to be fixed, but there is no money to fix it. So HUD is not sitting on $20 billion worth of money yet to expend to get to housing authorities.

Mrs. CAPITO. Okay. Then when did you do your capital needs assessment to get to the $20 billion figure?

Ms. HENRIQUEZ. It's an accrual number that has been building up over time, and we are currently in the midst of doing a capital needs assessment—

Mrs. CAPITO. Good.

Ms. HENRIQUEZ. —which we expect will be done, probably, in the next 3 to 4 months, which will really tie down that number.

And, in addition, we are moving forward to do individual property or physical needs assessments, which would fine-tune at each housing authority, each development, what the actual capital needs are, property by property.

Mrs. CAPITO. Yes. Well, I would like to highlight my public housing authority in Kanawha County, Charleston, West Virginia, where I live. They have done some very creative things with replacing dilapidated housing with making families and the dwellings, the new dwellings for the public housing units, very attractive. They are building green, and they are spreading them out through the city, which I think is much, much better. They are also highlighting seniors and disabled folks, to make sure everybody has access, disability access, to the units. So, I would like to highlight that.

One of the problems, I think, when the units came down that they were replacing, is there was a high incidence of unoccupied units, because they were either undesirable—what is the—across-the-board do you have a figure you look at that you think—is it 20 percent, or is it—is that too high—that are unoccupied public housing units that are available but are not occupied?

Ms. HENRIQUEZ. Okay, I'm being handed a note.

Mrs. CAPITO. Yes.

Ms. HENRIQUEZ. At this point, I don't know what that percentage is, or the vacancy rate. We can get you that information.

Mrs. CAPITO. Yes.

Ms. HENRIQUEZ. I do believe that, having practiced and run a housing authority for 13 years, if I had vacant units, they were in several different kinds of conditions.

There were vacant units through the normal course of turnover that, with my regular ongoing maintenance staff, we would put back online and reoccupy.

There were then a number of units that needed a greater level of renovation in order to get back into the marketplace. And those, I would either—if I had the opportunity to put them on through maintenance, extraordinary maintenance funds, I would do that. If I had capital, I would do that. If not, I would have to make really difficult decisions.

Do I replace a roof or do I put a unit back online? And maybe the choice was to replace the roof and forego the unit, because without the roof, I would lose units that would be then uninhabitable because they would not be watertight. Those are the kinds of decisions housing authorities make every single day because the capital fund has not kept pace.

And that's why we believe, under the transformation of rental assistance, that over time, housing authorities could take the streamlined subsidy source and do with it what they cannot do now with the public housing operating subsidy, and that is really go into the commercial marketplace, leverage other kinds of equity, and be able to then really get a handle on not just the capital needs, but really doing the kinds of things you have talked about with your housing authority, really trying to go green, doing some retrofits, making it more—have more market or curb appeal—

Mrs. CAPITO. Right.

Ms. HENRIQUEZ. —blending it better back into the rest of the housing stock within the rest of the community, so that it might be almost indistinguishable from other housing, other types of affordable housing or market housing that's on the landscape.

Mrs. CAPITO. Okay. If I could just—I know my time is up. You're going to get me the vacancy rate. And then also, if you could, check back into the—because I have conflicting information—on what kind of backlogging you might have in the Capital Reserve Fund that remains unspent. Thank you.

Ms. HENRIQUEZ. Okay.

Chairwoman WATERS. Thank you. Mr. Cleaver?

Mr. CLEAVER. Thank you, Madam Chairwoman. Ms. Henriquez?

Ms. HENRIQUEZ. Yes?

Mr. CLEAVER. Would you agree with me that since the Housing Act of 1937, we have had few defeats in domestic policy to match the defeats we have experienced in public housing?

Ms. HENRIQUEZ. I would agree.

Mr. CLEAVER. Then would you agree that maybe instead of reducing the amount of funding for public housing, we ought to set forth the principles of reform for public housing, so that we can spend our dollars more wisely?

Because one of the problems I think you may agree with is that in many of the public housing developments around the country we have not had the money to maintain the units at a higher level. Therefore, we witness a decline. And then, in many instances, say, "Well, we tried."

Do you agree that if we used more money to maintain and upgrade public housing, some of the issues that we are raising today would not be in existence?

Ms. HENRIQUEZ. I do believe, as a former practitioner, that if indeed the amount of funding required to adequately maintain the public housing portfolio had kept pace with the need, we would not be here, having this discussion. That has not been the reality.

And if I look historically at the reality, it seems to me that we are probably going to repeat the past. So the issue is, how do you get enough money into the portfolio at a particular point in time, so that we are not always having the conversations or that housing authorities are not making what I would consider Hobson's choices about roofs versus units back online, what's to be—what's distressed, what you let go, and what you have to convert out of the portfolio.

Again, I come back to how do we think about a program, which is why I will tell you, quite frankly, that in my housing authority days in Boston, I really did try and dream more expansively of a subsidy or some sort of program that would provide sufficient subsidies that I could be the best possible landlord for my portfolio, and how I could get enough money into my portfolio to operate to make the kinds of good decisions that my colleagues, who were doing other types of assisted housing in the real estate marketplace, were able to make.

Because I was not able to refinance my property and leverage the equity, and the value of that property, to make it work for me—more importantly, to work for the residents who lived in those properties, I didn't have the tools necessarily readily available, nor sufficient dollars to leverage enough money so that I could transform those properties to really have a level of comfort and liveability to—a standard that I described to my staff is, would I want my grandparents to live there, or my favorite aunt and uncle? That's the standard.

And I think this transformation of rental assistance provides the mechanisms to get both a sustainable subsidy and to be able to have housing authorities and other owners leverage into the marketplace private dollars to accomplish that kind of work.

Mr. CLEAVER. Yes, I think you also answered just then the question raised by the chairwoman about if you had a chance to put money in, what would you do. I think you just kind of answered it. You didn't put a figure on it.

But I headed a housing authority. I didn't run it. I was mayor, and I appointed the housing authority, and then fired people when things went bad. We were able to get the first HOPE VI project in the country in Kansas City.

And so, I am concerned about why we would want to move to acquiring Section 8 properties, or changing some of the public housing into Section 8, and the same with HOPE VI. What is the advantage there?

Ms. HENRIQUEZ. First of all, there has never been—and there still isn't—enough opportunity, enough resources to transform—HOPE VI-like transform—developments around the Nation that need that kind of transformation. Not every property does, but there are still a number of properties that do.

And again, I keep coming back to the TRA, because rather than having to think about wholesale redevelopment in that way, some

properties, a majority of properties, really just need a level of capital infusion to continue to operate in the best possible way.

This is not an opportunity to take one away from the other. In fact, we have a Choice Neighborhoods bill which really advances and builds on HOPE VI. This is an opportunity for us not to pit a Section 8 Program against a public housing program against any other form of affordable or assisted housing. It really is to meld them all into as much of a uniform program as possible, and move the entire portfolio forward, so that we have affordable housing, a broad continuum of affordable housing, to service the people who need it, and hopefully to think about expansion at some point moving forward.

Mr. CLEAVER. Thank you.

Chairwoman WATERS. Thank you very much. Mr. Marchant?

Mr. MARCHANT. Thank you, Madam Chairwoman. In Dallas, where I represent, several years ago a judge made the decision that our public housing was too concentrated in areas of the city that were not desirable areas of the City, and we got into a very large circle. It wasn't a nice part of the City because there were public housing there, and then it just—and they seemed to be bouncing off of each other.

So—and Alphonso Jackson was the chairman of our public housing authority. And the judge ordered, and Dallas began to implement a program of destroying, tearing—emptying out, destroying, tearing down, selling the land to private developers, and then issuing vouchers to the tenants to go back into those same units, sometimes in the same part of town, but usually in other parts of the town.

And then, a proliferation of just individual housing units, where people could go to any of the suburbs with that housing voucher in hand, and disperse into the entire greater Dallas area. That seems to be the program that the public—in my area—seems to be most behind. And it—because it gives a lot of choice to the person who has a voucher in their hand. It gives them the opportunity to pick the neighborhood, the school district. They have—and, frankly, the vouchers are very generous in our area, so that it is not as limiting.

Wouldn't it be prudent or—in our area, it would be more prudent to take—this is my opinion—those units, the money that's fixing the roof, to not fix the roof, but to take that unit, take that money, and give it to a family who can then take that voucher out into a community that they would like to live in, and then take those properties, allow developers to come into those properties, own those properties, and then convert that to a voucher program?

In my mind, the public housing authority function in our area at some point, in my opinion, will become just a place where people come to get their vouchers. Is that theory all over the United States, or just in our area?

Ms. HENRIQUEZ. I think that theory is in some places around the United States. I would say that this is not an either/or, and we're not looking to say one solution is better than another solution.

There is so much unmet need that we need to figure out both how to stabilize what we have, and then figure out if there are other opportunities and other ways to make affordable housing,

whether it's through vouchers or it's through actual hard units, whatever it is, and have the freedom of a housing agency in its locality be able to be what I would consider a major player to help shape the affordable housing marketplace in that community.

Vouchers work in some places; they don't work well in others. It depends on a variety of market conditions. And, in addition, it depends on how many landlords are willing to enter into that program. Under TRA, we have proposed this $50 million in the first year of the $350 million in the 2011 budget to really help residents make informed choices if they want to take a voucher and move from a converted property, and to ask and get other landlords, and to encourage a broad segment of landlords in suburban areas in neighboring communities to participate in the program, again, to provide greater opportunities for people with vouchers to use.

But that's not the only solution. We also need to make neighborhoods and communities strong, so that people can choose whether they're going to stay in their community because—so they can make choices the way the rest of us make choices on family, on jobs, on educational opportunities, and so on.

Mr. MARCHANT. And I guess my point would be there are many opportunities for private developers to come into those same communities, into those same units, and preserve them, restore them, preserve them, manage them, own them, take on the capital costs, and then let the same people stay there, but the government not be—have the capital investment in them, or be a capital investment partner. They might provide the land or the shell, and then the funds to finance it.

Chairwoman WATERS. Thank you very much. Mr. Green?

Mr. GREEN. Thank you, Madam Chairwoman, and thank you, Madam Assistant Secretary, for being with us today.

As an aside, you indicated that you worked in Boston. Is this correct?

Ms. HENRIQUEZ. Yes, sir.

Mr. GREEN. Are you familiar with the Organization for New Equality? Ambassador Charles Stith was—

Ms. HENRIQUEZ. And Reverend Joe Washington?

Mr. GREEN. Yes.

Ms. HENRIQUEZ. Yes.

Mr. GREEN. Yes, I—

Ms. HENRIQUEZ. Reverend Stith, who used to be my pastor at Union United Methodist Church.

Mr. GREEN. I had the preeminent privilege of serving on the board and found it to be a very helpful organization in the area of housing.

Thank you for your service.

Ms. HENRIQUEZ. Thank you.

Mr. GREEN. And I would like to start with the actual number of persons who need assistance. It is somewhat difficult to ascertain the actual number, or get the empirical evidence, because we have many housing agencies that actually have a cut-off point. And once you get to the cut-off point, other persons are not put on a list such that you know actually how many people are waiting.

How do you deal with this notion that the cut-off point exists but we know that there are just thousands of persons who are trying

to get on a list? I get calls from persons who tell me that, "I can't get on a list, I have been waiting for some long period of time to try to just get on the list, so that I can wait a long period of time to get some help." How do we deal with that?

Ms. HENRIQUEZ. I think that's a very good question, and I don't have a good answer for you. A lot of housing authorities will close their waiting lists, because the wait, in terms of the turnover and the available units, begins to be 5 or 10 years long.

And philosophically, a number of housing authorities believe that is just a very long time. Circumstances change, and finding people after a long period of time is more difficult and not helpful. And, therefore, they try to—they close a list, they try to exhaust that list, and then reopen it to try and refresh it and take new names and new positions.

The other problem with how to try and quantify the need is really tied to the way in which programs work, not just on the public housing side, but on virtually every assisted program I have known. People can come apply either for a housing authority at a central location, but people apply at multiple places.

So, you could apply at the housing authority for its Section 8 Voucher Program, you can apply for its public housing program. You apply all over the place to try and maximize your opportunities to get up on the list, and we don't—

Mr. GREEN. Permit me to ask this question. Would it be helpful—and I have been giving some thought to the legislation to do this—but would it be helpful if you had some means by which you could understand the list, and know the number on the list, but also know the number of persons who would like to be on the list? Would it be helpful in acquiring the empirical evidence necessary to make the argument that we have a problem that may be greater than we actually realize? Would that be helpful in any way?

Ms. HENRIQUEZ. I think the data, hard data, is always helpful. I think that would tell us sort of the breadth of the problem. I would caution, I think, that the breadth of the problem as defined today might change tomorrow. And so, it could always be somewhat of a shifting number. But I think it would not be unhelpful.

Mr. GREEN. Okay, thank you. Moving to another area, literally, Louisiana became everybody's congressional district—New Orleans, especially—after Hurricane Katrina. I was with the chairwoman when we went to New Orleans and we looked at a number of projects there. And they have made some strides, and they have constructed new, they have demolished some of the things, some of the projects that were unacceptable. And there was a promise made of one-for-one replacement in New Orleans.

I know that this is something that you have inherited. You may not be privy to the intelligence as it relates to this particular promise that was made. But my belief is that the promise was one that was made under the last Administration for one-for-one replacement in New Orleans.

And my question is, if you know—and I'm not trying to—this is not a "gotcha" moment—but if you know, what is the status of one-for-one replacement in New Orleans?

Ms. HENRIQUEZ. I have to say honestly that I do not know. I will ask those questions. It is something I am just hearing at this point

for the first time, so I would like to be able to get that information for you.

Mr. GREEN. Okay. I would welcome your sending the information to me and other members of the committee, as well. I have a desire to know this, because the people are of concern to me. I have an affinity for the City, because I was born there. And it would be very helpful. I get many inquiries about housing in New Orleans, and it would be very helpful if you could share this intelligence with me.

Madam Chairwoman, I thank you for the time. I yield back.

Chairwoman WATERS. You are certainly welcome. Mr. Driehaus?

Mr. DRIEHAUS. Thank you, Madam Chairwoman. I just have a couple of questions as to how the one-to-one replacement would work. I don't argue with it in principle. I believe it makes a lot of sense. But I guess my question is to the legislation and the unintended consequences of some of the restrictions in the legislation.

I will give you an example. In a neighborhood I represented as a State representative, there was a one-for-one replacement restriction on site for housing property. Over the 15 or 20 years of that development, the neighborhood changed rather dramatically during that time, yet the covenant was still in place. By the time they wanted to redevelop the site, many of the units were already vacant. The neighborhood actually wanted to make it an owner-occupancy site for moderate-income families, because there had been so much low-income housing in the community that it really had tipped the balance into low-income housing.

And so, what we wanted to do was create a variety of housing, and allow opportunities for people to move into owner-occupied housing. We were prohibited from doing so, because of the one-for-one replacement requirement on the site. And that's really my concern here. When I look at the legislation, and I see that one-third of it has to be on site, circumstances change with regard to the site and the surrounding areas.

Do you believe that the restrictions in the draft are appropriate? Or do you see some unintended consequences associated with that?

And on the flip side, I noticed that the remaining housing we're trying to place into areas of low concentration. Again, a noble goal. But the cost associated with that is very high. And when you look at metropolitan housing authorities, are we giving them the resources necessary to allow them to actually do that? Because the costs are quite high if you're going out to these low-poverty areas and trying to find replacement units.

So, I guess what I'm asking is, is it better for us to be less restrictive when it comes to how a metropolitan housing authority deals with the one-to-one replacement issue than the restrictive nature that I see in the language?

Ms. HENRIQUEZ. I don't mean to seem to be sidestepping your question, but the bill is as proposed by Ms. Waters. And so the one-third and the—with the—I would prefer that be a conversation that maybe you all work out.

We do understand unintended consequences, we do understand cost issues. All of those I think are really worthy issues to be discussed. I think, as I have said before in my testimony, the intent of the legislation is really something that we, as an Administration,

support. The specifics and the details we probably need to have more conversation.

Mr. DRIEHAUS. And I am happy to have those conversations with the chairman. I guess what I'm asking—and again, I'm not suggesting that we don't have the one-for-one replacement.

I am just asking whether or not it helps the Administration and the metropolitan housing authorities—and perhaps this is best left for the next panel—as to should we be more restrictive or less restrictive when it comes to the actual placement of the units, or should we allow that flexibility up to the housing authority and up to HUD?

Ms. HENRIQUEZ. [No response.]

Mr. DRIEHAUS. And with that, I will yield back, Madam Chairwoman.

Ms. HENRIQUEZ. Thank you.

Chairwoman WATERS. If the gentleman will yield, before we go to our next panel, I want to make sure that our members understand rental transformation.

As I understand it, the value of the units would increase through this—with this $350 million that you are requesting. And, as it has been explained to me, if you have a unit, say, that's worth $600, with the increased appropriation that unit may somehow become a $1,200 unit, and you could use that money to revitalize or renovate public housing and—or fix up that unit, or that unit now becomes valuable to the private market. And as you look at how you get more investors, you could mortgage this property.

And I am wondering—and my real concern is—is this a move toward privatization? I think Mr. Marchant was asking a question about privatization in a little bit different way. I have some concerns about privatization that are probably different from his. Can you straighten us out? Can you clear this up?

Ms. HENRIQUEZ. I will certainly try. This is not a move toward privatization. The ownership stays with the public entity. We believe that housing authorities will continue with their public mission. We don't see a change in the demographics of people served. Therefore, rent will still be at 30 percent under the Brooke Amendment, as they are now.

The real crux of this program and this transformation is to preserve the property for the longer term, to use the value of the property in the marketplace, to preserve it for the longer term, to really embed market principles—and by that I don't mean private sector, I mean indeed how that property operates, how it looks, how it performs and responds to the residents who live there, and how it fits better into the community in which it's located.

Chairwoman WATERS. If you mortgage that property, and you default on that mortgage, what happens to the property?

Ms. HENRIQUEZ. We are talking about that, how we minimize risk, how we look at FHA insurance or other kinds of government backing so that we don't default.

I will tell you that, given the work that housing authorities have done in the past and using these financing techniques, the default rate of housing authorities has been zero.

Chairwoman WATERS. But the fact of the matter is, if you default on that housing, if you mortgage it, you lose it, right?

Ms. HENRIQUEZ. I'm sorry, would you repeat that, please?

Chairwoman WATERS. If you default on mortgage property, you lose it. The investor repossesses the property. That's basically what happens in the market.

Ms. HENRIQUEZ. In this instance, if there were to be a default, HUD is in the first position so we don't see this property going into private hands at all. People stay in place, the ownership stays in place, in terms of it being publicly owned.

Chairwoman WATERS. I don't see how that works.

Mr. Marchant, I know that you were interested in the privatization issue. If I may, with unanimous consent, I would grant you another minute or so, so that you could pursue your question that was not completely answered about allowing the private sector to take over public housing in some way that you envision.

Mr. MARCHANT. Thank you. My question was, if the government owns the existing housing, in many instances, the underlying asset is the land, and the zoning, in many instances, is very valuable.

And my question was, are there programs where HUD, the owner, the government, comes in and says, "We are going to contribute the land, and maybe even the shell of the buildings," and then the developer comes in in a joint venture, and puts the capital up to revitalize those, and then manages it, and then returns part of the profits or the cash flow, and we stay in ownership, and there is no capital outlay necessary?

But the developer then has some very significant constraints on them as to who they can rent to, income levels, etc., etc. And this has worked in some instances. It could provide a solution for the capital. It could bring private capital in. But owning the land, you could do it on a 99-year lease. Owning the land, you don't give up the kind of ownership, and you really have the control. And that can be a controlling factor in the mortgage, too.

Ms. HENRIQUEZ. What you have described, in a sense, is the HOPE VI model, or the mixed finance models that housing authorities have been using for about a decade now.

Mr. MARCHANT. Okay, very good. Thank you.

Chairwoman WATERS. All right, thank you very much. I ask unanimous consent that Representative Castle be considered a member of the committee for the duration of this hearing. And, without objection, Mr. Castle?

Mr. CASTLE. I have no questions at this time, Madam Chairwoman, but thank you for the opportunity.

Chairwoman WATERS. Thank you. They told me you would be here for the second panel, but then I was told that you were here now. All right, thank you very much.

With that, we thank you for being with us today. And the Chair notes that some members may have additional questions for this witness that they may wish to submit in writing. Without objection, the hearing record will remain open for 30 days for members to submit written questions to this witness, and to place her responses in the record.

This panel is now dismissed, and I will call up our distinguished second panel. Thank you very much.

Ms. HENRIQUEZ. Thank you, Madam Chairwoman.

Chairwoman WATERS. I am pleased to welcome our distinguished second panel.

Our first witness will be Mr. Keith Kinard, executive director, Newark Housing Authority, on behalf of the Council of Large Public Housing Authorities.

Our second witness will be Ms. Deirdre Oakley, associate professor, department of sociology, Georgia State University.

Our third witness will be Mr. Anthony O'Leary, executive director, Akron Metropolitan Housing Authority, on behalf of the Public Housing Authorities Directors Association.

Our fourth witness will be Mr. Joseph Puma, public housing resident, on behalf of National People's Action.

I am going to ask Mr. Castle if he would like to introduce our fifth witness.

Mr. CASTLE. Thank you, Madam Chairwoman, I would. And I have the pleasure of introducing my friend, Frederick S. Purnell, Sr.—I have never known him as anything but Fred, but that's his full name—who is the executive director of the Wilmington Housing Authority, which is Delaware's largest housing agency.

Fred has completed several major housing projects in his 10 years at WHA, including the new Village of East Lakes, Delaware's only HOPE VI project. He previously served at the Philadelphia Housing Authority. And presently, Fred serves as the president of the mid-Atlantic region of the National Association of Housing and Redevelopment Officials—NAHRO—and on the board of directors of Delaware NAHRO and the Challenge program.

He has been a very great influence on housing in Delaware. We welcome Fred here, and I apologize because I probably won't be here when he testifies, due to other scheduling conflicts.

But thank you, Madam Chairwoman, for the opportunity of introducing Fred.

Chairwoman WATERS. You are welcome. Our sixth witness will be Mr. David Rammler, staff attorney and director of government relations, National Housing Law Project.

And our final witness will be Mr. Leonard Williams, commissioner, Buffalo Metropolitan Housing Authority, on behalf of the National Low Income Housing Coalition.

Without objection, your written statements will be made a part of the record. You will now be recognized for 5 minutes. And we will start with our first witness, Mr. Kinard.

## STATEMENT OF KEITH D. KINARD, EXECUTIVE DIRECTOR, NEWARK HOUSING AUTHORITY, ON BEHALF OF THE COUNCIL OF LARGE PUBLIC HOUSING AUTHORITIES

Mr. KINARD. Good morning. Madam Chairwoman, Ranking Member Capito, and members of the subcommittee, my name is Keith Kinard. I am the executive director of the Newark Housing Authority in Newark, New Jersey, and a board member of the Council of Large Public Housing Authorities.

My written testimony contains specific recommendations that the Council for Large Public Housing Authorities has regarding the draft legislation. But today, I want to speak as a practitioner who has made some difficult choices regarding public housing preserva-

tion and redevelopment. I would like to tell you the tale of two developments: Felix Fuld; and Seth Boyden.

Felix is approved for demolition, currently. It has 286 units. It has physical needs of over $41 million. It has high poverty, high crime, and high operating and repair costs. In December 2007, I met with all the residents of Felix Fuld to share the results of a working group, which included all the resident leaders. When I said that the Newark Housing Authority wanted to submit a demolition application for Felix, the residents actually applauded.

I have to admit that it was not the reaction that I expected at that time. However, the residents knew that Felix was completely broken. I made them a promise then that they would be going somewhere better, and that they would be either in public housing or a Section 8 voucher. But, in any event, they would definitely be better off.

The questions I heard that night were, "How soon can I leave," and, "Can I have a voucher today?" I had to tell the residents, "No, we have to wait for HUD to approve the application." This bill, unfortunately, seems to lengthen that process, not shorten it, which is not what the residents wanted to hear.

Yes, change is hard, and there were tears shed that evening about having to move on and having to move out of Felix. But I have kept my promise, and today, people are in better situations. After meeting with housing counselors and going through all the implications of their choices, 51 percent of the residents have been relocated to other public housing, and 38 percent have vouchers.

Because of the way relocation vouchers are disbursed, in addition to serving everyone at Felix Fuld, I am now serving over 100 new families from the waiting list. I am actually serving more families today by getting demolition approved at Felix. And this bill also looks like it would change that.

The sad part is I don't have the money today to build back a new Felix. The development gaps are simply too big, and I am not even proposing at this time to replace these units on a one-for-one basis. The preservation bill would help to close some of this gap. However, it does not go far enough.

The one-for-one bill, if passed, would further reduce any chance of Felix ever being rebuilt. I would like to build 286 replacement housing units. I believe that most of my colleagues would agree with me, that would be the wise choice. I believe that, instead of saying, "You should build in areas of low poverty," we should say that high poverty neighborhoods are exactly the ones that need the most transformation and Federal investment.

So, I am left deciding what to do about Seth Boyden, the second development in this tale. It has only 220 of the 506 units currently occupied. It also has at least the same level and types of problems of Felix Fuld. The only real choices at Seth right now are short-term approaches to keep the units online a little bit longer, or demolish and someday rebuild.

