H.R. 2930, THE SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY ACT OF 2007

HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY

OF THE

COMMITTEE ON FINANCIAL SERVICES

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Thursday, September 6, 2007

U.S. House of Representatives,
Subcommittee on Housing and
Community Opportunity,
Committee on Financial Services,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 2128, Rayburn House Office Building, Hon. Maxine Waters [chairwoman of the subcommittee] presiding.

Members present: Representatives Waters, Maloney, Clay, Sires, Ellison; Biggert, and Capito.

Ex officio: Chairman Frank.

Also present: Representative Mahoney.

Chairwoman Waters. This hearing of the Subcommittee on Housing and Community Opportunity will come to order.

Good morning, ladies and gentlemen. I'd first like to thank Ranking Member Judy Biggert for being here today and the members of the Subcommittee on Housing and Community Opportunity for joining me for today's hearing on H.R. 2930, the Section 202 Supportive Housing for the Elderly Act of 2007.

I'd like to start by noting that without objection, Mr. Mahoney will be considered a member of the subcommittee for the duration of this hearing. Also without objection, all members' opening statements will be made part of the record.

I am looking forward to hearing from the two panels of witnesses today, because the Section 202 program is such a cornerstone of our Federal response to the needs of our Nation's most vulnerable elderly households.

I appreciate the work of Mr. Mahoney in crafting H.R. 2930, which is designed to ensure that Section 202 retains its vitality. Today over 6,000 projects, containing over 310,000 units nationwide, receive assistance under this program. Enacted as Section 202 of the Housing Act of 1959, it is among our oldest Federal subsidized housing programs, and the only HUD program with the sole focus on meeting the needs of the poor elderly.

I'd like to start with the good news about the 202 program: it works. By this I mean that the combination of affordable housing and coordinated supportive services provided by 202 project sponsors has been proven to enable elderly tenants with a median age of 76 to live as independently as possible for as long as possible. This goal, referred to as helping seniors age in place, is part of what I regard as almost a technological revolution over the last few decades in meeting the health and housing needs of many vulnerable populations.

At one time, the frail elderly, the mentally ill, and the otherwise disabled could expect to live for long periods in institutional settings, because those were the only places equipped to meet their needs for long-term support. Today, entrepreneurial nonprofits have worked with government at all levels to develop housing plus services models that instead promote more independent living. And these new models make sense physically as well as morally, while preserving individual dignity, a principle on which our Nation was founded, and that would alone justify preferring independence over institutionalization.

It turns out that it also generally costs more to do their own thing, just as cycling chronically homeless, often mentally ill individuals through detoxes, shelters, hospitals, and jails is far more expensive than providing them with supportive housing. So, too, are nursing home settings and frequent hospitalizations in comparison to 202 supportive housing projects for the elderly who are still well enough to live in them. Simply put, the longer we can help seniors to stay on the more independent end of the housing and services continuum, the better it is for them, and the better it is for taxpayers.

But the 202 program does face major challenges. First, the current 202 portfolio doesn't come close to meeting the need. A 2006 AARP survey of 202 project sponsors found an average of 10 seniors waiting for each unit that becomes available. And in 202, a bipartisan, congressionally appointed commission on senior housing and health needs, with which I know several of today's witnesses were involved, called for the creation of an additional 730,000 units of affordable housing by 2020.

In light of this overwhelming need for more elderly housing, I'm compelled to note that the Administration's recent budget request for HUD's housing for the elderly appropriations account, which includes 202, have consistently sought to cut the program significantly. This includes a reduction from the Fiscal Year 2007 funding level of $735 million to only $575 million in the President's Fiscal Year 2008 request.

Fortunately, the appropriators have to date declined to make these cuts. I hope this hearing plays a part in moving the 202 program to a firmer footing, both programmatically and financially. In any event, Title I of H.R. 2930 seeks to streamline the new construction process of the new 202 program. Since 1990, the 202 program has operated as a capital advance and an associated rental assistance stream known as PRAC, which combine to meet the development and ongoing operating costs of the project.

Title I responds to the concerns I have heard, namely, that as now administered, the 202 program imposes on potential sponsors all the inflexibility and bureaucracy that might conceivably be justified in a funding stream that pays a project's full freight in a program that no longer does. In order to use scarce resources to reduce more units, HUD has made the understandable policy decision to thrust 202 sponsors into a world of mixed finance.

Title I proposes to ease that transition by, among other things, requiring HUD to make adjustments to the PRAC to reflect certain unexpected increases and project operating costs, consider delegating some administrative responsibilities in mixed finance transactions to State or local housing agencies with strong underwriting expertise, and develop new, more responsible, development cost estimates.

I am interested in today's witnesses' experiences with the current process. In particular, I hope to hear about their ideas about meting project funding needs in the area of services and services coordination, a thing that not only runs through H.R. 2930, but also resonates across a number of issues the subcommittee will be addressing this fall.

Second, as one might expect in a program of 202's vintage, much work must be done simply to preserve the existing stock of projects. At particular risk are the 40,000 to 45,000 units funded prior to 1974, when the program was structured as a 50-year, 3 percent loan, many of which do not have any rental assistance attached to them. Nearly 10 percent of those units are in California. To serve low- income seniors as these projects head into their second half-century will require some sort of ongoing funding beyond affordable tenant rents. H.R. 2930 would create a senior preservation rental assistance program for this purpose. If HUD or other witnesses have viable alternatives to that approach, I'm certainly open to hearing them.

Additionally, these projects need access to new capital to undertake needed repairs and program improvements. Fortunately, today's lower interest rate environment offers a real opportunity to refinance and recapitalize them. I understand, however, that HUD and many 202 nonprofit sponsors disagree about the flexibility these organizations should have in using the proceeds of such refinancing. Title II of H.R. 2930 provides additional flexibility, including lifting the current cap for their use for supportive services permitting developers' fees for nonprofits and enabling nonprofit sponsors to reallocate funds generated by refinancing an individual project's refinancing to a broader range of activities consistent with a nonprofit mission.

I'm interested to hear HUD's views on these measures, as well as the other provisions of the bill, whose original co-sponsors I again wish to thank for their bold proposals to address the needs of this critical housing program for the elderly.

At this time, I would like to call on Ranking Member Biggert to present her opening statement, for 5 minutes.

Mrs. BIGGERT. Thank you, Chairwoman Waters, for holding this important hearing on the Section 202 Supportive Housing for the Elderly Amendments Act.

I'll keep my remarks brief, as I'm interested in hearing from our witnesses this morning about how we can best streamline and simplify the development of affordable housing for our seniors. As we all know, the Baby Boomer generation has begun to reach retirement, and that means more and more elderly Americans need access to affordable housing.

They also need housing that is coupled with supportive services and features that promote independence for aging residents. Section 202, the primary Federal housing program for seniors, is designed to do just that. Our goal today is to examine what changes we can make to this program to satisfy the growth and demand for affordable senior housing and better meet the needs of seniors across the country.

Specifically, we will evaluate whether H.R. 2930 provides the necessary flexibility to the Section 202 program so that local community groups can best serve the needs of our seniors. And I thank the bill's sponsor, Mr. Mahoney, for being with us today.

Also, we'll propose changes to the Section 202 program to enable better use of mixed financing, tax credits, grants, and loans to preserve and build housing for seniors.

Finally, I'm interested in learning more about the impact of the provisions in Title II of H.R. 2930, which is intended to expand refinancing opportunities for older Section 202 properties. How can the changes in Title II benefit taxpayers, our community organizations, and most importantly, seniors?

I'm confident that this morning's witnesses will be able to answer these questions, and more. I know this because we have the privilege of welcoming to this morning's hearing a constituent of mine, Mr. Michael Frigo, who is vice president of Mayslake Village. And with him is Father Larry Dreffein, President of Mayslake Village. Welcome. And I'll formally introduce Mr. Frigo when the second panel begins, but I can say that I visited Mayslake Village many times, and I have seen firsthand the wonderful work they are doing for seniors in Du Page County in Illinois.

In 1960, what is now Mayslake Village, was a ministry started by the Chicago area Franciscan friar community with the goal of serving the needs of low- and moderate-income seniors. Today's Mayslake is a model facility of over 600 units of affordable housing to low- and moderate-income seniors in my congressional district.

So I look forward to hearing from Mr. Frigo about the ways that we can amend the Section 202 program to help his organization, and others like it, provide even better housing and improve our services to the Nation's seniors.

I'd also like to welcome HUD acting Deputy Assistant Secretary Garvin and all of this morning's witnesses, and I look forward to your testimonies.

I yield back.

Chairwoman WATERS. Thank you very much, Ranking Member Biggert.

I would now like to recognize for 3 minutes the chairwoman of the Subcommittee on Financial Institutions and Consumer Credit, Mrs. Maloney.

Mrs. MALONEY. Thank you, Chairwoman Waters and Ranking Member Biggert. I would like very much to be associated with the comments of both of the distinguished leaders of this committee. There is no program that's more important to seniors, and I want to congratulate the leadership of Congressman Tim Mahoney for introducing this legislation, which not only reauthorizes the program, but also adds a series of improvements that will help expand the supply of affordable housing to the elderly.

I would say in New York, Chairwoman Waters, there are probably 20 or 30 seniors waiting to get into each 202 project or each 202 apartment. There is no other program that is more beloved, that provides more assistance and help and allows our elderly to retire with great dignity. It happens to be my favorite housing program. Every year, I have many, many requests for 202 housing projects. We never have enough dollars for it. This reauthorization is extremely important, and I would say that the seniors of this country are indebted to your leadership, Mr. Mahoney, for moving this forward and making this happen.

I have a list of statements about the improvements in the program, and I would ask unanimous consent to place it in the record. I look forward to the testimony, particularly of the community groups, the religious organizations that are on the ground working hard to provide this housing, and of course, HUD; we appreciate your leadership. And we're so glad that you're here, Mr. Garvin. I look forward to your testimony, and I'd like to put my statement in the record.

Just to close, I'd like to say that with the rapid increase in housing prices over the last decade, we have seen in my community, and probably many other communities across this country, that many seniors are priced out of the communities that they helped build. This is wrong. 202 housing and the reauthorization of this program will help provide more affordable housing options to seniors and afford opportunities for safe, affordable housing.

Again, I congratulate Mr. Mahoney and the chairwoman for moving this forward, and the ranking member for her support. Thank you so much.

Chairwoman WATERS. Thank you. Without objection, your information will be accepted in the record.

Mrs. Capito, for 3 minutes?

Mrs. CAPITO. Thank you, Madam Chairwoman, I just want to welcome the witnesses. I look forward to this extremely important topic, certainly, across the country. My State of West Virginia has a high amount of low-income elderly who are in great need of not only affordable, but safe and better quality housing. And I appreciate the opportunity. I want to thank the chairwoman and the ranking member for bringing this forward today.

Chairwoman WATERS. Thank you very much.

Mr. Sires, for 3 minutes.

Mr. SIRES. Thank you, Madam Chairwoman. I also want to congratulate my colleague on this legislation. It's certainly needed.

Having been a mayor for 12 years, I can tell you that there's no grater need than housing for seniors. I used to kid people. I used to say, "You know, you don't need money to get reelected anymore, all you need is housing for seniors," because the need was so great.

I happen to come from an urban area. People were not well off, and this 202 is a lifesaver. You could see in their faces after they moved in and you went by their buildings how happy they were that they had a roof over their heads. So I really want to commend my colleague and the chairwoman for having this hearing. And any help that I can provide to my colleague on this issue to expand the program, please count on it.

I also would like to say that I think more in the future of the private sector and government sector combined to do some of these senior programs, and also I think it's something we should look at. So thank you very much.

Chairwoman WATERS. Thank you, very much, Mr. Sires.

Now, Mr. Ellison, for 3 minutes?

Mr. ELLISON. Thank you, Madam Chairwoman.

I just want to lend my voice to other colleagues and members who have commended Mr. Mahoney on this excellent piece of legislation. I am a supporter of it and look forward to hearing the witnesses. I will also make this comment, and that is that our seniors are the people who have blazed the trails for the rest of us. They have knocked down barriers and built up bridges so all the rest of us could walk across, and a decent, caring nation should care for them, as well.

I think Section 202 advances the improvements that Congressman Mahoney has proposed, and we'll improve and strengthen that, as well. So I just want to commend him and look forward to hearing the witnesses.

Thank you. I yield back.

Chairwoman WATERS. Thank you very much.

And now for the man of the hour. The author of H.R. 2930, one of our new members from the State of Florida, who makes us all very proud with the introduction of this legislation, Mr. Mahoney.

Mr. MAHONEY. Thank you, Chairwoman Waters.

I'd like to thank Ranking Member Biggert, and to say that I'm really humbled to be here with my colleagues, working together for seniors. I'd like to point out that Chairwoman Waters, you have provided unbelievable leadership on housing issues, not only for seniors, but also for victims of Hurricane Katrina, and you have been a real inspiration for me.

I'd also like to thank Chairman Frank for his tireless leadership in addressing the affordable housing crisis that's gripping our Nation.

I'd also like to welcome Ms. Deje Kondor, who will be participating in today's hearing. Ms. Kondor is the executive director of the Presbyterian Homes and Housing Foundation of Florida, which manages 19 affordable housing communities for over 3,500 seniors, comprised of more than 3,000 apartments throughout Florida. And earlier this year, I had the pleasure and opportunity to visit one of the facilities located in my district, Presbyterian Homes of Port Charlotte.

As our elderly population grows, the need for affordable housing will increase. In 2005, there were approximately 37 million Americans over the age of 65. According to the U.S. Census Bureau, the number of seniors is expected to grow rapidly during the next several decades.

Despite this increase in demand, the number of affordable housing units is shrinking. According to the Joint Center for Housing, for every unit of affordable housing constructed, two are lost, either by a conversion of affordable to market rate housing or by sponsors of Section 202 housing opting out of the program when their contracts expire.

In 2002, Congress created a bipartisan commission to study the need for affordable housing in support of services for the elderly. In the Commission's report to Congress, entitled, "A Quiet Crisis in America," they stated that, "This nation, despite competing demands for national resources, must respond to the critical need for affordable housing and home and community-based supportive services with substantial financial commitment and effective policies."

The report also concluded that all seniors, no matter what their individual circumstances and resources, should be able to continue to live where they prefer, regardless of their income, with services that they need to maintain personal dignity and quality of life.

One of the most important responsibilities we have as a society is to ensure that our seniors have safe and affordable places to live. The Section 202 Supportive Housing for the Elderly Act is the first step in achieving this goal. This important piece of legislation will give owners of 202 facilities the ability to leverage the property's equity, access much needed capital, and benefit from low interest rates from private lenders.

By doing so, this legislation will ensure that these facilities are preserved and improved to meet the changing needs of seniors. In addition, the bill allows for funding to be used to increase the services that Section 202 communities provide for the residents, allowing them to live a more independent life.

Finally, this bill will assist seniors living in older section 202 facilities by extending them rental assistance.

I look forward to working with members of the committee on this legislation, and again, I would like to thank Chairwoman Waters, and I look forward to hearing the testimony of our witnesses today.

I yield back the balance of my time.

Chairwoman WATERS. Thank you very much.

At this time, I'd like to introduce our first panel, which consists of Mr. John Garvin, Senior Advisor to the Assistant Secretary for the Office of Housing, and Acting Deputy Assistant Secretary for the Office of Multifamily Housing. Deputy Assistant Secretary Garvin, I want to thank you for appearing before the subcommittee today, and without objection, your written statement will be made part of the record. You will now be recognized for a 5-minute summary of your testimony.

STATEMENT OF JOHN GARVIN, SENIOR ADVISOR TO THE FHA COMMISSIONER, AND ACTING DEPUTY ASSISTANT SECRETARY FOR MULTI-FAMILY HOUSING, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. GARVIN. Thank you very much, Chairwoman Waters, Ranking Member Biggert, and distinguished members of this committee. Thank you for the opportunity to testify today on H.R. 2930.

As you mentioned, my name is John Garvin, and I am the Senior Advisor to the Assistant Secretary of Housing, Federal Housing, Mr. Brian Montgomery, who sends his regrets that he can't be here today. I also, for the last few months, have been serving as Acting Deputy Assistant Secretary for Multi-family Housing, and in this role, oversee the Section 202 program.

