



TESTIMONY OF JEFFREY BRODSKY

RELATED MANAGEMENT COMPANY, LLC

ON BEHALF OF THE

NATIONAL LEASED HOUSING ASSOCIATION

NATIONAL MULTI HOUSING COUNCIL

NATIONAL APARTMENT ASSOCIATION

BEFORE THE

HOUSE COMMITTEE ON FINANCIAL SERVICES

SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

September 15, 2005

Chairman Ney, Ranking Member Waters and distinguished members of this Subcommittee, my name is Jeff Brodsky and I am the President of Related Management Company. My division manages 25,000 apartments of affordable and market rate housing in 135 locations in 11 states. Today I am representing the National Leased Housing Association (NLHA) the National Multi Housing Council (NMHC) and the National Apartment Association (NAA).

The NLHA represents the interests of 600 member organizations involved in federally assisted rental housing including developers, owners, lenders, housing agencies and nonprofits. NLHA's members provide affordable housing for over three million families.

NMHC represents the interests of the larger and most prominent firms in the multifamily rental housing industry. NMHC's members are the principal officers of these organizations and are engaged in all aspects of the development and operation of rental housing, including the ownership, construction, finance and management of such properties.

NAA is the largest national federation of state and local apartment associations, with 171 affiliates representing nearly 32,000 professionals who own and manage more than five million apartments.

We commend you, Chairman Ney, for your leadership, and we thank the Members of the Subcommittee for your valuable work addressing the important issue of housing the hurricane evacuees. In particular we would like to commend you, Chairman Ney, for convening the recent Roundtable discussions on the issue of Hurricane Katrina and what the housing sector can do to assist. We appreciate your dedication to the issue.

Impediments to Housing the Evacuees

As our nation struggles to recover from one of the worst natural disasters in our history, one of the most pressing needs is to find safe and decent housing for Hurricane Katrina's victims. Moving displaced families from temporary shelters into more suitable housing is the first step in rebuilding the thousands of lives affected by the storm. These are extraordinary times that call for both the private sector and the federal, state, and local governments to respond accordingly.

The apartment industry stands ready to aid in those efforts. However, our ability to meet these housing needs is severely restricted because thousands of the apartments potentially available to Katrina's victims receive some sort of federal subsidy and as such are subject to federal regulations that restrict the use of these properties and impose time-consuming administrative burdens on the property owners prior to leasing these units.

Therefore, we are requesting a temporary, emergency waiver of all program requirements for: properties funded with the proceeds from multifamily tax-exempt bonds; properties financed by the Federal Housing Administration (FHA); and properties that receive HUD subsidies or Rural Housing Service assistance and are subject to Treasury rules. A broad waiver is necessary to maximize the number of units that can be made available to those in need. Otherwise many of the properties would remain off limits due to regulatory restrictions.

The apartment communities covered by these federal programs include millions of market rate and affordable units, owned by private for-profit and non-profit organizations, and public entities. The programs are too numerous to list and extend from tax exempt bond financing to community development funding; from mortgage insurance to mortgage interest subsidies; from HODAG to HOME to HOPE VI; from Section 8 to Section 236 to Section 42.

Among the many requirements in project-based Section 8, tenant-based voucher and other housing programs that are needlessly limiting the supply of housing for hurricane victims include:

- income and student status restrictions and verifications;
- tenant rent contributions;
- initial inspection requirements;
- minimum lease terms;
- household size limits;
- security deposit requirements;
- tenant selection plans;
- waiting list management and residency preferences;
- recordkeeping and/or reporting;
- tenant rent minimums; and
- the required form of lease.

To free up the supply of housing for hurricane victims, we request a broad, comprehensive waiver of all program rules for Hurricane Katrina evacuees. Such emergency and temporary action would allow time for the detailed program requirements to be reviewed and amended to accommodate the long-term housing needs while allowing the industry to respond to the crisis in a more immediate and effective manner.

A step was taken toward that goal on September 9, 2005, when the IRS issued Notice 2005-69, "Relief from Certain Low-Income Housing Credit Requirements Due to Hurricane Katrina." This notice authorized state housing credit agencies to permit temporary housing of individuals displaced by Katrina in Low-Income Housing Tax Credit (LIHTC) properties. Further, it temporarily suspended the LIHTC income limitation and non-transient requirements. While this is a good first step, it does not go far enough.

