



TESTIMONY OF ALEX SANCHEZ

HOUSING AUTHORITY OF THE COUNTY OF SANTA CLARA

ON BEHALF OF THE

NATIONAL LEASED HOUSING ASSOCIATION

BEFORE THE

HOUSE COMMITTEE ON FINANCIAL SERVICES

SUBCOMMITTEE ON INSURANCE, HOUSING AND COMMUNITY OPPORTUNITY

June 23, 2011

Chairwoman Biggert, Ranking Member Gutierrez and distinguished members of the Subcommittee, my name is Alex Sanchez and I am the Executive Director of the Housing Authority of the County of Santa Clara, Silicon Valley's housing services agency. I am here today on behalf of the National Leased Housing Association (NLHA) as its President-elect.

The National Leased Housing Association has represented the interests of housing agencies, developers, owners, lenders, housing managers and others involved in providing federally assisted rental housing for 40 years. NLHA's nearly 500 member organizations are primarily involved in the Section 8 housing programs—both project-based and tenant-based— along with the housing tax credit program and provide or administer housing for over three million households.

We commend you, Chairwoman Biggert and Ranking Member Gutierrez, for your leadership, and we thank the Members of the Subcommittee for your valuable work addressing the nation's need for affordable rental housing. We appreciate the dedication of the Subcommittee on this issue and the opportunity to present our views on the "Section 8 Savings Act" (SESA) as currently drafted.

We believe the Section 8 voucher program has been highly successful in achieving the goal of assuring decent, safe and affordable housing for low-income families and the elderly. However, as with most government programs, the longer they are in existence, the more rules and regulations are imposed that are often illogical and impose added costs. In 1998, Congress merged the two tenant-based assistance programs (Certificates and Vouchers) into one form of rental assistance termed the Housing Choice Voucher Program. This consolidation as part of the Quality Work and Housing Responsibility Act (QWHRA) was welcomed by housing agencies, landlords and recipients and has eased program administration for housing agencies. Although we believe HUD does a good job in overseeing the voucher program, other burdensome processes and procedures remain that could be streamlined. Duplicative and unnecessary administrative burdens are particularly problematic for housing agencies that have recently been faced with dramatic cuts in their fees for operating the program. Without proper compensation agencies must struggle to comply with sometime arcane processes and policies instead of devoting their stretched staff time putting needy families into decent housing.

We have been working with Congress for the last seven or eight years to build on the streamlining achieved in QWHRA through bi-partisan, noncontroversial changes to update and improve the program along with providing a reliable funding formula. We believe SESA is a serious attempt to accomplish those goals.

Rent and Income Provisions

We are very encouraged by the draft SESA provisions that would streamline the process for calculating income and rent. Such provisions will reduce the administrative burdens on PHAs and participating property owners while not increasing the rent burden of residents. We are particularly pleased that the draft SESA legislation proposes a three-year (versus an annual) re-certification of income for residents with fixed incomes (e.g. elderly and disabled). This administrative relief is also applied to project-based rental assistance properties and is broadly supported. While it does not seem like much, the time it takes to recertify tenants every year cannot be overstated. We appreciate that the subcommittee recognizes that a seemingly small change can make a big difference. NLHA would recommend going a step further and providing relief from annual re-certifications for all recipients, perhaps every other year for non-elderly/disabled residents.

NLHA is meeting this week in DC and will be developing cost-saving strategies for the voucher program (some legislative, some regulatory) that we will share with the subcommittee in the next few weeks. NLHA also has been working closely with HUD who has been very receptive to our input.

We would like to point out a provision in the draft that represents a major departure in policy that will cost the government money without any discernable benefit. Currently, residents who were income eligible to receive assistance initially remain income eligible as long as their contribution for rent is less than the rent for the apartment. The SESA draft would provide that PHAs and owners can terminate assistance and evict residents receiving project-based Section 8 assistance or vouchers when their income reaches 80 percent of area median income (AMI) and in some cases 95 percent of median (see page 36 Section 4(b) of the draft).