The residents at Seth currently ask me when they will get the opportunity to move to something better, like the residents of Felix. I want to promise these residents something better. But if the one-for-one bill passes, I probably wouldn't get approved by HUD to move forward, and we would be stuck with Band-Aid approaches.

I have capital needs of over $500 million currently for my entire portfolio. I believe that, without major modifications, or some large new source of Federal funding, this bill will negatively impact the residents that it is currently seeking to protect.

My main concerns are: first, without adequate funding, the one-for-one replacement requirement results in public housing residents being stuck in decrepit units, and housing authorities being unable to adequately fix or redevelop them; second, the retroactivity to 2005 will have negative impacts on those places that are already built and planned developments in the future; third, imposing public housing rules and requirements on private owners for particular groups of residents will be confusing, and result in fewer units being made available to residents; and fourth, the requirements about location and replacement of housing will make redevelopment impossible in many jurisdictions.

Chairwoman Waters and members of the subcommittee, I welcome the opportunity to show you these two developments. I admire your commitment to public housing residents, and I know we share the same goal of helping them. I welcome any questions that you may have, and I thank you for this opportunity to testify.

[The prepared statement of Mr. Kinard can be found on page 48 of the appendix.]

Chairwoman WATERS. Thank you very much.

Ms. Oakley?

**STATEMENT OF DEIRDRE A. OAKLEY, ASSOCIATE PROFESSOR, DEPARTMENT OF SOCIOLOGY, GEORGIA STATE UNIVERSITY**

Ms. OAKLEY. Chairwoman Waters, Ranking Member Capito, and subcommittee members, thank you for the opportunity to provide testimony on legislative proposals to preserve public housing.

We are currently in the process of conducting a longitudinal study of public housing relocation in Atlanta. As you and members of the committee may know, the Atlanta Housing Authority has eliminated its remaining project-based family public housing, as well as two public housing senior high-rises under current Section 8 regulations. Since 2007, almost 10,000 public housing residents have been relocated, and over 3,000 units are currently in some phase of demolition. There are currently no plans for replacement housing.

Atlanta may be the first city to eliminate all of its project-based public housing, but other cities such as New Orleans are not far behind. Without the implementation of the proposed legislation to preserve public housing, the shortage of low-income housing, as recently documented by the National Low Income Housing Coalition, will only get worse.

We also hope that the proposed legislation will help prevent the unnecessary demolition of public housing senior high-rises, and subsequent displacement of senior residents. Most cities are renovating, rather than eliminating this housing. In Atlanta, the two senior high-rises earmarked for demolition, Palmer and Roosevelt Houses, are not in high-poverty neighborhoods, and the buildings are not in bad shape.

We have found that the relocation process for seniors is especially difficult and stressful, and many feel isolated in their new lo-

cations. In addition, only 29 percent of the seniors we interviewed prior to relocation expressed a desire to move. Twelve seniors in our study have died since moving, compared to only two in our comparison non-relocating senior high-rise site.

Henceforth, I will briefly summarize some of the other analyses we have made of the Public Housing One-for-One Replacement and Tenant Protection Act of 2010.

The importance of one-for-one replacement: The case of Atlanta clearly demonstrates the crucial need to preserve public housing, and to replace demolished units. Prior to relocation, we asked residents why they moved into public housing in the first place. Fifty-eight percent of them said that they entered public housing because it was the only affordable option. Another 36 percent said that they entered public housing because of some kind of hardship.

In addition, 18 percent of the families, and 22 percent of the seniors reported that public housing was an improvement over their previous housing situation. These findings suggest that public housing serves as an important source of low-income housing when no other options are available. Now that public housing has been eliminated in Atlanta, this safety net is gone.

One potential challenge to one-for-one, however, will be compliance, particularly for PHAs that have already demolished units within the last 5 years. Some of the land on which public housing was located may have already been sold or subject to land swap. For example, current plans for Palmer and Roosevelt Houses are to land-swap them. This means that the proposed on-site rebuilding of at least one-third of the units cannot be met.

Maintaining the rights of relocated public housing residents, even if they are relocated with a voucher: Requiring more detailed provisions in the legislation concerning tenant participation is essential. In Atlanta, each public housing community's resident association was disbanded upon relocation and subsequent demolition. Thus, these former public housing residents residing in voucher housing have no comparable organization.

Yet, a post-move resident association could serve as a much-needed source of support. For example, while the majority of the residents in our study who qualified for a voucher liked their new homes, the increase in living expenses have added an unanticipated financial strain. Much of the increased living costs have to do with utility payments. This is particularly bad in Atlanta, because landlords typically pass on water and sewage costs to residents.

Residents also support a loss of many of the informal supports they received in public housing, which has created further financial strain. This puts many residents in a precarious position. If they get behind on their utilities, they will lose their voucher. A post-relocation residents association could facilitate a dialogue with the housing authority on these issues, as well as serve as a mechanism for maintaining information supports and distributing information on assistance.

Lastly, fair housing: The fact that public housing has frequently been located in poor, racially segregated neighborhoods is frequently cited as a reason for tearing it down. The question then becomes whether or not relocated residents with vouchers and/or re-

placement end up in lower-poverty, racially integrated neighborhoods. The answer has been repeatedly a resounding "no."

Research, including ours, has consistently shown that, while the former public housing residents relocated with vouchers end up in neighborhoods that are less poor, these neighborhoods are still poor, and they are still very racially segregated. In fact, in our study we find evidence of geographic clustering in segregated neighborhoods. Yet, despite this finding, fair housing cases around the country have been dismissed—for example, in both Atlanta and New Orleans.

Thank you for your time.

[The prepared statement of Ms. Oakley can be found on page 56 of the appendix.]

Mr. CLEAVER. [presiding] Mr. O'Leary?

**STATEMENT OF ANTHONY O'LEARY, VICE PRESIDENT, HOUSING, THE PUBLIC HOUSING AUTHORITIES DIRECTORS ASSOCIATION**

Mr. O'LEARY. Thank you, Chairwoman Waters, and Ranking Member Capito. My name is Anthony O'Leary, and I am director of the Akron Metropolitan Housing Authority in northeastern Ohio. I am here today speaking on behalf of the Public Housing Authorities Directors Association, which is a membership organization founded in 1979. We serve 1,900 housing authorities throughout the country that range from very small authorities with a single building, all the way up to members like New York City and Los Angeles, the largest housing authorities in the country.

My housing authority in Akron, Ohio, serves over 20,000 residents through our various assisted housing programs, and over my 17 years there, we have done numerous redevelopment projects, and relocated hundreds of residents throughout this process.

Having said that, I can tell you our housing authority is a high performer. We are 99 percent occupied at all times. We recently earned the highest score in the country on our inspections. But despite the attractiveness of our property, two out of three applicants who apply for housing initially request a voucher. And also, when we do redevelopment, that percentage rises. Roughly 80 percent of the clients living in public housing request a voucher at the time that we are redeveloping a project.

I think, similar to what others have expressed here today, that really reflects the desire of public housing residents to have a choice about where they live. And they make those choices on the same basis that all of us do. It has to do with schools, it has to do with family, it has to do, perhaps, with the part of town that they are originally from.

I think one point that is frequently lost in this argument is that most people who enter public housing have to accept the oldest available unit at the time of their admission. And oftentimes, they end up in a neighborhood that, really, they are not comfortable with. As a result, when opportunities rise for them to move, they seize those opportunities.

So, in terms of this legislation, our association and most of our members, I think, would certainly agree that one-for-one replacement is an idea that we can support. I think the issue is how we

actually go about that process. And, at the end of the day, we would certainly like to see the maximum opportunity for choice on the part of the residents when we're doing redevelopment efforts.

I think—and this was addressed earlier—since 1937, all of our communities have changed dramatically. And oftentimes, the very poor areas where public housing was located are no longer viable. We need maximum flexibility, as a housing authority, to decide where to redevelop housing.

We certainly know from the last decade, that mixed housing finance opportunities create better housing choices and better housing environments for a family, and we think that we ought to pursue those options to the maximum extent.

But this choice of one-for-one or this choice of redevelopment, I personally resent the fact that, as a housing authority, we're put into that position. And I think, rather than argue against the rights of residents, what we're really saying is that we need adequate funding to be able to address the needs of residents. And, again, we want to respect residents' rights both to live where they choose to live, in terms of their right to return and right for continued occupancy. Most housing authority directors I know are clearly in support of that.

We do suggest that, if this bill were to go forward, that the right to check backgrounds on people since they left does need to be done. Because, oftentimes, it may take 3 or 4 years to redevelop a property. And we are not talking about retroactively screening people out for lease violations that occurred 3 years ago, but rather simply making sure that they meet the program standards today.

The other issue that I would certainly underscore that has been stated again many times today is that, given the lack of sufficient public resources, private investment dollars are absolutely critical to redevelop our housing stock. This bill potentially complicates our ability to secure that private capital. So, again, we urge maximum flexibility in doing so.

Lastly, I would suggest that relocation, or well-managed relocation programs, are really the best way to protect the rights of residents. Again, I don't know of a housing authority director in the country who is seeking to reduce a person's housing choices. We all have long waiting lists. We all would like more units, to be able to serve more families in our communities.

But rather than put in arbitrary limits as to where you can locate housing and whether you replace one-for-one or not, I think the challenge to us should really be to demonstrate that we have taken into account the needs of residents, and that we're appropriately relocating them to housing that does meet their needs. Thank you very much.

[The prepared statement of Mr. O'Leary can be found on page 65 of the appendix.]

Mr. CLEAVER. Thank you.

Our fourth witness will be Mr. Joseph Puma, a public housing resident, on behalf of National People's Action.

Mr. Puma?

**STATEMENT OF JOSEPH PUMA, PUBLIC HOUSING RESIDENT, ON BEHALF OF NATIONAL PEOPLE'S ACTION**

Mr. PUMA. Good morning. Thank you, Chairwoman Waters, Ranking Member Capito, and members of the committee, for inviting me to speak today about the need for America's public housing and the reforms necessary to make sure America's public housing is furthering the goal of providing all Americans with their human right to housing.

My name is Joseph Puma. I am a lifelong public housing resident and advocate for public housing in New York. If it weren't for our public housing apartment, my mother would not have been able to provide for me and stay in our community when she became a struggling, working, single parent. And if it weren't for that upbringing in public housing, I would not have been able to become a first-generation college graduate, earning a degree from Yale University.

I have worked for the past several years for the New York City Office of Management and Budget, and I serve on the board of Good Old Lower East Side, a neighborhood preservation and eviction prevention organization. I am here today representing National People's Action.

National People's Action, or NPA, is a network of community organizations from across the country that work to advance a national, economic, and racial justice agenda. NPA has over 200 organizers working to unite everyday people in cities, towns, and rural communities throughout the United States.

I would like to first address the Public Housing Preservation and Rehabilitation Act of 2010, as proposed by Congressman Frank. In particular, I would like to state our support for section IV, which would lift the restrictions on using operating and capital funding for new public housing construction. Removing any barriers to meeting the enormous need for affordable housing is extremely welcome.

I would like to focus my testimony today on the Public Housing One-for-One Replacement and Tenant Protection Act of 2010, which will go a long way towards repairing the damage I will refer to, and offer our suggestions for improving this excellent bill.

I would like to thank you, Chairwoman Waters, for introducing this legislation, and for consistently standing with us as we fight for our homes.

Regarding one-for-one replacement, since the inception of HOPE VI, over 155,000 units of America's public housing have been destroyed, with only 50,000 new units built to replace them. That represents hundreds of thousands of people displaced, and many left homeless. There are over a million families on waiting lists for a unit or a voucher, and who knows how many more, with many waiting lists closed and not accepting more families.

The big bank-driven great recession and the record foreclosure crisis add even more urgency, and remind us again that we cannot rely on the market alone to provide for our basic human right to housing.

This bill proposes to require one-for-one and like-for-like replacement of hard housing units retroactively, and on a forward-going basis. Currently, the bill requires that units be replaced going back

to 2005. We suggest that the date be moved back to 2000, because even then we will not be able to replace all of the units lost, or build all of the units needed, but it will help us move closer to that goal.

On the subject of location of replacement units and the right to return, the bill recognizes the wisdom of allowing residents to return to their communities by requiring that an allocation of at least one-third of the replacement units be located on or very near the original housing site. We would suggest that instead of a threshold number of one-third, the public housing agency be required to survey current residents, and determine what the percentage of residents is who would like to return.

Regarding maintaining the rights of public housing residents, I am very glad to see that the rights of residents will be maintained if they move from public housing to other forms of subsidized housing. The regulations codified under CFR section 964, for example, have been essential for ensuring that residents are able to have a real stake in the success of their housing.

On the topic of fair housing, for too long, the process of relocation under demolition or disposition has been able to skirt the law of the land by avoiding fair housing and civil rights laws. NPA is gratified that this bill seeks to close this loophole.

NPA would recommend adding another consideration to this assessment: a racial justice impact assessment, or RJIA. For 40 years, before undertaking any project, developers have been required to submit an environmental impact statement to outline the impact such development will have on the environment. It's time that a similar process was put in place to take into account the impact development and displacement decisions have on families and communities, and in particular, on families of color. An RJIA would be required as part of the planning before any demolition, disposition, or construction of new housing units, and also applied to plans for using Section 8 vouchers.

Finally, before I close my remarks, I would like to briefly refer to HUD's plan, Transforming Rental Assistance, or TRA. I realize that this is not the subject of the hearing today. But since TRA will have such a massive impact on the lives of public housing residents, I feel I need to at least mention it.

I would like to include in my written testimony NPA's position paper that outlines the provisions that we feel must be included before any proposal to so radically transform America's social housing system should be allowed to proceed. And I respectfully request that it be included in the record.

And in closing, I would like to thank you again for inviting me to testify this morning, and I welcome any questions you may have.

[The prepared statement of Mr. Puma can be found on page 74 of the appendix.]

Mr. CLEAVER. Thank you very much. Mr. Purnell is our fifth witness. He is the executive director of the Wilmington Housing Authority on behalf of the National Association of Housing and Redevelopment Officials.

Mr. Purnell?

**STATEMENT OF FREDERICK S. PURNELL, SR., EXECUTIVE DIRECTOR, WILMINGTON HOUSING AUTHORITY, ON BEHALF OF THE NATIONAL ASSOCIATION OF HOUSING AND REDEVELOPMENT OFFICIALS (NAHRO)**

Mr. PURNELL. Good morning, Chairwoman Waters, Ranking Member Capito, and members of the subcommittee. Thank you for the opportunity to testify on behalf of the National Association of Housing and Redevelopment Officials. I would also like to thank Congressman Castle for his kind words of introduction. My name is Frederick Purnell. I am the executive director of the Wilmington Housing Authority in Wilmington, Delaware. I am also proud to say that I am a proud former resident of public housing.

The bills we are discussing here today underscore the subcommittee's commitment to long-term viability of this inventory, and the health and well-being of the low-income families, seniors, and disabled clients who call this housing home. With that said, NAHRO agrees that the time has come to find new ways to preserve our Nation's irreplaceable public housing stock.

Let me also say that NAHRO believes that the current discussion regarding the conversion of public housing assistance to either Section 8 project-based vouchers or a form of project-based contracts under Section 8 represents a positive step towards preserving public housing. We look forward to the opportunity to provide testimony on this important topic at a later date.

Let me first turn my attention to the Public Housing One-for-One Replacement and Tenant Protection Act. NAHRO recognizes and appreciates the intent of this legislation to both stem the loss of public housing units, and ensure the long-term viability of decent, safe, and affordable housing. Based on our initial review of the bill, we offer the following observations.

NAHRO believes that national housing policy must ensure that there is no net loss of hard, affordable housing units when public housing units are taken offline. However, as long as all residents moved out of public housing are adequately housed in hard units or with rental assistance, a national one-for-one replacement policy should not require that each replacement unit be specifically located on or near the site of the original units, nor should it require that the replacement unit be owned by the public housing agency whose unit went offline. This expanded conceptualization, articulated further in my written statement, would allow for redistribution within our Nation's affordable public housing stock, which could also address shifting population trends, and would better position the affordable housing industry to meet the needs of the Nation.

The draft bill includes a subsection that would, as we read it, give any affected person the right to bring a civil rights suit under section 1983 to enforcement section 18. NAHRO believes this subsection is unwise, and that it would more broadly subject PHAs and individual PHA staff and possibly commissioners to costly litigation that would adversely impact authorities' limited resources.

Finally, a concurrently written provision contained in the bill applies to any unit demolished or disposed of after January 1, 2005. This presents difficulty, in that many of the subject partials may have already been redeveloped in other ways.

Turning to the Public Housing Preservation and Rehabilitation Act of 2010, NAHRO applauds your insight and creativity in crafting a bill that promises to empower public housing authorities in connection with the rehabilitation of their properties. Our initial reactions are as follows.

Section two of the bill facilitates the leverages of other assistance, and notably, would authorize capital loan fund guarantees. A full faith and credit guarantee will make lending against public housing assets and funding streams palatable, and would open up a significant new opportunity for recapitalization.

The bill provides public housing agencies of all sizes with energy conservation incentives, and does not limit the ability to receive these incentives only to those with energy performance contracts. We are pleased to see that this language mirrors a similar provision in NAHRO's proposal for small agency reform.

Section three of the proposed bill would authorize grants in lieu of tax credits. This is a positive development, in that it is a direct grant approach, and would create new preservation opportunities for NAHRO's many small agency members.

Section four of the proposed legislation enables greater flexibility for the use of capital fund dollars, and repeals the Faircloth Amendment. NAHRO strongly supports this action.

The bill would also authorize public housing authorities to use capital funds to assist other non-Federal units in their jurisdiction where federally-assisted housing has otherwise been sufficiently maintained. This will be enormously helpful in several States, particularly smaller States like Delaware, where housing authorities work hand-in-hand with very skilled, nonprofit professionals to deliver affordable housing throughout the community.

This concludes my statement, and I will be happy to answer any questions you may have. And thank you again for the opportunity to present our views.

[The prepared statement of Mr. Purnell can be found on page 78 of the appendix.]

Mr. CLEAVER. Thank you.

The sixth witness is Mr. David Rammler, staff attorney and director of government relations for the National Housing Law Project.

Mr. Rammler?

**STATEMENT OF DAVID RAMMLER, STAFF ATTORNEY AND DIRECTOR OF GOVERNMENT RELATIONS, NATIONAL HOUSING LAW PROJECT**

Mr. RAMMLER. Thank you, Chairwoman Waters, Ranking Member Capito, and members of the subcommittee. Thank you for the opportunity to present testimony here on behalf of the National Housing Law Project, a nonprofit national housing rights program which has been in existence since 1968.

Our comments were forged in consultation with members of the Housing Justice Network, 700 housing attorneys and advocates across the country who work daily within their communities and in your communities to build housing which serves the needs of low-income people. These are legal services attorneys and civil rights attorneys.

One-for-one replacement and tenant protection are two critical issues. Since the suspension of one-for-one replacement in 1995 and its repeal in 1998, we have heard today of the dramatic loss of housing which has occurred. In a 2007 report to Congress, HUD found that for every 100 extremely low-income households, there were only 40 affordable, unassisted units. And for every 100 very low-income rental households, there were only 77 units available.

So, we are not talking about public housing as the only solution, and we agree that Section 8 vouchers and other programs are part of the solution. But public housing is a critical piece of this puzzle.

We support the general principles which underlie this bill, and think it will produce an improvement in the housing situation. We support: stricter preconditions before demolition or disposition is allowed; replacement housing, which is comparable to public housing and affordable to the lowest-income families; that residents have a right to return without re-screening; that there be an active and effective role for residents in the designing and creation of the resulting housing; and that the operation of the entire project be consistent with the housing authority's duties to affirmatively further fair housing and the resident's right to enforce the law.

Beyond that, we have a number of specific recommendations which are dealt with in detail in our written statement. They include that the one-for-one replacement requirement should state that replacement units are rental units. That is not in the current draft. That the location of on-site replacement units should be expanded to include replacement units in the neighborhood, and should anticipate that more than one-third of the residents may wish to return to the former site within that neighborhood.

Additionally, we should eliminate the requirement that replacement units be built within the jurisdiction of the public housing agency and in areas of low concentration of poverty. Rather, units should be built outside the original site where necessary, and should be provided in a manner which furthers economic and educational opportunities for residents.

Temporary relocation and multiple moves should be minimized and, if possible, eliminated by making off-site replacement housing available prior to the relocation of residents. Replacement units should maintain essential rights applicable to current public housing residents, including: rent set at 30 percent of the family's adjusted income; of rent targeting, as currently exists with 40 percent of new admitees being at 30 percent of area median income or below; and that if the housing is project-based, that figure is 75 percent.

Victims of domestic violence should not suffer discrimination, and applicants who are denied admission should have the right to review by an impartial hearing officer who is not the person who made the decision to deny them, nor a subordinate of that person.

Replacement units should have the same number of bedrooms as those slated for demolition or disposition, unless a market analysis shows the need for a greater number of bedrooms. The current bill says that number would be based on the waiting list requirements.

Finally, we believe that mobility counseling, in addition to relocation counseling, should be available to displaced residents who wish to voluntarily move to low-poverty and non-racially con-

centrated neighborhoods throughout the metropolitan area. Mobility programs should include: one-for-one housing counseling; search assistance and post-move counseling; active landlord recruitment incentives; use of exception rents; community tours and comprehensive community introduction to local schools, shopping, transportation, religious and health resources; and credit repair and other training and educational sessions.

Thank you for this opportunity. We are very encouraged that many policies that the National Housing Law Project supports have been included in this discussion draft. We look forward to working with you and your staff to continue improving this draft.

[The prepared statement of Mr. Rammler can be found on page 93 of the appendix.]

Mr. CLEAVER. Thank you, Mr. Rammler.

Our final witness will be Mr. Leonard Williams, commissioner, Buffalo Metropolitan Housing Authority on behalf of the National Low Income Housing Coalition.

Mr. Williams?

**STATEMENT OF LEONARD WILLIAMS, COMMISSIONER, BUFFALO METROPOLITAN HOUSING AUTHORITY, ON BEHALF OF THE NATIONAL LOW INCOME HOUSING COALITION**

Mr. WILLIAMS. Congressman Cleaver, Ranking Member Capito, and members of the subcommittee, I would like to thank you for this opportunity to testify on the efforts to preserve public housing. My name is Leonard Williams. I am a resident of the Kenfield Homes, a public housing development in Buffalo, New York.

Mr. CLEAVER. Mr. Williams?

Mr. WILLIAMS. Yes?

Mr. CLEAVER. Yes, would—

Mr. WILLIAMS. Is that better?

Mr. CLEAVER. Yes, thank you.

Mr. WILLIAMS. Thank you, sir. I am also a member of the board of directors of the National Low Income Housing Coalition, which I am representing here today. I would specifically like to thank Chairwoman Maxine Waters and Chairman Barney Frank for their consistent and outspoken leadership in preserving public housing.

For every 100 extremely low-income homes in the United States, there are just 37 rental homes that are affordable and available to them. It is precisely because of this lack of affordable housing for extremely low-income households that Federal housing policy must focus on preserving the federally-subsidized units we currently have, also increasing new production through programs like the National Housing Trust Fund.

How current residents fare and the availability of housing for future tenants should be the focus of any redevelopment of distressed stock. About 5½ years ago, the resident advisory board of Buffalo was able to work with our housing authority and cancel plans to demolish approximately 180 units. Buffalo's plan was to only replace 120 units, and only 40 of them being affordable to public housing residents. Buffalo has a shortage of almost 40,000 units that are unaffordable to extremely low-income families. That Buffalo's housing authority could consider contributing to this shortage is unconscionable.

Unfortunately, many housing agencies have jettisoned more than 100,000 public housing units through a demo/dispo process since 2000. We support the Public Housing One-for-One Replacement and Tenant Protection Act. We are very pleased that the bill has a strong one-for-one provision. We strongly support a significant increase in the number of housing choice vouchers. But to increase housing choice voucher program while we continue to hemorrhage affordable subsidized hard units is quite unproductive.

We thank the chairwoman for her continued leadership in the right to return of all residents. We think the provision to ask residents if they want to return to the original site or neighborhood could be made more meaningful if it was linked to the rebuilding requirement. We suggest that the developers be required to rebuild on site or in neighborhoods at least one-third of the present housing units, and include as many as required to house all of the residents who express a desire to return to the neighborhood.

For residents who will permanently relocate offsite, we would also support a requirement that HUD limit the time the relocation units—all offsite relocation units—are available prior to occupancy. That would allow residents to move only once.

We are also pleased to support Chairman Frank's draft of Public Housing Preservation Act. For extremely low-income seniors, the ability to age in place is more often a fantasy because of exorbitant prices.

The Coalition has approached HUD's bold transforming rental initial proposal with optimism. We stand united with the issues raised by the resident engagement initiative for which I have participated in. We have met twice with HUD Secretary Donovan to discuss specific resident questions and positions on TRA. It is the hope of the coalition that the HUD proposal, when announced in detail, will address the questions raised by that group.

Thank you for this opportunity, and I stand ready to answer any questions you might have.

[The prepared statement of Mr. Williams can be found on page 100 of the appendix.]

Mr. CLEAVER. Thank you very much. And there is no need to be nervous in here. There are only about one million people watching on C-SPAN.