I would like to start by also thanking Congressman Mahoney for recognizing the need to address services and affordable housing options for seniors.

The 202 program is one of the Nation's major sources for providing safe and affordable housing to America's very-low-income seniors. The program funds construction, rental assistance, and in many cases, service coordinators. Within Section 202, there is also an assisted living conversion program, the goal of which is to modify 202 developments to better serve frail seniors who require a higher level of services to be able to age in place.

Section 202 is a very comprehensive program, and one that serves many frail seniors, as well. As Chairwoman Waters mentioned, it has proven a great program since 1959. I would like to take this opportunity to commend HUD staff nationwide, as well as our industry stakeholders, many of whom are here today, for their complete dedication to this program and their hard work in making this program the success that it is.

The average age of a 202 resident is approximately 75 or 76 years old, and they have an annual average income of around $9,500. To date, we have more than 300,000 Section 202 units in our portfolio. Section 202 units are limited to serving seniors aged 62 or older, who have incomes of less than 50 percent of an area's median income, or, as mentioned before, a very low income.

Each year while providing continued rental assistance, HUD also provides construction funding for approximately 4,500 new units. Unfortunately, over the last 12 years, production in the Section 202 program has decreased by almost 50 percent, from 7,800 units in 1995, to 4,200 units in 2006. The main reason for this decrease is as we renew rental assistance, that money comes out of the construction pool. So as we produce more, more rental assistance is required to be renewed annually, and that takes away from what we can use to increase production.

I don't need to tell this committee about the growing need for affordable housing options for seniors, as Chairwoman Waters also mentioned the AARP survey that said there are 10 seniors waiting for every one unit that becomes available, and Congresswoman Maloney mentioned that she thinks it's more like 30 in New York. Obviously, the need is there. We don't have to debate that issue.

Secretary Jackson and Commissioner Montgomery are very committed to preserving existing 202 units. Moreover, they want to increase production of new units to address the ever-growing demographics of seniors in need of affordable housing. One of the main reasons Commissioner Montgomery hired me to come to HUD from the multi-family industry is to bring about some changes to the 202 program so as to make it leverage better with the low income housing tax credit, both 9 percent and 4 percent credits.

While I mentioned that I am extremely impressed with the HUD staff nationwide, and their work on the 202 program, and industry stakeholders, we need to do more. There are a lot of changes we can make to streamline the program, making it more attractive to tax credit sponsors. Right now, there are many barriers—unintentional, most of them—that get in the way of tax credit developers using 202. If we could get that utilization strong, we could increase the production of 202 units, leverage with tax credits and the services that the 202 program bring in, and we could do that exponentially.

Christian Montgomery asked us to come up with a demonstration program which we all saw in the 2008 budget, which was basically addressing some of the need for streamlining in the 202 program. We got together with the American Association of Homes and Services for the Aging, and a lot of the stakeholders in this room today, to come up with a good report which recommended several changes to the 202 program.

While the 2008 demonstration program in the 2008 budget did not make it through markup, HUD's staff has proposed guidance to break down many of these barriers that we'll discuss here today. We will continue this effort administratively and will take into serious consideration any sound proposal that eases the way to leveraging other sources of funding with 202 and to preserve and create more units.

We value our partnership with the American Association of Homes and Services for the Aging and look forward to our continuing work with them and other organizations to increase affordable housing options for seniors.

Again, thank you for the opportunity to be here today, and I welcome any questions you may have.

[The prepared statement of Mr. Garvin can be found on page 67 of the appendix.]

Chairwoman WATERS. Thank you very much, Mr. Garvin.

We have been joined by the chairman of the Financial Services Committee, Mr. Barney Frank.

I will recognize him for as much time as he may need.

The CHAIRMAN. Thank you, Madam Chairwoman.

I apologize, because I will have to go to the Floor. The Native American Housing bill is on the Floor, and we will be dealing with a number of issues, including, I will say, an amendment I found somewhat intriguing to the Native American Housing bill. This is a program that provides housing for Indian tribes, and we will have an amendment dealing with illegal immigration. And I'm afraid the Indians' response is going to be, "Why didn't we think of that?"

[Laughter]

The CHAIRMAN. I am pleased to be here today, Madam Chairwoman, and this is a further example of the leadership you have given as chairwoman of this subcommittee. Working with you on a range of issues has been a great pleasure.

And I'm also glad to be here at the start of "Tim Mahoney day" at our committee, because the gentleman from Florida is the sponsor of this bill. And this afternoon, the bill that he has created and co-sponsored with his Florida colleague, Mr. Klein, will be having a hearing, and in both cases, responding to real needs. I see a lot of friends who are active in the elderly housing field, and I am glad to be here. I hope we can get a bipartisan movement here, because we are talking about making a good program better.

We don't control the amount of money, but we do have the responsibility to make it go further. And I do think when many of us go to the appropriators and say, let's have more money for this program, the fact that we will have helped to improve it, and made it more flexible and more efficient, should stand us in good stead.

I am very glad to be here and see so many friends, and I will go over to the Floor knowing that under the chairmanship of the gentlewoman from California, and my other colleagues here, and the ranking member, with whom we've been able to work very constructively in a lot of ways—the gentlewoman from Illinois—things are in good hands.

Thank you, Madam Chairwoman.

Chairwoman WATERS. Thank you, Mr. Chairman, and we are all appreciative for your leadership and the assistance that you have given to Mr. Mahoney. We are very proud. Thank you very much.

Mr. Garvin, we gave you a list of questions that we would have you respond to at this hearing. Your testimony did not match the questions we had asked you to deal with, so we are perhaps going to have to ask some of those questions at some time during this hearing.

But first, let me start on the issue of removing some of the bureaucratic delay in mixed finance 202 projects. There seems to be some level of agreement that it makes sense not to duplicate every administrative process at HUD and every other public finance agency involved.

You have proposed a demonstration program involving tax credits and tax housing agencies, and H.R. 2930 seems to provide somewhat more room for delegating underwriting and other functions to State and local agencies. Can you describe for me your understanding of the difference between your proposed demonstration program and what the bill would allow? Specifically, I'm interested in knowing what specific kinds of delegation H.R. 2930 would allow and what circumstances HUD would not be comfortable with and why?

Mr. GARVIN. First, Chairwoman Waters, I would like to say we did get your questions and we have formal answers to each of them. I think a lot of those questions would take a half hour to answer; they're very technical. But we will submit those to you.

On the delegation to the local housing agencies, in our demonstration program we were considering when it came to the use of tax credits and tax-exempt bond financing of having the State housing agency that allocates the credits, the underwriter, and HUD would approve the underwriting. That would take away one step. H.R. 2930 has a similar concept, but it seems to move all of Section 202 to housing agencies within a 90-mile radius of a proposed development. I think that is a little far-reaching right now.

We would like to analyze it a little bit more and get a better grasp on how many agencies would be administering 202 if that proposal were successful. We just have a feeling that it might take a lot longer to get local housing agencies up-to-speed on how this program works, and we feel that it would be losing a little bit of our responsibility as a strong fiduciary with that.

Chairwoman WATERS. Thank you very much. On the issue of the use of proceeds from refinancing, can you tell me why HUD views it as critical that excess proceeds only be used for pretty limited purposes in the same project? What would be the concern if nonprofits were able to use these proceeds more broadly, as H.R. 2930 envisions?

Mr. GARVIN. We just see such a shortage of affordable housing funds that we think to use excess proceeds from recapitalization to do non-housing, while mission-driven, while good nonprofit, mission-driven purposes, we think that there's such a shortage of affordable housing, and as you mentioned, a lot of these older properties are in need of fixing up. But we think the proceeds need to stay on that property for housing needs.

Chairwoman WATERS. Thank you very much, Mr. Secretary.

I am going to recognize our ranking member for 5 minutes for questioning.

Mrs. BIGGERT. Thank you, Madam Chairwoman.

Mr. Garvin, what do you perceive to be the major challenges facing HUD in furthering the goal of preserving these existing 202 properties?

Mr. GARVIN. I think that along the line with what Commissioner Montgomery asked me to do when I first came to HUD is figure out ways to make the 202 program more attractive to the housing tax credit sponsor. There are a lot of excellent nonprofit developers out there that are already mixing 202s with tax credits. But as I'm sure many of them will bring to your attention right after I finish, there are a lot of issues that need to be worked out to make this program a little bit more seamless. If we could make it a more seamless program, then we could do a lot more, and more importantly, do it a lot faster.

Mrs. BIGGERT. What is HUD currently doing to address the need for elderly housing preservation?

Mr. GARVIN. As I mentioned before, we have a really good rapport with all recommendations from a group of stakeholders, many of which are here, that we are going through, and we proposed it in our 2008 budget. But the demonstration program didn't make it through the 2008 budget. It doesn't mean we're not continuing to do what we can do administratively to take a lot of these. I know we've talked about increased costs. We have done quite a few things to make it a smoother program.

Mrs. BIGGERT. Do you think that the bill that's been introduced will help to be able to move that forward?

Mr. GARVIN. Again, we haven't had the time to do a proper comprehensive assessment, but the bill does have very similar proposals to what was in the study group's recommendations.

Mrs. BIGGERT. Mr. Frigo, from my district, is going to testify.

Is this a concern that comes up all over the country as far as the aging properties have small, you know—

Mr. GARVIN. Efficiency?

Mrs. BIGGERT. —efficiency units, and, you know, people find that very hard to live in? Is this a problem across the country? And will the bill, as you know, will that help to address that issue and maybe solve that problem?

Mr. GARVIN. With or without the bill, we hear about the issue quite a bit. We don't hear from it in places like New York or something where efficiencies are still marketable, but we do have serious concerns. We see it all over the country. There will be 40 vacant efficiency units and the sponsor would like to refinance and rehab the building and make it 21 bedrooms. And we're firmly of the belief that 40 vacant units do not need to be subsidized. I'd rather be subsidizing 20 occupied units than 40 vacant units.

So yes, we're on the same exact page on that issue.

Mrs. BIGGERT. Well, with the buildings that are the older buildings to be revamped, restored, there's been a difference in those because of the date that they were built, so there aren't any rent subsidies. Is there going to be a change in that if these buildings are restored? Would that change, whether they would receive a rent subsidy in those buildings?

Mr. GARVIN. That wouldn't. We would have to seek new authority to come up with a rental program for those units.

Mrs. BIGGERT. Do you think that's a good idea, to match them up? I think one of the problems is if they cost more than a one-bedroom in a newer building, it seems unfair that people should be paying more.

Mr. GARVIN. Exactly.

Mrs. BIGGERT. All right. With that, I yield back.

Chairwoman WATERS. Thank you very much.

I would like to go straight to Mr. Mahoney so that he can have an opportunity to ask some questions of the Secretary.

And so, Mr. Mahoney, let me give you an opportunity to question our witness.

Mr. MAHONEY. Thank you for your courtesy, Madam Chairwoman.

Mr. Garvin, thank you for being here today. I appreciate it.

You know, in the written testimony that you provided the committee, I noted that HUD estimates that there are over 1 million senior renters experiencing worst case housing needs, and you went on to cite statistics from the Commission on Affordable Housing and health facility needs for seniors in the 21st Century that indicated that an additional 730,000 rent-assisted units will be needed by 2020.

You also indicated that HUD is researching ways of addressing the declining numbers of Section 202 units, all of which are included in H.R. 2930. My concern, and the main reason why I introduced the legislation, you know, is that it is taking way too long. You indicated that we began witnessing the decline in Section 202 housing in 1995, yet here we are in 2007, 12 years later, and we're still researching ways to reverse this dangerous trend.

And now you're saying that one of the things you just brought up here today is the fact that part of the issue is, you know, an increase in units increases the amount of rental assistance, so therefore that's going down. That indicates that there has to be a priority problem, too, because we're talking about a budget issue. We're talking about Mr. Frank saying that we could provide some ideas on how to make the program better. But at the end of the day, it's the Administration's responsibility to address the needs in terms of the budget and the funding and so on and so forth.

My question is, when are we going to start taking this seriously for our seniors? I mean, this is a situation where for every person who is in one of these homes, there are anywhere—in my district, 20 to 30 people waiting, and these are crises. I mean, these are people in crisis. This is somebody's grandmother who cannot afford to live. You said it yourself—living on $9,500 a year. When does this become a priority for this Administration to do something about this?

Now, why does a guy like me have to get involved in working with the committee to, you know, bring it to your attention? I mean, it's unbelievable to me that you came here, and this bill has been out now for 2 months, and you haven't done an assessment on it? Can you explain that? What's going on? What's happening with the priorities there?

Mr. GARVIN. It is definitely a priority of this Administration to address this. That's why we really need to find the ways to use the biggest producer of affordable housing, which is lowering the housing tax credit. That's why we put it in our budget. That's why we continue—even though it didn't pass in the 2008 budget markup—to do whatever we can administratively.

I give you my word; I have been at HUD for about a year-and-a-half. It has been my top priority the whole time I've been there, as it is the Commissioner's and the Secretary's.

Mr. MAHONEY. Well, I recognize that you're here, and you've taken on this responsibility because you're passionate about it. But, at the same time, you know, what's happening with the budget, and how successful are you getting the resources that you need from this Administration to do something about this problem?

Mr. GARVIN. Well, we want to make sure the resources we do get, budgetary resources, are used in their best way. We have issues right now of some of the 202. And let me preface this by saying that the overwhelming majority of the 202 sponsors are excellent, on-time producers. Unfortunately, we have a large amount of money that's in the pipeline, and we just don't feel fiscally responsible asking for more and more money while we have funds.

We have some developments that have been funded in 1999 that still aren't completed, and we needed to get that money worked out. And I think a lot of the changes—some of the reasons for the slowness was because of the bureaucratic red tape we were talking about earlier.

So we're dual-tracking both. We're trying to streamline our efforts as your bill does—recognizes it as well.

Mr. MAHONEY. But you recognize that HUD has been streamlining their efforts for what, 10 years?

Mr. GARVIN. I don't know if we've been streamlining for 10 years.

Mr. MAHONEY. I mean, it has been going on since the 1990's. When does it become critical? When does something happen in the Administration that makes people jump up and say, "We have to reverse this?" We know it's a problem.

Mr. GARVIN. We have jumped up and said we have to reverse it, in January of 2006, when Commissioner Montgomery charged us to get moving on this.

Chairwoman WATERS. Thank you very much, Mr. Mahoney.

I'd like to call on Mr. Sires now for questions, and following his questions, we have to break and go to the Floor.

We do not want to keep you, Secretary Garvin. At the end of that time, you may be dismissed.

Mr. GARVIN. Thank you.

Chairwoman WATERS. Mr. Sires?

Mr. SIRES. Well, Mr. Garvin, I guess you could say, "saved by the bell."

[Laughter]

Mr. SIRES. But I have to tell you, I have a combination of a statement and a question, and I could not agree more with my colleague. As a former mayor, I cannot tell you how hard it was trying to put a senior project together in dealing with HUD.

I think all the gray hairs that I had during my administration was dealing, trying to put together a project. It was impossible. You may say whatever you may here, but I lived it. I was in the trenches. I had the people in my office every day, and it is really a shame, in a country where the population is getting older, that our responsibility to take care of them sometimes is not looked upon as very important. I tell you that for seniors, the need is great. The need is great for seniors who are handicapped, and seniors who are blind.

We have to find a way to streamline the process. I did tax credits. Between trying to get the property, trying to deal with you, trying to get the finances, trying to get—it took me more than a year, and I don't know what we can do, and I'm hoping that this bill helps streamline the process, but when you make a statement that has been the reduction from a peak of creating 8,200 units to 4,500 units, that, to me, is very bothersome.

And to try to expedite this process, I think it should be in everybody's interest. You use the money that you have there. Why is it so difficult for municipalities to put together a project to build a senior citizen project? Because you know what happens? Many people just surrender. Many municipalities give up on the process because they feel that HUD doesn't care and they feel that it's too hard to put it together. And by the time you finish the project and I'll tell you my experience, your cost is 20 percent more, because construction goes up, property value goes up, so all I can say to you is that somehow we have to find a way to streamline the process and make it faster—put it on some sort of a fast track.

Because there is a list. My housing authority had a list of about 2,500 to 3,000 people, a waiting list. And I can tell you that more than half of those were seniors.