For example, the notice specifically authorizes a waiver of program occupancy limitations in creating a temporary housing period that may not extend beyond September 30, 2006. However, the actual temporary housing period is to be determined individually by the dozens of individual state housing credit agencies, and they in turn may “determine the appropriate period of temporary housing for each project.” In effect, despite the good intentions of the IRS, the owners of thousands of low-income tax credit apartments cannot—even now—list their apartments as available as they have to wait for each state and local agency to issue their individual guidance.

In order to receive the benefit of these waivers, state and local participating agencies must adopt the federal waivers and in the form they are issued, as soon as possible. Further, state and local agencies must adopt parallel waivers for their own, non-federal, housing program occupancy limitation requirements if property owners are to effectively place these units into use. This alone will result in needless delays.

In addition, the IRS limited its waiver guidance to the LIHTC. Similar relief is also necessary for bond-financed properties. We respectfully request that you urge the IRS to grant a broad waiver to those properties as well.

As you are aware, a significant number of privately owned properties with Section 8 assistance as well as public housing units were destroyed by Hurricane Katrina. The funding for the housing subsidies has already been appropriated. We urge Congress to ensure that Section 8 project-based assistance contracts on affected properties are frozen or suspended to prevent them from expiring while the properties are being rebuilt and if necessary facilitate the transfer of such HAP contracts to other properties. The current tenants of those buildings should receive vouchers in the short-term while the building is rehabilitated. Further, a number of victims had been receiving Section 8 tenant-based vouchers and should be able to quickly port those vouchers to other jurisdictions without the normal administrative procedures. Of course, sufficient funding for housing agencies that accept the ported vouchers should be provided.

Given the enormous volume of requests that FEMA is handling, we also request that housing providers not have to wait for FEMA to certify victims before housing them, but instead allow self-certification by displaced residents as authorized by IRS Notice 2005-69, across all federal housing programs. In addition, HUD’s Office of Multifamily Housing has informed owners of FHA insured and assisted housing that alternative documentation may be used, but clarification from HUD’s Office of Public and Indian Housing Program with regard to FEMA certifications in the voucher program has not been issued.

Without a comprehensive approach, the entire affordable housing sector of the apartment industry is unable to respond to this disaster. This effectively excludes

thousands of new and existing apartments, many of which were specifically designed as family housing, from our national housing response

Affordable housing providers of both privately and publicly owned developments have an inherent capability to address the immediate housing needs of the evacuees. They are trained and experienced in serving the needs of diverse occupant groups and routinely partner with government agencies and have long-standing relationships with local faith-based, non-profit or government social service providers that may ease the transition of families entering new communities. Our resources are a natural fit for this urgent housing need, as long as regulatory obstacles are removed.

Finally, we know of many apartment owners who will provide a housing unit to a victim at no cost. However, current rules prohibit the deductibility of these kinds of donations unless they are made to a qualified tax-exempt organization. To encourage even more generosity by housing providers, Treasury/IRS should clarify that during this declared emergency, assistance provided directly to hurricane victims (i.e., the use of an apartment) can qualify as a charitable donation.

Conclusion

Building owners want to do the right thing. We are ready to accept the business risks and potential costs inherent in this outreach, including the unclear funding of rent, discounted or not; inability to perform typical background checks on occupants; and resistance from financial partners. However, we can't do it alone. We respectfully request that Congress pursue the removal of the additional federal program barriers to our participation that currently do not allow owners to respond to this crisis efficiently.

The apartment industry stands ready to help address the housing needs of the displaced families. Thank you in advance for your efforts to remove the governmental barriers to our participation.

I thank you for the opportunity to testify on behalf of the National Leased Housing Association, the National Multi Housing Council and the National Apartment Association, and wish to offer our assistance to the Subcommittee as you continue your important work to house evacuees. Please continue to include both the public and private housing sectors in our discussions—our members stand ready to serve.

Finally, I have included in the Addendum information about what our members are doing to assist evacuees and I have also included a copy of an industry letter sent to Congress regarding program adjustments that need to be made to house hurricane Katrina evacuees.

ADDENDUM:

Industry Response

The apartment industry response has been overwhelming. In Texas, all of the apartment associations there have activated their members to offer apartments to the evacuees. The Texas Apartment Association and the Houston Apartment Association have been ready, willing and able since day one.

Let me tell you the story of Camden Properties Trust, which is located in Houston, TX.