[laughter]

Mr. CLEAVER. So all should relax. I didn't get this chance to ask Secretary Henriquez this question, but I think Mr. Kinard and Mr. O'Leary may be able to respond.

Are there requirements right now for you to submit any documentation on demolished units in your public housing with HUD? Are there reporting requirements on that?

And the reason I am asking that question, I want to know if there—if we have any idea, nationally, how many units have been demolished or no longer available.

Mr. O'LEARY. Yes. When you demolish units you are required to submit an application to HUD. And after that is approved, that data should be in a system someplace. And, of course, then the corresponding budget amount that housing authorities receive following that disposition or demolition changes, and there is a reconciliation process we go through annually with the HUD field of-

fices, to make sure the number count that we have on a local basis squares with what they have.

And then funding eventually is adjusted up or down, based on your either increase or decrease in public housing units. So we do report that information.

Mr. CLEAVER. All right.

Mr. KINARD. And there is a fairly accurate account of that information.

Mr. CLEAVER. Yes. I will try to find the answer to this question, but I would like to know how many units have been demolished over the last decade, for example. But I'm not sure that any of you could answer that—well, can anyone answer that question?

[No response.]

Mr. CLEAVER. Okay, Ms. Henriquez, I hate to call you back to the mound.

[laughter]

Ms. HENRIQUEZ. May I just stand right here?

Mr. CLEAVER. Yes.

Ms. HENRIQUEZ. As you were speaking and asking the question, I am sending it over to a staff member who oversees the special applications center, which is called the SAC, where those demolition disposition applications come in, and we will get the information. How far back do you want to go?

Mr. CLEAVER. Just the last decade.

Ms. HENRIQUEZ. The last decade?

Mr. CLEAVER. Yes.

Ms. HENRIQUEZ. Okay. I will do that, and we will provide that information.

Mr. CLEAVER. All right. Thank you very kindly.

Ms. HENRIQUEZ. You are welcome.

Mr. CLEAVER. And thank all of you, please. Mr. Puma, are you a current resident?

Mr. PUMA. Yes.

Mr. CLEAVER. The statistics show that when individuals leave public housing, they don't move far from public housing. And you are an example.

I guess the question is the concentration of public housing, and is it all related to the fact that if we begin to move a great distance from public housing to build new units, the land cost is prohibitive? We get a certain amount of money for land acquisition, and that money is woefully inadequate if we're talking about real scattered site housing. Am I accurate?

Mr. PUMA. That would seem to be the case to me. I wouldn't be able to speak on land costs. But just coming from New York City, land is very scarce in New York City. So I imagine that there may be some barriers, in terms of the cost of land, certainly.

Mr. CLEAVER. Now, do all of you agree that the tenants, when they leave public housing, relocate near public housing?

Mr. O'LEARY. They tend to, yes.

Mr. CLEAVER. And—

Mr. RAMMLER. Excuse me. I would say that's true, except in a certain small number of communities that have real mobility programs. Baltimore is an example that has a real mobility program, and has had some success with permanent relocation in areas and

communities surrounding Baltimore of greater opportunity for educational and employment opportunities.

And so there are some case examples. But you're right, on a broad scale.

Mr. CLEAVER. Yes. If we are going to begin to demolish more public housing, and then people are staying right there anyway, my experience in living in public housing and in serving as mayor over a PHA, the housing around public housing is usually inferior to the housing of public housing.

And so, we are taking people out of public housing, or they are leaving public housing, and going into inferior, decrepit, dilapidated housing. Do all of you agree? Does anyone disagree? Ms. Oakley?

Ms. OAKLEY. Yes, I would say, from our study, we have found that residents really are locating quite close. I think the mean distance is 3 miles. But the actual quality of the housing is very, very nice. The public housing wasn't really in that bad a shape to begin with. But where they are moving is much, much nicer. It just happens that they are still in poor areas. The areas are just not quite as poor as the public housing.

But I have been in some really nice apartments. And I think that one thing that the Atlanta Housing Authority has done a very good job on is making sure that residents who get vouchers—so I'm not talking about the people who didn't get vouchers—but the people who do get vouchers end up in high-quality housing.

Mr. CLEAVER. Of course, we have been reducing the number of vouchers every year.

Ms. OAKLEY. Right. That's a huge problem.

Mr. CLEAVER. And Mr. Rammler, Mr. Williams, you agree with Ms. Oakley?

Mr. KINARD. Well, I would also add that with each demolition—at least with most demolitions—you end up with more vouchers than residents that are prepared to take them. So again, in our instances—in Newark—of demolition, we have ended up with upwards of 100 vouchers in addition, so we started serving additional families on the waiting list. And a vast majority of the families took other public housing. The next largest category are vouchers.

But again, we end up serving families who have been waiting for many years on the waiting list, as a result of the additional vouchers that HUD allocates.

Mr. CLEAVER. Mr. O'Leary?

Mr. O'LEARY. Thank you. Our experience is similar to what you described. Our public housing is in very good condition. Yet, when we redevelop or do a HOPE VI project—and we have done two—interesting. A lot—probably 80 percent of the previous residents chose to accept a voucher, moved into older housing. And while it was decent, safe, and sanitary, it was 50- to 60-year-old housing versus the opportunity to move into a new HOPE VI unit that cost over $200,000 a unit to develop.

And when we talked with those residents, again, it came down to them having a choice, and the point that I mentioned in my testimony. When they were first admitted to public housing, they simply took what was available, which simply wasn't their geographical preference.

So, I think my point, on behalf of our members in PHADA, at least, would be that situation varies widely, and it would probably be a little bit different community by community, based on both the residents' desires and also the nature of the housing stock in that community.

But at least in the Midwest, where I'm most familiar, most people prefer a single family home to an apartment, which would be very different, obviously, than Boston or New York. And, as a result, they will seek to move to any house that is available, as long as it's fairly decent, as opposed to living in multi-family housing.

Mr. CLEAVER. Thank you. The gentleman from Texas, Mr. Marchant.

Mr. MARCHANT. Thank you, Mr. Chairman. Mr. Kinard, you have expressed concern that Chairwoman's Waters's legislation—the requirement that one-third of the pre-existing units be constructed in the same location. Is this provision too restrictive?

Mr. KINARD. I believe that it is. I think that we need the local flexibility. Every instance is obviously different. But when you look at the requirement of having to place one-third of the units back on that particular property, first and foremost, we don't know how many families truly want to come back to that property.

Secondly, generally, when we're talking about these sites, we are talking about highly vacant sites. So, to start with a number of, for instance, 506 in one of my examples, of those 506 hard units, only 302 were actually occupied. So, if we start talking about one-third, we're talking one-third of 506 or one-third of 302? What is the real need?

And I would also add that there is an inherent conflict between fair housing. In other words, moving families to places where it's deconcentrated, racial make-up is mixed and diverse, etc., and actually concentrating those families back in the low-poverty areas, where a lot of these sites already reside. If we're truly talking about choice and providing choice, that becomes very, very difficult. Because a lot of times, placing those one-third households back where it was before strikes right in the face of fair housing. We are resegregating and reconcentrating.

Mr. MARCHANT. So, at the very least, you would suggest that there be some waiver or some variance provision in the bill that allows a local housing authority to make their case, like you have?

Mr. KINARD. I absolutely think that it's necessary in order to get proper financing, in order to make it work. I think, at the very least, a waiver—I really think that it just shouldn't be there, the one-third provision shouldn't be there, and we should really be looking at this on a localized basis. Some housing authorities may want to put 50 percent back, you may need to do that, while other housing authorities truly need that flexibility on a site-by-site basis.

Mr. MARCHANT. Mr. O'Leary, you just used the figure of $200,000 per unit. And that has been the experience that we have had in our area.

Being in the development community before I got here, we were amazed that we could put units in the ground, brand new, 2- and 3-bedroom units, 800 square feet, for $50,000 to $60,000 a unit, and 2 blocks down, the Dallas Housing Authority was putting in

what we felt were fairly inferior units, and you look in the newspaper and those units would be—the cost of those units was $200,000 each. And it has always amazed me, and the development community, that the cost of those units are so high.

Mr. O'LEARY. Well, we have seen similar experiences. Although, I would say that the units we have built have been, again, generally superior to other new units built in the area.

But included in that cost are an awful lot of indirect costs and public process costs, which—most of which I think is worthwhile. But when you begin to plan one of these projects—and it may take 2 to 3 years to plan it—and you hold public meetings and oftentimes, you have to replace 60- or 70-year-old infrastructure—that takes money. There is just an awful lot of process time that goes into it. It's not uncommon to redraw the plans for—the HOPE VI project, for example, a couple of times, because you're constantly going through drafting the plan, submitting it to HUD, residents—involvement of residents, and oftentimes, there are good suggestions that come out of those processes. But at the end of the day, it adds cost.

The other thing that adds cost is the whole notion of mixed finance, and going to the private market using tax credits, etc. There are considerable legal, accounting, and financial advisory kinds of services that are necessary, because they're very complex transactions. And at least within PHADA, I know we're constantly talking about isn't there a simpler way, perhaps, to finance some of these projects.

And I think the second bill that was talked about today includes some tools I think would be helpful in that regard. But there are tremendous administrative costs, architectural fees, legal fees, as well as just the structuring of tax credit projects that all go into that bottom line cost, as opposed to—

Mr. MARCHANT. It seems to me it's the largest single problem in going back and redeveloping housing on the same site, is that its built-in cost is so prohibitive that you can get a different product—as good a product—in another location without the capital cost.

Mr. O'LEARY. Well, I generally agree. I agree with Mr. Kinard. I think that, again, it's a case-by-case basis, and that's going to vary greatly by locality. In many communities, that public housing site might be the only land available to actually develop. In an area like Akron, where we have had tremendous job losses and deterioration of the central city, a very active city redevelopment program, we can generally find land in a number of areas.

And, of course, what we try to do is to complement the other public investment. And that may be on the site or it may be on a different site. So, again, I would constantly underscore the importance of having that flexibility to make those decisions on a local basis, rather than having it dictated. Thank you.

Chairwoman WATERS. Mr. Green?

Mr. GREEN. Thank you, Madam Chairwoman. In a perfect world, vouchers would be a perfect solution. As you well know, we do not live in a perfect world. I have only been in Congress for 5-plus years, but I have, in this number of years, learned how difficult it is to acquire vouchers.

It seems that the poor don't have a lot of folks walking the halls of Congress for them. It is very difficult in times of budget constraints to acquire help for poor people. I would love to have vouchers for everyone who truly merit having vouchers, but it just doesn't seem to work that way. And it is not unusual for people who argue for vouchers when we are talking about demolition to cease to have those arguments when we try to acquire vouchers.

In a perfect world, vouchers would be a perfect solution. I tend to see some salvation in some brick and mortar, something that's there for people, notwithstanding difficult times, notwithstanding the lack of a lobbying army. It seems that we have someplace for somebody to live when we don't have the vouchers available. And it has been said—I believe Congressman Cleaver pointed it out—that we are receiving fewer and fewer vouchers each year. In a perfect world, vouchers would be a perfect solution. They don't seem to be the perfect solution in this world.

One of the reasons it is so difficult to reform the financial industry and deal with what we know are obvious wrongs, is because they have lobbyists. They have people who are here daily, and they are making efforts to influence the process. The poor just don't have it. There are just a few people who are out front, a part of the avant garde, to help poor people. That's not a great commentary on any of us. But it's the truth.

And at some point we have to understand that when we can't do all that we should to help poor people, we ought to do all that we can. Maintaining the current stock is almost an imperative, if we are to continue to accommodate those who need help. If we allow ourselves to slip into this notion that we can just demolish and we will have vouchers available, we will find, in time, that we have made a mistake.

Vouchers that are here today may be gone tomorrow. It is much more difficult to eliminate the brick and mortar. Well, it used to be; I'm not sure that it is going to continue to be, given what I'm hearing, to some extent. My hope is that what the Assistant Secretary said will continue to prevail, and that is that we will look at a balanced approach to this, that we will understand that there is a place for vouchers, there is a place for brick and mortar.

And the notion that we have to have concentrated housing is one that I don't buy into. I think we can have scattered housing. I don't think we have to have all poor people living in one place. I think you can have poor people and people of means living together in the same complex.

But what I don't believe is appropriate is for us to allow, because it's convenient and because we can come up with clever schemes—which is how we got into this financial crisis, by the way, clever schemes—clever methodologies by which we can now finance what we know to be necessary housing, and put it at risk. My hope is that we are not putting it at risk, and I hope that we will continue to understand that there is a need, not only for vouchers, but also for brick and mortar.

Madam Chairwoman, I see that I have used my time without asking a question, but I do thank you. I yield back.

Chairwoman WATERS. Thank you very much. Mr. Ellison?

Mr. ELLISON. Good morning, Madam Chairwoman, and let me thank you and the ranking member, colleagues, and panelists. Today we will address the other housing crisis. Despite the lack of media coverage and attention, our Nation's public housing stock is depleting. Existing housing units face varying levels of distress, and the possibility of conversion to market rates. In such a scenario, very low-income households are at risk of displacement.

In my district of Minneapolis, over 900 units of public housing were lost due to HOPE VI redevelopment. This void was not immediately filled, and many households never returned. While updating public housing units is necessary for the safety of tenants, displacement only creates an additional burden for low-income and hard-to-house populations.

Chairman Frank and Chairwoman Waters have made the housing needs of our Nation's most vulnerable households a top priority. I applaud them for this. For this, I commend and intend—I commend the intent of both proposals, and support them both, and hope that we can begin to stabilize the public housing sector. I look forward to learning more about the one-to-one replacement and how it impacts the districts and the constituencies of the panelists. And I appreciate that.

I was going to read this in the beginning, but I read it now.

I only have time for one question, Mr. Kinard. And I appreciate your candor in your written testimony and here today. I guess my question to you is this, and maybe it is not subject to easy answering. But I was born and raised in the City of Detroit, and I moved at the age of my early twenties to Minnesota to go to law school, stayed there ever since.

But one thing I remember about my hometown is that it seemed like when it came to public housing, it—public housing residents would applaud the demolition of public housing because public housing was neglected for so long that it was a bad place to live. But did it have to be that way?

And when we look at bills like the one-to-one—like Chairwoman Waters' bill and Chairman Frank's bill, if we had the money to maintain public housing, and make sure it was a—that quality was high, that public safety was a top priority, do you think that those residents would have still applauded? I'm asking you sort of a hypothetical.

But, I'm interested, was it the fact of public housing, or was it the condition that people had been forced to live in because of the neglect of public housing? And I hand it back to you.

Mr. KINARD. First of all, fantastic question. And I have been in a number of scenarios where we have transformed public housing, and the reaction was not applause. In fact, I have been in the throwing chair scenario, too. So I have seen it from a number of perspectives.

But I think you hit the nail on the head. Every member on this panel, I would venture to guess, would agree with this fact, that if the funding was there to actually deal with the capital needs of public housing, which—I can tell you it's, I believe, in excess of $20 million; I think it's somewhere around $30 million, maybe even a little more. But if that funding was there, we would happily, hap-

pily deal with our issues, or create mixed-income communities, one way or the other.

But the fact of the matter is, the residents applauded in that particular setting, because the conditions of that site were deplorable, were miserable, because we don't have the funding to take care of it. The sad part is I have two or three other communities that are equally—if not even more—deplorable today that I can't even address in that nature, I can't even speak to those residents.

So, yes. I think the residents, if they were living in decent standard housing, they certainly would not applaud. They would say, "This is my home, I want to stay here." The fact of the matter is the housing there was beyond anything that we could be proud of and should be housing people in. And, unfortunately, there is a number of communities out there in that condition, and the capital funds simply are not there.

If those capital funds become available, then that, I think—I think there is no need for this discussion any more.

Mr. ELLISON. Well, all I will say, Mr. Kinard, is thank you for your candor, again, and that of all the panelists. I appreciate everything everybody said.

I will just make an offhanded comment. I believe that in the year 2001, our U.S. military budget was in the order of $290 billion. I think we are going to have a budgetary amount in that category of about $708 billion. And we have generals who say there is a lot of stuff we don't need. There are more people in military bands than there are diplomats representing the United States and making friends for this country.

And I think that $30 million is a rounding error when we talk about what we spend on the weapons of war. If you add up the top 50 military expenditures of countries around the world, they are not as much as we spend when you add them all up together. We don't need all that. We could use a little bit to house America's poor. That's all I have to say.

Chairwoman WATERS. Thank you very much. Members, I will ask unanimous consent for me to make a few comments and raise a couple of questions before I dismiss this panel.

First, I would like to thank the panelists for being here. There has been a lot of discussion about the need for resources, and we all know that. A lot of discussion about, I suppose, the notification requirements and some relocation problems that all get in the way of doing perhaps what some of you would like to do but cannot do, because of the laws that you are confronted with.

Let me just make a couple of things quite clear. One-for-one replacement is an important concept that both the chairman of this committee, the Financial Services Committee, and the chairwoman of this subcommittee believe very strongly in, very strongly in. And we know it has to be financed.

Perhaps you said it, but I didn't really hear, Mr. Kinard, you say that you support one-for-one. You have to have the money, you have to have the resources to do it. What I thought I heard was that one-for-one is just impossible to do.

We heard some testimony here today about what happened in Atlanta, and the fact that they got rid of their public housing. They got their HOPE VI projects. We don't know what happened to those

people. We know that our homelessness keeps increasing. We don't know whether or not there was anything built in to the system that would absolutely protect against those people not ending up in the street because they were guaranteed the right of return.

So, when you look at this bill, and you see one-for-one replacement, you see right of return, you see maintaining rights of public housing residents, location of replacement units, tenant notification, relocation and tenant protections, fair housing, this is because not only of—Mr. Cleaver and I kind of live this, coming out of the backgrounds that we come out of, and our families having lived in public housing. For a while in my district I had some of the biggest and maybe the most notorious housing projects in the country that I worked with. And so, I do understand a lot. I understand the difficulty.

But I also know that, as you have identified, the—many of the housing developments are in terrible disrepair. We have not put the money in to keep them up. And that's something that we really do have to understand. And I do.

I also understand that we have too many people—some of them are elected officials—who really would like to get rid of public housing. They would like to get rid of it. They don't want the government to continue to be responsible for public housing. They would like to privatize public housing.

We also know that we have a lot of people who think somehow public housing is going to be free of problems. It will never be free of problems. We have, in public housing, a lot of poor people who have not either taken advantage of opportunity, they have not had opportunity. And all of the problems that go along with being very poor and coming out of certain situations are there.

But I have always believed that we must have the services. You are running little towns. You have to have the services in public housing, in order to create a better quality of life for everybody. And that means that we have to have the health services, we have to have the anti-drug programs, we have to have the literacy, we have to have all of that in this little town, in order to make it work.

And so, some of us see our job as using our time and our careers to fight for it, to try and get the resources, to make sure that we are speaking up for the least of these, to make sure that we are not emptying out public housing when we talk about redevelopment, because we want to get rid of the problem people simply.

We understand all of that, and we understand what many of you go through. But the fact of the matter is, public housing is not going to be privatized on my watch. It's just not going to happen.

The fact of the matter is one-for-one replacement will be pursued relentlessly by all of us who really work on behalf of public housing tenants.

The right to return, again, the tenant notification—I understand somebody said all of this notification is just too much trouble. If it's too much trouble, you're in the wrong business, because it has to be done.

Now, having said that, I appreciate all of you. I really, really do. Many of you are doing some very, very tough work. And many of you are staying in these careers because you believe in what you do. And sometimes you get very disgusted, and you don't get the

support that you need from your cities, you don't get the support you need sometimes from your boards. And you certainly don't get all the support that you need from the Congress of the United States. But we are going to keep fighting for it. We are going to keep trying, day in and day out.

I thank you. This panel is now dismissed. And do we have any letters that we need to put into the record here?

[No response.]

Chairwoman WATERS. Then the Chair notes that some members may have additional questions for this panel, which they may 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.

Thank you again so very much for your time. This panel is now dismissed. The committee is adjourned.

Mr. PURNELL. Thank you, Madam Chairwoman.

[Whereupon, at 12:20 p.m., the hearing was adjourned.]

# A P P E N D I X

April 28, 2010

**Written testimony of Assistant Secretary Sandra B. Henriquez**

**"Legislative Proposals to Preserve Public Housing"**

**Hearing before the**
**House Financial Services Subcommittee on Housing and Community Opportunity**

**Wednesday, April 28, 2010**

Good morning Chairwoman Waters, Ranking Member Capito and Members of the Committee. Thank you for the opportunity to testify today regarding the Department of Housing and Urban Development's vision for the future of rental assistance.

I have spent the better part of my professional life working to create and preserve affordable housing for low income families. I believe that providing rental assistance is by far the Department's single most important purpose. Public and assisted housing is a critically important resource for 4.6 million families. Many of these families, including 70% of public housing residents, have extremely low incomes[1]. And though that number of families served is impressive, the reality is that demand for safe, decent, affordable housing far exceeds the supply.

With much of the federally-assisted housing portfolio over thirty years old, we are losing units at an alarming rate. Since the mid-90's over 150,000 public housing units have been lost, primarily as a result of deterioration. Public housing authorities (PHAs) have had little choice but to either demolish or dispose of units that were unsalvageable.

The Public Housing program in particular is wrestling with an old physical stock and a backlog of unmet capital needs that may exceed $20 billion. The capital needs of our Nation's affordable, federally-assisted housing stock are too substantial and too urgent to continue that model.

This Administration recognizes that in almost all cases it is far more costly to build new units than to preserve existing affordable housing. And that an affordable housing project can limp along for some time with piecemeal, ad hoc strategies to address its accumulating repair needs, but eventually the building will reach a "tipping point" where its deterioration becomes rapid, irreversible and expensive.

Given the current fiscal environment, it's clear the federal government alone will not be able to provide the funds needed to bring properties up to date and preserve them for the

[1] Defined as having an income at or below 30 percent of Area Median Income. See additional 2009 public housing and housing choice voucher demographic data attached.

next generation. Consequently, we must identify new funding streams for public and assisted housing.

After finding the additional resources to recapitalize the inventory, we must also establish ground rules for the redevelopment of public housing. Today, through HOPE VI, demolition and disposition, conversion to Section 8 Vouchers, etc, we lose more than 10,000 public housing units every year.

This Administration believes that one-for-one replacement should be the default position. You have seen it in our Choice Neighborhoods legislation and you will see it echoed in the Transforming Rental Assistance (TRA) bill that we hope to get to you in the next few weeks.

In light of market differences, local constraints, and the benefits of redeveloping with appropriate densities, we also believe PHAs should have flexibility to replace public housing units with other types of "hard" units, such as project-based vouchers, and to locate replacement housing off-site. In a few "soft" rental markets where vouchers are highly effective in providing access to quality affordable housing in neighborhoods of opportunity, PHAs should also have authority to replace a portion of their public housing units with tenant-based vouchers.

It should be noted that as the department engages in the process of developing and redeveloping the public and assisted housing stock, we remain deeply committed to affirmatively furthering fair housing.

Chairwoman Waters, you know these issues all too well. Your efforts to preserve affordable housing have been unparalleled, and your leadership on behalf of public housing has contributed greatly to its endurance. On behalf of the department, I want to thank you for remaining such a steadfast partner.

I also want to acknowledge your legislation to support preservation by revising the laws governing public housing demolition and disposition. Your bill offers thoughtful suggestions on the rules that would govern redevelopment of public housing. In concept, the department supports the intent of the *Public Housing One-for-One Replacement and Tenant Protection Act of 2010*, to stem the loss of public housing and protect the voice of tenants in local land-use and development decisions.

Responsibly, the bill recognizes that some public housing developments are obsolete and must be reconfigured, even to the point of fewer units on site, and that some sites are not suitable for housing, at all. We support the bill's solution in these cases to allow off-site development to fulfill the requirement. We note that the bill would also allow public housing units to be funded through other means, such as project-based assistance. As I will discuss later in my testimony, HUD also believes we can meet the traditional goals of public housing without relying on traditional funding sources. However, PHAs will not necessarily have the resources to fund the amount of housing production envisioned by the bill. In that regard, the bill

harkens back to the early 1990's where distressed housing remained vacant, or worse was housing low-income families, largely because housing authorities had insufficient resources to replace the units on a one-for-one basis.

I would also like to recognize the many contributions to affordable housing preservation made by Chairman Frank, who most recently introduced the *Housing Preservation and Rehabilitation Act of 2010.*

The driving force behind both pieces of legislation is a strong desire to have a true, permanent public and assisted housing preservation strategy.

This moment calls for a crucial federal investment to leverage other resources, and to maintain the number of safe and decent public and assisted housing units available to our nation's poorest families – an objective that at some point, soon, will cost the taxpayer substantially more to achieve by other means.

It should be acknowledged that we have spent nearly two decades redeveloping the most distressed public housing projects, through HOPE VI and other initiatives. And those efforts have paid off. The stock is in better shape overall than it has been in some time, and the $4 billion in ARRA funds targeted to public housing capital improvements are further stabilizing the portfolio.

But again, given a capital backlog that potentially exceeds$20 billion, the Recovery Act investment addresses only a portion of the housing portfolio.

Of course, as great as capital needs are, you and I both know that the depth of human need is even greater. Countless residents still remain trapped in neighborhoods of concentrated poverty -- because moving means giving up their subsidy.

These families not only lack mobility -- they lack hope, opportunity and choice.