So I guess that's a statement, and it's like I said to you before, you probably were saved by the bell.

Do you have any comments about that?

Mr. GARVIN. I just want to reiterate that we do care, and the issue of capacity is something we recognize deeply. We do have a predevelopment fund out there to get municipalities on board, so we'll cover the cost for them to learn the program and do the predevelopment work on the deal. So, hopefully, that will add some of the local governments.

Mr. SIRES. Well, Mr. Garvin, when you came in, you said from the peak of 8,200 units to 4,500 units.

Mr. GARVIN. That's annual production, though. I hope you recognize that within that, we are still funding rental assistance at tens of thousands, if not hundreds of thousands, of dollars.

Mr. SIRES. You see, you bring a lot of memories. I hate to interrupt. For one of the things we had to do, and HUD gave us permission for, is to bond in the future so we could fix the units, because there was no money for units to be fixed.

So HUD gave the authorities permission to bond so they could fix up some of those units. That's also something you have to look at.

Chairwoman WATERS. Thank you very much.

The Chair notes that some members may have additional questions for this witness, which they may wish to submit in writing.

Without objection, the hearing record will remain open for 30 days for members to submit written questions and to place the responses in the record.

This panel is now dismissed, and we would like to get to the Floor for the vote. I think it's going to be about 20 or 25 minutes, and then we will return for the second panel. We thank you for your patience.

[Recess]

Chairwoman WATERS. The subcommittee will come to order, and we're going to call on our second panel.

Please come forward. Is Mr. David Lizarraga here?

Oh, there he is. This is our first witness, Mr. David Lizarraga, president and chief executive officer of TELACU, a friend that I've known for many, many years, who has done tremendous work, not only on behalf of seniors, but on behalf of poor people, working people, and housing and community programs. I'm very pleased to introduce Mr. Lizarraga, who has served as chairman, president, and chief executive officer of TELACU for nearly 4 decades.

With over $500 million in assets, TELACU operates the Nation's largest community development corporation and is the 44th largest Hispanic business in the entire United States. Under Mr. Lizarraga's leadership, TELACU has innovated in a wide range of areas, including its core approach of ensuring that its core for-profit businesses in the areas of financial services, real estate development, and construction themselves benefit the community as well as support TELACU's nonprofit entities.

In particular, TELACU has been a leader in leading the housing and social services needs of California's elderly, including under the 202 program. Indeed, TELACU developed and operated two excellent 202 projects in my area—TELACU Terrace and TELACU Senior Housing. Therefore, I know, Mr. Lizarraga, that you will make a valuable contribution today to this subcommittee hearing, and consideration of H.R. 2930. I certainly look forward to your testimony.

Also, we have Mr. Slemmer; a second witness will be Mr. Thomas Slemmer, chief executive officer of the National Church Residences.

And is Ms. Maloney here? I think she would like to introduce our next witness, Ms. Kondor.

Ms. Maloney? Ms. Maloney, would you like to introduce Ms. Kondor? No, is that Mr. Slemmer?

Mrs. MALONEY. Mr. Mahoney does.

Chairwoman WATERS. Oh, I'm sorry.

Mr. MAHONEY. That's okay.

Chairwoman WATERS. Go right ahead.

Mr. MAHONEY. I'm really excited about the fact that we have the executive director of Presbyterian Homes and Housing Foundation of Florida, Deje Kondor, with us. And I'm really very, very pleased, because there's a lot of talk about working with faith-based organizations and concerns about Democrats and our commitment to working with organizations like this.

And whether it be the Presbyterian Homes or the Catholic housing organizations over on the East Coast and Martin County, we have great organizations doing a wonderful job and we have great leadership. And I'm really pleased that Ms. Kondor is here from my district.

Chairwoman WATERS. Thank you very much.

Chairman Frank is not present, but I know that had he been here, he would like to have introduced Ms. Feingold. So, Ms. Feingold, thank you for being here. She's our fourth witness, and she's the president of the Jewish Community Housing for the Elderly. And Ranking Member Biggert, I know there's someone you would like to introduce, Mr. Frigo.

Mrs. BIGGERT. Thank you, Chairwoman Waters.

Yes, I am delighted to introduce Michael Frigo, and I mentioned him before, but he is the vice president of Mayslake Village, which is located in Westmont, in my district, the 13th Congressional District. And Mayslake is a nonprofit organization which operates a low-income housing project, with 620 apartments on a 40-acre campus. And he's managed this facility and during his tenure, has worked to complete six renovation projects at Mayslake, including projects with the help of HUD Section 202 program—replace 1960's buildings with new buildings that could better serve the needs of seniors at Mayslake. And they just recently opened a new facility in Will County in Plainfield, Cedar Lake.

Since 1992, he has been the vice president and he is a CPA, having worked at McGladry & Pullen as partner in charge of auditing and accounting services before coming to Mayslake. I'm happy to welcome him here.

Chairwoman WATERS. Thank you very much.

Our sixth witness will be Mr. Steve Protulis, president, Elderly Housing Development and Operations Corporation.

Our final witness will be Ms. Terry Allton, vice president of support services, National Church Residences.

Without objection, your written testimony will be made part of the record. You will now be recognized for a 5-minute summary of your testimony.

We'll start with Mr. Lizarraga of TELACU.

STATEMENT OF DAVID C. LIZARRAGA, PRESIDENT AND CEO, TELACU/MILLENNIUM, LLC

Mr. LIZARRAGA. Good morning, Chairwoman Waters, and thank you for your outstanding leadership over the years in every level of housing legislation, and many others as well. They have been very important to all our communities.

Ranking Member Biggert and other members of the committee, thank you so much for giving us the opportunity to speak to you today.

My name is David Lizarraga, and TELACU began developing senior housing in 1975. Today we own and operate Section 202 and tax credit-financed housing communities that serve thousands and thousands of low-income seniors and families in the greater Los Angeles area. The Section 202 program provides funding to address a particularly vulnerable group of seniors, those living on very low incomes and below 30 percent of the area median income level.

However, while the Section 202 program is a very good and important program, it is in need of certain improvements that will allow it to much more effectively serve senior Americans. In

TELACU's extensive experience in the 202 program over the years, we have found that the repeated underfunding of the Section 202 development awards, and operational subsidies, have made development more difficult to accomplish in recent years. The cumbersome process of working with HUD at both the local and headquarters level increases project delays by sending the developer through a very complicated process of underwriting.

Currently, we must go through layers and layers of approval, including repeated requests for waivers from obsolete program provisions. H.R. 2930 will allow more discretion at the field office level where HUD staff members are much more familiar with projects and local conditions that require a variation from HUD policies. TELACU, like most nonprofit developers, spends a great deal of time looking for additional or "gap" financing from other programs and local governments to make up for shortfalls for HUD funding. It is not unusual for an average TELACU-sponsored 202 project to require funding from at least four different sources to cover shortages in project funding.

May of those "gap" financing sources are awarded on a competitive basis and in funding rounds that rarely correspond with a Section 202 NOFA process. This means that TELACU's development team must prepare additional applications and wait for award announcements before, during and after the Section 202 application process. As delays increase and construction costs rise, we now find that the amount of "gap" financing we ultimately need often turns out to be far greater than anticipated, forcing us and our team to return to those entities that made initial commitments to a project to ask for more additional funding.

Many of the local governments we work with have expressed frustration that the Section 202 projects are beginning to feel like a "bait and switch," with the developer returning to the city and making greater demands on their decreasing pools of resources. We believe that the additional discretion at the local level, as provided for in H.R. 2930, will help to reduce delays and consequently the gap we must fill to make projects a reality.

It is a fact that nonprofit developers, HUD, and Congress must be more creative in using our resources to further our joint goal of providing more affordable housing. To this end, 2 years ago, TELACU made a proposal to HUD that would have allowed TELACU to refinance seven of our older Section 202 properties through a private funding source. This transaction would have generated approximately $800,000 annually in savings.

We proposed that after repaying HUD's debt, performing capital improvements on our senior housing, and increasing our building reserves, TELACU be allowed to create a revolving equity fund from its interest savings. That money would enable TELACU to leverage other financing to develop affordable homes for low-income, first-time home buyers. Home sales proceeds would have replenished the fund for new projects, and each year, this fund would have increased by another $800,000 generated by the interest savings from the 202 refinancing.

Despite the fact that our plan at that time was overwhelmingly supported at the local level as a highly-creative model for expanding housing resources, and was looked upon very favorably by Secretary Jackson, TELACU waited a year-and-a-half to have our request denied by HUD headquarters staff. We were informed that HUD did not want to approve the utilization of interest cost savings from 202 housing projects to benefit home ownership for low-income individuals, and given the recent events in the credit markets that will negatively impact millions of low income homeowners, we find this decision to have been very unfortunate.

While the refinancing provisions in H.R. 2930 may not allow TELACU savings from refinancing to be used as originally proposed, then TELACU would be able to now use 202 section refinancing proceeds in excess of our project capital repair to repair our housing, to reinvest it in our housing, and to address the funding gaps, our new senior housing projects, and to hire additional coordinators.

You know, we get about 1,000 applicants for 75 units every time we build the 75 units. We literally have to go to a baseball field and have a lottery, so that in some way we not discriminate as to who is selected. But that's the need that's out there. This added flexibility will allow housing providers to meet the needs of their various communities with clear, focused direction, as opposed to a vague, drawn-out process of submitting requests to HUD with no idea if they fall within permissible policy or not.

TELACU believes that H.R. 2930 will not only improve the ability of nonprofit organizations to develop new 202 properties, but that it will advance our collective goal of addressing the affordable housing shortage and the needs of senior Americans in an increasingly complex development environment. We must bring the 202 program into the 21st century with creativity, vision, and fiscal responsibility.

I would like to express my gratitude to Representative Mahoney—thank you very much for your very, very enlightened legislation that really addresses the need—Chairwoman Waters, and Ranking Member Biggert, and the members of the subcommittee present here today, for your leadership in making this possible.

Thank you very much.

[The prepared statement of Mr. Lizarraga can be found on page 79 of the appendix.]

Chairwoman WATERS. Thank you very much.

Mr. Slemmer.

STATEMENT OF THOMAS W. SLEMMER, BOARD CHAIR-ELECT, THE AMERICAN ASSOCIATION OF HOMES AND SERVICES FOR THE AGING

Mr. SLEMMER. Thank you, Chairwoman Waters, and Ranking Member Biggert. And Mr. Mahoney, thank you very much for introducing this legislation.

I am testifying this morning on behalf of the American Association of Homes and Services for the Aging. I am honored to be the chair-elect and serving on their board of trustees. We have 5700 members in the American Association of Homes and Services for the Aging, all not-for-profits, 70 percent faith-based. We are a big proponent of affordable housing for seniors. Today, we are serving about 2 million seniors, so I come before you supporting this legislation and thanking you for your leadership in addressing what we think is a really critical issue here for us.

I do serve as executive director for National Church Residences. We are one of the larger not-for-profit developers and operators of affordable senior housing in the country. We have two facilities in your district, Mr. Mahoney—one in Sebring, I believe, and Grove City—and also one in St. Louis, Roosevelt Apartments. And what we're finding is an incredible need to make some changes in the 202 program because of the aging portfolio. We've talked about the demand here today, lots and lots of demand. We see that not only as a demand for housing, but also for services.

Our organization operates healthcare facilities, hospice, service coordination, assisted living, and nursing facilities. We have homeless housing, and what we see is that housing is really a solution of a lot of problems that are out there facing our aging consumers.

So thank you so much for your support of this sorely needed legislation.

I just want to quickly give you an overview of what this legislation does. One of the things it addresses is that we believe we're losing affordable housing at a rate that is alarming. We think maybe we're losing twice as fast as we're building it—market rate forces in the areas where these communities are located, where there's a lot of interest in market rate housing and also aging buildings. And H.R. 2930 provides an opportunity for you, I think, as well as our providers, to develop a financially-sound development and preserve this housing.

I testified before a subcommittee like this about 5 years ago, and I said the 202 program was one of the best programs that the government ever came up with. I could not tell you that today. It's not the case, and it's primarily because of the complexity of the transactions that made development and preservation of these projects under the 202 program kind of a Herculean effort.

The program needs an overhaul, and H.R. 2930 does that. The key provision that we're looking at here is delegated processing. We're suggesting that this legislation really addresses a major problem with HUD processing by shifting the processing of HUD funds over to State housing finance agencies and other State development agencies. The reason for that is that the tax credit program now accounts for the biggest development effort under affordable housing; and the 202 program oftentimes, the tail-wagging of the dog, where we have multiple sources of financing and yet the HUD regulations are getting in the way of sound development. In more and more deals, Section 202 funding is fully matched or even exceeded by other sources.

Ideally, agencies that are administering HOME funds now and CDBG are maybe better prepared to serve as an allocating agency for the Section 202 grants. It's particularly important if you're going to do any kind of mixed financing with tax credits that we have kind of a simultaneous processing of 202 funds as well as other State and local and tax credit funding.

HUD staff admit to us that they don't understand tax credits and the complexities that go along with that. They don't really have the time or the resources to learn it, and HUD rules are not well-suited to tax credit transactions.

The other problem that this legislation addresses, the development cost limits, let's just say very clearly, they don't work. Everybody knows they don't work. The pipeline problem often is caused by the underfunding of development costs as well as PRAC allocations.

That's the reason the pipeline is so long, because it requires sponsors to go out looking for funding and trying to pull together multiple sources of funding to make the program work. I don't think 202 was intended to be that way when it was originated and certainly really requires a major problem to be addressed today.

I would also say that this legislation addresses preservation. Preserving this housing stock is really important. In our written testimony, we talk about some of the examples of this. The older 202 housing stock is really in need of preservation, and H.R. 2930 goes a long way to address this, primarily by coming up with a preservation voucher for 202 program sponsors that would allow lower income residents to stay in these buildings as we renovate them to the tax credit program.

We discuss a lot more in our written testimony. I can't go into all of it, but I would be glad to answer any questions about it. I thank you, Chairwoman Waters, and also Congressman Mahoney, for your leadership in sponsoring this legislation is sorely needed.

[The prepared statement of Mr. Slemmer can be found on page 97 of the appendix.]

Chairwoman WATERS. Thank you very much.

Ms. Kondor?

STATEMENT OF DEJE KONDOR, EXECUTIVE DIRECTOR, PRESBYTERIAN HOMES AND HOUSING FOUNDATION OF FLORIDA, INC.

Ms. KONDOR. Good morning, Chairwoman Waters, Ranking Member Biggert, and distinguished members of the committee. And my special thanks to Congressman Mahoney.

My name is Deje Kondor, and I am the executive director of Presbyterian Homes and Housing Foundation of Florida. I am honored to speak to you today as a member of FAHSA, the Florida affiliate of AAHSA, the American Association of Homes and Services for the Aging.

We are a faith-based nonprofit organization dedicated to serving the housing needs of low-income seniors for over 40 years on the west coast of Florida. We receive our sponsorship through the Presbyterian Church, U.S.A., specifically two presbyteries, the presbytery of Tampa Bay and Peace River presbyteries.

The Presbyterian Church does not provide us with any funding whatsoever. With over 3,000 units in 19 different communities in the State, we are the largest nonprofit sponsor of HUD housing in Florida. Of our 19 communities, 9 of them are 202s. H.R. 2930 can provide us with the tools to preserve our senior communities and build new ones.

I want to talk first about our old 202s. We have four of those, totaling 816 units, but in those 816 units, only 43 of those units benefit from project-based, Section 8 rental assistance.

The other very-low-income residents in those buildings would not be able to afford to stay there if we did substantial rehabilitation to the buildings, because the rent would have to go up.

If H.R. 2930 were to become law, those very-low-income seniors would receive project-based rental assistance. We had, 2 years ago, received two low-interest, 1 percent, 15-year loans from the State of Florida to do elevator rehab at two of our old 202s. This past year, we applied and also were granted another 1 percent, 15-year loan at our community for over $500,000 from the State of Florida.

We were told by HUD that we could not accept this loan, because the only moneys that we had to repay the loan were through operational funds derived from tenant rent. The HUD staff in Jacksonville told us that the sponsor could pay the mortgage payments on this low-interest loan, but not the community itself. So therefore, we had to tell the State of Florida that we could not accept the 500,000, 1 percent loan.

