NMHC National Multi Housing Council
National Apartment Association

TESTIMONY OF CHRISTOPHER P. REILLY

EQUITY RESIDENTIAL

ON BEHALF OF THE

NATIONAL MULTI HOUSING COUNCIL/

NATIONAL APARTMENT ASSOCIATION

JOINT LEGISLATIVE PROGRAM

BEFORE THE

HOUSE COMMITTEE ON FINANCIAL SERVICES

SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

May 17, 2005

Chairman Ney, Ranking Member Waters and distinguished members of this Subcommittee, my name is Christopher P. Reilly and I am an Area Vice President with Equity Residential, one of the largest apartment firms in the country. Today I am representing the National Multi Housing Council and the National Apartment Association (NMHC/NAA), whose combined memberships represent the nation's leading firms participating in the multifamily rental housing industry. Our memberships are engaged in all aspects of the apartment industry, including ownership, development, management, and finance. The NMHC represents the principal officers of the apartment industry's largest and most prominent firms, and NAA is the largest national federation of state and local apartment associations, with 171 affiliates representing nearly 33,000 professionals who own and manage more than five million apartments.

NMHC and NAA commend you, Chairman Ney, for your leadership, and we thank the Members of the Subcommittee for your valuable work addressing the important issue of affordable rental housing in America. In particular we want to commend you, Chairman Ney, for convening the recent Roundtable discussions on the issue of housing vouchers. We appreciate your dedication to the issue.

We also commend the Administration for its effort to improve the Section 8 Housing Choice Voucher Program. We agree that the nation must meet the housing needs of low- and moderate-income families, and we believe that improving the Section 8 program is a key way to do that. However, NMHC/NAA urge Congress and HUD to enact reforms to the existing Section 8 program instead of re-creating the program. H.R. 1999, the State and Local Housing Flexibility Act of 2005, does not address the significant problems that now limit the success of the Section 8 program. Instead, the proposed legislation could create new obstacles to apartment owner participation without alleviating existing burdens. The net result would be fewer apartments available to voucher residents.

NMHC/NAA believe more apartment owners would participate in the Section 8 program if the costs of renting to voucher residents were more comparable to the costs of serving unsubsidized residents. In other words, the program must be more “transparent” to the market. NMHC/NAA propose the following recommendations to achieve that goal:

A Stable Funding Formula Needs to be Implemented

In recent years Congress has substantially changed the way the voucher program is funded in order to respond to the increasing costs of the voucher program.

Traditionally, funding had been determined using a unit-based system. Communities were authorized to issue a certain number of vouchers, and HUD funding was based on the actual cost of each voucher. Last year, however, Congress converted the program to a dollar-based system like other discretionary programs. In practical terms, this means that instead of funding each voucher based on the actual cost of the apartment unit, each voucher is now funded at a specific dollar level regardless of the actual unit cost. The Administration’s FY 2006 budget proposal would lock in this inadequate funding system by providing communities with a prorated, inflation adjusted amount of funding based on the amount they received in 2005. This is a back-door attempt to block grant the program that fails to consider the impact of the change on the program's goals.

To be successful, the voucher program's stakeholders (owners, residents, lenders and agencies) need to know how much funding will be appropriated and how that funding will be distributed from HUD to Public Housing Authorities (PHAs), and from PHAs to apartment owners. That is, the funding mechanism should not be needlessly complicated and should be easily understandable to all parties. Most importantly, stakeholders need to know how Congressional funding decisions will affect the number of households that can be supported.

In addition, because our housing needs are so great, instead of rescinding unused funds, Congress should allocate them to areas where they are needed. It is also paramount that PHAs have adequate reserves and that HUD have a central fund in order to deal with unforeseeable changes in market conditions, family incomes, appropriations and program administration costs, and to allow PHAs to utilize all authorized vouchers.