Today, we face a choice of our own -- we can approach the challenges facing this population ad hoc, piecemeal, from program to program, as we have for decades.

Or we can deal with them now--together, in partnership, in a comprehensive way--and put our rental assistance programs on a more sustainable footing for years to come.

With this perfect storm of challenges and opportunities before us, I believe now is the moment to permanently reverse the long-term decline in the Nation's public housing portfolio and address the physical needs of an aging assisted housing stock -- and finally move HUD's rental housing programs--and the people who rely upon them--into the housing market mainstream.

To address these issues, HUD proposes to launch an ambitious, multi-year preservation effort called Transforming Rental Assistance (TRA).

TRA would help preserve public housing for the long term in two fundamental ways:

First, by providing subsidies similar to project-based vouchers and project-based Section 8, it would allow housing agencies to obtain more private financing than existing public housing subsidies do. Agencies would have greater flexibility to use the annual subsidies and mortgages on the properties as collateral to obtain financing. In addition, lenders likely would perceive these subsidies as more reliable means of repayment than public housing subsidies and thus would be more likely to provide sufficient financing at reasonable costs.

Please note: the changes we're proposing aren't about who owns public and assisted housing - - but how it's funded. For years, we've seen public housing authorities convert to Section 8 Vouchers for the simple reason that that program, which funds private ownership, is more sustainable. By allowing public housing authorities to access the capital and resources that private owners can today, we're leveling the playing field to make the preservation of public housing possible.

Second, TRA would modestly increase funding for public housing units to a level that would be closer to the subsidies in the voucher and project-based Section 8 programs and should be adequate (in combination with expanded private financing) to carry out needed renovations and sustain the units over time.

TRA is anchored by four guiding principles:

**First:** that the key to meeting the long-term capital needs of HUD's public and assisted housing lies in shifting from the federal capital and operating subsidy funding structure we have today — which exists in a parallel universe to the rest of the housing finance world—to a single, property-based federal subsidy that leverages capital from other sources.

**Second:** that the complexity of HUD's programs is part of the problem - we must streamline and simplify our programs so that they are less costly to operate and easier to use at the local level.

HUD currently operates 13 rental assistance programs. Over time, additional programs designed to meet the needs of vulnerable populations were added without realizing the disjointed system that would result. This unwieldy structure fails to serve the Department, our government and private sector partners, and—most importantly—the people who live in HUD-supported housing.

Ultimately, TRA is intended to move properties assisted under these various programs toward a more unified funding approach, governed by an integrated, coherent set of rules and

regulations that better aligns with the requirements of other of federal, state, local and private sector financing streams.

**Third:** that we must combine the best features of our tenant-based and project-based programs to encourage and allow residents' choice about where they live.

If a century of housing policy has taught us anything, it's that if there isn't equal access to safe, affordable housing in neighborhoods of choice, there isn't equal opportunity.

We say that with the understanding that real choice means informed choice -- HUD will work with partners at the state and local level to ensure that families that want vouchers can use them to move to neighborhoods of their choice and to greater opportunity.

At the same time we recognize that HUD must refocus our programs to revitalize low-income neighborhoods to be true neighborhoods of choice -- with opportunity, safety, good schools and a mix of incomes. That is a goal that TRA shares with our Choice Neighborhoods initiative.

**And fourth:** that all of our efforts to preserve the public and assisted housing portfolio are crucial to improving the lives of families and children. We must not only provide choice but we must also empower our tenants by enhancing the rights and protections afforded to them.

TRA, embodied in its four principals, reflects HUD's commitment to preserving affordable housing with a reliable, property-based, long term rental assistance subsidy, supporting affordable housing reinvestment and neighborhood revitalization efforts, and bringing enhanced opportunity and choice to residents. In addition, bringing private investment and tenant choice to public housing will provide market incentives for our partners to more effectively and efficiently manage their properties.

Under the 2011 Budget, the first phase of TRA will provide $350 million to preserve approximately 300,000 units of public and assisted housing, increase administrative efficiency at all levels of program operations, leverage private capital, and enhance housing choice for residents. With this request, we expect to leverage approximately $7.5 billion in other state, local, public and private capital investment. PHAs and private owners will be offered the option of converting to long-term, property-based rental assistance contracts, which we are working to define in close collaboration with current residents, property owners, local governments and a wide variety of other stakeholders.

Most of the fiscal year 2011 down-payment on TRA, up to $290 million, will be used to fill the gap between the operating and capital funds otherwise available for the converting properties and the first-year cost of the new contracts. As noted above, a reliable funding stream will help place participating properties on a sustainable footing from both a physical and a financial standpoint, enabling owners to leverage private financing to address immediate and long-term capital needs, and freeing them from the need for separate, annual capital subsidies.

Under this voluntary initiative, HUD will prioritize for conversion public housing and assisted multifamily properties owned by PHAs. In this regard, TRA delivers on the promise of over a decade's worth of movement in the field of public housing toward the real-estate model known as "asset-management," by finally providing public housing authorities with the resources to successfully implement this model in properties they will continue to own.

Three types of privately-owned HUD-assisted properties will also be eligible for conversion in this first phase: Section 8 Moderate Rehabilitation contracts administered by PHAs, and properties assisted under the Rent Supplement or Rental Assistance Programs. With this step, we can eliminate three smaller legacy programs that have become "orphans" as new housing programs have evolved. This consolidation will preserve publicly-owned properties for residents, improve property management standards, and streamline HUD oversight to save the taxpayer money.

The remaining funding, up to $50 million, will be used to provide additional services to expand families' housing choices and support informed decisions by residents that choose to move including resources to encourage landlords in a broad range of communities to participate in the housing voucher program. A portion of these funds also may be used to offset the costs of combining Housing Choice Voucher administrative functions in regions or areas where locally-designed plans propose to increase efficiency and effectiveness as part of this conversion process.

In closing, the ultimate goal of TRA is to put both the public and assisted housing portfolio on firm financial footing, and start to meld HUD's disparate rental assistance and capital programs into a truly integrated federal housing finance and rental assistance system that serves families better.

I hope that as we move through this process we can count on your support in advancing what we believe is a real breakthrough in public and assisted housing preservation efforts.

Thank you again, and I welcome any questions you have at this time.

Council of Large Public Housing Authorities
455 Massachusetts Avenue, NW Suite 425
Washington, D.C. 20001-2621
Executive Director: Sunia Zaterman
phone: 202.638.1300 | fax: 202.638.2364
web: www.clpha.org

**Testimony of**
**Keith D. Kinard, Esq.**
**Executive Director, Newark Housing Authority**
**on behalf of the**
**Council of Large Public Housing Authorities**
**before the**
**U.S. House of Representatives**
**Subcommittee on Housing and Community Opportunity**
**Committee on Financial Services**

**April 28, 2010**

Madam Chair, Ranking Member Capito and Members of the Subcommittee, my name is Keith Kinard and I am the Executive Director of the Newark Housing Authority and am a Board Member of the Council of Large Public Housing Authorities (CLPHA). CLPHA is a non-profit public interest organization whose members, located in virtually every major metropolitan area, are the largest Public Housing Authorities (PHAs) in the nation. These agencies act as both housing providers and community developers while effectively serving over one million households, managing almost half of the nation's multi-billion dollar public housing stock, and administering one quarter of the Section 8 Housing Choice Voucher program.

Newark Housing Authority (NHA) has over 12,000 public housing and housing choice vouchers. In my time at Newark and previously in Pittsburgh, I have overseen the preservation, development, demolition, disposition, and rehabilitation of thousands of units of public housing.

We have been asked to comment today on the discussion draft of two legislative proposals, the "Public Housing One-for-One Replacement and Tenant Protection Act of 2010" and the "Public Housing Preservation and Rehabilitation Act of 2010". However, before I turn to the specifics of these proposals, I want to note that within the public and affordable housing community we know there are no greater champions of public housing than Chairman Frank and Subcommittee Chairwoman Waters. The two of you have consistently, over the years, not only led the way in supporting and preserving this critical and scarce housing stock, but you have also been in the forefront of efforts to defend its programs and protect the people they serve, all the while ensuring that much needed funding for public housing is maintained and increased when possible. As an on-the-ground practitioner and public housing stakeholder, I, and my colleagues, are indebted to you for your commitment to the preservation of public housing. I know we share many of the same goals. I want to preserve and protect the housing I manage today. I want to build, develop, redevelop, and purchase even more affordable housing. I also want to provide tenants a transparent set of protections that will empower them against arbitrary and capricious actions.

I believe that some of the problems that this draft legislation is trying to address are the result of very early efforts of public housing redevelopment and do not accurately reflect what is happening today when public housing authorities redevelop a property. Unfortunately, I believe that without major modifications, or large new sources of federal funding, the one-for-one legislation would negatively impact the very residents it is seeking to protect.

At first glance, NHA may seem like we're been doing exactly what you want to stop. Since 2005, NHA has received approval for 1,032 units to be demolished at four different developments. However, to date, we have only demolished 106. Since I arrived at Newark in 2006, we have built and occupied 398 units of affordable housing, including 263 units of new public housing. I currently have another 226 units in development of which 69% percent may qualify as replacement housing in this legislation. We also created long term affordable housing by issuing several hundred project-based vouchers to private developers who have built or rehabbed over 600 units. I have plans and hopes of building another 1,500 units but we have development gaps of over $125 million dollars and that scenario assumes that NHA wins 9% tax credits for every application submitted. I just heard that both of our latest applications did not receive tax credits which will make the gaps even larger. This bill as drafted would increase the number of units that NHA would have to build and make it even more difficult to build affordable housing. As currently drafted, I am not even sure that NHA would be able to build units in our jurisdiction and stay in compliance with the guidelines related to areas of low concentration of poverty.

I would like to share with you the tale of two developments. Felix Fuld and Seth Boyden. Felix has been approved for demo, it has 286 units. It has a physical needs assessment of over $41 million required to make the units viable. It had a high density of residents below the poverty level, it is a high crime area, it has high operating and repair costs. The development was not viable under the asset-based management rules. I met with the residents in a large community meeting in December 2007 to discuss the results of a working group, which included resident leadership. The result of those working group meetings was that NHA and the resident leadership wanted to submit an application to demolish Felix Fuld.

When I announced that NHA wanted to demolish Felix, the residents actually applauded. Now that was not the reaction I expected. However, the residents knew this was the right thing to do. I made them a promise that night, that they would be going somewhere better, be it other low-rise public housing or newer scattered site public housing, or a section 8 voucher, they would be going someplace better in both the short term and the long term. I gave them a right to return, but only if they remain lease compliant. I provided them with all that Uniform Relocation Act (URA) requires and more. I gave them 180 day notice to move. I gave them housing counseling to help decide what type of temporary or permanent housing they wanted to choose.

During the questions and answers that December night this is what I heard. How soon can I leave? Can I have a voucher now? Can I get a transfer now? I had to tell the residents that, "no, you have to wait for HUD to approve the demolition otherwise you will lose your rights to URA and right to return". This bill seems to lengthen this process – not shorten it, which is what my residents wanted. Yes, change is hard and there were tears shed about having to move on and move out of Felix, but I have kept my promise, people are in better situations now. What is interesting, is that after meeting with housing counselors and going though all of the implications of their choices - 51% have been relocated in public housing, 38% have vouchers. So because of the way relocation vouchers are distributed, I was able to serve, in addition to everyone at the development, over one

hundred new families from the Housing Choice Voucher Program (HCVP) waiting list. I'm actually serving more families by getting demolition approved at Felix. This bill looks like it would change that.

The sad part is, right now, I cannot build back a new Felix, the gaps are too big and the markets are too soft to be able put together a pro forma that works – and that is not even trying to replace the units one for one. The "Public Housing Preservation and Rehabilitation Act of 2010" would help to close some of the gap, however, it does not go far enough. The "Public Housing One-for-One Replacement and Tenant Protection Act of 2010" will, if passed, further reduce any chance of Felix being rebuilt and any residents returning to a new Felix unless there is a substantial new public housing development fund created. I would like nothing more than to be able to build back 286 new public housing units. I believe that most of my colleagues would agree with me. I would not put them all back on the original site, as that would just reconcentrate the problems that existed and contributed to the failure of Felix the first time around. I believe that these are the types of communities that need federal investment, rather than saying, " you must build in areas of low poverty". These are the neighborhoods that need transformation. If I had the money, I would build them back.

However, without a serious public housing building war chest, if this one-for-one bill passes, I am going to be left deciding what to do about the second development in this tale of two developments. Seth Boyden has 506 units of which only 220 are legally occupied. It also has at least the same level of problems as Felix. It has over $50 million in deferred capital needs and is not a viable candidate for rehabilitation due to high abatement costs, ADA upgrades, and unit reconfiguration costs. The only real choices for Seth Boyden are: 1) short term, band-aid approaches to keep the units online or 2) demolish and rebuild something better.

The residents at Seth Boyden ask me when will they get to move to something better, like the residents of Felix. I would love to let them move. However, I cannot get people to accept offers of housing there. So units stand vacant. I want to move forward and promise these residents something better, but I have nothing to offer right now. NHA has deferred capital needs of over $500 million across our portfolio. We cannot afford to even demolish everything that has been approved for demo. This bill, if passed, would not help the residents of Seth, it would condemn them to staying as the units continue to get worse. These are the kind of decisions that public housing authority executive directors have had to make across the country.

Public housing developments are not all alike and their preservation needs are different. Some need only modest repairs along with reliable future funding to be preserved, while others require substantial, up-front capital investment and deep, long-term subsidies. Still other developments may not be viable in their current form even with large investments, in which case alternative affordable housing solutions need to be implemented. The most recent comprehensive study of public housing capital needs found a backlog of up to $32 billion. It also found that additional public housing capital needs accrue at a rate of more than $2 billion per year. Yet, the tools available to us, annual appropriations for the public housing capital fund have been barely above that. Further, the public housing operating fund has been seriously under-funded for a number of years, resulting in the deferral of maintenance work that adds to the level of capital backlog needs.

Despite these funding shortfalls and other challenges, there have been significant financial and legal innovations in the redevelopment of public housing in recent years, typically involving techniques

for mixing public housing funds with private financing. For example, for more than a decade PHAs have been using the low-income housing tax credit to leverage private equity for public housing redevelopment projects. PHAs also have experience using bond-financing, forming and participating in private ownership entities through their affiliates with investors, and project-basing voucher subsidies to develop affordable units. HOPE VI projects now typically leverage tax credits, while other public housing redevelopment projects have been undertaken without HOPE VI, but with tax credits and other resources.

It is part of the reason why two years ago, CLPHA convened a group of stakeholders to forge a new paradigm for the preservation of public housing. The Summit on The Future of Public Housing developed a policy framework committed to the goals of preserving, improving, and expanding the availability of housing opportunities for low-income individuals and families. While the two legislative drafts before us, at first glance, do not appear to have much in common, in the larger context of public housing preservation they are two sides of a coin. One side focuses on the tenants who reside in public housing, the other focuses on the rehabilitation and recapitalization of public housing. Several of the ideas and proposals which came out of the summit are reflected in these legislative drafts, and many of them are proposals which CLPHA has long advocated, including a commitment to preservation; serving low-income residents; greening and promoting energy efficiencies in public housing; leveraging other financing resources, including tax credits for modernization, rehabilitation and expansion of public housing; and serving the elderly and other vulnerable populations.

In regards to the specifics of the legislative drafts:

**Public Housing One-for-One Replacement and Tenant Protection Act of 2010**

***One-for-One Replacement***

In 1996, Congress repealed the one-for-one replacement housing requirement because it prevented PHAs from making progress on alleviating conditions in the nation's most severely distressed and functionally obsolete public housing, and which could not be built today under fair housing laws and other requirements. This bill would essentially reauthorize that requirement.

In Newark my concern has been for families not units. The places authorized for demolition are often experiencing high rates of vacancies. These are the residents that I want to promise something better. The loss of the hard unit concerns me less, as the HCVP units are serving more and new families through the demo/dispo relocation process.

CLPHA supports the preservation and expansion of the supply of affordable housing and the use of both hard units and vouchers in providing replacement housing. Furthermore, CLPHA supports utilizing hard units and vouchers in the goal of one-for-one replacement as long as there are sufficient funds to provide one-for-one replacement. While the legislation would require one-for-one for all units demolished or disposed of, it does not authorize any additional appropriations to meet that requirement. Additionally, the bill reaches back and grandfathers in units demolished or disposed of after January 1, 2005. CLPHA recommends that only units going forward as of the date of enactment of the legislation should be affected and funds should be authorized for the program.

Also, the bill would impose certain public housing rules and requirements on units that are not public housing. We believe this provision will have an adverse effect on the one-for-one

replacement objective and will have the unintended consequence of reducing the availability of affordable housing opportunities. Nonpublic housing owners, who will be reluctant to accept more restrictive and burdensome public housing requirements on their units, may simply opt out of the voucher program.

***Location of Replacement Units***

The bill's requirement that at least one-third of all replacement units for demolished public housing must be constructed on the original public housing location is too restrictive and may impose unworkable requirements on redevelopment efforts. Also, where replacement units are located should be determined by local market conditions rather than the bill's arbitrary proportion of one-third. Developers constructing replacement housing units need to have the flexibility to structure phases of their projects taking into account the availability of building sites, financing, types of units (e.g., the mix is often different in units designated for the elderly), and other local market factors.

If an original site is highly concentrated by poverty and race, requiring PHAs to provide at least one-third replacement housing on the same site, in the same neighborhood, or even in an adjacent neighborhood may not afford the PHA enough flexibility to create the public-private partnership with its attendant mixed-financing component which so many of the redevelopment deals today require.

Also, the bill's requirement that replacement housing units be provided in areas having a low concentration of poverty within the jurisdiction of the public housing authority—while good public policy—may be difficult to achieve in those areas where the availability of land, land costs, neighborhood opposition and other extenuating factors may be difficult to overcome. The ancillary conditions of furthering the "economic and educational opportunities for residents" on top of the location requirements simply adds another layer of difficulty.

In Newark there is not one census tract that would qualify as an area with a low concentration of poverty. The lowest poverty tract contains the Airport. Within my jurisdiction deconcentration means going from a tract with 50% poverty to one with 25% poverty. I want to change a neighborhood from one of desperate poverty to one that is thriving. We cannot just write these neighborhoods off as not deserving of federal investment.

***Maintaining Rights of Public Housing Residents***

The section on "Other Requirements" in the bill would apply several current public housing only requirements, including the requirements of CFR 24 Part 964 and the public housing grievance laws, to any replacement unit provided for temporary relocation. This major shift in policy would be overly burdensome for private owners and would provide new protections for temporary relocated residents that are not afforded to other residents – including other HCV recipients - in their properties.

Part 964 has a number of protections for residents in each property including residents' right to organize and "be involved and participate in the overall policy development and direction of public housing operation" that are not currently provided to housing choice voucher recipients. Private owners are unlikely to continue participation in the program if their operations will be subject to consultation with the resident council. Moreover, because private owners are not currently subject to these requirements they do not have the staff expertise to easily accommodate these new

requirements. The change will be extremely costly, burdensome and time consuming for them to alter their operations resulting in increased rents and ultimately in increased program costs.

Section 6(k) of the U.S. Housing Act of 1937 enumerates the various grievance rights of tenants in public housing. These include the right to a hearing prior to eviction, right to provide witnesses at a hearing, and other due process rights in eviction proceedings that are not currently provided to housing choice voucher recipients. The primary benefit of the voucher program is resident mobility and choice. However, with this choice, voucher recipients also must adhere to more restrictive lease terms than are found in public housing. Extending the provisions of Section 6(K) to relocated voucher recipients would remove a private owners' ability to independently manage a property, provide separate sets of rules for different residents, and again, would likely cause many owners to exit the voucher program altogether.

***Right to Return***
CLPHA believes that any public housing resident who was lease compliant before, and during demolition and/or disposition of their public housing unit during temporary relocation, should be entitled to a replacement housing unit.

Also, the right to return also needs to be better defined. The tenant should have to indicate if they want to return by a date certain. The current language is vague enough that ten years could go by before the family could decide they want to return even though the property is fully occupied.

***Tenant Notification***
Whereas the bill requires a one-for-one replacement for units, it also would impose a two-for-one relocation requirement for tenants. The bill states that if temporary, off-site relocation is necessary, each displaced family must be offered comparable housing "which shall include at least one unit located in an area of low poverty and one unit located within the neighborhood of the original public housing site". This has the effect of requiring two units to be available for each displaced family. This is an onerous and unprecedented use of scarce housing resources in a time of a shrinking affordable housing supply. Again, it would not be possible to meet this threshold in my city.

Also, the time allotted for a tenant provided with tenant-based assistance to search for a dwelling unit due to relocation is not less than 150 days (5 months) with the option for an undefined time extension. Given critical timelines to meet contractual obligations in demolition and redevelopment activities, CLPHA believes 150 days is a prolonged time and recommends the period be shortened to 120 days (4 months) with no more than two 30 day extensions, for a total 60 day extension.

There also needs to be clarity that while buildings cannot be demolished with tenants in them, however demolition should be allowed at other buildings within the project when those buildings are unoccupied. One of our sites is over 3 acres and it makes sense to begin demolition work at one end, even with residents at the other end.

**Public Housing Preservation and Rehabilitation Act of 2010**

***Leveraging of Other Assistance***
*Capital Fund Loan Guarantees* – This provision represents a new tool that is unprecedented and will be critical to achieving the goals set out in the Future of Public Housing Framework. CLPHA

has long supported and promoted this approach in making capital available to PHAs for the preservation, rehabilitation, development and expansion of affordable housing.

The federal loan guarantee created by this section authorizes the rehabilitation of public housing using the capital fund as security and for repayment. While the Capital Fund Financing Program (CFFP) can already be used for rehabilitation and development projects, a federal loan guarantee will lift the capital fund pledge to a whole new level. Over the years, the capital fund has experienced declining appropriations while demand for the program has grown. Recently, Standard & Poor's Ratings Services assessed the long-term credit implications of the CFFP appropriations risk following the Administration's FY2011 budget proposal and determined that federal budget deficits may increase the appropriations risk to the CFFP in future years.

CLPHA recommends broadening the security and repayment sources beyond the capital fund by extending the pledged amounts to include the Public Housing Operating Fund and Section 8 voucher funds. This would have the effect of minimizing pressure on the Capital Fund while expanding the potential for leveraging additional funds. A simple modification to the bill language under "(D) Use of Funds" by adding ", 9(c), or 8(o)" after "section 9(d)" would accomplish this action.

CLPHA commends the authors of the bill for their explicit wording in the loan guarantee. The particularly strong and unequivocal language, which provides that the "full faith and credit of the United States is pledged to the payment of all guarantees...and the validity of such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations". Congress has not put the full faith and credit of the United States behind public housing debt obligations since passage of the U.S. Housing Act of 1937. This federal guarantee should give strong reassurance to lenders, bondholders and other stakeholders in making funds available for public housing preservation.

*Energy Performance Contracting Financing* - CLPHA is pleased the bill enables a housing authority to receive the full financial benefit for reductions in utilities costs resulting from energy conservation improvements. This provision provides a real incentive for housing authorities to reduce energy consumption while also increasing the likelihood that there will be long-term program savings. Furthermore, the ability to access upfront capital without the necessity of a third party guarantee will reduce the costs of energy conservation measures and encourage lenders to loan directly to housing authorities.

This is one that the NHA is currently taking advantage of and believes that these changes will enable us to do even more. We have really changed our mindset about green building and green practices. Everything we build now we are looking to make as energy efficient as possible. We are installing renewable energy sources onsite to lessen the cost to the development and the residents. New Jersey has very generous state incentives that allow us to put solar power in many developments that may not make financial sense in other states. These types of incentives could be federalized and made easier to monetize for a non-profit public entity such as a housing authority. Right now, we have to go through some gyrations to get the benefit for the incentive program. It is similar to the hoops we have to jump through to see the value of the tax-credit program. When you are a non-profit and don't generate large taxes that need to be offset, you have to go to a market to sell the credits. The market for the solar credits is still not mature and changes could be made to

strengthen or expand the market – or allow us to bypass the market altogether by converting the SRECs (Solar Renewable Energy Credits) to grants.

*Requirements for Properties with Housing Tax Credits* – This provision allows public housing and converted units using tax credits the option to retain ownership and to maintain an active management role. We agree with the importance of maintaining the role of PHAs and ensure the long-term affordability of housing assisted by this provision.

***Grants in Lieu of Housing Tax Credits***
This provision authorizes a housing tax credit exchange for rehabilitation of qualified public housing units. CLPHA has previously recommended making tax credit equity available to public housing on an expedited basis and we strongly support this provision.

***Capital Fund Flexibility***
CLPHA has long advocated the repeal of the so-called "Faircloth Amendment" which prohibited the development of new public housing in many communities. Given the scarcity of affordable housing in communities all across the country, this repeal is long overdue. We thank the authors for including this provision in the bill.

***Grants for Conversion of Public Housing Projects to Assisted Living Facilities***
CLPHA is pleased the bill includes this new grant authority which also includes an authorization for appropriations. The language in the bill conforms closely to that found in the original authorizing statute for the federal elderly assisted housing program. To be consistent with the assisted housing language and to provide greater clarity, however, we recommend including the phrase, "which may be provided by third parties" before the period at the end of the subsection (d) Funding for Services. This would ensure that licensed third party providers may provide services, particularly when a State does not require licensure by a facility.