If this legislation were enacted, we could refinance the mortgages and accomplish the substantial rehabilitation that is necessary in these old 202s instead of a piecemeal approach.

Refinancing. We refinanced two of our three 202s. It was an extremely laborious and complicated process and took much longer than projected. The direction provided by H.R. 2930 would make refinancing more direct and a lot easier.

Our new development. We have experienced what every Section 202 PRAC sponsor has experienced: insufficient construction dollars; insufficient initial budgets; and long time delays. Our newest property, which is Trinity Apartments of Lakeland, was opened in December of this past year. It's a 70-unit, 5-story building with 73 seniors currently living there.

Before the building was even begun, the concrete costs were $359,000 more than originally budgeted. In addition to that, we felt that there was good cause to have an emergency generator at the property. It's five stories. It's located in Lakeland. It was hard hit in 2004 by Hurricane Charlie, Francis, and Jean. They had power outages for over 10 days.

We were refused $30,000 for an emergency generator in a 5-story, senior high-rise. We feel that local and State housing authorities could be more realistic at assessing what the needs of those communities are.

I want to talk briefly about the obligations that HUD has to provide rent increases to cover operating costs, which of course include insurance. Our organization from 2004, we spent a little under $700,000 in insurance premiums. Our October 1, 2006, bill was $1.25 million. HUD has repeatedly refused to grant us rent increases to cover these deficits in funding to pay our insurance premiums.

We are hopeful that Congress will demonstrate some direction and national policy to support affordable senior housing. We believe that H.R. 2930 offers a ray of hope for assuring the future of all Section 202 senior communities.

Thank you for considering this legislation, and I encourage you to support H.R. 2930.

[The prepared statement of Ms. Kondor can be found on page 72 of the appendix.]

Chairwoman WATERS. Thank you very much.
Ms. Feingold?

STATEMENT OF ELLEN FEINGOLD, PRESIDENT, JEWISH COMMUNITY HOUSING FOR THE ELDERLY, BOSTON, MASSACHUSETTS

Ms. FEINGOLD. Thank you very much for inviting me to appear before you, Chairwoman Waters and Ranking Member Biggert, and all our heartfelt thanks to Congressman Mahoney for his work on bringing this bill forward.

I am Ellen Feingold, the president of Jewish Community Housing for the Elderly in Massachusetts. And in 2001 and 2002, I was co-chair of the congressionally mandated Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century that really set the context for this legislation, which JCHE strongly supports.

We have developed and operate over 1,050 apartments for low-income elderly in Boston and Newton, Massachusetts, and are currently developing another 150 units in Framingham. We have 1,300 people on our waiting list. We've also refinanced and are close to the end of renovating one of our developments, an occupied building that opened in 1973 with 256 apartments.

For years, it's been our mission to enable our frail, low-income, elderly residents to live out their lives in the JCHE homes without having to move to a higher care facility. We've been exceptionally successful; only 2 to 3 percent of our residents move to a nursing home. The average age in our buildings is over 80; the average income is under $9,000 a year, and on average, people live in our buildings over 11 years. That is what a 202 program can do.

We are very grateful to the committee for drafting this legislation. It covers a lot of issues we wrestle with. Many of us on this panel are faith-based, non-sectarian, large and small, dedicated to providing decent and supportive housing to elderly people with low incomes. But our job has gotten harder and harder over the past decade, to the point that where our public policy and programs are intended to produce this kind of housing, in practice the obstacles tell a different story.

When we started, we built our first 202 development with 243 apartments in 1971 with one 202 mortgage that paid every penny we needed to complete the building, which is still 100 percent occupied. Today, we are in the process of developing a 150-unit, mixed-income building with 50 Section 202 units, 40 tax credit units, and 60 market units. But that's not all. We'll have a State housing finance agency mortgage, grants from the State's Priority Development Fund and Affordable Housing Trust Fund, two other State housing grants, grants from foundations that support "green" buildings, a sponsored contribution of the developers fee, plus $5 million we've had to raise from foundations and other donors to make the pro forma work; nine sources with all of the inconsistencies and timetables, etc.

One little contradiction, an example. The HUD 202 maximum unit size is smaller than the tax credit minimum unit size. Both agencies look at each other and say, we're right. But the major result is pipeline delays that have caused an inflation of cost for this project of 50 percent over the past 2½ years. You know, if HUD can't fully finance the low-income housing that is its mandate, it has to help mixed financing work. And I have a lot of respect for Secretary Garvin, but the fact of the matter is they have not helped mixed financing work.

Our organization, helped by Congressman Frank, whom we salute, and Congressman Capuano, put the mixed income financing on the books. That was 6 years ago. HUD has not helped make it work. It is counterproductive, wastefully expensive, and unfair to make organizations like us resolve these conflicts. H.R. 2930 addresses many of the problems we faced. HUD has historically taken the position that nonprofits are incompetent to manage their own money.

As the committee well knows, the developers over the years of 202 housing have had the fewest problems of any government-supported housing. Yet HUD's effort to keep the money under control has reached an extreme where organizations like ours find ourselves with our surplus proceeds, which are investor contributions, now locked up in a Section 8 set-aside for future Section 8 needs.

In other words, investors in a tax credit program designed to create new housing, more housing, that money is replacing money that HUD should be spending on Section 8. My written testimony gives you a blow-by-blow description of the woeful process that we went through to get to this point, but we were not even permitted to use the funds for cost overruns in the rehabilitation and for hiring additional support staff to assist tenants in their 80's and 90's to pack their belongings, cover their furniture, and leave their apartments at 8 a.m. each day while the construction was in process. Why is that not an appropriate use of investor proceeds?

One other issue I would just like to raise is that many of us around the table who use the 202 program have also used other Federal and State housing finance agency programs to develop housing and run it as if it were a 202. All of our buildings are funded under five different Federal and State programs, and all utilize Section 8 subsidies for the rents.

I want to thank you again for having us here. It's a pleasure.

[The prepared statement of Ms. Feingold can be found on page 46 of the appendix.]

Chairwoman WATERS. Thank you very much.

Mr. Frigo?

STATEMENT OF MICHAEL FRIGO, VICE PRESIDENT, MAYSLAKE VILLAGE, WESTMONT, ILLINOIS

Mr. FRIGO. Chairwoman Waters, Ranking Member Biggert, and the entire committee and staff, I'd like to thank you for giving me the opportunity today to speak to you regarding this very important matter of senior housing.

My name is Mike Frigo, and I'm the vice president of Mayslake Village, which is located in Westmont, Illinois, approximately 15 miles west of downtown Chicago. Mayslake Village has been a partner with HUD since 1960. We currently have five different HUD-sponsored buildings with 622 apartments on our campus. Our oldest building goes back to 1971. In 1971, the subsidy on this building was a 3 percent mortgage with a 50-year amortization and no rent assistance.

The main reason I am here today is to discuss H.R. 2930, which speaks of some very important, exciting amendments to the HUD Section 202 program. All of the proposed items mentioned in this amendment make a great deal of sense and will allow us to preserve our oldest project, which is in deep financial trouble. This oldest project is known as the Center Building. It is functionally obsolete. It has 100 efficiency apartments that are no longer rentable. These are the only efficiencies among the 622 apartments on the campus. This building also has 50 one-bedroom apartments, for a grand total of 150 apartments in the Center Building.

The efficiency apartment's living space is only 300 square feet, compared to the one-bedroom apartments, that are 540 square feet in size or more on our campus. We have no demand for the efficiency apartments, and there is no waiting list for them, either. Currently, 85 of the 100 efficiency apartments are sitting empty, and as our older residents vacate these 15 units, we expect that they, too, will become empty.

Our problem at Mayslake Village in renting these efficiency apartments is so bad that 2 years ago, after Hurricane Katrina hit New Orleans, we had five senior citizens who had evacuated from New Orleans come to Mayslake Village seeking shelter. Of these five senior citizens, only two would accept the efficiency apartment. The other three informed me that they would rather squeeze in and stay with their families than move into a 300-square-foot efficiency apartment.

Today, only one of those two people still lives at Mayslake, as the other person moved out a few months after moving into our facility, stating to me that the small space was driving her crazy. Since we have such a large number of empty apartments in this building, we have experienced significant financial losses over the last 5 years, totalling $1.58 million. We have used our own funds to cover these losses so the building could remain solvent. However, we are running out of funds. For the last year ended June 30, 2007, we have put $400,000 of our own money into this building to keep it afloat.

We do have a practical and efficient plan prepared to rehabilitate this building. It calls for taking two efficiency apartments and combining them into a one-bedroom apartment, which would measure approximately 600 square feet. Ultimately, this would result in creating 50 one-bedroom apartments, which I know we would be able to rent immediately. In addition to that, we would also need to modernize the existing 50 one-bedroom apartments, because they have the original bathrooms and kitchens from 1971.

We have been working on this rehabilitation project for the past 3 years with our architects, engineers, and consultants, and they inform me that if we were to start this construction today, it would cost approximately $10 million. In contrast, I have also been told by our experts that if we were to construct a new building with 100 one-bedroom apartments, it would cost approximately $15 million. Thus, by rehabilitating this building, we would save approximately $5 million.

H.R. 2930 would create a senior preservation rental assistance contract which would allow our property to be refinanced and rehabilitated. Additionally, this amendment would give our residents a rental assistance program, which we have never had for this building since its inception in 1971. Both the funding to rehabilitate and a rental assistance program would enable us to keep this building going for another 40 years.

In closing, I would like to again thank you for giving me this opportunity to speak to you about Mayslake Village and the importance of passing H.R. 2930. These changes will benefit all of our low-income seniors in the United States.

I thank you.

[The prepared statement of Mr. Frigo can be found on page 65 of the appendix.]

Chairwoman WATERS. Thank you very much.

Mr. Protulis?

STATEMENT OF STEVE PROTULIS, EXECUTIVE DIRECTOR, ELDERLY HOUSING DEVELOPMENT AND OPERATIONS CORPORATION (EHDOC)

Mr. PROTULIS. Good morning, Chairwoman Waters.

First of all, let me just thank you for giving us the opportunity to speak to such wonderful persons as yourself and the ranking member of the minority.

Let me just say to you the following thing: I am not going to read my statement, because I am going to speak from my heart.

The organization I represented many years ago in Washington was the National Council of Senior Citizens. And about 10 years ago, I became the CEO of a company that created a lot of 202s through participation from the Congress. I learned a new experience, and I learned the unbelievable crisis that we have in this country. I got a little bit upset when after spending 18 months after Senator Sarbanes appointed me to the commission to review affordable housing for seniors.

We spent unbelievable energy between Republicans and Democrats, appointed by both sides, from this book, and what happened to this book remains on the shelves. No one ever bothered to open it up and study the hard work of citizens like ourselves, to learn and to help each other. And we had several debates; our co-chair can tell you. We spent hours and hours, debate on both sides of both groups, trying to find a common ground.

One of the things that we recommended was that 40,000 units were needed every year to even come close to the need of Section 202, the best-running program in this country. There's never been a single scandal ever in Section 202 at any point of mismanagement by anyone in this country.

So what happened now? We get less than 4,000 units for the whole country, and properties in 14 States I have, like in the State of Florida, I have over 1,000 people in each property waiting.

And let me just tell you what happened to me yesterday. I flew in from Cleveland. I spent 5 years to finish a project of 40 units in the most devastated part of Cleveland. And I could not have enough money from the Federal Government to finish the 202, and I was lucky enough, because of my background with the labor unions, to get the City of Cleveland to donate $257,000 worth of project and the State of Ohio to donate $600,000 so we can make the ends meet.

So yesterday we cut the ribbon. We have 40 units in there. We have 40 seniors, happy as hell, for living in dignity in their olden days. And what happened to us? We have to have a part-time manager, because there's not enough resource in the program to have a full-time manager, a part-time maintenance person. And guess what? No money for the service coordinator. So we, in our organization, subsidize those people so they can serve those seniors after the money and the project was given by the government. It doesn't make sense.

The way we do it now is we have so little money for so few applications to be approved, that the government cuts the units to a lower level. Everybody at this table can tell you, if you get less than 60 units, you are going to lose money the first 5 years. It is impossible to continue saying that we support Section 202, and we tighten everything. And then we deal with a bureaucracy of the HUD government, where in my opinion, one of the things you're going to find is a lot of people have left HUD and retired.

And the brains and the memories of the efforts that were made, do you realize that 5 years ago, they cancelled the library in HUD so there's no history of things that can be asked for people that are experts of the government to help people like ourselves?

I can tell you. I can go on or not. I know one thing: you give me 5 minutes of my life to come and tell you, I can spend 5 hours, and the rest of us can do the same. It's about time.

I am so pleased to introduce this legislation and I promise you not only that, but if you look behind me, when I was testifying as a member, I always bring seniors. The seniors behind me come from Council House, and they have come up here and demonstrated and testified many times about many issues before, and are ready to go on the streets and do what it takes to make sure that we take care of the seniors' indignity and the government's sponsor.

You know, I don't know anything about tax-graded, and I had to learn about tax-graded, because what has happened from HUD? They're pushing more tax-graded, because that seems to be the direction they want to go, and I couldn't believe when the Secretary of HUD said one day when he testified that that's the direction we should go in housing.

I don't believe that's the direction we should go. We can use the entrepreneurs. We can use the tax-graded, but we should not abandon a 202 Section. It's the best program ever created in this country.

Thank you very much. I appreciate that.

[The prepared statement of Mr. Protulis can be found on page 86 of the appendix.]

Chairwoman WATERS. Thank you. Thank you very much.

Mr. Allton?

STATEMENT OF TERRY ALLTON, VICE PRESIDENT OF SUPPORT SERVICES, NATIONAL CHURCH RESIDENCES

Good morning, Chairwoman Waters, Ranking Member Biggert, and other members of the committee. Thank you very much for inviting us here today.

My name is Terry Allton, and I am vice president of support services at National Church Residences. That means that I have the responsibility of making sure that our 160 service coordinators that we have in 28 States across the Nation have adequate tools and resources so that they can go and help the seniors who live in our buildings.

My primary job is working with service coordinators, and so that's what I want to take a minute to talk to you about. The reason we're so excited about this particular legislation is it's going to provide and open up a revenue stream of funding for service coordination that doesn't currently exist.

Congress provided appropriations for HUD service coordinator grants in Section 202s; however, HUD refused to allow PRACs to be eligible for the service coordinator grants. So there is very little cash and very little ability to finance service coordinators in those PRAC Section 202 communities, which is very challenging for us. And I wanted to make sure that you understood how important service coordination is. And the best way for me to tell you that is to share a story.

Marsha Powell, who is a service coordinator in Clinton, North Carolina, shared a story with me about a resident who came to our building. This gentleman, an elderly gentleman, lived in a tobacco barn. He took a bath in a stream. That's where he got his drinking water. He ate meals at a gas station where the local gas station owner would provide him food and let him use the rest room. The gas station owner became very concerned about him. It was going to get cold. Winter was coming, and he happened to hear about a property down the street that was for low-income elderly, and the gas station owner came down and got an application for the gentleman. He was eligible to move in. We were very fortunate to have a vacancy, so he was able to take that. Now, that's not where the story ends. This gentleman had nothing. He had no furniture. He had no clothes. He has no food. He has no forks, knives, utensils. And the service coordinator (this is where they're so important and where they come into play) was able to get donations from local churches. She brought in different agencies, different volunteer programs, and was able to provide this gentleman with a furnished apartment with clothes, food, pantry. And that's why this program is so important.

We do a great job providing the housing, but if you are our average resident, aged 79, your average income is a little bit more than Mr. Garvin said. It's around $10,018 a year. And 40 percent of the residents who live in our building are frail, so they don't have a lot coming in. So the housing is the one big piece, but the second big piece is how are they going to continue to live and not have to choose between food, rent, and prescription drugs.

And in our organization, we found that it's very important to make sure that if we're going to take that money from the Federal Government, we need to show that we have positive outcomes. And we know that when a resident works with one of our service coordinators, 91 percent of the time, those residents are able to age in place. It is excruciatingly important that they do not have to go to nursing homes unnecessarily, and that they do not have to go to the hospital unnecessarily. We are able to take care of them in their home where they want to live, and in many cases, our residents live in our buildings for 20 or 25 years.