At present NLHA/NMHC/NAA have asked our members to go to www.hurricanehousing.net and submit their available units. This will allow evacuees access to a national database where they can search for short- or long-term rental housing in the location of their choice. In some cases our owners are offering free housing to those that are the neediest and in many cases owners are offering rent discounts, waiving security deposits and application fees, and are offering flexible lease terms. Some of our members are offering not only free housing, but also have partnered with utility companies, grocery stores, furniture stores and the like to assist the evacuees with essential housing needs. In addition, our industry is offering daily guidance to our members via the web on how to work with evacuees, as well as how to assist the victims themselves with their housing needs. In particular, we want to highlight Camden Property Trust, located in Houston, Texas. Camden Property Trust is one of the largest multifamily real estate investment trusts (REITs) in the nation.

Camden has spearheaded an effort to provide over 400 evacuee families with free short-term rental housing and has worked with industry colleagues to offer rental accommodations to thousands of evacuees in the Houston, Dallas, Austin and San Antonio areas of Texas. They did this by partnering with the United Way and other apartment providers in South and Central Texas.

Camden spearheaded efforts to house evacuees

- 1) Camden worked with the United Way in Houston and other apartment owners to not only provide homes to Hurricane Katrina evacuees, but they also developed a system by which to place people and then provide them with such essentials as utilities and food in their cupboards;
- 2) Camden and other owners are providing short-term housing with flexible occupancy and lease terms to displaced individuals and families;
- 3) Camden is helping the "Camden Family" by providing housing to family members of Camden employees displaced by Hurricane Katrina;

4) Camden has established a way for employees to make charitable contributions to the overall disaster.

Camden helps to house Hurricane Katrina evacuees

In the Houston area, Camden has donated two apartment homes in each of their apartment communities to house the evacuees of Hurricane Katrina and has also agreed to house employee family members impacted by the Hurricane. These 40 apartment homes not only will be rent free to those that have the greatest need, but will also include utilities. The United Way in Houston has administered the placement of families in these apartment homes.

Camden created the “Central Command Center,” to match evacuees identified by the United Way with property owners. This allows the housing entity to provide “one-stop shopping” to the evacuee. At the Central Command Center they ask each individual to complete their Hurricane Katrina application, they process the application through their normal business process and ask that the new resident sign all lease documents and required paperwork. After they have completed this process, they receive keys, a move-in package with complete directions to the community and the surrounding area, and a community site map.

The Central Command Center also serves as a donation center for the evacuees. In order to continue the “one-stop shopping” concept, evacuees can obtain essential living items donated by those in the Camden community. The Central Command Center organizes and distributes all items donated for hurricane evacuees living in the Camden community, including those who may have joined other family members living in the community prior to the hurricane. As Camden developed necessary forms and contacts, they shared their knowledge with other housing providers in an effort to get the evacuees out of shelters and into more permanent housing.

Camden helps those that have means but are displaced

For hurricane victims that are coming on their own to Camden seeking housing, Camden is responding with flexibility, sensitivity and concern. Specifically, for any customer that presents identification from areas affected by Hurricane Katrina, i.e. Louisiana, Mississippi, and Alabama, Camden will waive application and administrative fees, offer short-term leases, including leases as short as 30 days, without any up-charge, increase occupancy limits, provide special provisions for utilities and allow residents to cancel their lease without penalty and with only a 30-day notice.

Camden is helping their employees

For immediate family members of Camden employees, Camden is offering to house any family member who has been displaced by Hurricane Katrina in an apartment home for 60 days rent free.

Camden is helping the overall effort

Camden has established a fund to help provide relief to the evacuees of Hurricane Katrina. Like Camden has done in the past with the victims of 9/11 and the Tsunami victims, employees may make charitable contributions to this fund by check, money order or through payroll deduction. Camden will match dollar for dollar the first \$50,000 in employee contributions. All collected funds will be donated to three entities, the Camden Family Relief Fund, the United Way Katrina Refugee Relief Fund and the American Red Cross.

It is important to note

Camden created this program with no government intervention; they did it the old fashioned American way, by pulling together during a time of need to house people. This is just one example of the programs that our members have created by working together during this time of crisis. We urge Congress to learn how this program came about and how we might mirror it as future challenges present themselves.

Industry Letter

September 12, 2005

Representative Mike Oxley
Chairman
Financial Services Committee
2308 Rayburn House Office Building
Washington, DC 20515

Representative Robert Ney
Chairman
Subcommittee on Housing and Community Opportunity
Financial Services Committee
B303 Rayburn House Office Building
Washington, DC 20515

Representative Barney Frank
Ranking Member
Financial Services Committee
2252 Rayburn House Office Building
Washington, DC 20515

Representative Maxine Waters
Ranking Member
Subcommittee on Housing and Community Opportunity
2344 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Oxley, Mr. Ney, Mr. Frank and Ms. Waters:

The undersigned organizations are writing to support emergency legislation to assure that victims of Hurricane Katrina are able to be housed as quickly as possible.