In closing, CLPHA would like to thank the Subcommittee for holding this hearing and express our commitment to working with Congress on these issues. We believe that through cooperation and collaboration, we can be successful in preserving, protecting and expanding affordable housing opportunities. Thank you for your consideration of our remarks.

TESTIMONY TO UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCIAL SERVICES, SUBCOMMITTEE ON HOUSING AND
COMMUNITY DEVELOPMENT

HEARING ON
"LEGISLATIVE PROPOSALS TO PRESERVE PUBLIC HOUSING"

April 28, 2010

DR. DEIRDRE A. OAKLEY, ASSOCIATE PROFESSOR
DR. ERIN RUEL, ASSISTANT PROFESSOR
DR. LESLEY W. REID, ASSOCIATE PROFESSOR

DEPARTMENT OF SOCIOLOGY
GEORGIA STATE UNIVERSITY
ATLANTA, GA

Doakley1@gsu.edu
404-413-6511

Madam Chair Waters and Ranking Member Capito, thank you for the opportunity to provide testimony on the legislative proposals to preserve public housing. My colleagues, Drs Reid and Ruel, and I are currently conducting a longitudinal study of public housing relocation in Atlanta, GA.[1] We are following almost 400 residents and are currently conducting six-month post-move follow-up interviews. Our retention rate is 85 percent. As you and members of the committee may know in early 2007 the Atlanta Housing Authority (AHA) announced plans to eliminate the city's remaining traditional project-based family public housing stock as well as two public housing senior high-rises. Since then almost 10,000 public housing residents have relocated and over 3,000 units are currently in some phase of the demolition process. Seventy percent of the relocated residents qualified for a Housing Choice Voucher subsidy to private rental market housing, meaning that one out of three did not. Several of the families in our study who did not qualify for a voucher are residing in homeless shelters and others are staying with relatives. Unfortunately this may be representative of the outcomes of others who did not qualify for a voucher.

Because Atlanta's efforts fall under the current Section 18 requirements for demolition and disposition there are no immediate plans for replacement housing. This speaks to the crucial need for the proposed Public Housing One-for-One Replacement and Tenant Protection Act of 2010. As a recent report from the National Low-Income Housing Coalition details, there is a growing shortage of housing units affordable to families and individuals with very low incomes. Atlanta may be the first city to eliminate all of its project-based public housing but other cites such as New Orleans and Las Vegas are not far behind. Without the implementation of the proposed legislation to preserve public housing, the shortage of low income housing will only get worse.

We also hope that the proposed legislation will help prevent the further demolition of public housing senior high-rises and subsequent displacement of the senior residents. Most cities are renovating rather than eliminating this housing. In Atlanta the two senior high-rises

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1 The Georgia State (GSU) Urban Health Initiative is following 300 residents from six of the public housing communities earmarked for demolition including four family communities (Bankhead, Bowen, Herndon and Hollywood) and two senior high rises (Palmer and Roosevelt Houses). In addition, we are following 70 residents from Cosby Spear, a senior high rise currently not slated for demolition. The purpose of our study is to follow this cohort over time (with Cosby Spear as a comparison site) to examine how relocation impacts their lives: Do they end up in better neighborhoods and have improved living conditions? How is their health and overall well-being affected by relocation? Also See Oakley, Ruel, and Wilson, 2008; Oakley et al., 2010; Ruel, Oakley, Wilson and Maddox (*Forthcoming);* and http://www2.gsu.edu/~wwwsoc/5756.html

earmarked for demolition (Palmer and Roosevelt Houses) are not in high poverty areas. Additionally these buildings do not meet all the criteria for "severely distressed housing"[2]

We have found that the relocation process for seniors is especially difficult and stressful and many feel isolated in their new locations. In addition, only 29 percent of the seniors we interviewed prior to relocation expressed the desire to move. Relocation has been particularly hard on the seniors with chronic health conditions. Twelve seniors in our study have died since moving compared to only two in our comparison non-relocating public housing senior high rise. There were also needed community supports in the senior high rises that are not as readily accessible to the relocated seniors. As one 90 year-old lady who was relocated far from her social support networks and needed services told us, "This is the nicest apartment I've ever lived in and I can't wait to get out. I just want to go back to Palmer House."

Finally, we hope that the Moving to Work (MTW) sites, such as Atlanta and Philadelphia, are not exempt from any the requirements stipulated in the proposed amendments. The amendments should not be categorized as further regularity restrictions on PHAs.

Based on our analysis of the proposed Public Housing One-for-One Replacement and Tenant Protection Act as well as the proposed Public Housing Preservation and Rehabilitation Act, in what follows we provide section-by-section comments and highlight potential challenges to successful implementation. We also provide some concrete recommendations.

*Amendment to Section 18: Demolition and Disposition of Public Housing*

**One-for-One Replacement.** The proposed amendment states that for each public housing unit demolished or disposed after January 1, 2005 a comparable replacement unit must be provided. One-for-one replacement is crucial, particularly in cities with tight rental markets. Even in looser rental markets like Atlanta, the increased demand for low rent housing coupled with reductions in public housing units can lead to rent increases. In addition, complete reliance on voucher subsidies to private market rental units is risky for several reasons: (1) There have never been enough vouchers to meet the need. In large urban areas like Atlanta with burgeoning homeless populations and gentrifying neighborhoods there are long waiting lists; (2) Unlike

2 Severely distressed refers to dilapidated, often largely vacant buildings that show the effects of poor construction, managerial neglect, inadequate maintenance, and rampant vandalism (Turner, Popkin, Kingsley, & Kaye, 2005). According to Turner et al. (2005), these developments typically have huge backlogs of repairs, including nonworking elevators, leaky pipes, old electric wiring, unstable walls, and pest infestations that create a poor and often unsafe living environment for residents.

project-based public housing, voucher subsidies do not guarantee that units will remain affordable for those with low incomes – land lords are only obligated on a year-to-year basis; and (3) because private market landlords choose to participate in the voucher program this does not guarantee equitable geographic distribution.

The case of Atlanta clearly demonstrates that the need to preserve public housing is crucial. Prior to relocation we asked residents why they moved into public housing in the first place. Fifty-eight percent said they entered public housing because it was the only affordable option. Another 36 percent said they ended up in public housing because of some kind of hardship including job loss, a chronic health issue, or family dissolution. In addition, 18 percent of families and 22 percent of seniors reported that public housing was an improvement of their previous housing situation. These findings suggest that public housing serves as an important source of low-income housing when residents have no other options. In other words, public housing serves as a needed safety net. Now that public housing is being eliminated in Atlanta, this safety net is gone. Where will very poor families and individuals facing hardships go in the future? Aside from staying with family and friends, one of the only other options will be emergency homeless shelters, facilities that are already overburdened, or substandard housing. In addition, without public housing there will be a greater demand for voucher subsidized housing and longer waiting lists.

One potential challenge to successful implementation of one-for-one replacement is that it will require increased oversight on the part of HUD, particularly because the amendment requires replacement housing for units demolished since 2005. What safeguards will be implemented by HUD to ensure compliance for those housing authorities that did not expect to have to replace all the units demolished? In addition, some of the land on which public housing was located may have already been sold or land swapped. For example, current plans for the two public housing senior high-rises slated for demolition in Atlanta are to land swap them. This means that the proposed on-site rebuilding of at least one-third of the units can not be met.

In addition, some cities have experienced local opposition to on-site replacement. For example, in Galveston, Texas, the PHA decided to implement on-site replacement of all the units destroyed by Hurricane Ike. This decision was based on a number of factors including costs, access to jobs and services, and displaced resident input. However, this plan has been met with persistent local opposition presenting numerous obstacles for its implementation.

Another potential challenge concerns the off-site replacement housing. The proposed amendment allows for location of up to two-thirds of the replacement housing units in other low poverty areas within the jurisdiction of the PHA. PHAs are likely to come up against local opposition in low poverty areas. This increases the potential that this replacement housing will be located in other poor, segregated neighborhoods. In low-density cities such at Atlanta there is also the potential that this replacement housing will end up in remote areas of the city where public transportation is not readily accessible. We have found that over 80 percent of the residents in our study are dependent on public transportation and that this factor played an important role in where they chose to relocate. Therefore it is likely that this will play an equally important role in whether or not residents choose to move to off-site redevelopments. We recommend that specific language be added to the amendment requiring off-site housing to be in reasonable proximity to public transportation.

**Maintaining Rights of Public Housing Residents.** The proposed amendment states that displaced public housing residents, regardless of the type of housing to which they relocate, will continue to be protected by public housing statutes regarding grievance procedures, housing quality, tenant participation, resident management, as well as ineligibility of dangerous sex offenders, and certain drug offenders. In Atlanta all of these protections are currently being met *except* tenant participation. Each public housing community's resident association was disbanded upon relocation and subsequent demolition. While there continues to be a Jurisdiction-Wide Resident Advisory Board, those residents relocated with a voucher are not invited to participate.

Yet, a post-relocation resident association could serve as an important support vehicle for relocated residents as they negotiate the private rental market. For example, while the majority of the residents in our study who qualified for a voucher like their new homes, the increases in living expenses have added an unanticipated financial strain. Much of the increased costs concern utility payments. This is particularly bad in Atlanta because landlords typically pass on the cost of water and sewage to the tenants. The utility allowance that relocated residents receive does not come close to the monthly costs. This puts many residents in a precarious position: if they get behind on their utilities, they will lose their voucher. A post-relocation residents association could facilitate a dialogue with the housing authority as well as serve as a mechanism for distributing information about assistance (e.g., such as how to file a water bill complaint).

Residents in our study also report decreases in both the formal and informal supports they received while residing in public housing. The formal supports included bi-monthly on-site food pantry distribution and, for seniors, the free supermarket bus. Informal supports included childcare and the sharing of other in-kind resources. The loss of these supports has added to post-move increases in living costs. A post-relocation resident association could help residents maintain some of these supports after they move. For example, a post-relocation resident association could coordinate with local food pantries to make deliveries to a central location that residents can access via public transportation.

**Right to Return.** The proposed amendment states any person who occupied a public housing unit and whose tenancy or right of occupancy has not been validly terminated is eligible to occupy a replacement housing unit. The proposed amendment also states that PHAs or any other manager of replacement housing units are prohibited from imposing additional eligibility requirements. This is a much needed amendment because many PHAs contract out management of replacement housing to private property management firms that have added eligibility requirements.

However, it is unclear in the proposed legislation what mechanisms PHAs must implement to keep displaced residents informed regarding the status of the replacement housing. HOPE VI initiatives have typically placed the responsibility of staying in the system (i.e., waiting lists updated annually) throughout the redevelopment process on the residents themselves. When redevelopment takes more than five years many residents 'give up.' This has frequently been interpreted in policy circles as residents being happy in their relocated homes without any substantiation that this is indeed the case. Thus, this section of the amendment should include stipulations requiring PHAs to have comprehensive, proactive plans to keep relocated residents, who wish to occupy the redevelopments, informed throughout the redevelopment process. In addition, these plans should not assume internet access among the displaced residents.

**Tenant Notification.** The amendment has specific requirements concerning resident notification of demolition and disposition, including residents' right to return, availability of replacement housing units, and the collection of information from the residents regarding desired relocation destinations. This section of the amendment should require PHAs to submit a comprehensive plan to HUD for approval concerning tenant notification prior to submitting a

demolition application. No information concerning residents' desired relocation destinations was collected by the AHA prior to the recent Section 18 demolition application submissions. Instead, the AHA distributed self-addressed stamped postcards requesting that public housing residents fill in their name and address and indicate whether they support the demolition initiative and wish to receive a voucher. The AHA then reported to HUD that 96 percent of the residents supported the demolitions and wished to receive a voucher.

**Relocation and Tenant Protections.** The proposed amendment states that PHAs will be required to submit a detailed relocation plan to the HUD Secretary. While this is indeed necessary, thorough oversight from HUD will be needed to ensure that PHAs carry out these relocation plans as stated. In addition, the provision of relocation counseling needs to be spelled out in far more detail because previous research has consistently documented that such services have been inadequate. For example, although Chicago Housing Authority included provisions in its HOPE VI relocation plan during the 1990s for relocation counseling, such services proved less than adequate.[3] It took the threat of litigation for the CHA to mandate smaller caseloads and other reforms. In Atlanta, the residents in our study complained about lack of access to relocation counselors as well. This primarily had to do with the large number of families and individuals being moved in such a short period of time. As one resident said, "It really wouldn't have been so bad if they (AHA) weren't trying to move all of us at once."

**Fair Housing.** Research concerning public housing situated in large Midwestern, Northern, and Southern cities has consistently demonstrated that such housing ends up in very poor, predominantly African American neighborhoods. In the case of Yonkers and Chicago, such siting led to Fair Housing litigation. Ironically, the fact that public housing is typically located in poor African American neighborhoods is frequently cited as a reason for tearing it down. The question then becomes whether or not relocation results in residents ending up in more racially integrated neighborhoods. The answer has been repeatedly a resounding "no." Research -- including ours -- has consistently shown that while former public housing residents relocated with vouchers end up in neighborhoods that are less poor, these areas are still poor and they are still very segregated.[4] In fact, in our study we find evidence of geographic clustering in

[3] See Cunningham & Popkin, 2002; Venkatesh & Celimli, 2004; Cunningham & Sawyer, 2005.
[4] See Goetz, 2002 and 2003; Popkin et, al., 2004; Harris and Kaye, 2004; Oakley and Burchfield, 2009; Oakley et al., 2010.

segregated neighborhoods. Yet despite this consistent finding, Fair Housing cases have been dismissed in both Atlanta and New Orleans, mainly because these cities have very large African American populations to begin with and therefore this lessens the opportunity to move into a more integrated neighborhood within the city limits. It should be noted, however, that the racial composition of Atlanta and New Orleans has shifted over the last five years with a decrease in the black population and an increase in the white population within the city limits. One has to wonder if public housing demolition and the subsequent higher-end residential redevelopment have something to do with these trends.

*Public Housing Preservation and Rehabilitation Act of 2010*

The proposed legislation primarily concerns the financing of public housing rehabilitation and energy efficiency. Our only comment on this is that there needs to be specific stipulations about what income levels rehabbed units are set at; in other words, rent costs for the majority of units should be set at the very low income levels of current public housing residents, most of whom live below the federally-established poverty threshold. In short, "affordable" can refer to a range income levels which can sometimes be beyond those living at or below the poverty line. For example, the AHA states that they are providing more affordable housing now than they did in the early 1990s prior to the implementation of public housing transformation policies. But this does not necessarily mean that they are providing more housing for those families and individuals at or below the poverty threshold. Consequently, specific language regarding income level requirements of new or rehabbed public housing needs to be more clearly spelled out in the legislation.

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**Public Housing Authorities Directors Association**
511 Capital Court, NE, Washington, DC 20002-4937
Phone: 202-546-5445 fax: 202-546-2280 www.phada.org

Testimony of

Anthony O'Leary, Vice President for Housing

The Public Housing Authorities Directors Association

Before the

House Financial Services Committee

Subcommittee on Housing and Community Opportunity

Rayburn House Office Building
Room 2128

Wednesday, April 28, 2010

Chairperson Waters, Ranking Member Capito and Subcommittee members, I am Anthony O'Leary, Vice President for Housing of the Public Housing Authority Directors Association (PHADA) and Executive Director of the Akron Metropolitan Housing Authority located in Akron, Ohio. I am honored to testify before you today on PHADA's behalf.

Our association was founded in 1979 and represents approximately 1,900 housing authority chief administrative officers. A significant proportion of PHADA members administer small or medium sized agencies that operate a mixture of assisted housing programs. Some operate public housing, some the Housing Choice Voucher program, many operate both programs, and a number of members operate assisted housing financed with varied sources of federal and non-federal support.

The Akron Metropolitan Housing Authority is a high performing large public housing agency serving over 20,000 residents in an urban county in northeastern Ohio. We manage or administer more than 10,000 units of public or assisted housing. We have done extensive tenant relocation in the past decade and find through our experience that the housing choice voucher is the preferred housing option by 2 out of 3 applicants. We have also performed several major redevelopment projects requiring tenant re-location.

We are grateful that you are investing the Committees' resources to address the needs of the public housing program with the two bills that are the subjects of today's hearing. PHADA received the statutory language on April 20th, and the following comments represent our preliminary assessment of the bills' areas of strengths and potential improvements.

PHADA understands the concerns of the Chairperson and other subcommittee members with the loss of public housing apartments through demolition and disposition actions, but PHADA is also cognizant of handicaps under which some public housing operates due to its age, its design or its condition. The recent asset management model used to determine funding in fact compares public housing to the local market, so it is imperative that public housing effectively compete with other available privately operated assisted housing. We are interested in engaging subcommittee members and their staff to balance reducing the substantial public housing capital needs backlog while mitigating adverse impacts experienced by public housing residents as public housing properties undergo substantial revitalization. Broadly, PHADA has supported federal policies that make an assortment of tools available to local program sponsors that allow those sponsors to meet local needs for deeply assisted housing in ways suitable to their housing markets and to their local public policy preferences. With federal financial support, these initiatives must conform to federal policy constraints, and we hope that those constraints are framed broadly. The following comments address elements of the Public Housing One-for-One Replacement and Tenant Protection Act of 2010 the

subcommittee is considering under four broad headings; one for one replacement of public housing, screening standards and relocated public housing right of return, burdensome procedural and administrative initiatives, and other matters likely to be associated with implementation of an enacted statute. Following that discussion are comments concerning the Public Housing Rehabilitation and Preservation Act of 2010.

**The Public Housing One for One Replacement and Tenant Protection Act of 2010**

One-for-One Replacement

In general, PHADA has supported maintenance of the inventory of deeply assisted housing, the goal of a one-for-one replacement policy, but has differed with others on the means to achieve that end. Questions subject to discussion in the past have involved the advisability of maintaining long-term vacancies or uninhabitable apartments in a local agency's public housing inventory. Severe market or population pressures have led some communities recently to demolish housing in neighborhoods to create open space. PHADA believes that the replacement of public housing demolished or disposed of in its original locality are complicated and should be addressed in ways sensitive to the needs and circumstances of those communities.

Provisions of the bill under consideration offer an opportunity to reopen this dialogue. If PHADA understands the bill's provisions, public housing units that are demolished or disposed of must be replaced with some form of property based housing assistance that can serve extremely low-income households, a third of which must be on the original site with some exceptions. The bill also includes provisions that bring elements of the public housing regulatory regimen to bear on assisted replacement housing that is not public housing but, for example, uses Project Based Housing Choice Vouchers.

For some time, PHADA has urged policy makers to consider including tenant based Housing Choice Vouchers as a replacement housing option. We believe that there are local housing markets where replacing existing public housing on a one-for-one basis may not represent sound long term management of public housing assets. We also understand from our members that public housing residents faced with relocating due to substantial revitalization of a public housing property overwhelmingly (but not universally) request a tenant based Housing Choice Voucher rather than relocation to another public housing apartment complex. PHADA does not consider tenant based Housing Choice Vouchers the exclusive solution to replacing public housing demolished or disposed of, but we believe that tenant based assistance should remain an option for HAs to use. Use of vouchers in these cases comes closest to maximizing resident choice and mobility where public housing units are demolished or disposed of.

PHADA is also concerned that a one-for-one replacement requirement coupled with inclusion of the public housing regulatory regime in replacement housing regardless of its type or funding will represent a significant disincentive to partnerships with private sector non-profit and for profit organizations. Those partnerships have been a fruitful resource in much of the public housing revitalization that has occurred in recent years, and appears to be central to development of mixed finance, mixed income communities and the use of LIHTC resources in revitalization. Discouraging participation of private sector partners in these revitalization efforts will represent a serious impediment to the revitalization of old or obsolete public housing apartment complexes, relegating residents, properties and HAs to what Secretary Donovan referred to as, "a parallel universe to the rest of the housing finance world," in testimony delivered on April 15th.

Resident Screening and Right of Return

Applicant screening is a bedrock practice in effective housing management and management of deeply assisted housing. Screening practices adopted by a local housing authority are a part of the agency's administrative procedures governing admission and continued occupancy. As such, they are adopted by governing commissions in public meetings, are one part of an authority's planning process and so are subject to public hearing and public comment. Residents of public housing have significant opportunities to influence the content of these policies, and residents often advocate for strict screening policies that help protect them from potential bad actors. The bill proposes to bar housing authorities or managers of replacement public housing from conducting any applicant screening for relocatees with the exception of the statutory ban on eligibility of manufacturers or producers of methamphetamine and households that include a member subject to lifetime registration under a state sex offender registration program. PHADA has pointed out that families may relocate from public housing subject to revitalization for extended periods of time. Development of replacement housing may occur in phases over several years. Household members' circumstances can change radically during these periods of time and as currently stated, the bill would require admission of households with members who may have engaged in violent or drug related criminal activity beyond sex offenses or methamphetamine production. PHADA also believes that housing authorities, their agents or partners responsible for operating replacement housing should be free to review former landlord references and credit histories to preclude admission to replacement housing of families who may have demonstrated a lack of capacity to comply with terms of their lease or would otherwise be ineligible for selection. Fundamentally, PHADA believes in the equitable treatment of all households interested in moving into replacement housing and does not believe that relocatees should enjoy the privilege of an unconditional entry to that housing.

Consistent with PHADA's general viewpoint that local agencies should have discretion to implement federal housing assistance programs in ways that best suit their local communities, agencies developing replacement housing should be free to provide public housing relocatees with an opportunity to reside in replacement housing. Some of those agencies may choose to grant former public housing residents with priority admission to replacement housing. However, since relocated households' current residents are living in safe, decent, affordable housing, PHADA also believes local agencies should be free to prioritize households for admission to replacement housing who are experiencing severe housing cost burdens or who may be living in overcrowded or substandard conditions - that is, households who may have been on a housing authority's waiting list for a very long period of time.

As with elements of the proposal for one-for-one replacement, PHADA is concerned with the impact of an unconditional right of return and a prohibition of screening on the interest of potential private non-profit and for profit partners who may need to participate in public housing revitalization efforts. We believe that potential partners will find a screening prohibition a very significant disincentive to participation in public housing revitalization initiatives.

The policy model endorsed by PHADA is characterized by the diversity of approaches to replacement housing and a right of return described by housing authority leaders testifying before this committee in 2007. Mr. Montiel of Los Angeles, Mr. Kelly then of the District of Columbia, Mr. Fox of Stamford, Connecticut, and Mr. Woodyard of Charlotte, North Carolina each described their locally tailored approaches to these policies that maintained the fundamental norm of screening applicants while providing relocatees with opportunities to apply for and move in to replacement housing. These examples of the creativity housing authorities have used as they have revitalized obsolete public housing do not appear to be possible under terms of the proposed legislation.

Burdensome Administrative and Procedural Requirements

The bill imposes administrative and procedural requirements on agencies disposing of or demolishing public housing additive to existing requirements. For example, agencies must notify residents of intentions to apply to dispose of or demolish public housing at least 30 days prior to submission of an application, notify residents when an application for demolition or disposition is approved, and provide a 90 day notification of relocation. This final notice appears to require that agencies identify specific units that may be available for them, at least one of which is in their neighborhood and at least one of which must be in a low-poverty neighborhood, and include those housing units in the relocation notice. The bill appears to presume that these housing units will

remain vacant and available to relocatees throughout the 90-day notice period. These notices are in addition to other notice requirements surrounding agencies' Annual Plan development and submission, those required by an agency's lease, or those required by local or state landlord tenant regulations or statutes.

The bill requires agencies to prepare an extensive and complex analysis of any adverse impacts on households protected under the Civil Rights Act who are relocatees, who reside in the neighborhood surrounding the public housing proposed for demolition or disposition, the neighborhoods where relocatees may move, and applicants currently on agencies' assisted housing waiting lists. This requirement is additive to the work done by local governments and authorities in analyzing impediments to affirmatively furthering fair housing, and ways housing authorities have identified to address those impediments in their Annual Plans.

Other Matters

Retroactivity

The bill will impose new requirements on demolished or disposed of public housing apartments retroactive to January 1, 2005. These projects are likely well underway, they may already be completed, and the requirements of the proposed bill were certainly not included as agencies prepared proposals and budgeted for their initiatives. There will be examples of demolition or disposition initiatives where compliance with the bill's requirements is virtually impossible. A former public housing site may now be rebuilt and occupied with less than one third of the original public housing units located on that site. PHADA urges the committee to remove this retroactive provision.

Housing Search Periods

For households who use Housing Choice Vouchers for relocation purposes, unlike the standard 60-day housing search period with the opportunity for 30-day extensions up to 180 days, the bill requires a housing search period of 150 days for relocatees with an additional 150-day extension. The search period is 10 months, almost double the maximum period provided for other Housing Choice Voucher holders. PHADA believes that the standard search period provided in the Housing Choice Voucher program is sufficient, and relocated households will retain the option of relocating to another public housing unit if they encounter insurmountable barriers to using a voucher.