The other thing that is very important for us to know is that when a resident works with a service coordinator, they're able to save that resident on average $279 a month in expenses. And if you remember, I just said their average annual income is $10,000. That's a third of their annual income. That is huge for them, and that's why residents will say when you go and talk to them about their property they're very blessed and very thankful to have that unit that they know they're able to live in. But they are even more grateful that they have the service coordinator, because it allows them to live in a safe place, but then also have food, prescription drugs, clothing, furniture, and all those other things that are excruciatingly important.

So I thank you very much for allowing this bill to be presented. We are strongly supportive of it. We hope that we continue to find more avenues to fund service coordination and affordable housing, because housing with services is going to be able to have the potential to save Medicare and Medicaid hundreds of thousands, if not millions of dollars if we can really invest in that type of program.

So thank you very much for the time.

[The prepared statement of Ms. Allton can be found on page 39 of the appendix.]

Chairwoman WATERS. Thank you very much.

Let me thank all of you for the services that you are providing, the leadership that you are providing, and for being here today to help us understand better what we can do to be of assistance to you as you provide these housing opportunities for our seniors.

Let me start with, I think, Mr. David Lizarraga, because I want to make sure I understand. I personally am interested in flexibility. I think that in order to be creative, you need flexibility.

You have described in so many ways how some of the rules and regulations of HUD just do not allow you to be able to do the best job. I think I'm interested in the refinancing aspect of all of this, and I believe that your ability to refinance perhaps could go a long way toward helping to rehab and revitalize these projects. And I want to make sure that we do everything that we can to do that.

But in addition to revitalization, if you had the flexibility to use funds from the refinancing efforts, what are the other kinds of things you would do with that? Starting with Mr. David Lizarraga.

Mr. LIZARRAGA. Thank you, Madam Chairwoman.

Well, first of all, we would have to utilize those sources to meet the major need. That major need is making sure that the senior housing stock that we have built in the last 30 years is still meeting all the standards and needs that HUD requires.

Chairwoman WATERS. Okay.

Mr. LIZARRAGA. And so that would be the first priority. The second priority we use would be you use some of those resources for additional services for those seniors who so badly need the supportive services. In any event, you know, as I indicated, the model that we presented 3 years ago, and you've heard the message, that was then and this is now. Right?

Chairwoman WATERS. Yes, Mr. Frank says it all the time.

Mr. LIZARRAGA. Yes. That was a concept that met the approval of the staff at HUD at every level. And at the end they finally said, you know what? We don't like the idea, because we shouldn't be leveraging dollars for other than senior housing.

That's okay with us. I saw at the need at that time that maybe there would be a more varied response to the utilization of those dollars, however, the fact is that that equity is lying there, sitting there, providing no service to anybody. And that money can be leveraged with additional dollars to meet the tremendous need. And it's revenue-neutral. It doesn't cost the government one single dollar more. Okay?

So what would we be doing? We'd be accessing capital and leveraging assets on the properties. We would be accessing lower rates. Okay?

In addition to that, we would be raising the cap on supportive services. All those are the things that seniors need, and it's just lying there dormant. In addition to refining, I think, the outdated legislation that's there and rules and regulations that are there, to streamline the process. You have heard testimony after testimony after testimony about how we need to be gatherers.

You know, the HUD dollars simply do not meet that need, so we have to go to 20 percent set-aside redevelopment dollars. We have to go to other sources of funding, like in the County of Los Angeles, as you know, in the City of Los Angeles, we use industry dollars. Other cities that don't want to use their 20 percent set-aside dollars for any type of senior housing or low-income housing, grant it to the county so that they can deliver it in other areas other than themselves.

So that's what we have to do, and this would be another way of leveraging dollars that in other words would not be utilized.

Chairwoman WATERS. Thank you so much.

I wanted to ask, I think it is Mr. Frigo. You described these efficiencies that you would simply like to combine two and get 600 feet of space. You have the plans. You know what you need to do, and I know that you need to have resources to do it with. You are continuing with the plans. Does this bill help you to be able to do that and to make good sense out of it? The idea that those properties are sitting vacant just tears me apart.

Mr. FRIGO. Yes, Chairwoman Waters, it does. We have been meeting with HUD, and they basically have said that you can look to pay off the mortgage and go find some other financing. And we've looked for other financing through the housing development authority, but that would raise the rents, as one of my other colleagues said, "considerably," so it would no longer be affordable.

So this bill would greatly help us because it would allow us to refinance and then allow us to take those efficiencies and convert them.

As I mentioned in my testimony, as soon as we convert them to one-bedrooms, they would be rented.

Chairwoman WATERS. Wow, that's great.

Mr. LIZARRAGA. So that would be very helpful.

Chairwoman WATERS. Thank you very, very much.

I think, Mr. Slemmer, you had your hand up. You wanted to share something with us?

Mr. SLEMMER. Well, I just wanted to support the other testimony, as HUD already has the discretion, we believe, to allow excess funds to be put in a trust fund. There are examples that happened around the country where HUD could put restrictions on it for use for affordable housing development or land acquisition for affordable housing development to have sign-off control.

So it's not like the money is going to be squandered at all. In fact, it's a waste of money, we believe. Transactions we did in California where you have excess funds available, HUD requires you to just put it in reserve for a property that doesn't need it. So it really is kind of ridiculous, and we think this legislation will solve that problem.

Chairwoman WATERS. That's excellent. Thank you very much.

I'm going to recognize Ranking Member Biggert for questions.

Mrs. BIGGERT. Thank you.

Mr. Slemmer, you said that there was going to be a need for an additional 730,000 units by 2020. The program has been flat-funded, although there was a cut by the Administration and then the appropriations authorization has going up to being flat-funded from 2007 to 2008 in the appropriations bill.

What role can the program play to meet the need then, the 202 program?

Mr. FRIGO. Thank you very much.

The program, I think, provides a vital piece of affordable housing spectrum in that it really serves very-low-income seniors with services in that housing. There are other programs. There are voucher programs that you are funding, as well as the tax credit program. But we think this legislation allows you to leverage the 202 funding so they can really provide more housing than it's producing now and also provide more services.

Right now there are so many bottlenecks that prevent this program from being efficiently operated that we think it can be used and the money can be added to this to really provide a very significant piece of that 730,000 units that are going to be needed.

Mrs. BIGGERT. Thank you.

And Mr. Frigo, you know, I've been to see these efficiencies, and they really are small. But the building itself seems to be in pretty good shape and not quite as nice as the new facilities that you built recently. So, do you think it's more economical to refurbish those units rather than to start over again?

Mr. FRIGO. Yes, Congresswoman. We actually had our engineers look at the building and they came back and they said, you do not want to waste the money to tear this building down. It lends itself very nicely for rehabilitation, and it would be a crime to tear the building down because it is structurally sound.

Mrs. BIGGERT. Is there any rule or regulation? It just seems to come to mind that if you refurbish, you have to provide the same number of units, like a one-for-one unit?

Mr. FRIGO. There is.

Mrs. BIGGERT. And is that the problem that you have?

Mr. FRIGO. That's one of our problems. So in our case, where we have 100 efficiency apartments and we convert them into 50 one-bedrooms, we would have to find 50 units to replace the 50 that disappeared with the conversion. And when I first heard that rule, I thought it was a joke. And when no one was smiling from the other side from HUD, I said, so how do you do this?

It was analogous to me of the Wizard of Oz, where they say, go find the witch's broom. I thought, how do you do this? So we've been trying to work that through, too, but that is a very difficult requirement to meet, for obvious reasons.

Mrs. BIGGERT. So do you think this bill that's been introduced will alleviate that?

Mr. FRIGO. It would greatly assist us in what we're trying to do, absolutely.

Mrs. BIGGERT. But what does it do for the one-for-one. Does it change the regulation? Is it a regulation?

Mr. FRIGO. My understanding that it makes it easier to take those efficiencies and convert them into one-bedrooms. So I don't know the specifics of all of it, and maybe somebody in the room does. But my understanding is that it would eliminate that road-block of the one for one replacement, is my understanding.

Mrs. BIGGERT. What we've seen thus far, it says that it's going to clarify that the reconfiguration of efficiencies to one-bedroom apartments is permissible where projects are struggling with vacancies and obsolete units. So it sounds like it, but I'm going to have to check out the language, and maybe Mr. Mahoney knows a little bit more about that.

Mr. SLEMMER. I don't believe it's in the statute now. I think this basically allows HUD not to require that one-for-one provision, so I think it directly deals with this and would solve the problem.

Mrs. BIGGERT. Thank you. Would it also enable you to have the rent assistance so that it matches what the other buildings are?

Mr. FRIGO. The rent assistance would be invaluable, because currently the rent in that building is about $400 a unit, and it's not based on the individual's income. So we often have residents who come to us who want the existing one-bedrooms in that building, and because of their incomes, the rent would be in excess of 30 percent.

So we're fortunate enough to be able to put them in other buildings, but the rent assistance would be the other wonderful portion of that, changing the bill to allow us to offer that to the residents.

Mrs. BIGGERT. So in some cases the efficiency could cost more than a one-bedroom.

Mr. FRIGO. Absolutely, absolutely. And again, when you try to explain this to an elderly person, they look at you like you have three heads. And they say, "Well, how can that be?" And I said it's a HUD rule. That's why we're fortunate enough with the other buildings on our campus to say, well, let's not have you move into the Center Building. Perhaps you could move into one of our other buildings where there is the rent assistance.

Mrs. BIGGERT. Do you have waiting lists for the other buildings?

Mr. FRIGO. Yes, we get five to ten phone calls a day, and like the rest of my colleagues here, we have a wait list of over a couple hundred. And we stop it and cap it off; otherwise, we would be up into the thousands.

Mrs. BIGGERT. All right. Mr. Protulis, where do these people go? I mean, what do they do until they get off the wait list?

Mr. PROTULIS. I'd like to, first of all, wish that you could come to one of our properties and see their faces when they call us after a couple of weeks and find out their name moved up in the list. And I'd like you to see also in South Beach, in one of the most wonderful areas, most expensive real estate, we have two gorgeous properties where our poor seniors live, where they're among the rich and famous. And I want you to see sometimes in the evening when a senior brings their meal from the room and they feed the homeless people who sleep between cars.

I mean, that's the real world where we live every day. And I hope that you don't take my passion as who is a lunatic, but as an American who fought in Vietnam, and believes in the strong America that we have.

To your question earlier, what this bill does to the increase of the need, the answer is that it doesn't do anything. We are trying to find resources to maintain what we have today, because in the study we have in our commission, 33 percent of the stock that we have on 202s are being opted out.

In many cases, a lot of people don't even have the opportunity to learn what we know in this organization, because we have multi-properties. They are single individuals. They have work from a church or from a group. They are actually starving to find ways, and there is no resolve from anyone to help that hundred units.

So where do the seniors go? I tell you where they go. They go to their families. They go to shelters, like in some cases cities provide them. And in most cases, they are individuals. They actually live in multi-couples and sleeping two or three of them at a time.

I promise you that if you see some of the seniors, when they take that first step to a brand new room, you will never forget their faces, because it's almost like a new day for them. And remember, some of us have been in this business. We have an age population between 79 to 82 years old. And as the fastest-growing age population, and we have the baby boomers coming, so.

Mrs. BIGGERT. Well, thank you very much for your passion.

Thank you. I yield back.

Chairwoman WATERS. Thank you so very much.

Mr. Clay?

Mr. CLAY. Thank you, Madam Chairwoman, and let me thank you for conducting this hearing as well as thank my colleague from Florida, Mr. Mahoney, for the introduction of this bill.

I'd like to start the questioning with Mr. Slemmer, who has a property in the City of St. Louis you mentioned, Roosevelt Apartments, and Roosevelt happens to be across the street from my district office. A wonderful facility, I notice that the residents appreciate living there.

I heard one witness say that it's more cost-effective to renovate an older building. Have you found that to be the case, that it's more cost-effective to renovate than to build new?

Mr. SLEMMER. Right. It's considerably less expensive. We average, I think, about $70,000 a unit hard cost in 202s. It's a lot more in other parts of the country, Los Angeles, I'm sure. But the renovations are coming in at $20- to $30,000 a unit, and many of these older properties for $20- to $30,000 a unit, you can get another 30 years of life, so it's significantly less expensive.

Mr. CLAY. I raise the issue, because in St. Louis, we have a troubled property for aging seniors called Council Towers, built in the mid-1960's. It is now roach-infested, rodent-infested, and has broken elevators. And what is HUD's initial reaction when you bring this to their attention, that these are problem properties? What has been your experience with HUD?

Mr. SLEMMER. Well, it varies across the country. Some HUD offices are better than others. But the primary problem we have with HUD is that they are kind of trapped by their own set of regulations. So we have a property like you mentioned in Sandusky, Ohio, and it's a property that was sponsored by the Kiwanis Club. It's built back in the late 1960's, and we have several problems that arise.

Will there be existing HUD debt on that property that has to be forgiven or somehow subordinated? That's a big problem for HUD. Oftentimes, you reconfigure units. That's a big problem for HUD. So you get trapped in the HUD regulations oftentimes, and trying to combine the tax credit timing cycles with HUD ability to make approvals is really a serious problem.

Secretary Garvin talked about HUD being interested in preservation. I think they are. They're talking about it. I think they need an ombudsman or somebody that really expedites this process, because preserving affordable housing is complicated. It's tricky. And HUD regulations need to be interpreted, and they don't have anybody on their staff that knows how to do that, really.

Mr. CLAY. Thank you for that response.

Ms. Feingold, HUD has said that there is a 30 percent increase in the 2008 Section 202 request. Is this enough money? And, if not, what funding level is needed?

Ms. FEINGOLD. Thank you for that question, Congressman. In the Seniors Commission Report in our research, we documented that in 2002, there was a shortage of 6.1 million units of housing to serve people with the most serious needs, either financial needs or health needs or the condition of their housing needs. And we projected that the need would go up to $7.5 million in 2020, if we didn't do anything. And the truth is, we haven't done anything since 2002.

The minority report of the Seniors Commission recommended that we develop 60,000 units of 202 a year. That won't fill the gap, but it at least will show a commitment to trying to fill the gap and it will begin to house the serious need we see right now.

The question was raised, what happens to people when their rents go up. With another of my hats, I'm a founder of something called the Committee to End Elder Homelessness in Boston. The number of elder homeless has doubled in the last 5 years. And what happens to elderly people who are homeless? You know the answer. They die. We are consigning old people to death with some of the things we're doing for lack of commitment to a serious attempt to meet the needs that we have now, and they are growing into the future.

I'll stop. I get excited.

Mr. CLAY. Thank you so much for your response. I thank the panel for their testimony.

Thank you, Madam Chairwoman. I yield back.

Chairwoman WATERS. Thank you very much, Congressman Clay.

And now, we're going to go to the author of the legislation, who should be feeling tremendously proud based on the testimony that we have heard here today. This bill is going to indeed change lives, protect people, and provide opportunities that never would have been available, but for what you are doing.

And I want you to know that if what you have heard today, that there is a need to additionally do a little bit more amending or adding, you have the support of your colleagues to do that. And I certainly hope that we do everything that we can to give the flexibility and allow for the creativity in order to preserve and expand, and provide more services to you, Mr. Mahoney.

Mr. MAHONEY. Thank you, Madam Chairwoman.

I'm going to quickly ask you each a question, and then I'm going to make some comments. And then I'm going to come back to you, and I want it to be very succinct.

My interest is, and I appreciate the support for many of the comments, but I want to know from each of you very succinctly, what is one thing that we could do to make this bill better, that would make life better? And while you're thinking about that, I just want to say that, you know, I appreciate it.

I mean, I was a businessman 2 years ago, and you know, there's a large part of life you don't see. And I'm blessed to have had the opportunity to do some public service and to go out into the community and to see the needs. And I think America is blessed to have people like yourself who are battling for them. But I'm also blessed to have the leadership of Chairwoman Waters and the people on this committee who not only allow you to see problems, but to have the wisdom and experience of working so many years on this issue to be able to help people like myself do something meaningful.

The other thing I'm going to say is that this is an issue of dignity. This is a national moral issue. This is an issue of priorities. This country has the resources to take care of its people with dignity without raising taxes. Not everything in life can be fixed by a tax cut and a prayer. Okay? And this is one of these issues that needs to be done.