Inspections

Before a Section 8 voucher holder can rent a specific apartment, the administering PHA must inspect that unit to confirm that it complies with HUD-prescribed Housing Quality Standards (HQS). Unfortunately, these unit-by-unit inspections cause intolerable leasing delays and do not necessarily satisfy HUD's objective of protecting residents.

Even if the PHA conducts its inspection within the required time frame, some apartment owners still report that it can take 30 days or more to be approved. While this approval is pending, the apartment unit remains empty, when the owner could otherwise be collecting rent on it. The apartment industry relies on seamless turnover to meet its overhead costs, and the financial implications of such delays are enough to deter many owners from participating in the program.

NMHC/NAA strongly support provisions in H.R. 1999 that make important reforms to the unit inspection process. We also urge you to address a redundancy that currently exists in federal inspection requirements. At present, units that receive Low-Income Housing Tax Credits (LIHTC) or are FHA-insured properties are already inspected as a condition of participation in those programs. Therefore, we recommend that those units that have already passed inspections be exempt from a duplicative Section 8 inspection process. In addition, we encourage HUD to allow the PHAs to lease a unit that has minor defects (i.e., non-life threatening problems) instead of forcing the landlord to make the repairs before the lease can be signed.

Payment System

PHAs are supposed to make prompt subsidy payments to apartment owners. Too often, however, subsidy payments are untimely. Just as owners would not regularly accept late rental payments from conventional residents, they should not be forced to accept late subsidy payments. While HUD's regulations allow PHAs to be sanctioned for untimely payments, those sanctions are nominal because they must be paid for from a PHA's limited administrative fees. As a result, they do not serve as an adequate incentive to PHAs to make prompt payments.

NMHC/NAA propose that all PHAs have the ability to make automated electronic fund transfers, thereby assuring timely subsidy payments. Some PHAs already use automated funds transfer systems, but not all PHAs have the capacity to do so. HUD should provide the technical assistance, funding, and other support needed to make it possible for all PHAs to make automated payments. HUD should establish stronger incentives for PHAs to make timely payments.

Enhanced Vouchers

Under the proposed changes to the enhanced voucher program in H.R. 1999, entities that seek to purchase or to invest additional capital for property improvements into properties with tenants holding enhanced vouchers, or to restructure or refinance existing debt, are likely to find added financial burdens related to the implementation of the program at the property level. The additional burdens take the form of capital reserve requirements, higher interest rates and the inability to secure needed financing due to an unstable occupancy forecast resulting from the bill's proposal that the subsidy enhancement on such tenant protection vouchers be limited to one year.

NMHC/NAA recommend that the proposed modification to H.R. 1999 be removed to permit an owner to make a reasonable transition and to provide capital providers with a greater assurance that the necessary income stream from rental income (both subsidy and tenant portions) will be both reliable and durable for a reasonable period. This is especially critical when additional government investment in a property in the form of loan guarantees is needed to ensure that the project sponsor is in a position to make the needed reimbursement over the long term.

Rental Payment Structure

Since the Section 8 program was created, the rents paid to landlords have been based on Fair Market Rents (FMRs) set annually by HUD for each metropolitan area. The FMR itself is only a benchmark and does not represent the actual ceiling of apartment rents.

Under the voucher program, the housing provider sets the rent based on the local market, and then the PHA determines if it is "reasonable" based on rents for similar units in the same geographic area. The FMR is actually used to calculate the subsidy that is paid on behalf of the voucher holder. PHAs may set the payment standard anywhere between 90 and 110 percent of the area FMR. The subsidy paid is the difference between 30 percent of the family's adjusted income and that payment standard. If the apartment rent is above the payment standard, the families pay the difference. However, new voucher families may not pay more than 40 percent of their income for rent.