Costs

PHADA fears that, taken together, new requirements for the demolition or disposition of public housing included in the bill under consideration by the committee will significantly increase costs associated with revitalizing public housing properties. Increasing costs will constrain resources available to invest in the revitalized housing, reduce the impact of federal resources on the portion of the capital needs backlog represented by housing subject to demolition or disposition, discourage non-governmental partners from participating in these initiatives, and threaten the possibility of revitalization or the viability of a revitalized property. In the context of President Obama's proposal to freeze domestic spending, it seems unlikely that sufficient resources will be available to support these proposed new requirements for demolition and disposition. The result may be to effectively return public housing to the situation it faced in the late 1980's and early 1990's. Housing authorities found it impossible to address capital needs or requirements for revitalizing severely distressed public housing when there were no resources available for public housing development. A one for one replacement requirement coupled with inadequate resources contributed to some of the deplorable conditions in which we found public housing residents and residents of the surrounding neighborhoods prior to implementation of HOPE VI, the Moving to Work demonstration, and passage of the Quality Housing and Work Responsibility Act of 1998.

**Public Housing Preservation and Rehabilitation Act of 2010**

A major challenge for housing authorities in the last two decades has been finding resources to address the often very serious needs for rehabilitating or recapitalizing old public housing apartment complexes that may suffer from design deficiencies as well as age. The tools that have generally been available for this reinvestment have included the HOPE VI Low Income Housing Tax Credit (LIHTC) program, Project Based Housing Choice Vouchers and the Capital Fund Financing Program. Individual projects have often required combining these comparatively complex programs in mixed finance developments under complex non-traditional ownership arrangements. Each of these tools, and their combination, have entailed substantial transaction costs, tending to raise costs of large public housing revitalization projects and to reduce the overall impact of federal expenditures, either through appropriations or tax expenditures.

The Public Housing Preservation and Rehabilitation Act of 2010 makes several important new tools available to housing authorities that they may use to revitalize, redesign or modernize public housing properties. Although more complex than directly appropriated funding, these tools appear much less complex than using LIHTCs or HOPE VI funds.

Capital Fund Loan Guarantees

Agencies may currently leverage existing Capital Fund resources through the Capital Fund Financing Program where a proportion of an agency's future Capital Fund eligibility is dedicated to repayment of capital debt. The bill proposes an additional tool offering lenders a federal guarantee of debt incurred for public housing revitalization purposes, reducing uncertainties associated with annual Capital Fund appropriations. PHADA believes that the tool will prove very useful to agencies and reduce the cost of capital associated with revitalization projects that use such loan guarantees.

Utility and Waste Management Cost Savings

For some time, PHADA has strongly advocated adoption of an energy conservation initiative; PHADA appreciates its inclusion in the bill. Agencies may choose to freeze the basis on which federal utility funds are allocated for up to 20 years, carry out energy or utility savings initiatives and retain the cost savings. Agencies could reinvest savings in other energy or utility conservation initiatives, in environmentally friendly property improvements that don't necessarily offer significant cost savings, or address other capital needs of their public housing properties with those savings. In the long run, PHADA has conservatively estimated these cost savings could result in a reduction in requirements for federal utility funding by 15 percent. In addition, energy and utility conserving measures offer residents opportunities to save resources where they pay a portion of their utilities, the approach contributes to reducing our dependency on imported resources, and generally can contribute to reducing the emission of greenhouse gases. This approach opens an energy and utility conservation opportunity to small agencies that haven't offered sufficiently large utility cost savings to be attractive to energy services companies under the existing Energy Performance Contracting program.

Grants in Lieu of Tax Credits

Under the American Recovery and Reinvestment Act Tax Credit Assistance Program, states were able to receive federal funds to replace a proportion of their LIHTC allocations to support projects allocated tax credits that encountered difficulties due to the economic crisis. The current bill includes a provision that permits the states to carry out a similar exchange in connection with proportions of LIHTC allocations they are willing to earmark for public housing revitalization and renovation. The proposal should help open public housing reinvestment to LIHTC support that otherwise would require transfer of ownership of public housing property, and should significantly reduce transaction costs associated with standard development or redevelopment initiatives involving the use of LIHTCs. At the present time, a dollar in LIHTC tax expenditures produces approximately $.70 of investor equity and requires payment of the costs of syndication. If the states choose to

participate in this initiative, it could open the use of LIHTC supported resources to housing authorities that might not otherwise be able to access those credits.

Capital Fund Flexibility

The bill includes a very productive provision that eliminates the restriction on developing additional public housing units (the Faircloth amendment). PHADA has opposed that restriction, and the provision may permit HAs to recover some of the public housing inventory that has been lost in the last decade. Such development will require funding, but eliminating this restriction is a first step. Although PHADA has expressed concern with the funding impact of supporting non-federal public housing, the provision allowing agencies to use Capital Fund resources for those units under certain conditions provides housing authorities with flexibility to support deeply assisted housing without impacting the distribution of the Capital Fund or the Operating Fund.

Grants for Conversion of Public Housing Projects to Assisted Living Facilities

Almost a third of public housing apartments are occupied by elders, and as these residents age, they often must move to more costly housing that includes services that permit them to live as independently as possible. Elders who must move under these conditions face issues related to their health as well as to their finances. The proposed bill includes a new initiative to permit agencies with public housing designated for occupancy by elders to convert to assisted living facilities. Opening this opportunity to housing authorities will permit designated public housing to continue to serve increasingly frail elders and not require these residents to move to other housing.

**Conclusion**

It is encouraging that the subcommittee is considering issues so important to the preservation of public housing. New tools that facilitate development and revitalization of public housing should prove very helpful. It is also important, while attending to concerns of public housing residents, that means to address those concerns should support and not hinder revitalization of older public housing stock. PHADA remains committed to working with the committee to offer housing authorities new and more flexible tools and to find ways to address resident concerns in ways that support and complement those tools and the underlying aim of offering public housing residents apartments that conform to contemporary comparable market standards.

Testimony of Joseph Puma for
National People's Action
before the
House Financial Services
Subcommittee on Housing and Community Opportunity
Hearing on Public Housing
April 28, 2010

Thank you Chairwoman Waters and Ranking Member Capito and members of the Committee for inviting me today to speak about the need for America's public housing and the reforms necessary to make sure America's public housing is furthering the goal of providing all Americans with their human right to housing.

My name is Joseph Puma. I am a lifelong public housing resident and advocate for public housing in New York. It was over 25 years ago that my parents and I (just 1 year old at the time) moved into a newly opened public housing development in our community, the Lower East Side of Manhattan, a neighborhood where four generations of my family have called home. If it weren't for our public housing apartment, my mother would not have been able to provide for me and stay in our community later as a struggling, working single parent. And if it weren't for that upbringing in public housing, I would not have been able to become a first generation college graduate, earning a degree from Yale University. This foundation of family and community, of housing and education, have motivated me toward community involvement and public service. I have worked for the past several years for the New York City Office of Management and Budget, and I serve on the board of Good Old Lower East Side, a neighborhood preservation and eviction prevention organization.

I am here today representing National People's Action. National People's Action (NPA) is a network of community organizations from across the country that work to advance a national economic and racial justice agenda. NPA has over 200 organizers working to unite everyday people in cities, towns, and rural communities throughout the United States. NPA also coordinates and staffs the Housing Justice Movement (HJM), an alliance of more than 30 community and tenant organizations. HJM represents thousands of residents in America's public and subsidized housing who demand a voice in their housing and a voice in decisions that will affect their lives.

The public housing development where I grew up and those where many of my fellow residents around the country live are vibrant communities where neighbors help each other succeed and support each other. At least that is the case for those communities that are left. As good intentioned as many of the past public housing policies like HOPE VI may have been, they all too often have resulted in destruction of communities and the instability of housing. This has led to instability of employment, education and the health and well being of thousands of families.

I would first like to address the "Public Housing Preservation and Rehabilitation Act of 2010" as proposed by Congressman Frank. In particular, I would like to state our support for Section 4, which would lift the restrictions on using operating and capital funding for new public housing construction. As I will detail more below, the need for more affordable housing options is enormous, and any barriers that can be removed to meeting this need are welcome.

Section 2 of the proposed bill, Leveraging of Other Assistance, contains many good provisions to safeguard the capital fund loans and to encourage energy efficient practices and upgrades throughout Public Housing. We would encourage Congress to enact improvements to Section 3 of the Housing and Urban Development Act to ensure that residents are given the first opportunity to access jobs created through this proposal.

I would like to focus my testimony today on the Public Housing One-for-One Replacement and Tenant Protection Act of 2010, which will go a long way towards repairing the damage I refer to, and offer our suggestions for improving this excellent bill. I would like to thank you, Chairwoman Waters, for introducing this legislation and for consistently standing with us as we fight for our homes.

One-for-One Replacement

Since the inception of HOPE VI, over 155,000 units of America's public housing have been destroyed with only 50,000 new units built to replace them. That represents hundreds of thousands of people displaced and many left homeless. But looking at those numbers alone only begins to scratch the surface of the need. There are over a million families on waiting lists for a unit or a voucher – and who knows how many more, with many waiting lists closed and not accepting more families. The big-bank-driven Great Recession and the record foreclosure crisis add even more urgency and remind us, again, that we cannot rely on the market alone to provide for our basic human right to housing.

This bill proposes to require one-for-one and like-for-like replacement of hard housing units retroactively and on a forward going basis. It is unfortunate that such specific language is necessary, but recent history has proven that it is desperately necessary. Currently, the bill requires that units be replaced going back to 2005. We contend that this is not enough and that the retroactive date be moved back to 2000. Even then, we will not be able to replace all the units lost or build all the units needed, but it will help us move closer to that goal.

Tenant Notification and Relocation

I am very pleased with the comprehensive language in the bill that spells out, in appropriate detail, the Public Housing Agency's (PHA) responsibilities on notification and convening of tenants on the future of their housing. The bill also contains mandates for relocation assistance and assurances that residents will have

help and choices about where they move in the event of the demolition or disposition of their homes.

Location of Replacement Units and Right to Return

The bill recognizes the wisdom of allowing residents to return to their communities by requiring than an allocation of at least 1/3 of the replacement units be located on or very near the original housing site. As I stated above, these are families' homes and neighborhoods – it is where their community is and very often where their jobs, their schools and their doctors are and many families want to come back home.

To that end, we would suggest that instead of a threshold number of 1/3, the Public Housing Agency be required to survey current residents during the planning, notification and hearing process to determine what the percentage of residents is that would like to return. In some cases, that number may be below 1/3 and in many cases it may be above. In this way, residents have a greater voice in their own housing and can forge better partnerships with their PHAs to meet the true need.

Maintaining the Rights of Public Housing Residents

I am very glad to see that the rights of residents will be maintained if they move from public housing to other forms of subsidized housing. The regulations codified under section 964, for example, have been essential for ensuring that residents are able to have a real stake in the success of their housing and the health of their communities. Likewise grievance procedures and resident management give families the opportunity to access their fundamental right to due process. NPA believes that all of the rights should apply to all residents of subsidized social housing, whether they be public housing residents, project-based Section 8 residents or any other type of social housing. This is a step in the right direction for standardizing the highest level of rights and protections for all residents.

Fair Housing

For too long the process of relocation under demolition or disposition has been able to skirt the law of the land by avoiding assessing the impact of these actions under basic fair housing and civil rights laws. NPA is gratified that this bill seeks to close that loophole and require that PHAs determine the impact demolition and disposition will have on families.

NPA would recommend adding another consideration to this assessment; a Racial Justice Impact Assessment (RJIA).

For forty years, before undertaking any project, developers have been required by the National Environmental Policy Act to submit an Environmental Impact Statement to outline the impact such development will have on the environment. It's time that a similar process was put into place to take into account the impact

development and displacement decisions have on families and communities and in particular on families of color.

An RJIA would be required as part of the planning before any demolition, disposition, or construction of new housing units and also apply to plans for using Section 8 housing vouchers. The assessment would take into account the impact of any housing decisions on communities of color in the following areas:

- Distance from centers of employment
- Availability of adequate and affordable transportation, health care, and childcare
- Availability of quality schools and educational opportunities
- The concentration of minority populations in areas where residents are likely to relocate

The results of the RJIA would be made public and would guide all housing decision-making.

Finally, before I close my remarks I would like to briefly refer to HUD's plan, Transforming Rental Assistance (TRA). I realize that this is not a subject of the hearing today, but since TRA will have such a massive impact on the lives of public housing residents, I feel I need to at least mention it. I have included in my written testimony NPA's position paper that outlines the provisions that we feel must be included before any proposal to so radically transform America's social housing system should be allowed to proceed and I respectfully request that it be included in the record.

In closing, I would like to thank you again for inviting me to testify this morning and I welcome any questions you may have.

Statement of

Frederick S. Purnell Sr.

Executive Director

Wilmington Housing Authority, Wilmington, Delaware

On Behalf of the National Association of Housing and Redevelopment Officials

Before the Subcommittee on Housing and Community Opportunity

Committee on Financial Services

United States House of Representatives

April 28, 2010

"Legislative Proposals to Preserve Public Housing"

Chairwoman Waters, Ranking Member Capito, members of the Subcommittee on Housing and Community Opportunity, thank you for the opportunity to testify on behalf of the National Association of Housing and Redevelopment Officials (NAHRO) during today's critically important hearing relating to public housing preservation. Specifically, we appreciate the opportunity to comment on two pieces of draft legislation that are intended to address this vitally important concern: the Public Housing Preservation and Rehabilitation Act of 2010 and the Public Housing One-for-One Replacement and Tenant Protection Act of 2010." My name is Frederick Purnell, and I am the Executive Director of the Wilmington Housing Authority in Wilmington, Delaware.

**About NAHRO**

A 501(c)(3) membership association, NAHRO represents over 3,200 housing authorities, community development departments, and redevelopment agencies, as well as over 20,000 individual associates working in the housing and community development industry. NAHRO's members administer HUD programs such as Public Housing, Section 8, CDBG, and the HOME Program. For more than 75 years, our extensive and diverse membership has allowed us to serve as the leading housing and community development advocate for the provision of adequate and affordable housing and strong, viable communities for all Americans—particularly those with low and moderate incomes.

NAHRO members own or administer approximately 1.1 million units of public housing (approximately 87 percent of the total inventory), 1.78 million units of tenant-based Section 8 housing (approximately 81 percent of the total inventory), and 383,000 units of other assisted housing. Not surprisingly, our members have a keen interest in the two proposals before us today to address the preservation of public housing.

**Introduction**

I would like to begin my testimony this morning by saying that NAHRO applauds the Subcommittee for the level of importance that you have assigned to our future ability to preserve

and maintain the nation's more than seventy-year investment in public housing. The bills we are discussing here today, as well as the important work that has been done with H.R. 4868, the Housing Preservation and Tenant Protection Act of 2010, demonstrate your leadership and commitment to ensuring the long-term viability of both the public and assisted housing inventory. The success of your efforts going forward will be vital to our industry to be sure, but most importantly they will be critical to the health and well being of low-income families, seniors and the disabled, who now occupy well over 2 million units of federally-assisted housing in this country. These families rely upon the dedication, persistence, and integrity of everyone in this room in order to maintain access to a decent, safe and affordable living environment.

In these challenging economic times, our multi-year investment in this inventory, tenuous as that investment has become due to larger fiscal constraints, must be sustained for the sake of current residents as well as the millions currently on waiting lists for such housing. The reality that we must expand the nation's inventory of affordable housing is a topic for another day, but, simply put, the absence of an adequate supply of affordable housing, especially for families at or below 50 percent of median income, is what makes our work here today so important. An inadequate supply of affordable housing for low-income Americans is the leading contributor to homelessness. Even before the current economic downturn, in late 2007, HUD estimated that 1.6 million people, including 340,000 children, were homeless and living in emergency shelters or transitional housing. Our failure to address the financial and physical needs of our existing inventory of affordable housing *now* will only compound both the human cost as well as the federal budgetary costs we will eventually need to pay if, as a nation, we are to remain true to the commitment made long ago of a decent home and a suitable living environment for all Americans.

To be sure, these are difficult times. Prolonged turmoil in the mortgage and financial sectors has highlighted the serious challenges facing the affordable housing and community development industry we at NAHRO represent. Our public infrastructure is decaying, and foreclosed and abandoned homes continue to plague neighborhoods. Most importantly for the purposes of today's hearing is the fact that a backlog of deferred maintenance and modernization in public housing—estimated to be in excess of $30 billion–has placed this irreplaceable inventory at risk.

Left unattended, this backlog will cause this aging inventory to become uninhabitable. While we have some concerns based upon our initial review of the current version of the "Public Housing One-for-One Replacement and Tenant Protection Act of 2010" which I will highlight later in my testimony, we do strongly agree with Chairwoman Waters that we simply cannot afford the loss of otherwise viable public housing units given the level of need so clearly demonstrated in report after report.

We believe the time has come to find new ways to secure the future viability of our nation's public housing stock, a resource whose financial and physical integrity has been undermined by significant underfunding of the Public Housing Capital Fund and the Public Housing Operating Fund, which are the life-blood of public housing. Underfunding of these two federal subsidies has resulted in roofs that were not replaced, plumbing that has not been repaired in a timely fashion, police and security personnel that were reduced, energy improvements that were not made, after school education and anti-gang programs that were eliminated, and on and on. On this point NAHRO wishes to sincerely thank Chairwoman Waters, Ranking Member Capito, Chairman Frank and others on this Subcommittee who have fought hard over the years for the provision of adequate resources to support our nation's public housing. Absent those efforts and absent your most recent advocacy for capital fund dollars under the Recovery Act, today's conversation would be much more difficult and far more urgent. The fact that public housing is so dependent upon these funds is in many ways a double-edged sword. On the one hand, our awareness of that dependency shines a bright light on the failure to adequately fund these two accounts properly and demonstrates how important it is that the administration request and the Congress provide full funding to support public housing's operating and capital needs. On the other hand, our almost total dependence on these subsidies (given the inability of current rents to cover operations and maintenance expenses) calls into question why and whether public housing should be administered so far outside the boundaries of conventional real estate finance practices, including the practices employed under other HUD subsidized programs, including the Section 8 project-based rental assistance program.

The fact of the matter is that, for many NAHRO members, a *responsibly funded* public housing program as currently structured will enable many innovative local agencies to continue to

provide safe, decent housing in their communities. Indeed, this is the same industry that obligated 99.9 percent of capital fund dollars under ARRA on time as called for under statute. These funds will be used for much needed repairs and improvements to public housing properties, and are strong evidence that, when given the appropriate level of resources, the public housing industry can and will continue to deliver.

However, for some public housing agencies, the absence of adequate funding illuminates the need to find new ways to maintain and preserve their inventories given local market conditions. For these agencies, the current program's regulatory model is simply upside down. Public housing agencies are mission driven. They will persistently find a way to meet the housing needs of the less fortunate in their communities. The fear that local agencies are looking to stabilize their inventory by abandoning those they have served for years is not supported by the facts on the ground. To the contrary, public housing agencies have redoubled their efforts to use innovative approaches to access additional resources to continue to serve these families and individuals. The proposed "Public Housing Preservation and Rehabilitation Act of 2010" begins to positively confront the reality that local agencies need new tools and new approaches to help preserve public housing in a reasoned, cost-effective and responsible manner. They need resources including tax credits and conventional private financing to be accessible in ways that the current public housing program has rendered inaccessible given its unique set of regulatory burdens.

Chairwoman Waters, NAHRO submits that while not the subject of today's hearing, in addition to the approaches contemplated in the Public Housing Preservation and Rehabilitation Act of 2010, as well as your own bill, the current discussions surrounding the prospective opportunity to convert public housing assistance to either Section 8 project-based vouchers or a form of project-based contract under Section 8 also represents a positive step in the larger effort to preserve public housing. The fact that you are holding this hearing is evidence of your recognition that the preservation of public housing requires new tools and approaches, both within the public housing program and beyond. While I realize you that you will be looking closely at the administration's Transforming Rental Assistance proposal and possibly at other conversion options in the weeks ahead, before I review our comments on the "Public Housing One-for-One Replacement and

Tenant Protection Act" and the "Public Housing Preservation and Rehabilitation Act of 2010," I would like to take just a moment to outline NAHRO's own approach to the possible conversion of public housing to Section 8 rental assistance, an approach we believe best accomplishes the preservation goals that are the foundation of this hearing and the basis of your work in the days ahead.

**NAHRO'S Public Housing Conversion Proposal**

NAHRO believes that the present method of funding the operating and capital needs of public housing has left much of the public housing inventory in an unsustainable position. We recommend that PHAs going forward be afforded a variety of financial options for preserving their public housing and creating a sustainable operating environment.

With this in mind, NAHRO has proposed a program that would allow PHAs the option to voluntarily convert public housing projects to project-based rental assistance (PBRA) under Section 8. This conversion tool, in addition to much-needed reforms and resources for the public housing program, would provide PHAs with meaningful options for crafting strategies to meet the preservation needs of their properties. Under our proposal, federal oversight of converted properties would be transfered to HUD's Office of Housing. Projects would be converted in the same manner as Section 8 project-based renewals under section 524 of the Multifamily Assisted Reform and Affordability Act of 1997 (MAHRA). Conversions could occur with or without rehabilitation, depending on the individual needs of the properties. Funds for rehabilitation would be generated through debt, grant funding, tax credits, or some combination of these and other forms of assistance. Structuring would be permitted to address both physical and market obsolescence. Greening of projects in the course of rehabilitation would, under our proposal, be incentivized. Optionally, an FHA guarantee or loan product could be made available to reduce borrower costs and allay lender fear of possible reductions in federal appropriations in the future. Once converted, each project would be funded through a minimum 20-year Housing Assistance Payment (HAP) contract and would be subject to the same program structure and regulatory oversight scheme as the existing Section 8 project-based multifamily inventory. A major benefit of this proposal is that this program could be implemented immediately. No new program would be created under our proposal for operating the properties, and HUD could utilize existing

contractors to carry out oversight responsibilities. Existing tenants would remain in occupancy and any tenant temporarily displaced by rehabilitation activities would be able to return to the property. Current public housing income targeting requirements would remain the same under this proposal.

NAHRO's conversion proposal has several important advantages that should be considered in the further development of preservation legislation. Among other things, the proposal would:

- be relatively simple to execute and would require no new programs;
- posture properties to have better access to public and private financing to meet accrued capital needs that are critical to maintaining the viability of these assets; stabilize and render predictable the income of the converted projects and place them in a regulatory environment that would allow them to more readily access private sector financing;
- allow PHAs to transfer the affected public housing projects to entities that could seek and receive equity in the form of Low Income Housing Tax Credits;
- end the isolation of these properties from private capital markets. Private lenders are familiar with the existing Section 8 project-based rental assistance program, and have shown that they are comfortable lending under these terms;
- eliminate all areas of present contention surrounding the conversion of public housing to asset-based management, since each converted project would be operated under a separate contract and the shift to asset-based management would accordingly be simple and automatic;
- make certain greening programs available to converted properties; and
- require little or no additional HUD staff since the ongoing oversight would be assigned to contract administrators.

We look forward to the opportunity to work with the Subcommittee and will continue to work with the Department to seek consensus on a viable, pragmatic, and cost-effective conversion alternative consistent with the larger preservation goals and objectives of this Committee and the Congress as a whole. We welcome your comments and questions on our proposal.

I would now like to turn to our review of the proposed legislation provided to us for comment at this hearing. To begin, let me say that we received draft copies of both the "Public Housing One-for–One Replacement and Tenant Protection Act" and the "Public Housing Preservation and Rehabilitation Act" just last week, and we have not had time to fully vet these important pieces of legislation with our membership. Accordingly, my comments on behalf of the Association are based on a preliminary review of both bills. We look forward to further articulating our views and working with members of this Committee and staff in the weeks ahead.

**The Public Housing One-for-One Replacement and Tenant Protection Act**

As I mentioned earlier in my testimony, NAHRO recognizes and appreciates the spirit and intent of this legislation and the desire of the Chairwoman to stem the loss of public housing units and ensure the availability and viability of decent, safe and affordable housing generally. We also appreciate the legislation's intent to ensure that the rights and interests of residents are protected when public housing communities are undergoing redevelopment. Finally, having worked with the Chairwoman, her staff, and members of this Subcommittee on legislation to reauthorize the HOPE VI program over the period of the last several years, we want to acknowledge the efforts that have been made in this legislation to recognize the issues and concerns raised by NAHRO and others regarding relocation and the definition of what may or may not constitute a suitable replacement unit. We welcome the opportunity to continue an informed dialogue with this Subcommittee and other interested parties on such matters as this legislation advances in the House and Senate. With this in mind, we offer the following initial comments regarding the Public Housing One-for-One Replacement and Tenant Protection Act:

*One-for-One Replacement:* NAHRO believes that national housing policy must ensure that there is no net loss of "hard" affordable housing units when public housing units are taken off line. As

a direct result of the demolition of any public housing unit, a replacement unit should be added to the nation's affordable housing. One-for-one replacement should, however, be implemented at the national level rather than strictly at the local level. So long as all residents of public housing units removed from the affordable housing inventory locally are adequately housed in hard units or with rental assistance, a national housing one-for-one replacement policy should not require that each replacement unit be specifically located on or near the site of units removed, nor should it necessarily require that the replacement unit be owned by the public housing agency whose public housing unit is removed from inventory. This expanded conceptualization would allow for redistribution within our nation's affordable housing stock, which could address shifting population and demographic trends and would better position the affordable housing industry to meet the needs of the nation.

NAHRO submits for consideration the conceptual suggestion summarized below based in part on the following observations:

- Existing public housing was constructed over many years, much of it before the rental assistance programs were created. Its location reflects population, demographics and relative housing needs at the time it was constructed. Freezing the location of public housing units in place, notwithstanding significant shifts in relative housing needs, does not deploy public housing resources where they are most needed. A more flexible approach is desireable and should be considered.