We understand that the intent of this provision is to free-up units for lower-income families, but realistically such a provision would only free-up a very small number of units while changing decades-long policy. In 2007, our analysis of 84,877 project-based Section 8 units in three states revealed that less than two-tenths of one percent (198) had over-income residents (and that is assuming that all owners choose to enforce this limitation). While the gain in units would be nominal at best, the change could hurt the affected families, many of whom are elderly or disabled and living on fixed incomes. Further, according to CBO, this provision will increase subsidy costs for the government by \$200 million. We believe the \$200 million can be better spent.

Inspection Standards

NLHA has long advocated the increased participation of professionally managed rental housing in the Housing Choice Voucher program. Over the years, changes to the program have helped advance that goal but one of the remaining obstacles is addressed in the discussion draft. Currently, it costs an apartment owner more to rent to a voucher holder than it does to rent to an unsubsidized resident. One of the reasons for this cost discrepancy is the program's burdensome and often duplicative inspection standards.

Before a Section 8 voucher holder can rent an apartment, the administering public housing agency (PHA) must first inspect the unit to confirm that it complies with HUD-prescribed Housing Quality Standards (HQS). Unfortunately, these unit-by-unit inspections cause significant leasing delays and do not necessarily satisfy HUD's objective of protecting residents since many of these properties are already inspected under other federal programs.

Even if the PHA conducts its inspection within the required time frame, many apartment owners still report that it can take 30 days or more to be approved due to the extensive workload of most housing agencies. While this approval is pending, the apartment unit remains empty, when the owner could otherwise be collecting rent on it. The financial implications of such delays are enough to deter many owners from participating in the voucher program.

NLHA strongly supports provisions that make important reforms to the property inspection process, including addressing a redundancy that exists in federal inspection requirements. Currently, units that receive Low-Income Housing Tax Credits or are FHA-insured are already inspected as a condition of participation in those programs. We appreciate that the draft excludes those units that have already passed inspections for other federal programs from a duplicative and time-consuming Section 8 inspection process.

In an effort to streamline the inspection process, SESA provides PHAs the discretion to lease a unit that has minor defects (i.e., non-life threatening problems like a small slit in a window screen, a chipped switch plate, etc) instead of forcing the apartment owner to make the repairs before the lease can be signed. We also support the ability of PHAs to inspect properties every other year instead of annually where it makes sense (e.g. professionally managed apartment buildings, new construction, etc.) We do, however, recognize that there are many small apartment properties that are not professionally managed

that accept Section 8 vouchers. We understand that these smaller properties might require more frequent inspections, so maximum flexibility is important.

Moving To Work (MTW)

NLHA has long supported the Moving to Work (MTW) program, and the agency I head (the jointly operated Housing Authority of the County of Santa Clara and Housing Authority of the City of San Jose) has been an MTW participating agency for three and a half years. Madame Chair, you requested that we discuss the impact of MTW on PHAs and residents. Relevant information about our program includes the following:

- We serve the area in the San Francisco Bay Area that includes the heart of Silicon Valley, which is always one of the most expensive places to live in the country.
- MTW has allowed us to dramatically streamline our Section 8 voucher program administration – for example, we conduct tenant re-exams (routine re-verification of tenant income and eligibility) every two or three years instead of every year, and conduct housing quality inspections every two years instead of annually. These and other approved administrative efficiencies have translated into staff time savings valued at over \$2 million and other program cost savings of over \$800,000, with no detrimental effects on the program and its participants to date.
- MTW allows us to make better use of limited federal funds to meet the unique set of affordable housing needs and circumstances in our community. We are a relatively young metropolitan area with generally good quality housing stock; we have very little public housing (which we are almost done preserving and converting to tax credit affordable housing through the disposition program) and a large Section 8 program (over 16,000 housing choice vouchers) spread over a large geographic area; and we are consistently fully leased-up in Section 8 in a market with extremely high rents and home purchase prices and a stubbornly inadequate supply of housing that is affordable to low- and very low-income families.
- MTW has enabled us to shift Section 8 administrative fee resources from things like one-size-fits-all annual tenant re-exams to:
 - over-leasing in the Housing Choice Voucher program to meet multiple needs,
 - better trained staff,
 - more time for staff to spend communicating with tenants and property owners,
 - preserving existing affordable housing (whether public housing being converted or other types of affordable properties),
 - taking advantage of a rare opportunity to buy land well below market value in a key public-transit-centered location for future affordable housing development,
 - collaborating with local governments and service providers to create a successful direct voucher referral program to better serve those who have been chronically homeless, and
 - expanding modest but very effective resident services programs to properties that serve very low-income households but that under statute could not be funded with Section 8 or public housing monies.
- MTW requires us and the other 32 participating housing authorities to plan our intended uses of program flexibilities and to share those plans with our communities; to seek and procure HUD’s prior approval of activities that would streamline operations; to serve our clients and community more effectively; and to try out new and potentially better approaches to things like the way rents

are calculated and how some tenants might be given more incentives to increase their income and eventually be able to afford market-rate rents.

