



## NATIONAL LOW INCOME HOUSING COALITION

*Sheila Crowley, President*

*Board of Directors*

*George Moses, Chair  
Pittsburgh, PA*

*Mark Allison  
Albuquerque, NM*

*William C. Apgar  
Cambridge, MA*

*David Bowers  
Washington, DC*

*Mary Brooks  
Frazier Park, CA*

*Gail Burks  
Las Vegas, NV*

*Maria Cabildo  
Los Angeles, CA*

*Delorise Calhoun  
Cincinnati, OH*

*Donald Chamberlain  
Seattle, WA*

*Brenda J. Clement  
Pawtucket, RI*

*Marcie Cohen  
Washington, DC*

*Lot Diaz  
Washington, DC*

*Charles Elsesser, Jr.  
Miami, FL*

*Bill Faith (Honorary)  
Columbus, OH*

*Daisy Franklin  
Norwalk, CT*

*Matt Gerard  
Minneapolis, MN*

*Lisa Hasegawa  
Washington, DC*

*Linda Leaks  
Washington, DC*

*Moises Loza (Honorary)  
Washington, DC*

*Reymundo Ocañas  
Houston, TX*

*Greg Payne  
Portland, ME*

*Tara Rollins  
Salt Lake City, UT*

*Martha Weatherspoon  
Clarksville, TN*

*Paul Weech  
Washington, DC*

*Leonard Williams  
Buffalo, NY*

*Founded in 1974 by  
Cushing N. Dolbeare*

**Testimony of Charles Elsesser  
Attorney, Community Justice Project of Florida Legal Services  
on behalf of  
the National Low Income Housing Coalition**

**Presented to the  
Subcommittee on Insurance, Housing and Community Opportunity  
House Committee on Financial Services  
U.S. House of Representatives  
“The Obama Administration’s Rental Assistance Demonstration Proposal”  
November 3, 2011**

My name is Charles Elsesser. I am an attorney with the Community Justice Project, a project of Florida Legal Services, and a member of the Board of Directors of the National Low Income Housing Coalition, which I am representing here today. We want to thank Subcommittee Chair Judy Biggert and Ranking Member Luis Gutierrez for your leadership on housing issues impacting the lowest income people.

The National Low Income Housing Coalition (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 nonprofit 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. The National Low Income Housing Coalition does 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 housing, especially those with the most serious housing problems. NLIHC is entirely funded with private donations.

The Community Justice Project, a project of Florida Legal Services, Inc., was founded in 2008 to provide legal support to grassroots community organizations in Miami’s low income communities. Rooted in the law and organizing movement among poverty lawyers, the CJP’s style of law practice is fundamentally rooted in the belief that those most impacted by marginalization or oppression lead their own fight for social justice. The CJP believes lawyers are most effective when they support community organizations accountable to the persons most affected by social injustice. The CJP’s current priority areas are affordable housing and workers rights.

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

## **Need for Affordable Housing**

Housing affordability is on the decline for extremely low income people in the United States. In 2009, there were 10 million extremely low income households but only 6.5 million units affordable to this income group. Between 2007 and 2009, this shortage of affordable units increased by 1.3 million units. When affordable *and available* units are analyzed, the gap of housing available to extremely low income households increases to 6 million units nationwide. To put it another way, for every 100 extremely low income households, there were only 39 affordable and available units in 2009.<sup>1</sup>

Public housing serves this extremely low income population most in need of affordable housing. The nation's public housing program houses 2.3 million people, with an average household annual income of \$13,351.<sup>2</sup>

But, we are losing thousands of public housing units each year through demolition, disposition and other processes. Just since 2000, HUD has approved the demolition or disposition of more than 100,000 units of public housing. Most of this public housing is not replaced with new public housing, but with housing choice vouchers. While NLIHC strongly supports the voucher program, we understand that we need both: to preserve existing public housing and to support the voucher program. 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 offer a location to provide services, to public housing residents and others, that 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 is often 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 proper counseling, the costs and other difficulties inherent in moving with a voucher can force any household into neighborhoods they might rather avoid or force them to give up their rental assistance altogether.