- National policy should seek to create affordable housing opportunities where reasonable educational and employment opportunities currently exist for residents.

- In general, localities should have a reasonable mix of affordable hard units and units supported with tenant-based voucher rental assistance. This provides a cost hedge against tight rental markets and minimizes the inflationary effect voucher programs may have on local fair market rents (and, ultimately, program costs).

- Agencies should seek to replace as many hard units locally as is truly feasible. However, rigid and detailed requirements for localized one-for-one replacement can be impractical when actually applied. Moreover, such requirements intrinsically ignore relative housing needs nationally.

- Financial resources are absolutely essential to any replacement housing policy. Necessary financial resources for acquiring or developing replacement units should be identified and provided. Failure to do this when a one-for-one replacement requirement previously existed in federal law resulted in the inability to demolish failed public housing projects, leaving communities with no way of addressing these sources of blight in their neighborhoods.

With regard to the matter of one-for-one replacement, NAHRO would welcome the opportunity to explore legislation with the Subcommittee that is otherwise flexible in the application of the one–for-one requirement locally, but unyielding in its implementation nationally, again assuming that sufficient financial resources are made available for implementation. We recommend authorizing HUD to redirect public housing operating and capital subsidy--otherwise allocable to units removed from inventory *and not otherwise replaced with hard units locally*--together with such portion of revitalization funding as necessary to enable acquisition or development of an equal number of replacement units by applicant-PHAs nationally. Applicants for these redirected funds would be required to demonstrate (a) high relative affordable housing need in their localities, (b) the ability to achieve timely acquisition or development of replacement units at a reasonable cost, and (c) a commitment to locate replacement units in a manner that will afford employment and educational opportunities to residents, and that comply with Fair Housing requirements. As replacement units are added to the public housing inventory, HUD would transfer Annual Contributions Contract authority, including HUD's continuing obligation to provide Operating Fund and Capital Fund subsidy, to the agencies creating such replacement units.

*Tenant Protections:* Subsection (k) found on page 119 of the bill would, as we read it, give "any affected person" the right to bring a civil rights suit under section 1983 to enforce section 18.

That section creates personal liability with respect to individual state officials and rights to attorney's fees under section 1988. NAHRO believes this subsection is both unnecessary and unwise in that it would more broadly subject PHAs and individual PHA staff, and possibly commissioners, to costly litigation that will ultimately limit authority resources. While we continue to review and assess the implications of this subsection, at this point we believe that HUD oversight and sanctions with respect to the demolition and disposition process should provide all safeguards necessary to ensure compliance with section 18 as ultimately revised.

*Public Housing Requirements.* Our initial review of the bill also raises questions concerning the public housing program requirements that would be imposed with respect to replacement units developed using other forms of financing, including conventional financing and other forms of subsidy such as the use of Low Income Housing Tax Credits. Development/redevelopment of housing where demolition/disposition of public housing units has occurred using these tools has not to date been accomplished, nor have the same mandates been required that are pertinent to public housing units, including those specified in the bill under Section 2e(2), pages 6 and 7 of the draft. While we believe further exploration and investigation by the Subcommittee is warranted in conversations with lenders, developers and others with experience using low income housing tax credits and other forms of housing assistance, we would raise at this juncture an initial concern that the imposition of these requirements on affordable housing units developed to replace formerly distressed public housing, as mentioned above, may chill or otherwise limit the development of replacement housing, and possibly also that of housing units developed outside the demo-dispo process.

*Overall Complexity.* Again based on only preliminary review, NAHRO would like to evaluate with practitioners how the myriad requirements contained in this bill would ultimately be operationalized. We have concerns that full compliance may be difficult or impossible given the practical constraints of the development process.

*Retroactivity.* Finally, we are concerned about the retroactive nature of this legislation. As currently written, the provisions of the bill apply to any unit demolished or disposed of after January 1, 2005. We believe that imposing retroactive requirements is not only fundamentally

unfair, but may create a dangerous precedent. Replacement of some of these units according to the requirements of the bill is simply not possible, as these parcels may have already been redeveloped in other ways.

We will continue to review the language of the proposed bill with our members and our committees of jurisdiction within the Association, and will forward any additional comments, questions or suggested changes to the Subcommittee in an expeditious fashion.

**The Public Housing Preservation and Rehabilitation Act of 2010**

As I mentioned with respect to the One–for-One Replacement and Tenant Protection Act of 2010, NAHRO has begun the vetting process to the proposed Public Housing Preservation and Rehabilitation Act, and we look forward to working with you to shape legislation that can provide public housing authorities with the tools they need to sustain viable public housing for years to come for families and seniors in need. Our initial review of the legislation is enormously positive. We applaud your insight and creativity in crafting a bill with the promise to empower public housing authorities in ways they quite simply have not previously possessed for rehabilitating their properties, including rehabilitation to promote energy conservation. Again, it is our understanding that the bill in final form is likely to address the matter of the conversion of current assistance. We reiterate our desire to remain actively engaged in that conversation and welcome further review of the conversion proposal I outlined earlier in my testimony.

With respect to the draft legislation, our initial reactions are as follows:

- Section 2 of the bill facilitates the leveraging of other assistance and notably would authorize capital fund loan guarantees. As we have previously noted, public housing has long suffered from its isolation from private capital markets. Public housing authorities have had very limited access to debt, an essential resource for funding the rehabilitation and modernization of most rental real estate. Lending to public housing has traditionally been very difficult for two reasons. The first is the deed of trust attached to public housing, which significantly reduces its value as collateral for a loan. The second reason

- The bill provides for all public housing agencies the provision of energy conservation incentives and, we think correctly, does not limit access or the ability to receive these incentives only to those who enter into energy performance contracts. NAHRO believes this is very important and a positive step forward to allow agencies of all sizes to benefit from energy conservation measures. We are also particularly pleased to see that the language found in the proposed bill on this topic mirrors our own thinking and that of the Public Housing Directors Association (PHADA). Our respective organizations have recommended a very similar provision in our own proposal for small housing agency reform and we would welcome the opportunity to be of future assistance to the Subcommittee on matters of this sort. In sum, we think the inclusion of this provision in the proposed bill is a "win" all-around. The proposal from our perspective should not cost HUD and the federal government any more than they would have likely otherwise spent and, more importantly, provides public housing authorities with much needed resources to invest in energy conservation measures which should ultimately yield additional savings in the future.

- We support language in the bill that ensures that public housing and/or projects using project-based vouchers receive tax credits and remain under the control of the public housing authority during and after the tax compliance period.

- Section 3 of the proposed bill would authorize grants in lieu of tax credits. While we request the opportunity to discuss the more fundamental mechanics of this form of preservation assistance with staff, we certainly could, based on our initial review, support this form of preservation assistance if properly executed. We believe there are a number

NAHRO believes that a range of flexible financing tools is needed to ensure the preservation of the public housing inventory. To that end, NAHRO has developed its own low-income housing preservation tax credit proposal, which would authorize new credits incremental to current state tax credit allocations for the specific public purpose of preserving public housing. It is important to stress that the tax credits that would be allocated under this program would not be set aside from the state's regular allocation of Low Income Housing Tax Credits. We welcome your interest, consideration and support of this approach. I would also note that NAHRO supports an extension of the existing Tax Credit Exchange Program (TCEP), as well as the expansion of TCEP to include otherwise unusable 4 percent credits that accompany tax-exempt multifamily housing bonds.

- Section 4 of the proposed legislation enables greater flexibility with respect to the use of capital fund dollars and repeals the statutory language generally referred to as the Faircloth Amendment. NAHRO strongly supports this action. We also support language in this section of the bill that authorizes options to increase the stock of deeply subsidized housing through more flexible use of the Capital Fund and the flexibility to enable public housing authorities to manage their portfolios with greater ability to meet local needs. Enabling public housing authorities to use capital fund dollars to assist other non-federal units in their jurisdiction where federally assisted housing has otherwise been sufficiently

- Section 5 of the proposed legislation would authorize grants for the conversion of public housing to assisted living. As many as 50 percent of those occupying public housing facilities today are senior citizens. Many are aging in place with needs that extend beyond the boundries of conventional public housing facilities. NAHRO recognizes this need and applauds you for including this provision in the bill. We believe a properly funded grant program will be of enormous assistance to many of our members and is vital to the longer term well-being of these increasingly vulnerable residents.

Madame Chairwoman, members of the Subcommittee, this concludes my statement. On behalf of NAHRO members across the country, thank you again for the opportunity to testify today. We look forward to continuing to work with you and your staff to ensure the preservation of our nation's public housing asset. I would be happy to answer any questions you may have.

614 Grand Avenue, Ste. 320
Oakland, CA 94610
Telephone: 510-251-9400
Fax: 510-451-2300
nhlp@nhlp.org
www.nhlp.org

TESTIMONY TO UNITED STATED HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON HOUSNG AND COMMUNITY OPPORTUNITY
HEARING ON LEGISLATIVE PROPOSALS TO PRESERVE PUBLIC HOUSING
April 28, 2010

David Rammler
Staff Attorney and Director of Government Relations
National Housing Law Project

Madame Chair, members of the subcommittee, thank you for the invitation to speak to you today. It is an honor to be asked to present the views of the National Housing Law Project.

The National Housing Law Project is a nonprofit national housing and legal advocacy center established in 1968. Our mission is to advance housing justice for poor people by:

- Increasing and preserving the supply of decent, affordable housing
- Improving existing housing conditions, including physical conditions and management practices
- Expanding and enforcing low-income tenants' and homeowners' rights, and
- Increasing housing opportunities for racial and ethnic minorities.

These views have been developed with the substantial assistance of members of the Housing Justice Network which is a nationwide group of over 700 legal services attorneys who work with and represent low-income residents of federally assisted housing including public housing residents and voucher participants. HJN also includes other housing advocates who work on issues of affordable housing for the lowest income families. Those members with whom we have consulted have all dealt with proposals for the demolition and disposition of public housing in their communities and in most cases, with the consequent loss of a substantial number of public housing units.

We have reviewed the Public Housing One-for-One Replacement and Tenant Protection Act, Discussion Draft, dated April 6, 2010, hereinafter Discussion Draft, and we are pleased that significant amendments to Section 18 — the provisions in the statute that permit the demolition or disposition of public housing — are being proposed and seriously considered. Issues that are the focus of the draft bill, one-for-one replacement, the residents' right to return, and relocation rights for those who are displaced, are issues that concern the NHLP, HJN and public housing residents and applicants. There are a number of improvements that we recommend to ensure that the Discussion Draft fully and adequately addresses these and other issues.

Section 18 as currently written has been a near complete failure for residents of and low-income applicants for public housing because it has permitted the demolition and disposition of public housing without any obligation to replace those units that are lost. Prior to 1995, there was a one-for-one replacement requirement pursuant to which HUD could not approve a demolition or disposition without a plan to replace those units. In 1995, that obligation was suspended, and it was permanently repealed in 1998. As a result, there has been a substantial loss of public housing.

In 1992, the National Commission on Severely Distressed Public Housing found that six percent of the nation's public housing, or 86,000 units, were severely distressed. Since that time, significantly more units have been disposed of or demolished. Historically, there has been such a disregard of the need for public housing that there is no reliable HUD data available as to how many units have been lost. The estimates vary, as do the timeframes for those estimates. Some estimate that more than 160,000 units have been lost; others claim 120,000. Some of the disposed of or demolished units have been replaced by units that are affordable to the lowest income families at rents set at 30% of adjusted family income. Again, there is no agreement as to the numbers. In 2008, as a result of efforts by Chairman of the Financial Services Committee, Mr. Frank, and the Chairwoman of the Subcommittee on Housing and Community Opportunity, Ms. Waters, HUD provided some limited information. The HUD information showed that since 2000, HUD approved 99,000 public housing units for disposition or demolition of which 40,000 were replaced with public housing units. From this data, Mr. Frank and Ms. Waters noted that 60% of the public housing units were not rebuilt. Despite the lack of easily available and clear data, any of these figures represent a significant loss, a failure to replace desperately needed affordable housing stock, and harm to residents who lost their homes and applicants for public housing whose opportunity to be housed has diminished significantly.

NHLP believes that the vast majority of units that are severely distressed have been disposed of or demolished. HUD has said that the objective of HOPE VI, which was to address the most severely distressed public housing, has been met. NHLP believes that it is imperative to take all reasonable steps to preserve the existing public housing. To do this, there must be adequate funding of public housing. In addition, the number of public housing units that may be disposed of or demolished should be limited, and if disposition or demolition is permitted, there must be one-for-one replacement.

There are a number of policy reasons why disposition or demolition of public housing should be curtailed. First, studies have shown that the lack of affordable housing for extremely low income and very low income families is extraordinarily severe and is increasing. HUD's 2007 report to Congress, Affordable Housing Needs 2005, found that there were only 40 affordable unassisted units per 100 extremely low income households and 77 units affordable and available for rent for every 100 very low income renter households. Both of these figures represent a decrease from the ratio in 2003. There is no evidence that these ratios have improved since that time.

Second, studies have shown that in many situations, residents of public housing do not want to move. "Evidence from resident interviews suggests that whenever they have been asked, a majority of resident express a desire to stay in their public housing communities."[1]

Third, removing affordable housing from the current stock, even temporarily awaiting rebuilding, does not make sense in the current economic situation. Currently, there is an increased need for affordable housing. As HUD recognizes, homeless populations are increasing dramatically.[2]

1 Goetz, Testimony to United States House of Representatives, Committee on Financial Services, Subcommittee on Housing and Community Opportunity, July 29, 2009

There are a number of ways forestall the loss of public housing units. Mr. Frank and Ms.Waters have repeatedly called for a moratorium on HUD approvals of requests to dispose of or demolish public housing until such time as the necessary tools and resources are provided to preserve public housing. We applaud this effort.

Secretary Donovan responded to the most recent request, noting that the HUD staff would "review more closely the decisions that will be made regarding the approval of any demolition or disposition. Specifically, we believe that such activities need to be viewed through the lens of the number, location, and affordability of units returning to the inventory. No approvals will be forthcoming without such a close review." To date, however, we have not seen any new guidelines posted regarding this more rigorous review. We urge the Committee to request information and documentation of this "new" review process.

We support many of the principles of the Discussion Draft. However, as noted below, we are recommending several improvements to ensure that these and other principles are achieved. We support the following principles:

1. For every public housing unit that is disposed of or demolished, there must be a requirement of one-for-one replacement. There should be no exceptions to the one-for-one replacement requirement. Thus, we support the Discussion Draft's proposal that all dispositions or demolitions of public housing or units converted from public housing are subject to the one-for-one replacement requirement.
2. The replacement units should be public housing or comparable to public housing and thereby affordable to the lowest income families. Thus, we support the Discussion Draft with modifications as noted below.
3. Location of Replacement Units. At least one-third of any units disposed of or demolished must be replaced on-site or in the neighborhood. In addition, as noted below, the Discussion Draft should also provide that the one-third should be increased, if necessary, to accommodate all families who wish to return to the site or neighborhood.
4. Any resident, who is displaced due to the disposition or demolition, must be provided with an absolute preference to reside in any replacement units without any further rescreening. Thus, we support the Discussion Draft proposal regarding this issue. In addition, any tenant who expresses a desire to return to the original site or the neighborhood should be permitted to do so and have a priority for any replacement units located on site or in the neighborhood.
5. Dislocation should be minimized, and therefore, any off-site replacement units should be available for occupancy prior to the relocation of residents.
6. HUD must take a more active role in substantively reviewing any application for disposition and demolition. Advocates have been repeatedly told in a variety of contexts that under the current statutory scheme, a public housing agency that is seeking to demolish or dispose of public housing may, in the vast majority of cases, do so with HUD approval and that there is

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2 Peter S. Goodman, U.S Offers a Hand Page, April 19, 2010 "From July to September of last year, the number of people turning to emergency homeless shelters and other transitional housing for the first time increased by 26 percent in seven major metropolitan areas surveyed by HUD. New York had a 32 percent increase. Cleveland suffered a jump of 31 percent. The number of homeless families expanded last year in 19 of the 25 cities surveyed by the United States Conference of Mayors' Task Force on Hunger and Homelessness."

very little that HUD may do to stop the demolition or disposition of public housing once the application is complete and the PHA has certified that it has complied with the minimum requirements set forth in the statute. The provisions in the Discussion Draft that require that the Secretary to make findings supported by substantial evidence will give HUD more authority to review and stop a demolition or disposition that is not consistent with the statute.

7. Residents must be given an active role in any planning for disposition and demolition and the implementation of any approved disposition and demolition plan. We support this aspect of the Discussion Draft which provides that HUD will not approve an application for disposition or demolition unless it provides for the active involvement and participation of residents in the planning and implementation of a disposition and demolition, as well as the plans for resident relocation and unit replacement.
8. Residents must be notified by the PHA of the intent to submit an application, of the approval of any application, and of relocation rights. We support this aspect of the Discussion Draft with changes as noted below.
9. Displaced residents should be provided with critical relocation services and benefits and mobility counseling. The relocation plan should be submitted with the disposition and demolition application. We support this aspect of the Discussion Draft with changes as noted below.
10. The provisions of the proposed law should be enforceable by the residents.

Concerns and suggested amendments

1. The one for one replacement requirement must state that the replacement units must be rental units. The replacement units must be rental units to ensure that in the future the lowest income families continue to have available affordable rental units. In addition, it is important to provide for those families who are displaced and to ensure that they are financially able to live in the replacement units for which they will receive a priority. Homeownership is generally not within the reach of the current residents of public housing, and those HOPE VI developments that offered homeownership options most often were unable to provide homeownership units to returning public housing residents.

   We suggest that the following language (in italics) be included in the Discussion Draft.

   "(e) REPLACEMENT UNITS.—
   "(1) REQUIREMENT TO REPLACE EACH UNIT.—
   Except for demolition pursuant to subsection (g),
   each public housing dwelling unit demolished or disposed of after January 1, 2005, shall be replaced with a newly constructed, rehabilitated, or purchased public housing *rental* unit or with a newly constructed, rehabilitated, or purchased *rental* unit *that is assisted* through project-based assistance that is subject to requirements regarding eligibility for occupancy, tenant contribution toward rent, and long-term affordability restrictions that are consistent with such requirements for public housing dwelling units, except that subparagraphs (B) and (D) of section 8(o)(13) of the United States Housing Act of 1936 (relating to percentage

limitation and income mixing requirement of project-based assistance) shall not apply with respect to vouchers used to comply with the requirements of this paragraph.

2. Location and number of the on-site replacement units. The location of the on-site replacement units should be expanded to include replacing units in the neighborhood and should anticipate that more than one-third of the residents may want to return to the former site or neighborhood. There will be situations in which more than one-third of the residents will want to return to the former site or neighborhood. This reality should be anticipated and planned for. In some situations, increasing the density on site may not be appropriate. Thus, expanding the location of where replacement units may be constructed or rehabilitated to the site as well as the neighborhood would be beneficial to those who wish to return.

   We suggest that the additional following language (in italics) be included in the Discussion Draft.

   "(B) INCREASE TO ACCOMMODATE RESIDENTS ELECTING TO REMAIN.—More than one-third of all replacement units for public housing units demolished shall be public housing *rental* units constructed on the original public housing location or in the same neighborhood *to accommodate all public housing residents residing in the development who elect to remain in the neighborhood in replacement public housing units.*

   In addition, the exception for units not built on site should be limited to where the land "otherwise is *environmentally* unsuitable for the construction of housing." If the provision is not so qualified, it could be argued that the land is not suitable for the construction of housing because of, for example, plans to develop a park or a commercial development.
   Paragraph (f)(3)(B) - Require the public housing agency to obtain from each resident information regarding his or her desire to remain in their neighborhood.
   Paragraph (h)(3) - Require that PHAs notify residents of their right to occupy a replacement unit on the original site or in their original neighborhood, or in another neighborhood.

3. Location in other areas. This provision should be modified to eliminate the requirement that replacement units must be built within the jurisdiction of the public housing agency and in areas having a low concentration of poverty. Public housing agencies seeking to place housing outside their jurisdiction that are not so barred by state or local law should not be prohibited from doing so by federal law. Restricting the replacement housing to low-poverty areas makes it significantly more difficult to rebuild the replacement housing and minimizes the key elements that the housing should be placed in areas that further economic and educational opportunities. Such opportunities may be available in communities other than low-poverty areas.

   We suggest that the additional following language be included in the Discussion Draft.

   "(4) LOCATION IN OTHER AREAS.—Any replacement housing units provided in addition to dwelling units provided pursuant to paragraph shall be provided in a manner that furthers economic and educational opportunities for residents.

4. Any proposal to dispose of or demolish public housing should make every effort to minimize displacement and prevent multiple moves. Temporary relocation should be minimized. Numerous studies have documented the link between involuntary relocation a wide range of personal and social ills, including the onset of depression, the aggravation of mental illness, increased substance abuse, domestic violence, marital breakdown, accidents and disease, [3] decreased academic performance,[4] and homelessness.[5] Moreover, many public housing residents are "hard to house" -- elderly, disabled, or otherwise ill-equipped to navigate the private housing market -- and are at risk of losing their temporary housing before permanent housing is built. If the goal is to improve living conditions for existing residents, uprooting them from their support systems and forcing them into an unfamiliar and often unstable housing situation should be minimized.

   To address this issue, any replacement off-site housing should be available prior to any relocation of residents. If housing is to be replaced off-site, there should be no physical constraint on the construction, rehabilitation, or purchase of such units prior to relocation of the residents. It is important not to have any unnecessary lag in the production of the replacement units, especially in light of the enormous need for such housing. Development of on-site replacement housing often takes three, five, or even ten years to complete the financing, vacate the property, clear the land, and construct the replacement units. Such delays should be anticipated with off-site replacement housing and coordinated with relocation efforts. No relocation should begin until such off-site replacement is available.

5. Any replacement units should maintain essential rights of applicants which require at a minimum:
   a. rents set at 30% of a family's adjusted income;
   b. targeting at least 40% of the new admitees to applicants with income at or below ELI (30% of AMI), or if the housing is project-based vouchers, to 75% at or below ELI;
   c. that a PHA may establish priorities that are consistent to the housing need;
   d. that victims of domestic violence cannot be discriminated against;
   e. that applicants may designate an alternate contact person or entity; and
      that applicants who are denied get an informal hearing before an individual who did not make the original determination.

6. The replacement units should have the same number of bedrooms as those units that are slated for disposition and demolition, unless a market analysis shows that units with a greater number of bedrooms than the number being replaced are needed.

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3 Bartlett, "The Significance of Relocation for Chronically Poor Families in the USA" (1997).

4 Hartman, "Student Mobility: How Some Children Get Left Behind" (2003).

5 Center for Community Change, "A HOPE Unseen: Voices from the Other Side of HOPE VI" (2003).

We suggest that the following language be included in the Discussion Draft.
''(4) SIZE.—
''(A) IN GENERAL.—Replacement units shall have the same number of bedrooms, unless a market analysis shows a need for units with a greater number of bedrooms or there is a need for other sized units to serve families displaced as a result of the demolition or disposition, in which case such need shall be addressed.

7. Mobility counseling: residents who are displaced should be provided with the opportunity to access mobility counseling and that counseling should contain the following elements.

   We suggest that the following language be included in the Discussion Draft.

   "(8) HOUSING MOBILITY COUNSELING.— In order to maximize the housing choices of displaced residents, each public housing agency shall provide comprehensive housing mobility counseling to assist those families who wish to voluntarily move to low-poverty and non-racially concentrated neighborhoods throughout the metropolitan area. Such programs shall include:
   (A) one-on-one housing counseling, search assistance and post-move counseling;
   (B) active landlord recruitment incentives;
   (C) use of exception rents;
   (D) community tours and comprehensive community introductions on local schools, shopping, transportation, religious and health resources;
   (E) credit repair and other training/education sessions.

Finally, we hope that the Committee will consider amending Section 3. The Discussion Draft entitled Earnings and Living Opportunities Act, sponsored by Nydia Velasquez, is worthy of consideration by this Committee and could be included in any final bill dealing with the preservation of public housing.

Thank you for the opportunity to testify. We are very encouraged that many policies that NHLP supports have been included in this Discussion Draft. We look forward to working with you and your staff to continue to improve the Discussion Draft.

**Testimony of Leonard Williams**
**Board Member, National Low Income Housing Coalition**
**presented to the**
**Financial Services Committee**
**Housing and Community Opportunity Subcommittee**
**United States House of Representatives**
**April 28, 2010**

My name is Leonard Williams. I am presently in my second term as a resident commissioner on the Buffalo Municipal Housing Authority Board of Commissioners. I am a member of the Resident Advisory Board of Buffalo and, for the last seven years, have been a member of my development's Resident Council. I served as the Council's Vice President for three years and as Treasurer for two years. I have been a resident of public housing for 12 years. I also serve on the Board of Directors for the Bob Lanier Center, an after school drop-out prevention program in my neighborhood.

I am a member of the Board of Directors of the National Low Income Housing Coalition (NLIHC), which I am representing here today. I am also on a National Advisory Panel to Housing and Urban Development Secretary Shaun Donovan.

In these roles, I have had the opportunity to discuss the future of public and assisted housing with residents from across the country. I have spent many hours in the last several months meeting in person and telephonically with my fellow residents. This includes participating in the National Low Income Housing Coalition's conference recently that was attended by over 150 residents and where the full range of these issues was explored in depth. Thus, my testimony today is informed not only by my own experiences, but that of many other recipients of federal housing assistance.