So my question is, what is the one thing that we could do to make this a better bill, to cut through the bureaucracy, to whatever, to make this more meaningful so that you can do your jobs?

Mr. Lizarraga?

Mr. LIZARRAGA. Yes. Allow us to refinance and leverage these dormant assets in order we can reinvest back into the housing stock and the service of the seniors.

Mr. MAHONEY. Thank you.

Mr. SLEMMER. I think the most important piece of legislation is a voucher or preservation voucher so that the older 202s, when they're rehabbed, the residents in there can stay in place at the same rent. That needs to be strengthened, I think, a little bit.

Ms. KONDOR. I also have seven 236 properties with very little Section 8 assistance in those properties, as well. We have many very-low-income seniors who don't receive it, and I'd like to see those Section 236 people be able to benefit, too, in the event we refinance those facilities.

Ms. FEINGOLD. I would like to broaden what my colleague just said. I think the single most important thing that you can build into this bill is ways to make the regulations of the various programs work better together. For example, we're talking about helping the refinancing and the use of surplus resources for 202s. We need the same rights for 236.

That's the problem my organization has dealt with, the tax credit programs. These are regulated by IRS. Somebody has to sit down and put together the necessary regulations and statutory requirements of those programs so that they work together. It should not be so hard to make these things work together.

Mr. MAHONEY. Thank you.

Mr. FRIGO. I'm going to stay on the Section 236 theme a little bit, because we have the same situation with another building that we did not discuss today. And that would be very helpful, again.

Oftentimes, we have to refer people from that building—that's the 236—to another building, because of the Section 8. But as far as what you put together here, I would like to commend you again, because it greatly helps us with our efficiency problem. So thank you.

Mr. PROTULIS. My God, asking me for one statement is like asking if it's going to—

Mr. MAHONEY. We're all praying.

[Laughter]

Mr. PROTULIS. I will try to say to you that the fully funding of construction of the way the program is working today, we are already behind the eight-ball when you get your award. It is unbelievable that those of us that worked so hard to get a meager 40 or 50 units, we have to go hustle extra money because the government does not want to give us a full-funded construction for properties that we deserve and we show a need. And the government seems to know when they give us the money, that we're already behind the eight ball, and they say well, that's what you get. You don't want it, I have somebody else waiting for it.

That, in my opinion, is wrong.

Ms. ALLTON. I would just add that in the legislation I'm very thrilled to see that funding would be allowed to use for service coordination. What I would like to see is that it's not—it's a nice allowance, but it's an absolute requirement.

Because what tends to happen is when developers or owners are looking at their budgets, they will tend to opt-out of that service coordination line item, because it costs too much money in a very competitive environment.

So to put everybody at the same table, you know, around the table, to make it a requirement, not an option.

Mr. MAHONEY. Could you do me a great favor and put this in writing and send that to me so we can look at things to do to amend?

And again, Chairwoman Waters and Ranking Member Biggert, I am honored to be here today to be part of this hearing. It's very gratifying, and it's again wonderful to be working under your leadership. Thank you.

Chairwoman WATERS. Thank you so much, Mr. Mahoney. And I want to congratulate you for putting together a wonderful piece of legislation that's so desperately needed. And again, I want to congratulate you for raising that last question of what else possibly can be done to make it even a stronger bill. And we await your leadership with whatever additions, amendments, again. I certainly believe that you're going to have support from both sides of the aisle.

Don't you think, Mrs. Biggert?

[Laughter]

Chairwoman WATERS. Thank you all very much.

The Chair notes that some members may have additional questions for this panel, which they may wish to submit in writing.

Without objection, the hearing record will remain open for 30 days for members to submit written questions to these witnesses and to place their responses in the record. Thank you so much. The panel is now dismissed.

[Whereupon, at 12:38 p.m., the hearing was adjourned.]

A P P E N D I X

September 6, 2007

Statement of Congresswoman Carolyn B. Maloney
Financial Services Subcommittee on Housing
Legislative Hearing on H.R. 2930, Section 202, Supportive Housing for the Elderly Act of 2007
September 6, 2007
2128 RHOB
10:00am

I would like to thank Chairwoman Waters for holding this morning's legislative hearing on H.R. 2930, the Section 202, Supportive Housing for the Elderly Act.

I also congratulate Congressman Tim Mahoney for introducing this legislation.

Section 202 is the only HUD program that exclusively serves the elderly and is currently assisting over 320,000 housing units.

The bill under discussion today will reauthorize this program as well as make a series of improvement that will help expand the supply of affordable housing to the elderly.

Specifically this bill would:

- Help preserve the existing supply of affordable housing for seniors, while facilitating the development of new homes to meet increasing demand;
- Allow for adjustment to Project Rental Assistance contracts to accommodate fluctuations in project costs and emergencies, such as utility cost spikes;
- Maintain and upgrade existing Section 202 housing by allowing property owners to seek financing for the rehabilitation and improvement of current housing, while keeping costs low for their residents.

I think we can all agree that we must do all we can to allow our nation's seniors to retire with dignity.

With the rapid increases in housing prices over the last decade we have seen too many seniors priced out of the communities that they have help build.

The reauthorization of the Section 202 program will help provide more affordable housing options to seniors and afford opportunities for safe and affordable retirement.

Again, I thank the Chair and I look forward to the testimony of our witnesses.

Testimony of
Terry Allton, Director of National Church Residences at Home
House Housing and Community Opportunity Subcommittee

H.R. 2930: Section 202 Supportive Housing Act of 2007

Thursday, September 6, 2007

Good Morning Chairwoman Waters, Ranking Member Biggert and distinguished members of the subcommittee. My name is Terry Allton and I am the Vice President of NCR at Home at National Church Residences, a non-profit housing, housing based community services and healthcare provider, based in Columbus, Ohio. National Church Residences has been dedicated providing service to older adults since 1961 and is committed to providing quality housing and services at affordable prices to low and moderate income seniors. NCR has over 270 communities throughout the United States and Puerto Rico, housing more than 25,000 low-income seniors, families and persons with disabilities. NCR's Department of Support Services currently oversees 300 service coordinator programs in more than 350 properties across the United States, serving over 30,000 residents.

Congress authorized the Cranston Gonzalez Act in the early 1990's creating the service coordinator program within the HUD Section 202 program and launching a profession. Service coordination addresses the basic issue of quality of life for our seniors and provides them with options to premature institutional care. Currently HUD funds service coordination in Section 202/Section 8 properties through a grant process or within property operating budgets. These communities house very low-income residents, with income levels of $10,000/annually or less. At NCR, we believe in the benefits of community-based services and supportive housing. Our goal is to link residents with services that will allow them to remain independent, in their own homes and avoid unnecessary institutionalization. We are committed to placing service coordinators in each one of our communities.

NCR's Department of Support Services is a nationally recognized leader in the industry and our Quality Assurance program has won national awards as the most comprehensive program of its kind in the country. I am pleased to be here to discuss the practical effects of the changes in H.R. 2930 will have on the lives of residents and the national goal of helping seniors age-in-place safely. NCR is also a member of the American Association of Service Coordinators (AASC), a national, nonprofit organization representing more than 1,800 professional service coordinators serving populations living in federally assisted and public housing facilities nationwide, their caregivers, and others in their local community. I am the immediate past Chair of the Board of AASC, a position I held for two years and have served as a Board member for a total of four years.

The Role of Service Coordination in Senior Housing

Service coordinators are an increasingly important part of senior housing communities. Coordinators identify resident service needs, seek out community resources, provide case management and organize health and wellness programs. They arrange homemaking, transportation and meals and offer one-on-one assistance for residents by providing help with entitlements, benefits, insurance, Medicare and Medicaid. In addition to helping working with residents to secure services through existing community agencies and providers, service coordinators also act as a broker for services that are not readily available through public resources. Their role not only enhances the quality of life for seniors, but influences the cost of caring for elders by keeping them in non-institutional care longer.

The first stage of providing a continuum of housing and service choices for the elderly often is in-home supportive services. Individuals with ample resources, many times, have easier access and a greater variety of choices in how and from whom services are acquired. Seniors with limited incomes depend more on publicly funded services. These programs are overburdened, financially restrictive, severely limited and in recent years, have been targeted for funding cuts. Navigating the fragmented system of service providers and benefits are a challenge to anyone, and particularly difficult for seniors. NCR has started its own home health care and hospice agency in order to further streamline residents ability to receive appropriate services, at the appropriate time, and to help them age-in-place at home. This is where they want to be.

Service Coordinator Outcomes in Senior Housing

Service coordinators have proven outcomes that demonstrate their ability to help residents age in place and provide significant cost-savings. More than 91% of residents that work with a service coordinator age-in-place. Our average resident is a 79 year old widowed female that has an income of $10,018/year. When that resident works with a service coordinator, on average they save $279/month, which is 1/3 of their annual income. Service coordinators are able to do this by connecting these elderly, frail, low-income residents with entitlement programs and prescription drug discounts, but more importantly they broker services that result in grocery store discounts, free pharmacy deliveries, free transportation through volunteer programs, discounts on prescription glasses, free durable medical equipment, food pantries and emergency rent assistance. The majority of these programs are created by service coordinators in communities where they previously did not exist. They are successful in negotiating discounts by leveraging the fact that many qualified residents who would use a given product or service live at one address, maximizing the community partners economies of scale.

NCR's Support Services division has gone to great lengths to quantify the benefits of service coordinators. We continually monitor programs, offer training and track outcomes. NCR's 160 service coordinators serve approximately 15,000 residents. Each service coordinator serves an average of 93 residents. Over 90% of the residents are 70 years of age or older and over 40% are considered "frail", meaning they need assistance with 3 or more ADLs per day. A recent study found that service coordinator's time is allocated accordingly:

- Advocacy 16%
- Help with Benefits and Entitlements 13.7% (mostly due to Medicare Part D last year)
- Case management 9.5%
- Monitoring services 8.6%
- Health Care Services 6.4%
- Assessments 5.5%

It is a testament to the need for service coordinators and the benefit of their presence that only about 3.2% of their time is spent on crisis intervention.

Imagine how difficult it could be for a senior living alone without access to a service coordinator. Service coordinators provide a cost saving benefit to our subsidized housing communities, by preventing unnecessary vacancies in federally subsidized properties. Coordinators help residents avoid potential eviction, move-outs and unnecessary placement at a higher, more costly level of care. The average cost for a vacancy in one of NCR's facilities is $1,732. We were able to establish that service coordinators in NCR facilities saved the properties an average of $2,393 over a four month period by making it possible for residents to remain in their homes.

A preventative, expansive, affordable range of community based services is essential to making our communities, our staffs and our residents successful, but more can be done. Coordination and funding are key. Federal, state and local governments are struggling with soaring costs related to caring for our seniors. Organizations like NCR are committed to helping, but we need the resources, the flexibility and the support from you.

Section 202 housing and service coordination programs provide the federal government with a desirable, cost effective solution for non-institutionalized long-term care - housing and services. Efforts to preserve existing housing, increase service coordination opportunities and supportive services should be encouraged and promoted on a national level. Increasing the available funding to make sure that all senior communities have access to service coordinators is critical. H.R. 2930 will secure non-federal dollars for this purpose in properties around the country.

Service Coordinator Funding

Funding for service coordination is always challenge. This is made more difficult by HUD's refusal to allow for adequate funding in new Section 202 PRAC properties. Although this program was authorized to include the service coordinators in the operating budgets and is supposed to be funded to meet that goal, the HUD offices around the country refuse to provide funding in the budgeting process. This policy is both unconscionable and irrational. The Section 202 program is a supportive housing for seniors. HUD administration has determined that service coordinators are not eligible for the competitive grant program because Section 202 PRACS are supposed to have the necessary funding in their operational budgets. The fact is that they do not. The Section 202 PRACS are in the same or a worse position as the older Section 202/8 properties and need services coordination staff.

It is important to note that even the Section 202/8 properties face dismal prospects for new service coordinator grants. The funding strain has made it less possible for facilities to incorporate the service coordinator funding into their operational budgets, leaving sponsors dependant on the annual grant process to fund a new coordinator or retain their existing one. This dependence on the grant program for permanent funding for service coordinator staff means that the majority of the funding goes towards renewals. Fewer and fewer new grants are available each year. In the FY06, HUD provided funding for just 23 new service coordinators throughout the entire country.

During the last few years, innovations in home and community based services delivery, nursing home diversion programs and the Administration programs such as the New Freedom Initiative, have led to more options for seniors that want to remain in their homes. The service funding streams and program requirements are numerous, with little coordinated effort on the part of the state and federal governments. Most of our residents do not even know that most of these services exist and that help is available. This creates a sense of isolation for many seniors and a fear that admitting they need some assistance will endanger their ability to remain in their housing. Our coordinators represent a life line for these residents. They work through the consumer confusion and program requirements to meet the resident's needs and promote their sense of dignity. We are the link that makes supportive housing with service work. We must, as part of our national policy, find some way to increase the options for funding these positions in all senior properties.

The Promise of H.R. 2930

There are two sections of this legislation that I am particularly excited about. Title II, Section 203 would provide clarification and much needed sources of funding for service coordinators and services in senior housing. The current 15% on the limitation on the use of funding has long been a moving target for organizations striving to provide supportive housing. It has never been clearly defined what the 15% limitation applies to and the HUD offices have varying policies. The current limitation, no matter what the field office has based it on, ignores the growing frailty and service needs of the resident population that we are working with. As I mentioned, at National Church Residences, 40% of our residents are frail. In addition, Section 204 would enable providers to use excess residual receipts for the benefit of residents.

Most importantly for the long term sustainability of service programs and service coordination, there must be additional, permanent funding streams for the services in Section 202 properties. Clearly the federal government does not have the political will to fund this on a nationwide level. The refinancing of Section 202 properties provides an opportunity for substantial capital to be raised and through excess proceeds and contributed developer's fees to create enough money to generate a permanent funding stream for staff service coordinator staff and supportive services. The residents in Section 202 housing rely heavily on affordable supportive housing to stay out of nursing homes. I strongly urge you support the provisions in this legislation that will lift the cap on the funding for services and service coordination, permit excess residual receipts to be used to increase funding and allow housing providers to use excess refinancing proceeds to establish permanent funding streams for staff and services.

Conclusion

I want to thank you for the opportunity to be here today. I appreciate the fact that you've taken the time to explore the role that services and service coordinators play in the success of the Section 202 program. Under H.R. 2930, the Section 202 will move closer towards the goal of making all of its communities truly supportive. National Church Residences has committed to the goal of providing service coordination in our communities as part of our ministry to preserve the safety, independence and dignity of our seniors. We hope that Congress will join us and make this possible in all of the communities throughout the country. Thank you.

TESTIMONY OF ELLEN FEINGOLD
PRESIDENT, JEWISH COMMUNITY HOUSING FOR THE ELDERLY
BOSTON, MASSACHUSETTS

before the

HOUSE COMMITTEE ON FINANCIAL SERVICES

Thursday, September 6, 2007

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Thank you for inviting me to appear before you at this hearing.

I am Ellen Feingold, President of Jewish Community Housing for the Elderly in Massachusetts.

In 2001 and 2002, I was also Co-chair of the congressionally mandated "Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century". The Commission's work set the context for this legislation.

Jewish Community Housing for the Elderly has developed and operates over 1,050 apartments for low income elderly in Boston and Newton, Massachusetts, and is currently developing another 150 units in Framingham, Massachusetts. We have also refinanced and are close to the end of renovating one of our developments, an occupied building that opened in 1973 with 256 apartments. For years, it has been our mission to make it possible for our frail low-income elderly residents to live out their lives in their JCHE homes, without having to move to a higher care facility. Towards this goal, we have been exceptionally successful with only 2- 3 percent of our residents moving to a nursing home. The average age in our buildings is over 80, residents' incomes average under $9,000 a year, and on average, they live in our buildings over eleven years.

We are very grateful to the Committee for drafting the legislation that is the subject of this hearing. It covers a range of the issues with which many of us who develop and run housing for elderly of limited means have been wrestling. It addresses squarely some of the issues that Jewish Community Housing for the Elderly has had to deal with over the last years. Again, we are really grateful. I would ask at this point that my written testimony be entered into the record.