NMHC/NAA acknowledge that the FMRs have not always been accurate because of the age of the data and the large areas that they cover. However, we are adamantly opposed to provisions in H.R. 1999 (Rental Payments for Public Housing Families and Rent Structure) that would disconnect Section 8 voucher rents from FMRs and instead allow rents to be set by the more than 2,500 PHAs across the country. This change would put property owners, lenders and other housing providers that operate in many states and jurisdictions in the unmanageable position of trying to keep track of potentially 2,500 individual programs.

We encourage Congress to continue to have Section 8 voucher rents based on comparable market rents and that the rent setting formulas be uniform among all voucher administrators.

Housing/Homeownership

NMHC/NAA's top priority is bringing more balance to our national housing policy in order to meet all of America's critical housing needs. Home ownership is a worthy goal, but a housing policy that encourages all Americans to own a house, as ours currently does, is seriously flawed—both economically and socially. We need to recognize that we have serious housing needs that cannot be met strictly through home ownership.

America needs a more balanced housing policy that also recognizes the importance of rental housing. We need apartments for the 78 million Echo Boomers who have started graduating from college and are looking for housing. We need them for the nearly 9 million immigrants who will come to this country in the next decade looking for a place to start their new lives. And we need them to help house the nation's nearly 78 million Baby Boomers as they age and no longer want to maintain a house.

Not only do we need apartments, but a growing number of Americans choose apartments. For generations, America's housing was determined by families with children who sought a single-family house in the suburbs. But today those families make up less than 25 percent of American households—and that's projected to drop to 20 percent within 20 years.

Meanwhile, Foreclosures.com reports that the number of foreclosed residential properties listed for sale in the U.S. increased 50 percent between February and April. There were a total of 80,757 foreclosed properties for sale during the month of March, and new foreclosure inventory rose in 47 states during the month. Texas had the most foreclosed properties, at 9,996, followed by Ohio (7,518), Michigan (6,480) and Georgia (6,465). The report attributes the increase in foreclosures to rising interest rates and notes that foreclosures are most prevalent where house values are not increasing.

NMHC/NAA recognize that the proposed legislation calls for a Homeownership Assistance Program and we are pleased to see that the participants are encouraged to attend homeownership counseling prior to receiving the assistance.

Leases

One of the deterrents to private owner participation in the Section 8 program is a requirement that Section 8 leases include a standard HUD addendum that preempts industry-wide model lease language developed by NAA and may even conflict with local landlord-tenant (NMHC/NAA prefer "owner-resident") laws. Such conflict puts owners in a very untenable situation. When the HUD addendum conflicts with another lease provision, the addendum preempts the lease. Importantly, this inconsistency causes difficulties for owners who must comply with one set of lease requirements for voucher residents and another for conventional residents residing within the same property.

Differences between the Section 8 lease and standard leases require owners to specially train their staffs to administer Section 8 leases. This is particularly difficult in an industry where on-site annual employee turnover averages near 50 percent. Apartment owners routinely report that the lease addendum creates obstacles that discourage their participation in the program.

Moreover, stigmatizing voucher holders with different rules, as the HUD lease addendum does, is precisely what the Section 8 program intended to avoid.

NMHC/NAA support the addendum's intended purpose to protect Section 8 residents, however, residents are already protected by existing local laws that cover all apartment owners and people who lease apartment homes. The addendum does not add anything to these protections; it only adds costly burdens to owners, which, in turn, discourages their participation in the program.

NMHC/NAA propose that the HUD lease addendum be eliminated or significantly modified to reflect existing local standards for conventional leases. This change would reduce the administrative burdens and operational costs for owners who accept vouchers. Alternatively, NMHC/NAA propose establishing regional pilot programs to test alternative, less conflicting and less burdensome lease addendums based on the NAA model lease.

Conclusion

In summary, NMHC/NAA support the Section 8 program and encourage rental housing providers to participate in the program. However, widespread participation is not economically feasible in the absence of meaningful program reforms that reduce the significant costs and burdens it imposes on apartment owners. I thank you for the opportunity to testify on behalf of 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 create a more effective and efficient program.