Annual funding for public housing has also consistently fallen short of what is needed to adequately maintain public housing. In June, HUD issued a study documenting almost \$26 billion in major repair needs in public housing.<sup>3</sup> The underfunding that caused this \$26 billion backlog continues today. The House Appropriations Subcommittee on Transportation, Housing and Urban Development and Related Agencies FY12 bill would provide 25% less than HUD

---

<sup>1</sup> Pelletiere D. (2011, January). A Preliminary Analysis of the 2009 and 2007 Rental Affordability Gaps. *National Low Income Housing Coalition*.

<sup>2</sup> HUD *Resident Characteristics Report*, as of September 30, 2011. At <https://pic.hud.gov/pic/RCRPublic/rcrmain.asp>

<sup>3</sup> HUD. June 2011. Capital Needs in the Public Housing Program.

received for the capital fund in FY11. The THUD bill passed by the Senate on November 1 would provide an 8% cut compared to FY11.

Even if everyone agreed that we must preserve our nation's investment in public housing, both public housing residents and public housing agencies are left with few avenues to maintain public housing for the lowest income people. NLIHC is optimistic that the Rental Assistance Demonstration as proposed by the Department of Housing and Urban Development in August 2011 legislative language could benefit communities intent on preserving their public housing stock but for whom there simply are not the tools to do so.

The status quo, where years of public housing underfunding cannot be addressed by even those communities most intent on saving public housing, is not working. Nor is the status quo poised to work in the future. Both the House and the Senate FY12 HUD appropriations bills include deep cuts to public housing, cuts which indicate that demolition and disposition applications to HUD will only increase as PHAs have no recourse.

NLIHC has been involved in HUD discussions regarding a public housing conversion proposal since early 2009, when the current Administration began stakeholder discussions on what a conversion process might look like. NLIHC has been optimistic that converting public housing subsidies to a new form of subsidy, one that might be better at attracting and servicing private debt, could provide a way for communities to preserve public housing that protected residents, protected the public's investment in the stock, and ensured long-term use and affordability restrictions. While the proposal HUD circulated in 2010 fell short on most of these measures, NLIHC continued to work with HUD on a more viable proposal in our effort to support public housing.

In early 2011, NLIHC joined several stakeholder groups to work independently from HUD on a conversion proposal, based on the language HUD requested in its FY12 budget. Eventually, this stakeholder groups' work merged with HUD's work on RAD legislative language. NLIHC was pleased that we were able to support HUD's legislative language authorizing RAD, which HUD circulated to House and Senate offices in August 2011. Indeed, all members of the stakeholder group publicly supported HUD's August language in a September 14 letter to House housing leadership, which is attached to my testimony.

### **NLIHC Support for HUD's RAD Language**

NLIHC is able to support HUD's August RAD proposal because: it includes resident participation requirements and ensures resident protections and rights are maintained by residents under conversion; it ensures mission-driven public housing ownership to the greatest extent possible; it has clear requirements for long-term use and affordability restrictions, which are critical to assisting the lowest income households in an affordable way; and, it includes a "choice" component where most public housing residents in converted units would have the opportunity to move with a tenant-based voucher. NLIHC also supports that RAD is a voluntary demonstration and would be limited to a certain number of agencies or units in order to evaluate and assess new opportunities to preserve public housing undertaken under RAD authorities.

### *Resident Participation*

HUD's August language includes requirements for HUD to issue for public comment rules regarding RAD, including rules for consultation on RAD by the PHA's Resident Advisory Board and residents of the properties proposed for participation in RAD. NLIHC would also support RAD provisions that allow for ongoing input on the conversion by requiring a PHA Plan process in the converted property. The HUD RAD language also provides assisted residents in the converted properties the right to participate in a legitimate tenant organization, which must be recognized by the owner, another provision strongly supported by NLIHC. HUD's proposed language also authorizes funding for the demonstration, which may be used for these tenant organizations.