Let me begin with an overall picture. Tom Slemmer and I are part of a broad community of organizations, many faith-based and non-sectarian, large and small, dedicated to providing decent and supportive housing to elderly people with low incomes. Our job has gotten harder and harder over the past decade to the point where we begin to feel that, while public policy and programs are intended to produce this kind of housing, in practice the obstacles placed in the way of accomplishing this at virtually every juncture tell a different story.

When JCHE started in this business, our first 202 development with 243 apartments opened in 1971 and we built it with one funding source, a 202 mortgage that paid every penny we needed to complete the building which is still 100 percent occupied.

Today, we are in the process of developing a 150-unit mixed income building with 50 Section 202 units, 40 tax credit units, and 60 market units. But that's not all—we will have a state housing finance agency mortgage, a grant from that agency's Priority Development Fund and the state's Affordable Housing Trust Fund, two other grants from another state housing agency, various grants from foundations that support "green" buildings, a sponsor contribution of the developer fee, and $5 million we've had to raise from foundations and other charitable sources to make the *pro forma* work-- nine sources, each with its own timetables, rules, guidelines, standards, etc. to say nothing of lawyers and real estate closings. This results in inconsistencies like, for example, the HUD 202 maximum unit size being smaller than the tax credit minimum unit size. In addition, construction cost inflation and legal and other fees have driven total development costs of this project up 50 percent over a little more than two years. So pipeline production delays resulting from such multiple funding actually drives up construction and development costs significantly.

The Committee asked: *Discuss examples of projects that have received both capital advance and PRAC under 202 from HUD, as well as 'gap financing'/capital funding from state or local housing agencies. What has been your experience with the respective underwriting and other administrative processes?*

With respect to new developments that involve both HUD and one or more state agencies during the development process, our experience is relatively new, but emphasizes the need for delegating the processing of such projects to state agencies that must be involved in the development process.

JCHE is currently developing a 150-unit new construction building in Framingham, MA under the Section 202 Mixed Finance Program involving both HUD and MassHousing. JCHE has been awarded FY05 Section 202 capital funding and PRAC subsidies for 50 units of elderly housing in January 2006 as part of this new affordable community. In addition to the 202 award, JCHE is now seeking a loan commitment from MassHousing for a tax exempt, private activity bond issue that would provide tax credits for the 50 units and for 40 other tax credit units that JCHE will make available to low income elderly. The remaining 60 units will be market units making this project 60 percent low income. Based on JCHE's current program and past experience we would expect that almost all of the Section 202 units will be rented to people of extremely low incomes, less than 30 percent of the area median.

It is critical to the success of affordable low income housing production today that we minimize any coordination delays between HUD and state agencies that must be involved in such development. Building a new Section 202 unit in the Boston area now costs close to $300,000 per unit. This is not possible with Section 202 capital advance financing alone. In 2005 when JCHE was first running the cost estimates for its Section 202 application, the addition of tax credit equity under the LIHTC program made it possible to close the development cost gap which meant that at least one state agency also would be involved in the financing of this project. Today, however, these two sources of financing alone are not sufficient. Since JCHE received its FY05 award, construction costs have increased 51 percent and total development costs have increased 49 percent.

To further complicate a section 202 development, per unit allocations do not increase to compensate for pipeline delays. In FY05 the Section 202 awards per unit for high cost areas like Boston were $134,000 per unit. The HUD standard for moving a project through its pipeline to a construction closing is 18 months. The FY05 awards were announced in January 2006 meaning that now is the time that HUD anticipated these projects would reach construction. However, today each unit of Section 202 housing we are producing shows a $50,000 gap after using Section 202 and LIHTC financing combined. For JCHE's FY05 award this is now a total shortage of development financing of $2.5 million, requiring more financing from other sources and further coordination delay among institutions involved in the development process.

Therefore, moving a project through the HUD processing pipeline as fast as possible is critical to cost control for its nonprofit sponsors and developers. The fact that HUD awardees, due to processing and development complications largely beyond their control, fail to meet the anticipated 18-month development standard for 75 percent of Section 202 projects exacerbates this problem further. For example, in JCHE's case, there have been delays experienced while MassHousing staff has attempted to understand how HUD would allocate costs between units financed by HUD under the Section 202 program and units financed by a MassHousing loan under the LIHTC program. This *pro forma* analysis at HUD would normally occur <u>after</u> the nonprofit developer submitted its firm commitment application, but MassHousing requires an understanding of this problem before it can commit loan proceeds to the project, as it is basic to the underwriting the agency must perform. Further, the MassHousing commitment is a pre-requisite to the submission of any firm commitment application, making this a circular, chicken-and-egg problem.

To get around this, MassHousing has made significant efforts to meet with HUD to discuss such financing matters, but the logistics of such meetings have been difficult, because the financial analysis is off-cycle for the HUD process and HUD staff priorities lie elsewhere. This is complicated still more by the fact that many questions in the Section 202 mixed finance program must be referred to HUD headquarters for resolution, since this program is relatively new and many questions arise requiring headquarters to intervene. The bottom line is that JCHE has been trying to secure a MassHousing loan commitment since May of this year, and over the past 4 months, MassHousing has been unable to obtain definitive answers to their underwriting concerns from HUD, and is in the position of proceeding to issue a loan commitment to JCHE, now scheduled for October, without adequate information affecting their underwriting criteria.

The Committee asks: *What has JCHE's experience been with reasonableness of HUD's development cost limitations in the 202 program?*

As stated above, the Section 202 awards are not sufficient alone to produce a unit of low income elderly housing. Other sources of funding such as tax credit equity are required to bring a Section 202 project to construction and this significantly complicates the development process and increases the time necessary for moving through the pipeline. In JCHE's case, its FY05 award has remained the same while costs have increased 50 percent, or to put it another way, the Section 202 capital advance amount has decreased in value by one-third in today's dollars, and JCHE is about a year away from its groundbreaking. This makes the case for delegated processing critical to the success of such development, and also raises the issue of whether there should be some discretionary ability for HUD to increase awards that will require more than 2 years of development, because of the complexities introduced by coordination with tax credit financing and other sources of funding.

If HUD can't finance fully the low income housing that is its mandate, it has to help mixed financing work! It is counterproductive, wastefully expensive, and unfair to make organizations like JCHE, mission-driven and eager to develop more affordable housing for seniors and which invest so much of their financial and organizational capital to do so, to resolve the competition and technical disagreements among agencies in order to build this housing.

H.R. 2930 addresses many of the problems we have faced. We strongly support this bill.

Some additional important issues: First, HUD has historically taken the position that non-profits are not competent to manage their money. As the Committee well knows, the developers of 202 housing, over the years, have had the fewest problems of any government-supported housing. We believe that is because we are mission-driven organizations with Boards of Directors that are typically among the most experienced in local business, fiscally cautious, and broadly connected to the communities in which they volunteer their time. Non-profits use public money to carry out a mission of housing low income elders. For many years, we had no shareholders or investors to "take profit" out of the project—if there was ever a surplus, every penny went back into operations and resident services. Yes, some non-profit organizations were inexperienced and ran into difficulties, but their number was few, relative to housing owners on the for-profit side who have taken money out of their properties to the detriment of both buildings and residents.

HUD's effort to keep control of non-profit developers' money has reached an extreme in the last couple of years as organizations like ours attempted to refinance buildings utilizing syndication and tax credits as one component with the goal of raising money from investors beyond that required for the physical rehabilitation of the building. As HUD funds got tighter, JCHE tried to find other ways of funding what is needed, as have other nonprofits. We intended to use the money generated from the refinancing of one of our buildings not only for needed repairs and renovations but also for the benefit of our other HUD-supported buildings and residents. We planned to use surplus proceeds, first, to help fill the gaps in the funding of our newest mixed finance development to be described later; second, to redevelop a Program Center in the middle of our complex of three buildings in Boston with 900 residents; and third, to help provide the services that enable our residents to live fruitful lives with dignity to the very end.

Our HUD Regional Office was supportive but HUD headquarters resisted. At the very last minute, just before our tax credit allocation would expire causing the whole deal to unravel, HUD headquarters agreed to sign off on the condition that the surplus funds would go into a HUD-controlled account to be used solely to fund increases in Section 8 subsidy requirements. We were even precluded from using these funds for cost overruns in the renovations and for hiring additional support staff to assist tenants in their 80s and 90s to pack their belongings, cover their furniture, and leave their apartments at 8 AM each day while construction work was in progress.

The mission for the nonprofit housing sector today is to preserve the housing it has built and expand it to meet a growing need in an increasingly complex development world. To do so, it is critical that nonprofit organizations be able to avail themselves of the same financial tools and be evaluated under the same development standards as for-profit developers of affordable housing. Facing increasingly limited financial resources nonprofit developers critically need access to the same equity capital and annual distributions on equity that for-profit developers enjoy in order to succeed.

What is the purpose of a non-profit organization going through all the complexities of organizing itself for this kind of transaction when in the end HUD requires that the private investors' money to be used to substitute for Section 8 funds? Our goal is to carry out the government's mandate to build more and better housing for the frailest and poorest elderly. For that purpose we were willing to go through the tortuous process of joint venturing with an equity partner under the IRS' LIHTC program to generate surplus proceeds—proceeds which, were we a for-profit developer, we could have walked away with, in our pocket, for whatever business or pleasure we desired. Nonprofit developers that are mission-driven and publicly regulated to restrict their "surplus" funds to their public purpose, and are committed for the long run, deserve and require the support of HUD to exercise the same financial flexibility. H.R. 2930 goes a long way to addressing this problem.

The Committee asked: *What has JCHE's experience been with HUD in the context of "mixed" refinancing, where new capital is made available to a 202 project in the context of refinancing? Please specifically address experiences with respect to HUD decisions to assume or subordinate its existing loans or subsidies.*

What has JCHE's experience been with HUD regarding the use of unexpended amounts generated by refinancing of 202 projects pursuant to Sec. 811 of AHEOA of 2000, including:

- *Use of unexpended amounts to provide for supportive services and service coordination needed by tenants as they age in place;*

- *Use of unexpended amounts to reconfigure projects to better meet the needs and preferences of potential tenants;*
- *Use of unexpended amounts for developer fees and/or equity payments to JCHE?*

JCHE has three objectives in any refinancing transaction it undertakes:

i. Perform capital improvements necessary for physical stability over the next mortgage term, including meeting present day energy conservation and accessibility standards, and repositioning the property on the market to the extent required.

ii. Stabilize the financing of support services and service coordination programs JCHE operates by maximizing the potential for an annual revenue stream and establishing reserves dedicated for such purposes whenever possible.

iii. Use of surplus equity from refinancing to assist JCHE in developing other HUD-assisted new construction projects.

Leventhal House is a 254-unit property that closed its refinancing with HUD on December 28, 2006. Although it is a Section 236 financed property, Leventhal House is owned and operated by JCHE, and has functioned as if it were a Section 202 nonprofit development. It is therefore relevant to report our experience in response to the Committee's concern for the use of unexpended refinancing proceeds.

JCHE found that HUD processing in Washington of our refinancing transaction denied us the ability to follow clear and consistent written guidelines that permit a cost efficient development process to occur. When the Leventhal House refinancing was undertaken, it took almost 2 years for the transaction to be understood by HUD and approved. All decisions were made by HUD headquarters and not by the HUD regional office where staff fully understood and appeared to support the transaction from the beginning. Inconsistencies in HUD's processing were apparent throughout the review of JCHE's plans for the property causing consultant and legal fees to increase significantly (at JCHE's expense, of course) as efforts were made to promote JCHE's interests in the everchanging refinancing context. JCHE's plans changed a number of times in response to HUD's changes, causing yet more expense to JCHE. HUD's final approval was slow to be issued creating a crisis atmosphere in the end-of-year attempt to close the tax exempt bond issue before it expired.

The Leventhal House refinancing was structured as a sale by JCHE to a for-profit partnership designed to utilize LIHTC equity proceeds from a limited partner. Under IRS regulations this required a sale to the limited partnership at full market value which was appraised at $12 million. As previously described, JCHE proposed this approach in order to generate surplus proceeds, first, to supplement the financing of its HUD-assisted new construction project in Framingham, MA, the costs of which have risen by over 50 percent since JCHE purchased its site there in 2003; and second, to help stabilize the financing of its supportive services and service coordination programs for the 1,300 elderly residents in all its existing HUD-assisted properties. In structuring this transaction JCHE was careful to follow written guidance issued by HUD and its knowledge of similar projects approved by HUD for for-profit developers.

From the beginning HUD resisted JCHE's proposal solely because JCHE was a nonprofit sponsor and owner. It disregarded the ultimate purposes of the transaction and chose instead to resist the fact that significant equity proceeds would be under the control of a nonprofit entity even though JCHE accepted HUD's concern to regulate the ultimate use of these proceeds and was willing to enter into a reasonable agreement to restrict their use. JCHE submitted its preliminary application in the Fall of 2005 which was approved by the Boston Office. In the Spring of 2006, JCHE submitted its firm commitment application to HUD after securing a commitment from MassDevelopment for tax exempt bonds in support of the project.

After protracted delays in reviewing the application, it was clear that HUD was not happy with our proposal and in June 2006 it denied JCHE approval of all the key aspects of the sale/refinancing that we hope to achieve. HUD stated it would not allow a sale of the project to a limited partnership at the appraised value, only for the amount necessary to pay off the existing indebtedness because Section 8 funds were involved. In fact, the entire sale price was supported by LIHTC equity proceeds provided by JCHE's private limited partner; no Section 8 funds were involved in support of the sale price. Furthermore, HUD misunderstood in their analysis that a sale by a nonprofit to a for-profit entity must occur at full market value under the Internal Revenue Code. Failure by JCHE sell the property at full market value created private inurement issues that put JCHE at risk of losing its 501(c)(3) tax exemption. HUD also denied the importance of supporting JCHE's resident services objectives ignoring sound public policy, as well as its own written guidelines that permitted such a transaction under a memorandum issued by HUD Deputy Assistant Secretary Stillman Knight on April 25, 2005.

Subsequent efforts on JCHE's part to salvage the transaction and the MassDevelopment commitment for a $15 million tax exempt bond issue were similarly resisted. After HUD's rejection, JCHE met with the Regional Office and structured a compromise proposal with the tentative support of the field office which was of course conditional on approval from HUD headquarters. JCHE proposed to lower its requested rent levels, require the use of some of the LIHTC equity proceeds for the renovation of Leventhal House (which was to be financed by a new Section 221(d)(4) HUD-insured loan supported by the Section 8 assisted rents) and save HUD $5 million in Section 8 subsidies over what it would be required to contribute under its written refinancing guidelines if no LIHTC equity proceeds were involved – a sure win-win result, JCHE believed. JCHE only asked that HUD authorize the use of some of the sale for its HUD-assisted new construction project in Framingham and to help provide long-term financing for its supportive services programs. By the end of the summer of 2006, JCHE informally learned that this proposal had not been well received in Washington and would be denied, in spite of its financial benefits to both JCHE and HUD, and in spite of the good public policy benefits it promised to achieve. During this period, JCHE legal counsel and consultants were unable to determine any statutory, regulatory or other written guidance that would result in such a conclusion.

JCHE requested a meeting with HUD headquarters staff including those involved in the review of our proposal and our legal and financial consultants. That meeting finally took place on September 28, 2006. The outcome of this meeting was that HUD allowed a portion of JCHE's resident services objectives to be achieved—renovation and expansion of a program center in JCHE's Brighton site where Leventhal House is located—but still denied JCHE the ability to apply any sale proceeds to its Framingham project. Instead, the remaining calculated proceeds, about $2.8 million, were to be put in a HUD-restricted "Section 8 Set-Aside Account" and used to off-set future rent increases until the funds were fully exhausted. This preliminary approval was issued by HUD Central on October 31st but it failed to address several key concerns the resolution of which were essential to the closing, such as JCHE's request for distribution on its LIHTC equity that was to be contributed to the project, and the status of its 1983 flexible subsidy grant (well documented as a grant) that HUD now wanted JCHE to repay. It was not until December 12th that HUD issued its final detailed approval—only two days before the MassDevelopment Board met to vote on proceeding with the tax exempt bond issue.