While we understand that FEMA is providing housing assistance to many of the families using emergency funding provided by Congress, there are a large number of low income families/elderly and persons with disabilities that have been displaced from public housing or Section 8 units or other assisted housing who will need longer term housing arrangements.

In order to facilitate the housing of these families, it will be necessary to temporarily waive a number of statutory and regulatory requirements as well as provide new voucher authority for hurricane victims.

We request that Congress provide funding for an initial 50,000 emergency Section 8 vouchers to be administered by the appropriate local housing agencies. In addition, we request the following:

A number of privately-owned properties with Section 8 assistance as well as public housing units were destroyed by Hurricane Katrina. The funding for the housing subsidies has already been appropriated. We urge Congress to ensure that Section 8 project-based assistance contracts on affected properties are frozen or suspended to prevent them from expiring while the properties are being rebuilt and if necessary facilitate the transfer of such HAP contracts to other properties. The current tenants of those building should receive vouchers in the short-term while the building is rehabilitated. Further, a number of victims had been receiving Section 8 tenant-based vouchers and should be able to quickly port those vouchers to other jurisdictions without the normal administrative procedures. Of course, sufficient funding for housing agencies that accept the ported vouchers should be provided.

The following requirements should also be suspended for Katrina victims:

- Income/employment verification. HUD and PHAs can easily verify the status of current subsidy recipients through their PIC or TRACs system.
- Tenant rent contributions (including the minimum rent contribution). Many families will not be receiving any income for some time. Congress should waive the tenant rent contribution for three months or until the families or elderly receive their Social Security or employment checks.
- Waiting list rules. Obviously any federally declared disaster victims should be placed at the head of any waiting lists without violating any rules.
- Voucher payment standard ceiling. PHAs should have the ability to raise their payment standards to up to 140 percent of FMR for victims of Hurricane Katrina without HUD permission.
- Initial inspection criteria. PHAs or HUD can inspect the units after move-in.
- Section 8 model lease requirements for project-based Section 8. The need to waive the income, employment, etc. will necessitate a special lease addendum to protect owners and HUD from fraudulent or ineligible applicants discovered subsequent to lease-up.
- One-year lease requirements. Owners should be able to lease units on a month by month basis to enable residents to return to their original homes when applicable or move to other permanent housing.
- Translation (Limited English Proficiency-LEP requirements). Suspend any requirements to translate leases and other documents to avoid delays. Providers can work with volunteers to ensure that verbal translation occurs where necessary.
- Other Programs. HUD should be provided authority to issue waivers as necessary for any statutory requirements for its programs including CDBG and HOME that are deemed necessary to address issues raised within the

framework of assistance for Katrina victims providing such waivers do not violate Fair Housing laws.

We stand ready to work with Congress and HUD to ensure that the low income families impacted by the hurricane are housed swiftly and safely. Our organizations have collectively identified thousands of units that are available for rent.

On September 9, the IRS issued Notice 2005-69, "Relief from Certain Low-Income Housing Credit Requirements Due to Hurricane Katrina." This notice authorized state housing credit agencies to permit temporary housing of individuals displaced by Katrina in Low Income Housing Tax Credit (LIHTC) Properties. Further, it temporarily suspended the LIHTC income limitation and non-transient requirements. We respectfully request that you contact the IRS and urge the agency to issue similar guidance for bond-financed properties.

We believe that Congress will also need to address permanent housing issues for these families by facilitating rehabilitation of the assisted housing stock damaged by the hurricane and new construction to replace any housing that is permanently lost. Our collective housing organizations will be happy to make suggestions to that effect when the immediate needs of the displaced families are accommodated.

Please contact Denise B. Muha, NLHA Executive Director, at 202/785-8888 or dmuha@hudnlha.com with any questions.

Sincerely,

American Association of Homes and Services for the Aging
Council for Affordable and Rural Housing
Institute for Responsible Housing Preservation
Institute of Real Estate Management
National Association of Homebuilders
National Affordable Housing Management Association
National Apartment Association
National Association of Affordable Housing Lenders
National Leased Housing Association
National Multi Housing Council