NATIONAL LOW INCOME HOUSING COALITION

Dedicated solely to ending America's affordable housing crisis

Testimony of
National Low Income Housing Coalition
U. S. House of Representatives Financial Services Committee
Subcommittee on Housing and Community Opportunity
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Chairman Ney, Ranking Member Waters, and Members of the Housing and Community Opportunity Subcommittee, my name is Gené Moreno and I am Policy/Advocacy Director at the Chicago Rehab Network. I am testifying on behalf of the National Low Income Housing Coalition, which is dedicated solely to ending America's affordable housing crisis. The Coalition considers preserving assisted housing a key in solving our housing problems. The Chicago Rehab Network is a member of the National Low Income Housing Coalition. Other members of the National Low Income Housing Coalition include non-profit housing providers, homeless service providers, fair housing organizations, state and local housing coalitions, public housing authorities, housing researchers, private property owners and developers, state and local government agencies, faith-based organizations, residents of public and assisted housing and other people and organizations concerned about low income housing across the country.

The Chicago Rehab Network (CRN) is a coalition of community development organizations. CRN works to promote neighborhood development without displacement, and empower communities to preserve and create affordable housing for low and moderate-income families throughout Illinois. Traditionally, our role has been to develop public private partnerships to sustain affordable housing through innovative policy, administrative changes, and new resources. Our goal in preservation is to create the policies, practices, and resources needed to preserve Illinois' federally assisted housing stock.

GAO's January 2004 Report

GAO's January 2004 report, *More Accessible HUD Data Could Help Efforts to Preserve Housing for Low Income Tenants* (GAO-04-20), provides a critical snapshot of a pressing preservation problem. From the report, we know that 2,328 mortgages on HUD subsidized rental properties will mature within the next 10 years. Of the units represented by these properties, 101,000 families will be left without any protections from rising rents unlike their counterparts in properties with Section 8 rental assistance contracts. For example, they are not eligible for enhanced vouchers and property owners are not subject to any notification requirements. The report also notes that HUD does not offer any assistance for either the rehabilitation or transfer of these properties to organizations that agree to maintain affordability units when the mortgages mature. These are key issues that we urge Congress to address.

Access to Data on Maturing Mortgages

An important part of creating incentives and policies to both encourage owners to renew their contracts or to encourage transactions by extended use purchasers is timing and access to accurate information. Local governments and community groups, working in collaboration, can set up systems of notification between buyers and sellers to preserve these scarce affordable rental units. But the critical key in opening the door to these collaborations is quality information on the status of HUD mortgages.

Chicago Rehab Network and other local preservation advocates regularly access the HUD opt-out, prepayment, and terminated mortgages databases and work to confirm the information with local activities. There is no question that these additional data on maturing mortgages would be useful to those working on creating extended use transactions. As the GAO report notes, these data should be more easily accessible and user-friendly.

We support the recommendations in the GAO report suggesting that HUD solicit the views of state and local agencies to determine (1) the specific information concerning HUD-subsidized properties that would be most useful to their affordability preservation efforts and (2) the most effective format for making this information available. Then, HUD should use the results to modify the current means of conveying the data on these properties to make the data more widely available and useful.

H.R. 4679

Beyond reliable data, another critical component to preserving affordable rental stock is resources. We are pleased to see that in response to the GAO report Ranking Member Barney Frank has introduced the "Displacement Prevention Act of 2004," which specifically addresses the issue of preservation and mortgage maturity. It is crucial for Congress to work on this issue to prevent displacement of families before it occurs. In Illinois, there are over 3,100 units of rental housing financed through the Section 236 and 221(d)(3) programs. This legislation could be instrumental in preserving those units for seniors, disabled people and others in need of affordable housing. NLIHC's March 2004 report, *Losing Ground in the Best of Times*, found that there were only 43 units of affordable and accessible housing for every 100 extremely low income renter households in the U.S. in 2000.

We especially applaud the provision in H. R. 4679 authorizing the use of $675 million in previously appropriated housing funds to maintain the affordability of these 101,000 units. NLIHC feels strongly that these funds, appropriated for just these properties, remain with this stock to protect the affordability of these units.