NLIHC is dedicated solely to achieving socially just public policy that assures people with the lowest incomes in the United States have affordable and decent homes.

Our members include non-profit housing providers, homeless service providers, fair housing organizations, state and local housing coalitions, public housing agencies, private developers and property owners, housing researchers, local and state government agencies, faith-based organizations, residents of public and assisted housing and their organizations, and concerned citizens. We do not represent any sector of the housing industry. Rather, NLIHC works only on behalf of and with low income people who need safe, decent, and affordable homes, especially those with the most serious housing problems, including people without homes. NLIHC is funded entirely with private contributions.

We organize our work in service of three specific goals for federal housing policy:

- There will be no further loss of federally assisted affordable housing units or federal resources for affordable housing or access to housing by extremely low income people. Obviously, this goal includes the preservation of public housing.
- The federal government will increase its investment in housing in order to produce, rehabilitate, and/or subsidize at least 3,500,000 units of housing that are affordable and accessible to the lowest income households in the next ten years.
- Housing stability in the neighborhood of one's choice, which is foundational to good health, employment, educational achievement, and child well-being for people with the lowest incomes, will be the desired outcome of federal low income housing programs.

In addition to supporting policy proposals to preserve public housing, NLIHC also supports increased federal appropriations for the public housing operating and capital funds. The public housing operating fund had been underfunded for seven straight years until FY10. We cannot expect PHAs to maintain the nation's investment in public housing without sufficient resources to do so.

Chronic underfunding has led to a more than $22 billion backlog in public housing capital repair needs. Through the $4 billion from the American Reinvestment and Recovery Act and the FY10 appropriations bill, Congress has made strides to address this backlog but it is clear that new tools, and new resources, will be needed. The nation's almost 1.2 million units of public housing are a tremendous resource that should be preserved to the greatest extent possible.

Including private capital in the preservation of public housing may be a necessary part of the future of public housing. In 2008, NLIHC developed principles on public housing revitalization and replacement, and on public housing in general. These principles state that there is an intrinsic value in public housing being publicly owned, that full resident participation is critical to successful public housing, that current income targeting is maintained, that rents be affordable to each household, the need to raise private capital should not drive other decisions that may be detrimental to public housing tenants or others in need of affordable housing, that admission criteria be related to an applicant's ability to fulfill lease requirements, and that public housing redevelopment, revitalization, demolition, and replacement plans provide residents opportunities, protections, and rights. These principles are attached to this written testimony.

The bills before the Subcommittee today would help preserve the nation's public housing stock, protect public housing tenants, and help ensure that people can receive the supportive services they need while living in public housing rather than be prematurely institutionalized in nursing homes. The nation's shortage of homes affordable to extremely low income households is evidence of the need to preserve existing affordable housing while we strive to achieve the resources necessary to add to the nation's affordable housing stock.

We would specifically like to thank Chairwoman Maxine Waters and Committee Chair Barney Frank for your consistent and outspoken leadership to preserve public housing, which overwhelmingly serves extremely low income people. According to HUD's March 31 Resident

Characteristics Report, at least 55% of public housing households have incomes below 30% of area median and at least another 17% have incomes below 50% of their area median. The average annual income for a public housing household in the United States is $13,414, in the city of Los Angeles, it is $15,810, and in Charleston, West Virginia it is $10,262. This is precisely the population for which there is a significant shortage of affordable and available rental housing in the private market place.

**Need for Units Affordable to Extremely Low Income Households**

For every 100 extremely low income households in the United States, there are just 37 rental homes that are affordable and available to them.[1] As a result, these households pay precariously high portions of their income for the homes, leaving little left for other necessities. Nearly three quarters (71%) of ELI renter households spent over half of their incomes for housing in 2007, and the average ELI renter spent 83% of household income on housing.[2]

According to NLIHC's analysis of the 2008 American Community Survey (ACS), there are 9.2 million extremely low income renter households and only 6.1 million rental units that they can afford, using the standard affordability measure of spending no more than 30% of household income on gross housing costs. The result is an absolute shortage of 3.1 million rental homes for this income population nationwide. This is the only income group for whom there is an absolute shortage. In actuality, the situation is much more dire, because many of the units that are affordable to extremely low income households are in fact rented and occupied by higher income households. So, on a nationwide basis, the shortage of affordable and available rental homes for extremely low income households is 5.8 million.[3]

**Preserving Existing Housing Stock**

It is precisely because of the lack of affordable housing for extremely low income households that federal housing policy must focus on preserving the federally subsidized units we currently have while also increasing the number of units affordable to extremely low income households through programs like the National Housing Trust Fund.

In addition to preserving these homes, ensuring that existing tenants have access to the redeveloped homes, are included in the decision-making processes, and are given real choices about where they will live during and after redevelopment brings an underpinning of social justice to the policies that protect the hard units. How current residents fare and the availability of this housing to future tenants should be the focus of any redevelopment of distressed stock. We applaud the bills for addressing both the preservation of these homes and protecting the rights of tenants.

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[1] Pelletiere, D. (2009). *Preliminary assessment of American Community Survey data shows housing affordability gap worsened for lowest income households from 2007 to 2008.* Washington, DC: National Low Income Housing Coalition.
[2] Ibid.
[3] Ibid.

NLIHC strongly supported the Chairwoman's H.R. 3524 from the 110th Congress. This bill would have reformed HUD's severely distressed public housing revitalization program, HOPE VI. The serious shortfalls of the HOPE VI program that would have been corrected by that legislation are occurring nationwide, well beyond the boundaries of the relatively small HOPE VI competitive grant program. This is happening as more and more housing agencies exercise their ability to demolish or dispose of their public housing stock.

About five years ago, the Resident Advisory Board in Buffalo was able to work with the housing authority to cancel its plan to demolish more than 180 public housing units. Buffalo's plan was to replace these with about 120 units, 40 of which would have been affordable to public housing residents, 40 of which would have been leased under a rent-to-own plan, and 40 of which would have been homeownership units, likely out of reach to most every current public housing tenant. In the Buffalo area of New York, we have a shortage of almost 40,000 units that are affordable and available to extremely low income households. And, more than 85% of the households in my area paying more than half of their incomes toward rent are extremely low income households. That the Buffalo housing authority could have contributed to this shortage is unconscionable. Unfortunately, many housing agencies have jettisoned their public housing units.

This ability, initially granted in 1983, was made infinitely more damaging in 1995 when Congress began suspending the requirement that housing agencies replace, on a one-for-one basis, any public housing lost through demolition or disposition. In response to inquiries made by Chair Frank and Chairwoman Waters in 2008, HUD released information that it had approved, since 2000, the demolition or disposition of more than 99,000 public housing units and applications for the demolition or disposition of another 16,672 units were pending at that time. More than 60% of the replacement housing for this demolished or sold-off housing, HUD said in 2008, was in the form of tenant-based rental assistance vouchers.

NLIHC strongly supports a significant increase to the number of housing choice vouchers in the United States. We urge Congress to double the size of the voucher program, to serve four million households, over the next 10 years.

However, to increase the housing choice voucher program while we continue to hemorrhage affordable, subsidized hard units is quite counterproductive. The reality is that communities need both hard public housing units and tenant-based rental assistance vouchers, and that one is not an adequate substitute for the other.

Public housing is often able to better serve a lower income population than vouchers because public housing is often more affordable than having a voucher, which can require security and utility deposits that are prohibitively expensive.

Public housing is also home to an older population than exists in the voucher program. Public housing settings can provide the location to provide services, to public housing residents and

others, to allow people to age in place. For a sub-set of people with disabilities, public housing can also be more beneficial than vouchers because it can be difficult to find accessible units in the private market and because people with disabilities may have difficulty searching for a home with a voucher. And, without housing counseling, the costs and processes involved with moving with a voucher can force any household into neighborhoods they might rather avoid or force them to give up their rental assistance altogether. NLIHC supports the reforms put forth by the Committee in the Section 8 Voucher Reform Act, which we believe will strengthen the program significantly, and in increasing the size of the voucher program.

**The Public Housing One-for-One Replacement and Tenant Protection Act**

NLIHC applauds the applicability of the bill's provisions to not just demolition and disposition applications but also to the mandatory and voluntary conversion of public housing units to tenant-based vouchers. Enactment of this legislation will bring a uniform set of rights and responsibilities for all public housing agencies and tenants, including the right of residents to enforce this Act, which we strongly support.

*One-for-One Replacement*
NLIHC strongly supports the bill's requirement that each public housing unit demolished or disposed of after January 1, 2005 must be replaced with a newly constructed, rehabilitated, or purchased unit (including through project-based assistance) that is subject to requirements regarding eligibility for occupancy, tenant contribution toward rent, and long-term affordable use restrictions that are comparable to public housing. While we believe it is clearly the intent of the bill, we would urge that it make explicitly clear that all of the one for one replacement housing units must be rental units. The bill clearly mollifies the stress felt by public housing tenants that the future of their affordable housing is in constant jeopardy.

*HUD Consideration of Demolition and Disposition Applications*
Currently, if a housing agency certifies in its demolition or disposition application to HUD that a variety of requirements are met, the HUD Secretary must approve the application. This bill would give the HUD Secretary considerably more oversight and responsibility for the approval of any demolition or disposition application, which NLIHC supports. It would also allow HUD's approval only after the Secretary has substantial evidence that certain requirements are met, including a new requirement that the housing agency knows the replacement housing reference for each resident.

This section of the bill would also add three new reasons for when HUD must disapprove an application, all of which NLIHC supports: 1) because the application does not provide for active involvement, participation, and consultation with residents, resident advisory boards, and resident councils in the planning and implementation of the demolition, relocation, and replacement of unit; 2) because the demolition, disposition, conversion to vouchers, relocation, or replacement housing will not be carried out in a manner that affirmatively furthers fair housing, or that the actions proposed by the housing agency to mitigate adverse impacts

associated with the application are clearly insufficient or inappropriate; and, 3) the application does not comply with the new one-for-one replacement requirement.

*Location of Replacement Units and Right to Return*
NLIHC supports the bill's provision that at least one-third of replacement units be built back on site, unless construction would violate a consent decree or the land is unsafe or unsuitable. NLIHC would also support replacement housing being built in the same neighborhood of the original public housing site. These requirements would help ensure that residents have a true right to return.

The bill also requires that residents are asked about their desire to return to the replacement housing units constructed on the original public housing location. NLIHC believes that this provision would be significantly more meaningful if it was linked to the rebuilding requirement. We suggest that the developer be required to rebuild on site (or in the neighborhood as we recommended) at least one-third of the replacement housing units and as many as are required to house all the residents who have expressed a desire to return to the original neighborhood. As mentioned above, we are concerned that there will be instances where more than one-third of residents wish to move back to the original site (or neighborhood) but the housing agency will only be required to replace one-third of the units. For any residents who are unable to access the one-third of the units rebuilt on site, the right to return is meaningless. Thus, we would urge that the replacement requirement on site be increased when more than one-third of residents declare they wish to return to the original site.

NLIHC also supports the bill's provisions that housing agencies or other housing managers of replacement housing would be prohibited from preventing tenants from occupying the replacement housing through the application of any eligibility, screening, occupancy, or other policy or practice. We support the bill's requirement that any tenant on the date of the initial public housing agency plan indicating the intent to apply for a demolition application must be allowed to return to the replacement housing unless their tenancy or right of occupancy has been validly terminated.

*Tenant Notification and Involvement Requirements*
The bill's requirements for when housing agencies must communicate with public housing tenants about demolition and disposition, what information must be conveyed, what information must be collected from tenants, and the ongoing nature of these communications, will greatly improve the demolition and disposition process. NLIHC agrees that such requirements should be statutory.

*Relocation Policies*
NLIHC strongly supports the bill's provision to subject all relocation activities resulting from demolition or disposition to the Uniform Relocation and Real Property Acquisition Act (URA). Where existing laws are more protective of tenants, they would continue to apply. Compared to the URA, the current laws governing displacement resulting from demolition and disposition, which are in Section 18 of the United States Housing Act of 1937, are short on guidance and

interpretation. For example, under Section 18, actual and reasonable relocation expenses are determined by each housing agency; under the URA, such expenses are standardized nationwide according to a schedule issued by the Department of Transportation. Another example is that the URA has a differential replacement housing payment to compensate for the increased cost of using a Section 8 voucher as opposed to public housing for the first 42 months; Section 18 has no such differential cost benefit.

NLIHC would also support, for residents who choose to relocate to off-site housing, a move-once policy. That is, HUD should be required to limit the timing of relocation until all off-site relocation units are available for occupancy so that these residents only have to move once.

*Rights of Tenants in Replacement Housing*
NLIHC strongly supports the provisions of the bill requiring that tenants in the replacement housing units have all the rights of tenants in public housing. We would also like to see that applicants also have all of the rights of applicants in public housing programs, including the right to have an administrative hearing to review a denial of their application.

*Affirmatively Furthering Fair Housing*
We also recommend including housing mobility counseling as part of the relocation process. The URA will provide some benefits in this area, but specific housing mobility counseling could also help households during the relocation process by assisting with active landlord recruitment, one-on-one housing counseling, the use of exception rents to provide tenants with greater choice, community tours, and credit repair or other training and education sessions.

**Public Housing Preservation and Rehabilitation Act**

NLIHC is also pleased to support Chairman Frank's draft Public Housing Preservation and Rehabilitation Act. This bill would provide new tools to help preserve public housing, including authorizing a federal loan guarantee for the rehabilitation of public housing units, to be backed by a housing agency's future capital grants, incentives for housing agencies to directly finance energy efficiency improvements, and a clear path for continued public ownership of public housing if public housing is preserved with low income housing tax credits.

NLIHC strongly supports the authorization of appropriations for grants to public housing agencies to convert public housing units to assisted living. More than 300,000 public housing units include someone 62 years old or older. For extremely low income seniors, the ability to age in place is most often a fantasy because of the exorbitant costs of assisted living facilities, or costs of assistance with activities of daily living. HUD's Section 202 Housing for the Elderly program has long had access to an assisted living conversion program. But, housing agencies have lacked a comparable grant program that could assist public housing's older and frailer residents age in place. In addition to conversion to assisted living facilities, NLIHC would also support funds to allow space for the provision of additional services and funds to ensure that all elderly properties could benefit from an on-site service coordinator. The population of seniors

in public housing is the very same population that becomes prematurely institutionalized in nursing homes because of access to a few, often simple, services to help with activities of daily living.

**Transforming Rental Assistance**

While not a topic of today's hearing, it seems relevant for NLIHC to take the opportunity to comment on HUD's proposed Transforming Rental Assistance (TRA) initiative. HUD's stated goals for TRA are to preserve public and assisted housing, streamline HUD's rental assistance programs, and give residents a choice of where to live by providing them with a voucher. NLIHC has approached this bold proposal to convert 300,000 units of mostly public housing in FY11 with optimism. We can see tremendous benefits of allowing housing agencies the ability to access new capital sources, of regionalizing the administration of voucher programs, of bringing HUD's disparate programs under fewer sets of rules, and of providing a resident choice option to residents who are currently in a use-it-or-lose-it situation with their place-based housing assistance.

We look forward to seeing the details of HUD's TRA proposal. Until then, our optimism is blanketed with questions about potential changes to resident participation and resident rights, public ownership and permanent affordability, and questions around the resident choice option. In these questions, NLIHC stands united with the broad issues raised recently by the Resident Engagement Initiative, in which I participate, that met with HUD Secretary Donovan in January and again on April 14 to specifically discuss resident questions on TRA. It is NLIHC's hope that HUD's proposal, when announced in detail, will meet the many questions raised by the Resident Engagement Initiative.

Thank you for considering our views on these proposals to preserve public housing.

**NLIHC Principles on Public Housing Redevelopment**

In 2008, NLIHC convened an advisory group to develop principles to guide us toward the future of public housing. **The following principles reflect our views on public housing revitalization and replacement and on public housing in general:**

1. There is an intrinsic value of public housing being **publicly owned**. Public housing has a critical place among a community's array of housing choices. Public housing serves extremely low and very low income households, groups that most state and local housing resources do not reach.

2. **Full resident participation** is critical to successful public housing. Involved tenants share responsibility for maintaining their community, have a vested interest in the future of their homes and have a first-hand understanding of how their housing is managed. There must be regular opportunities for meaningful resident input into the operations of public housing. In order for resident participation to be meaningful, residents must be equipped to organize and participate in decision-making processes.

3. At a minimum, current **income targeting** requirements must be met. At least 40% of new annual admissions must have incomes below 30% of area median income. This is significant because this below 30% AMI population has the nation's most significant housing cost burdens. Nationally, 71% of renters and 64% of owners in this income group pay more than half of their incomes toward housing costs. Public housing serves our nation's most critical housing needs. In 2006, 73% of households in residence had incomes at or below 30% of area median income.

4. Tenant contributions for **rents must be affordable**. Tenant contributions for rents must be tied to individual household incomes and must be affordable to each household.

   NLIHC supports the rent simplification proposals in the Section 8 Voucher Reform Act. We oppose, however, efforts for "rent reform," including the provision in the House's Section 8 Voucher Reform Act that would allow public housing agencies to establish alternative rent structures for residents. Brooke rents must be maintained and each household should pay a rent based on a percentage of their unique household. Alternative rent structures, we believe, will pull rents away from the Brooke standard of affordability and are a misguided response to the insufficient federal investment in public housing operating subsidies.

5. The **need to raise private capital should not drive other decisions** that are contrary to the interests of residents and others in need of affordable housing. Where there is private funding of public housing redevelopment, the ongoing federal subsidies must be adequate to ensure that these interests, including the need to serve extremely low income households, the necessity that tenant contributions for rents be affordable to each household and the right of residents and others to participate in the decisions impacting public housing, can be met.

6. **Admission criteria** should be directly related to an applicant's ability to fulfill the obligations of an assisted lease and individual circumstances must be considered for each applicant who is not categorically excluded.

7. **Every revitalization, demolition, and replacement plan** must take into account the extent to which public housing in that housing market area has operated to create and perpetuate racial and economic segregation of low income families. Public housing redevelopment, where units are demolished and replaced, must endorse a policy of expansion of public housing opportunities - sufficient to provide realistic public housing opportunities both throughout non-minority communities within the same or other jurisdictions, while at the same time offering newly developed housing in minority, low income communities. Redevelopment of severely distressed public housing, demolition and disposition must provide for the one-for-one replacement of all hard units lost with waivers for extraordinary circumstances. Residents impacted by redevelopment must have the right to choose to return to a redeveloped on-site unit, or to choose to move to an assisted unit in a low poverty, racially integrated neighborhood. Existing residents should fully benefit from any redevelopment, whether on-site or off-site, and must not be subject to admission screening criteria.

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# NATIONAL PEOPLE'S ACTION

**Housing Justice Movement**
Reforms Necessary to Move Forward with Transforming Rental Assistance

The Housing Justice Movement (HJM) is a project of National People's Action and is an alliance of more than 30 community and tenant organizations. HJM represents thousands of residents in public and subsidized housing who demand a voice in their housing and a voice in decisions that will affect their lives.

HJM has serious reservations about the announced plan by the Department of Housing and Urban Development (HUD) to effectively wipe public housing out in this country. For years plans have come along from HUD and Congress full of good intentions for strengthening our social housing system and guaranteeing the basic human right to housing; but all too often the promise of improvement has led to the systematic loss of housing units, the loss of tenant rights, the further disintegration of social housing stock and the enrichment of private developers.

It is with this experience that HJM approaches the proposal from HUD to transform rental assistance, raise additional capital for improvements and strengthen the funding stream for social housing. We acknowledge the good intentions but remain more than skeptical based on decades of broken promises.

Still, we remain cautiously hopeful that the plan to transform rental assistance can be structured to strengthen our housing system and increase Americans' access to their fundamental human right to housing. What follows are provisions that must be included in any plan for transformation.

We have broken down our demands into three main areas; tenants' rights and right to organize, maintaining the public ownership and long-term affordability of housing and expanding access for more families in need of housing.

Tenants' Rights and the Right to Organize

Tenants' rights and the right of tenants to effectively organize themselves are currently subject to a patchwork of different laws and regulations that depend on the type of housing rented, the location of the housing and the local interpretation of regulations. It is time for these basic rights to be standardized across all programs and have ambiguity removed that enables landlords and Public Housing Authorities (PHA) to implement policies that violate the spirit, if not the letter of the law.

**Right to Organize**

1. All tenant organizations should receive guaranteed funding to assist in organizing, as is currently the case in public housing. Tenants should not be subjected to a competitive process as is proposed in the current TRA proposal.

2. All tenant organizations should be guaranteed the right to meeting space where available, as is currently the case in public housing. Landlords should not have the ability to restrict access to meeting rooms in retaliation for tenant organizing, as too often occurs.

3. Resident organizations must remain independent from Public Housing Administration structure and restrictions. PHA's and their agents should have no role in organizing and monitoring elections, meetings and decisions of duly elected tenant leaders and leadership organizations.

**Tenant Rights and Participation**

1. All tenants must have the right to appeal any eviction or disciplinary proceedings to an established grievance committee that will hold a hearing on every proposed eviction or disciplinary action. These hearings must be presided over by a neutral third party arbiter and tenants shall have the right to representation of their choice at the hearing. If the hearing process finds sufficient grounds for an eviction proceeding to progress, all cases must be brought before the court for an official order before an eviction can take place.

2. Before conversion from public housing to project based section 8 housing can occur, local PHA officials and HUD must convene a stand-alone conversion committee that will review the proposal. At least 1/2 of the members of the committee must be current residents of the property proposed to be converted. The committee should also have a process in place for accepting and making public written comments from effected tenants and community members and must publicize the opportunity to submit comments.

3. Requirements that residents perform community service must be removed for all residents.

4. Policies that require eviction for any arrest or conviction of a tenant or a tenant's family member must be stricken. HUD and PHA's need to get out of the business of criminal justice and law enforcement and concentrate on providing housing.

5. Ex-offenders coming out of incarceration must be allowed to rejoin their families in subsidized housing.

6. Employment opportunities as made available under Section 3 of the code, must be applied across all types of housing and an enforcement and appeal office should be instituted at HUD to ensure opportunities are available as written into the law.

Maintain Public Ownership and Long Term Affordability

It seems ridiculous to consider the Federal Government deciding to mortgage the Washington Monument, or get a line of credit against the Grand Canyon, yet the TRA plan proposes much the same thing: pushing publicly owned assets into the private market. If we've learned anything from the recent mortgage meltdown and resulting economic crisis, it's that our homes should not be left to the vagaries of Wall Street greed. Before any plan is implemented that would allow for leveraging private dollars on the backs of people's homes, iron-clad safeguards must be put in place that insure that public buildings and land remain publicly owned and cannot revert to private ownership through transfer or foreclosure.

In addition, the big banks that were behind the sub-prime mortgage meltdown and the subsequent economic collapse, state budget crises and skyrocketing unemployment should not be allowed to profit from our national assets. Despite crashing our economy, these large intuitions are doing nothing to help fix what they broke and should not be allowed to provide the financing for converting units. Instead, smaller, community-based intuitions that are actually providing good loans to small businesses and families and are not financing payday lenders should be given this investment opportunity.

Finally, TRA plans to take our most stable affordable housing stock and make it imminently less so by converting from public to section 8 housing. Again, the affordability of this land and these buildings must be maintained in perpetuity – not just until a finite contract expires.

1. All units, buildings and land must remain publicly owned, either by the PHA, a wholly owned subsidiary of the PHA, or by HUD itself. The only exception to this rule would be a sale or transfer to tenant ownership.

2. Any private dollars that are leveraged off of converting buildings must be guaranteed by an FHA loan guarantee and other provisions that would prohibit the building or land from reverting to private ownership in the case of a default.

3. Specific criteria including permanent loan modification rates, a bank's community investment and lending record and their relationship to predatory credit, e.g. payday lending, must be met before a financial institution will be allowed to provide financing on converted properties.

4. The use of the land and buildings – including any new units constructed on site – must remain permanently affordable and not subject to short or long-term subsidy agreements.

5. Any TRA plan should include provisions that mandate retroactive one for one, like for like replacement of hard units. Whether a building is converting, undergoing substantial rehabilitation or demolition, those hard units must first be replaced in the community. Thousands of units have been lost through HOPE VI and other programs in the last 10 years, this is the time to get those units back.

6. All residents who are going through a conversion or an attendant rehabilitation of their unit, must be assured that they have the right to return and that – during conversion or any other event – they will not face rescreening for eligibility to occupy their unit.

Expanding Access

There are currently well over 1 million families on waiting lists for subsidized housing. This number doesn't take into account the many closed waiting lists and the growing number of those in distress due to growing unemployment and the foreclosure crisis. Merely switching the funding stream for current units will do nothing to help bridge this huge gap. In fact, the current TRA proposal could exacerbate the problem by allowing current public housing tenants to leapfrog over those currently on the waiting list for an a housing voucher.

In order to address these issues, HUD should request and Congress should fund an additional 250,000 vouchers per year for 5 years, or additional vouchers equal to 100% of the number of converting units, whichever is higher.

National People's Action • 810 N. Milwaukee • Chicago, IL 60642 • (312) 243-3035 • (312) 243-7044 fax • www.npa-us.org

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