- At my agency, MTW has increased our sense of accountability for the work we do and the programs we administer. For example, instead of just being frustrated with rigid program rules that defy common sense and that are costly to administer, staff can take ownership of the problems they see and brainstorm and carefully develop and propose alternative approaches that will meet program goals, better serve clients, and free up funds for higher purposes such as offering housing assistance to more people on the waiting list or leveraging private sector funds for affordable housing preservation and development.
- Agencies across the country are having similar experiences and producing important results. Some agencies have transformed their housing stock and their approach to giving families a boost out of poverty. HUD produced a very informative report to Congress last year (August 2010) on the MTW experience so far. The individual agencies themselves produce annual plans and reports. There is significant progress being made in a wide variety of areas, from development and preservation of housing to innovative rent reform initiatives.
- As stated in HUD's report to Congress, "most MTW agencies have actually served substantially more families than they would have been able to serve without MTW by streamlining operations and using accumulated funds to administer new assisted housing units."

Limited English Proficiency (LEP)

The discussion draft includes an important provision that will facilitate the implementation of HUD's limited English proficiency guidance that became effective a few years ago. The language provides for a task force comprised of both industry and civil rights stakeholders to identify vital documents (to include both official HUD forms and unofficial property documents) and facilitate the translation of those documents. The language also provides for the development of a housing information resource center that will provide translations and interpretation services. We appreciate the willingness of the Committee to address this issue.

Project-based Vouchers

NLHA is pleased that the discussion draft includes a change to the Section 8 project-based voucher program to increase flexibility and maximize consistency by permitting HAP contracts to be up to 20 years subject to annual appropriations. This change will ensure conformity of the project-based voucher HAP to other programs and facilitate financing of such properties. The draft also allows the Secretary to modify unit inspection rules to permit a sampling of units where the assistance is project-based. We would also support the following additional changes:

- Increase the percent of voucher funds that PHAs can use for project-based properties from 20 percent to 25 percent to address homeless populations, provide housing for persons with disabilities or otherwise use this tool in difficult to develop areas;
- Amend the current provision that limits project-based vouchers in family properties to 25 percent of the units to 40 percent in difficult areas or where the poverty rate is at or below 20 percent; also provides that 100 percent of the dwelling units can be project-based when the project has 25 units or less
- Facilitate for PHAs to use PBVs (subject to the PHA Plan) in units that they have ownership interest;
- Permit site-based waiting lists (subject to PHA oversight).

We request removal of lines 12-14 on page 61 of the draft. This provision appears to permit HUD broad discretion to amend contracts during the term of the contracts without agreement of the owner.

Conversion Issues

NLHA's members are deeply involved in the preservation and rehabilitation of the older rental housing stock. It is important that the scarce tools available to accomplish such preservation are as flexible as possible. To that end we have two requests that will not add any costs to the program, but will provide options for preservation.

Two older rental assistance programs, Rent Supplement and Rental Assistance Payments (RAP) programs (precursors to the Section 8 project-based programs), are reaching the end of their terms. When a RAP or Rent Supplement contract expires, the tenants are provided regular vouchers (known as Tenant Protection Vouchers) to protect recipients from economic and physical displacement. Often, an owner of such projects would prefer to keep the property low income or sell to an entity that will preserve the affordability, but have limited options because of the lack of a project-based subsidy contact. Currently, that owner can ask the housing agency if it will project-based the tenant protection vouchers, but it is a two step process that only works if the housing agency operates a project-based voucher program. We request that the discussion draft amend the voucher program to streamline this process and provide specific authority to convert tenant protection vouchers to project-based vouchers as part of this bill. Further, a similar tool would be useful with enhanced vouchers (vouchers provided when there is a conversion action (e.g. mortgage prepayment)). In this circumstance, such vouchers could be converted to project-based assistance or project-based vouchers in order to preserve the property as affordable housing for the long term. Again, these provisions would facilitate preservation without any additional cost to the Federal Government.