The legislation makes tenants in these properties eligible for enhanced vouchers, requires notice be given to tenants nine months in advance of mortgage maturity and offers owners three forms of grant assistance: (1) rehabilitation assistance; (2) assistance to facilitate purchase by nonprofits entities; or (3) annual payment assistance to cover the difference between subsidized rents and comparable market rents. We are especially pleased to see the focus on nonprofit purchasers that recognizes the mission-driven nature of nonprofit developers and their commitment to long-term affordability and rent levels.

As the Subcommittee moves forward on H. R. 4679, we hope that you will consider the following suggestions:

1. Because many 221(d) (3) BMIR and 236 projects are burdened with flexible subsidy loans that will come due with accrued interest at HUD mortgage maturity, we believe this could jeopardize their continued affordability. We recommend a provision be included requiring HUD to forgive or rollover/defer these loans where owners agree to extend affordability for the term of the deferment or a minimum of 20 years.

2. We suggest that the form of assistance be either grants or deferred loans, at the owner's option.

Illinois' Preservation Efforts
The Chicago Rehab Network, like many preservation groups around the country, has been working on solutions – both public and private – to affordable housing challenges with a variety of stakeholders for many years. Recent successes in Illinois include county level tax abatements for rental housing, a new statewide donations tax credit of $26 million, and just last week, new legislation signed by Governor Blagojevich to preserve assisted housing with expiring contracts

H. R. 4679 will directly assist Illinois developers, particularly given the new legislation signed last week by Governor Blagojevich. Our state's new Federally Assisted Housing Preservation Act expands the scope of the existing Illinois act in several areas to provide an opportunity to preserve more expiring buildings. The Act:

- Expands building eligibility include buildings financed with federal low-income housing tax credits, Section 8 subsidies, and various HUD mortgage insurance programs.
- Increases the number of situations in which owners of assisted housing must give tenants notice.
- Extends notice period from 6 months to 12 months.
- Offers tenants the opportunity to purchase their buildings to preserve their affordability or to hire a developer to do so.
- Grants tenant associations the ability to partner with non-profit development agencies or other private parties in making these purchases.

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

The Chicago Rehab Network's 2003 research shows that the need for quality and affordable housing is widespread. Statewide, more than 420,000 families pay more than 35% of their income for rent, including 258,000 who are paying more than 50% of income for rent. That is 28% of all Illinois renter households. Almost 370,000 owner-occupants are paying more than 35% of their income for housing. Another measure of affordability is the number of overcrowded households, including families that have doubled up to save on rent. Statewide, 222,000 households are living in overcrowded housing units. More than 77,000 households are on waiting lists for public housing, and another 56,000 for housing choice vouchers.

Within this context of great need, the 33,000 assisted housing units in Illinois that are expiring before 2009 have become the highest priority of our work. Public dollars were invested in Illinois and other communities around the country and we risk losing more government invested dollars with every unit lost. This public investment has resulted in billions of dollars and thousands of units of affordable housing for Illinois citizens ensuring they pay no more than 30% of their incomes to housing costs. To replace these units at today's rehabilitation and construction costs would be cost prohibitive. The federal government must take action to protect its investment

Section 8 and Preservation

A vital component of any preservation effort is the Section 8 Housing Choice Voucher Program. According to the GAO report, about 134,000 tenants, or 57%, of the rental units in the 2,328 properties, are protected by rental assistance contracts. They are protected only because they have been able to rely on enhanced vouchers. This reliance is now in jeopardy. NLIHC contends, based on the current assault on the Section 8 voucher program, that all 236,000 households in projects with either maturing mortgages or expiring Section 8 rental assistance contracts between 2003 and 2013 are at risk of rising rents without the protection of an enhanced voucher. Enhanced vouchers are used when HUD properties with rental assistance contracts through the Section 8 program cease participation in HUD's programs. Residents who qualify receive first priority for the vouchers. These vouchers pay the difference between 30% of the tenant's income and the actual market rent as long as the tenant remains in those units.