### *Resident Rights and Protections*

NLIHC also supports HUD's RAD language because it would provide rights equivalent to those in the public housing program regarding the right to an informal hearing if denied admission, grievance procedures for residents, and adequate notice of, and good cause for, eviction. These rights under Section 6 of the U.S. Housing Act are critical to convey during any conversion of public housing subsidy.

### *Mission-Driven Ownership*

HUD's RAD language also includes extremely important language to ensure, to the greatest extent possible, that the owner of public housing is either a public or nonprofit entity. Even after a foreclosure, bankruptcy, or termination or transfer of assistance for material violations or substantial default, HUD's proposal sets out a waterfall of ownership options, beginning with priority for ownership or control by a public entity, then to a nonprofit, and then, only where such entities are not available, to a capable other entity. NLIHC believes that such ownership requirements are necessary not only to protect the public's long-term and significant investment in public housing but also to demonstrate Congress's and HUD's commitment to preserving public housing in the future.

### *Long-term Use and Affordability Restrictions*

Another key NLIHC priority is also included in HUD's August RAD language: requirements that HUD offer, and the owner accept, renewal of each expiring contract of assistance. Requiring HUD to offer and the owner to accept contract renewals will ensure that the use restrictions on these converted units, including for income targeting and affordability, will be maintained in the future. In just a few phrases, this language in HUD's RAD proposal expresses the nation's commitment to public housing as a needed safety net for the nation's lowest income households.

### *Choice Component*

NLIHC also supports HUD's RAD proposal's "choice" component. Here, at least 90% of the total number of assisted units in all properties participating in the demonstration would be subject to a requirement that the PHA test options to provide all assisted residents with a choice to move with a housing choice voucher. NLIHC had long advocated that any HUD proposal also include an authorization of new vouchers to make this choice component a reality. While HUD's August RAD language did not include any authorization of new vouchers,

by including this choice component for 90% of the converted units, HUD's proposal would have provided public housing residents with mobility options they currently do not have.

### **Rent Supplement, Section 236 Rental Assistance and Section 8 Mod Rehab Programs**

NLIHC is also pleased that HUD's August RAD language attempts to provide options to preserve Rent Supp and RAP properties, which currently have no viable options to renew rental assistance. HUD's RAD proposal also addresses Section 8 Mod Rehab properties, which cannot attract necessary resources for rehabilitation. NLIHC supports development of a policy that would permit HUD the flexibility to permit owners and PHAs to project-base tenant protection and enhanced vouchers in these properties, where warranted by local conditions. The project-basing policy should also cover properties where vouchers have already been issued for tenants still in residence or will be issued in the future from a conversion event, with resident consultation throughout the process.

### **Passage of Conversion Authority**

NLIHC urges Congress to enact RAD as soon as possible. As the nation loses more than 10,000 public housing units a year to demolition and disposition, we feel we must begin to test, evaluate and identify ways to allow PHAs to preserve this housing stock while providing residents input in the process, protecting the nation's investment, and continuing to serve the lowest income households in an affordable way.

NLIHC believes that RAD is one of many solutions that, together, would address our nation's affordable housing needs. In addition to RAD, NLIHC also encourages members of this Subcommittee to protect and fund the National Housing Trust fund in any Government Sponsored Enterprises reform legislation considered by the full Financial Services Committee.

Thank you for considering our comments.