Family Self-Sufficiency (FSS)

The SESA discussion draft attempts to strengthen the FSS program and expands the use to the project-based Section 8 program. We applaud the recognition that the FSS program can be broadened to other housing programs. A number of NLHA's PHA members have run successful programs for years and can share with the committee their successes upon request. Of course, the downside to the FSS program is that it can only work if there are sufficient social services in the community that can be accessed by the participants and sufficient resources to hire someone to coordinate them. Too often, those resources are extremely limited. NLHA is deeply committed to self-sufficiency and has formed a nonprofit education fund that provides educational scholarship to low income students residing in Section 8 and tax credit properties. This year we will award tuition assistance to 56 students.

Fair Market Rents (FMRS)

Madame Chair, you requested our input on the Fair Market Rent provision in SESA. NLHA has spoken to your staff and to HUD staff about the calculation of FMRs over the years and recognize the complexity of publishing rents that are both fair and market. Currently, FMRs are published at the 40th percentile of rents paid by recent movers, from the lowest to the highest rent. So basically, the FMRs are below average rents for the area (and therefore are not necessarily representative of comparable market rents). FMRs are used as a benchmark to establish the payment standard for the voucher program. Housing agencies can set their payment standards between 90 and 110 percent of the FMR and must apply a reasonableness test when approving voucher unit rents. Therefore, if the FMR for an area is too high or too low, the PHA adjusts the payment standard accordingly.

The data used to calculate the FMRs was often less current than everyone would like because the decennial census data was used. Today, it is our understanding that HUD uses the American Community Survey data. In any event, the statute requires HUD to trend FMRs so they are current for the year in which they will be effective. HUD has requested to remove the trending requirement because the census no longer provides the data on which the original trend factor was based. While that may be the case, we believe there is no good reason to eliminate trending. The National Association of Homebuilders along with other industry groups including NLHA, recently submitted comments to HUD that proposed a reasonable and workable method for trending FMRs based on the American Community Survey.

HUD has also expressed a desire to eliminate the current statutory requirement that the FMRs be published for effect on October 1. It is important for the stability of the voucher program that the October 1 date be maintained, but it also is important because the FMR data is used to develop income limits and rent adjustment factors that have uses in other programs. As it is, HUD is consistently later and later in publishing those documents. Without an October 1 deadline for publishing the FMRs who knows when the FMRs along with the other indicators would be published. For example, the Annual Median Income limits determine the rents in properties developed under the housing tax credit program. For many years, the income limits were published every January. However, over the last five years, the publication and implementation of the income limits has been increasingly delayed. Most recently they were published at the end of May. Such delays result in lost revenue to properties that do not have rental subsidies. Imagine expecting to implement a rent increase in February only to have to wait three months due to HUD's delay which could have a major impact on property operations.

We support the FMR language in SESA as it retains the trending requirement while relieving HUD of the burden of publishing the FMRs in the Federal Register. HUD will be required to publish a notice in the Federal Register when the FMRs have been published on HUD's website and develop a process to accept public comments. The language also retains the requirement that the FMRs be published for effect on October 1.

Other Provisions

We appreciate the subcommittee providing that HUD should collect and publish data on utility consumption and costs in local areas to help establish utility allowances. This provision is important because the current methods for establishing utility allowances is often quite inconsistent, requires owners and PHAs access information that is not readily available and often results in higher costs than is necessary.

We also support Section 14 of the bill as it recognizes the expiration in October of HUD's authority to restructure FHA mortgages under MAHRA. The extension of this authority is important to permit the continuation of the successful debt restructuring program for properties. This program has resulted in significant savings in Section 8 subsidies.

Conclusion

The Section 8 program has long served as America's primary rental subsidy program. We support the goals of SESA and are pleased to provide the benefit of our members experience to enable SESA to amend the voucher program to better meet the needs of America's hard working families who cannot find decent, affordable housing. We appreciate the opportunity to express our views, and we stand ready to work with the Subcommittee on the Section 8 program and other critical housing issues.