Unfortunately, the Section 8 program is under attack by the Bush Administration. This attack is having disastrous effects on the program and the families that rely on this federal assistance for affordable housing. First, on April 22, HUD released their 2004 Section 8 renewal announcement, PIH 2004-7, that said renewals would be based on the costs and utilization as of August 2003, plus an annual adjustment factor, rather than on actual costs. As a result many housing authorities are facing a funding shortfall. Housing authorities are freezing turnover, withdrawing vouchers and in some cases terminating voucher holders due to lack of funds. Developers working with housing authorities are finding that they are unable to get the voucher commitments they need to move forward on their projects because of the uncertainty created by the 2004 renewal notice. And, housing authorities may not have the funds available for the enhanced vouchers so necessary to keep tenants in their homes.

The devastating effects of the FY04 notice will greatly intensify if the Administration's FY05 proposed cuts and program changes are enacted. An FY05 funding shortfall of $1.6 billion would force 250,000 voucher holders to lose their vouchers. Programmatic proposals would strip the voucher program of its basic tenets: serving the lowest income and being affordable. The Flexible Voucher Program proposal in HUD's FY05 budget request explicitly includes flexibility regarding administration of the enhanced voucher program (Sec.223 (a)(2)). Enhanced vouchers' existence and use would be totally at the discretion of the housing authorities. These targeted attacks on the Section 8 program can only lead to uncertain and reduced resources as local communities struggle to preserve affordable housing units.

Additional Proposals to Promote Preservation

Representative Frank's legislation is a major step in helping to preserve the Section 22l(d)(3) and 236 housing inventory. However, there are other proposals that could be part of a federal preservation strategy to assist in the ever-increasing need for preservation.

One simple legislative change would halt the preemption threat to state and local preservation laws. Over the last few years a number of states and localities have established preservation policies. However, recent federal appellate court decisions in *Forest Park (*MN, 8th Cir.) and *Topa Equities (*CA, 9th Cir.) threaten the authority of state and local governments to enact their own preservation laws to suit their own housing conditions. These cases find that the Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA) preemption still applies, even to non-participating properties that did not or cannot use LIHPRHA.

We urge Congress to act to amend LIHPRHA to clarify that it does not apply to properties that are not regulated by a LIHPRHA plan of action, while further clarifying that state and local preservation initiatives for at-risk federally subsidized properties are not preempted. This change is need to ensure that the state and local prepayment notice laws in RI, CT, MD, ME, MN, TX, IL, WA, CA, DC, Denver, San Francisco, Portland, Los Angeles, Santa Cruz and Stamford, and other areas are not jeopardized.

Another preservation tool, H.R. 3485, has been introduced by Representatives Jim Ramstad (R-MN) and Ben Cardin (D-MD). H. R. 3485 provides tax incentives to preserve affordable housing. The Millennial Housing Commission recommended the creation of a mechanism to encourage the transfer of affordable housing properties to entities that agree to maintain these properties and keep them affordable. Because of tax law changes in 1986, which created depreciation recapture taxes due at sale, owners, may of whom are now elderly and would like to sell their properties, are reluctant to do so.

This legislation, H.R. 3485, which the National Low Income Housing Coalition supports, provides that state housing finance agencies allocate a tax credit to exiting sellers to offset the recapture and, in exchange, the new owner is required to keep the property affordable.

Another tool that would be extremely beneficial to preservation efforts is a change in Section 42 of the tax code that would allow the use of housing credits with properties financed under the Section 8 Moderate Rehabilitation (Mod/Rehab) program. On May 5 of this year, Representative Frank Lucas (R-OK) introduced H. R. 4289, which would eliminate this prohibition. The National Low Income Housing Coalition supports this legislation.

New Preservation Initiative

We also urge the Committee to consider H.R. 1102, the National Affordable Housing Trust Fund Act of 2003. A national housing trust fund would provide a dedicated source of funds to build, preserve and rehabilitate rental housing targeted to the lowest income people. NHTF funds, for example, could be use by non-profits to acquire at risk affordable housing properties, something H.R. 4679 does not fund. There are currently 213 House co-sponsors; 5,077 organizations and state and local officials have endorsed the legislation. This legislation offers a real solution to our affordable housing crisis and we urge this committee to take up H.R. 1102.

Preserving our affordable housing stock is no easy task. But with the strong leadership of Chairman Oxley, Ranking Member Frank and others we hope to turn the tide on our battle to preserve affordable housing. We urge Congress to move forward on all of the legislative initiatives described in our testimony and we look forward to working with the Subcommittee and others in Congress to achieve this goal.