September 14, 2011

- Transmitted by Email -

Representative Harold Rogers, Chairman  
Committee on Appropriations  
U. S. House of Representatives  
H-307 Capitol Building  
Washington, DC 20515

Representative Norman Dicks, Ranking Member  
Committee on Appropriations  
U. S. House of Representatives  
H-307 Capitol Building  
Washington, DC 20515

Representative Spencer Bachus, Chairman  
Committee on Financial Services  
U. S. House of Representatives  
2129 Rayburn House Office Building  
Washington, DC 20515

Representative Barney Frank, Ranking Member  
Committee on Financial Services  
U. S. House of Representatives  
2129 Rayburn House Office Building  
Washington, DC 20515

Dear Chairmen and Ranking Members:

The undersigned organizations are writing in support of the attached draft legislative proposal which would authorize a program to test the conversion of units assisted under public housing to project-based Section 8 subsidies. The draft was prepared by the U.S. Department of Housing and Urban Development (HUD) at the request of various members of Congress. We strongly urge you to support including this proposal in any appropriate authorizing bill or in the fiscal year 2012 HUD appropriations bill.

For the past several months, HUD has worked with public and affordable housing stakeholders to design this "Rental Assistance Demonstration" (RAD) program and to draft legislation authorizing the program. The RAD demonstration would allow conversions to be tested on a limited scale, so they can be evaluated and the results can inform Congressional consideration of implementing public housing conversions more broadly.

A recent HUD study on the capital needs of public housing shows that more than \$26 billion in unmet capital needs exist in public housing. Despite the yearly federal allocation to the Public Housing Capital Fund, this backlog has persisted for many years simply because the federal expenditures have not kept pace with the modernization, rehabilitation and recapitalization needs in public housing. Given the current budget environment, it is also not likely that federal expenditures alone will ever be sufficient to meet the need.

Conversion of some public housing developments to Section 8 assistance offers a cost-effective, market-based way to address capital needs in public housing, because it would better enable housing authorities to leverage private investment to renovate and preserve developments. While RAD will primarily focus on public housing conversions, owners of Moderate Rehabilitation and Rent Supplement/Rental Assistance properties, which currently lack a viable renewal option and are at risk of being lost from the affordable housing inventory as a result, will also be eligible for assistance under this legislation.

The RAD legislative proposal is attached. We urge you to include this legislation in the FY2012 THUD appropriations bill to help enable PHAs to preserve our public housing stock and increase the supply of housing affordable to very low-income households. Thank you for considering this request. We look forward to working with you on this important issue.

Sincerely,

Center on Budget and Policy Priorities  
Council of Large Public Housing Authorities  
Enterprise Community Partners  
Local Initiatives Support Corporation  
National Housing and Rehabilitation Association  
National Leased Housing Association  
National Low Income Housing Coalition  
Poverty & Race Research Action Council  
Rod Solomon, Hawkins Delafield & Wood LLP  
Stewards of Affordable Housing for the Future

Attachment

cc:


Members, U. S. House of Representatives, Committee on Appropriations  
Members, U. S. House of Representatives, Committee on Financial Services  
Secretary Shaun Donovan, U. S. Department of Housing and Urban Development



**United States House of Representatives  
Committee on Financial Services**

**"TRUTH IN TESTIMONY" DISCLOSURE FORM**

Clause 2(g) of rule XI of the Rules of the House of Representatives and the Rules of the Committee on Financial Services require the disclosure of the following information. A copy of this form should be attached to your written testimony.

<b>1. Name:</b>  Charles F. Elsesser Jr.	<b>2. Organization or organizations you are representing:</b>  National Low Income Housing Coalition, Inc
<b>3. Business Address and telephone number:</b> <div style="background-color: black; height: 40px; width: 100%;"></div>	
<b>4. Have <u>you</u> received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify?</b>  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>5. Have any of the <u>organizations you are representing</u> received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify?</b>  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>6. If you answered .yes. to either item 4 or 5, please list the source and amount of each grant or contract, and indicate whether the recipient of such grant was you or the organization(s) you are representing. You may list additional grants or contracts on additional sheets.</b>  <div style="height: 150px;"></div>	
<b>7. Signature:</b> <div style="text-align: center;"></div>	

*Please attach a copy of this form to your written testimony.*