In short, HUD appeared to be making up its rules and its documentation in a manner that was inconsistent with its own written guidance for such transactions. To this day, JCHE's legal counsel have not been informed of the regulatory or statutory basis for HUD's requirement to restrict the use of sale proceeds in the transaction. In our efforts to salvage the transaction and the tax-exempt bond issue prior to the end of the year, JCHE had to proceed to closing without knowing whether HUD would ultimately approve the transaction structure that would be of sufficient benefit to JCHE in achieving its objectives. No developer, nonprofit or for-profit, deserves to take the risks JCHE had to take for such a sound public purpose. In this case, it is even more difficult to understand HUD's position when JCHE structured its transaction to be similar to for-profit refinancings approved by HUD, and HUD's written guidance specifically allowed that similar nonprofit proposals were to be treated in the same manner as a for-profit transaction. At the time JCHE closed its Leventhal House sale/refinancing with HUD, this written guidance had still not been superseded.

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Use of unexpended amounts of refinancing proceeds to provide for supportive services and service coordination needs to tenants as they age in place:

JCHE spends over $1,200,000 each year, almost all from charitable donations, to provide a basic array of support services, service coordination and meaningful community activity for the residents in its 1,050 apartments located on three sites in Boston and Newton. About 10-15 percent comes from the operating budgets of the HUD-assisted entities in the form of staff salaries, materials and supplies. As JCHE's residents age in place, their support requires increasing reliance on JCHE's limited funding for services, and it is becoming increasingly difficult to maintain a consistent level of annual charitable contributions to maintain support service programs.

Thus, JCHE saw refinancing transactions as a means to stabilize its resources to operate its service programs. Given the limited means to bring support services into a low income elderly community, refinancing poses one of the only ways to counter the constant shortages of funding in this area. Nonprofit efforts to use these transactions to stabilize the funding for support services therefore ought to be applauded by HUD and we would expect that good public policy would encourage the Agency to consider ways it could mold its rules and processes to institutionalize this goal.

There are two principal means of accomplishing this objective. The first is to attempt to generate regular surplus cash annually in the form of distributions on equity to achieve some stability at the project level. The second is to utilize unexpended refinancing proceeds to establish reserves for support services programming in a manner that would "smooth out" the fluctuations in annual fundraising.

JCHE's attempts to program these two objectives, rather than being supported by HUD staff in Washington, were not taken seriously. Instead of rules being interpreted to the extent permissible within regulatory limits to insure the future viability of the communities housed in these developments, HUD staff interpreted such rules as narrowly as possible, and made it close to impossible for JCHE to benefit from the opportunities refinancing should provide to nonprofit owners in the area of resident services. Distribution on equity was denied, because of 100 percent financing secured more than 30 years ago, ignoring the fact that equity continues to accrue to private, for-profit owner, and ignoring likewise that tax credit equity could be used as the basis for such distributions.

Use of unexpended amounts of refinancing proceeds for developer fees and/or equity payments to JCHE:

Likewise, as described above, HUD largely denied the use of unexpended proceeds in the Leventhal House situation and opted instead, as a condition of granting its final approval for the refinancing, to require JCHE to establish a Section 8 set-aside fund in the amount of $2.8 million to offset future rent increases for the property. Aside from the lack of statutory and regulatory basis for such an action, the requirement amounted to a 25 percent cut that HUD took off the top of the refinancing transaction to supplement its Section 8 fund. JCHE believes HUD ought to seek this funding from Congress.

JCHE's proposed use of these unexpended refinancing proceeds, now deposited in a Section 8 set-aside account, was to enhance the financial viability of its Framingham, MA new construction project for which HUD has awarded assistance for 50 Section 202 units. As previously stated, the funds that were used to create the set-aside account are entirely derived from LIHTC equity provided by JCHE's limited partner. The fact that this puts HUD in the position of diverting LIHTC equity that is principally intended under IRS regulations to encourage the construction of new affordable housing makes this HUD position particularly objectionable. We strongly encourage the Financial Services Committee to deny HUD the ability to restrict low income tax credit proceeds to nonprofit owners in this manner, while it allows for-profit developers to enjoy them, and make invalid and unenforceable such prior actions on HUD's part where they have been used against nonprofits utilizing both the Section 236 and Section 202 programs.

The Committee asked: *Please analyze the need for and JCHE's interest in undertaking refinancing of 202 projects funded between 1959 and 1974 and carrying 3 percent loans, including the need, if any, for provision of additional operating subsidy or rental assistance in such refinancing scenarios.*

JCHE has one Section 202 project funded in this period. Ulin House is a Section 202 development consisting of 242 apartments that was occupied in 1971. It has a 3 percent loan with a 50 year mortgage term that matures in 2021. The outstanding balance is $1.8 million and the annual debt service is $150,000 a year representing 5.5 percent of the total annual operating budget. This very low debt service limits refinancing proceeds under current HUD guidelines thus preventing any significant reinvestment in the property.

The building includes 171 very small studios (388 sq. ft.) with kitchens that were poorly designed. Replacement of the appliances and cabinetry in the current layout would be a waste of money, as they are not market competitive and difficult to rent in their current configuration. So JCHE developed a new kitchen design that would be more functional and competitive in the current market at a cost of approximately $20,000/kitchen.

Over the past ten years or so, JCHE has been renovating these kitchens under new design criteria within the limitations of the replacement reserve to accommodate them. This means we have been upgrading 10 kitchens at a time. Operating under these financial constraints, JCHE has completed six phases of renovation that include 67 studio kitchens (including 4 prototypes completed during design development) plus 6 one-bedroom conversions to fully accessible apartments.

Refinancing this development is necessary to complete the kitchen improvement program in a realistic timeframe with cost effective economies of scale, as well as completing other capital improvements important for the proper maintenance of this 36-year old building. However, current limitations in the processing of a refinancing transaction have prevented JCHE from proceeding toward this goal. HUD has no clear guidance that permits the prepayment or subordination of the present 3 percent mortgage loan. Furthermore, Section 202 refinancing guidelines require that the debt service payments not be increased as a result of the refinancing transaction. This limitation precludes any meaningful improvement in the property, and insures steady and continuing physical decline of the 242-unit building.

There is no good policy reason why nonprofit Section 202 projects should not enjoy the same opportunities to refinance and revitalize their building systems and tenant livability as for-profit developments constructed under other assistance programs. In fact, it is essential good national policy that they do so in order to insure the preservation of this older affordable housing stock. Congress should require HUD to clarify that it supports reasonable renovation cost standards for this older elderly housing; that Section 202 owners be authorized to refinance and renovate these properties; and repeal the limitation on increases in debt service. Furthermore, HUD must allow prepayment or subordination of such new financing, particularly where HUD is involved in extending or insuring the new debt necessary to execute the renovation of the property.

A second important issue is that many non-profit organizations like JCHE that use the 202 program have also used other federal and state housing finance agency programs to develop low income elderly housing and run it as if it was 202 housing. For example, JCHE's oldest building was financed by the old 202 program and opened in 1971 with 243 units. Our next building which opened with 256 units in 1973 and is interconnected on the same site was financed under the Section 236 program. Our third building, also connected on the same site opened with 211 units in 1978, financed by the Massachusetts Housing Finance Agency. With the exception of five units among our three Boston buildings, all the other 705 units are covered by Section 8 rental subsidies. Our fourth and fifth buildings were both originally funded under the Section 202 loan program with additions constructed under the 202 capital advance program. As stated before, our current development is being funded under multiple programs. But ALL of these buildings are operated as if they were 202s with service coordinators and a broad range of supportive services available. The building described earlier, which was refinanced and renovated and then its surplus funds restricted for future Section 8 needs, is one of these buildings. It was developed under Section 236 but is 100 percent low-income and operated identically with our 202s.

So one amendment I would request of the Committee is that you make explicit in this legislation that the changes apply to all HUD-funded buildings that are operated as if they were 202s, that is, with a nonprofit sponsor that directly or indirectly maintains day-to-day management control. Another recommendation would be to authorize sufficient dollars so that Section 202 per unit costs are realistic thereby not forcing all 202 developers into more complicated forms of mixed financing.

Our program is so successful that the average tenure of residents in our buildings is over 11 years, and only 2- 3 percent must go to live in nursing homes. To do this, we believe, requires a minimum of 150 units in each development. A third recommendation would be to provide sufficient Section 202 funding so that HUD could make awards of more than 50-60 units per sponsor which would result in better service programs for residents and economies of scale for operating costs.

JCHE took the lead in 2000 to make it possible to combine funding from Section 202 and the Low Income Housing Tax Credit program. We worked with Chairman Frank, whom we proudly salute as our Congressman along with Congressman Capuano, to develop this legislation and looked forward to using it. We hope H.R. 2930 will complete the job.

The Committee asked: *How has HUD responded to JCHE's requests for PRAC increases to pay for (1) ongoing project costs such as service coordinators and supportive services, or (2) unanticipated increases in expenses such as utilities, insurance or taxes.*

(1) *PRAC increases for Service Coordinators and supportive services*. HUD's response to requests for residential service coordinators (RSCs) and supportive services assistance has usually been fair at the field office level. Recently, as oversight for JCHE's developments have been "devolved" to state agencies, this has become a more complicated process, and the risk of state agencies acting in a manner inconsistent with HUD's intent has increased. However, to date the state Contract Administrator (CA) has not acted in a manner that we would feel is significantly more restrictive than HUD with regard to support for RSCs and support services. Currently, organizations may charge up to 15 percent of the amount spent on services to the HUD budgets. We suggest changing this to up to 3 percent of the project's operating budget.

(2) *PRAC increases for utilities, insurance and taxes*. HUD has always been fair and responsive to increases in utility charges, insurance and taxes when such expenses have been appropriately documented. In recent years, however, good documentation for utility charges has been difficult, because utility companies are increasingly reluctant to provide their projections of utility rate increases prior to receiving approval from rate setting agencies, and the timing of these processes are independent and therefore not coordinated with HUD's rent increase process. This has made the task of providing HUD with credible local projections of utility expense harder, and is subjecting utility expense projections in the operating budget to increasing discussion.

It is important, however, that devolution of HUD responsibility for undertaking review and approval of budget and rent increases under the Section 202/Section 8 Program should not be at the expense of HUD's responsibility to set standards and procedures for such review and approval, and these procedures should be consistent with procedures used under the Section 202/PRAC Program.

With regard to HAP increases under Section 202/Section 8 developments, as the state government contract administrator (CA) has taken on oversight of these expenses, agency staff have opted to make their own calculations of utility expense notwithstanding their lack of experience with specific project circumstances. This has resulted in expense approvals that frequently have been too low. Since these expenses are among the largest expenses in a typical operating budget, when the CA errs on the side of being overly stringent, it can put a development in a financially difficult situation even when such expenses are only modestly higher than anticipated by industry experience. HUD should clarify that CAs must follow HUD's review procedures in this area and defer to satisfactory utility documentation provided by the owner's management agent, allowing for a reasonable allowance for the uncertainty of such projections. Since operating surpluses that may arise from overly protective projections go to fund the residual receipt account where they are available to serve as an emergency fund for future unanticipated expenses, including utility expenses, such an allowance is appropriate and necessary, given the risk to the development if these budget allowances are approved at an inappropriately low level.

This is an area where delegation of oversight to a CA needs to be accompanied by clear and detailed guidance by HUD as to how such oversight must be provided. HUD needs to be particularly vigilant, responsive to owner appeals and available for clarifying HUD procedures for budget reviews. When state agencies deviate from HUD intent and place Section 202 developments in jeopardy as they sometimes eagerly exercise pro-active efforts to insure that they will not be perceived as too loose with HUD subsidies, HUD needs to step in and clarify that budget and rent review procedures are meant to protect the financial integrity of the development operating budget, and not put the owner in a precarious financial position.

The Committee asked: *If you are testifying on behalf of a national non-profit organization, have you faced any challenges in meeting the community representation requirement of 12 USC 1701q(k)(4)?*

JCHE is not a national nonprofit organization, but we did confront a problem with the HOME program in meeting the community representation requirement. JCHE is seeking $1.5 million in HOME funds from the Mass. Department of Housing and Community Development (DHCD), one of its sources of funding for projects like the one JCHE is developing. DHCD requires a local match from the municipality where the development will occur, but the amounts available are relatively small and local competition is stiff. In addition, many municipalities have been unable to identify a CHDO that can utilize the HOME funds set aside for such organizations, and these funds often do not get awarded.

JCHE does not meet the community representation test in its new development, as it is in a new area for the organization, similar to the experience of a national organization. This is true despite its reputation for excellence, its capacity to build new affordable housing, and its experience and commitment to work with local citizen groups in the process of such development. We would suggest that the Congress and HUD consider greater flexibility in the award of CHDO funding, allowing either that local CHDOs be allowed to serve as pass-thru organizations for developers like JCHE with developer experience when the CHDOs do not have this experience and capacity, or that nonprofit developers be allowed to include substantial community representation in the process of their development, rather than confront issues such as board control, or CHDO involvement in the chain of title for a proposed site.

The Committee asked: Please *outline any additional challenges in financing and meeting the supportive services and service coordination needs of tenants, including limits on use of project residual receipts. Please also address any relevant distinctions between direct services delivery and service coordination functions.*

To date, JCHE has experienced no significant limitations on use of project residual receipts for supportive services and service coordination. However, with regard to the operating budget, we have encountered a wide variation in responses to budget requests for limited use of operating funds for such purposes. There are no written guidelines, nor uniformity of treatment for such requests. It would therefore be very helpful if HUD were to consider reasonable standards for providing limited funding within the capacity of the operating budget and balance sheet assets for supportive services and service coordination needs of tenants recognizing that such resources will of necessity need to be supplemented with charitable contributions from foundations and private donor sources. We recommend a guideline of up to 3 percent of a project's operating budget.

The Committee asked: *Please describe JCHE's experience with the Assisted Living Conversion Program.*

JCHE has not used the Assisted Living Conversion Program, among other reasons because of its state licensure requirements. JCHE's model of a wide array of services made available to residents on an as-needed basis is more supportive of their well-being and their dignity, more economical, and not consistent with the model of a licensed facility.

Finally, the Committee asked: *What would be the impact on tenant rents and financial viability of existing 202 projects operated by JCHE that receive Section 8 assistance if Congress failed to renew such assistance?*

Rents would rise above levels affordable for low income tenants, forcing many of them out, or, in the case where deed restrictions require the project rents to remain affordable, the project would go into foreclosure. There is no adequate alternative today to the deep subsidies required for keeping rents affordable for low income families and elderly whose incomes are at or below 60 percent of median income, let alone those of extremely low income tenants with incomes below 30 percent of median income, such as most of JCHE's residents.

In conclusion, in 2001 and 2002, the Seniors Commission documented the magnitude of the problem facing the country with the extraordinary growth of the elderly, both in numbers, in frailty, and as a proportion of the population. We identified the 202 gap in housing for seniors with the most severe housing needs—that is, severe financial problems and/or health problems and/or problems in the condition of their housing— as 6.1 million units, projected to reach over 7.5 million in 2020. While Congress has always defended the 202 program and resisted its elimination and restored many cuts, nothing comes near meeting today's needs, let alone preparing to meet the approaching tsunami of elders needing housing.

H.R. 2930 takes one strong step toward meeting the challenge, by eliminating some of the road blocks sponsors like JCHE face, and making production through the use of existing programs smoother and therefore quicker and less costly! Again, I thank you for your work on this issue and your commitment to solving it.

Thank you.

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Testimony for Michael Frigo, Vice President, Mayslake Village, Westmont, Illinois
Thursday, September 6, 2007
Subcommittee on Housing and Community Opportunity
H.R. 2930, The Supportive Housing for the Elderly Act of 2007

Thank you for giving me the opportunity to speak to you today regarding this very important matter of housing for the elderly and the HUD Section 202 program.

My name is Mike Frigo and I am the Vice President of Mayslake Village, which is located in Westmont, Illinois. It is approximately 15 miles west of downtown Chicago. Mayslake Village is within Congresswoman's Judy Biggert's District.

Mayslake Village has been a partner with HUD since 1960. We currently have five different HUD sponsored buildings with 622 apartments on our campus. Our oldest building goes back to 1971. In 1971, the HUD subsidy consisted of a 3% mortgage with a 50-year loan amortization and with no rental assistance.

The main reason I am here today is to discuss H.R. 2930, which speaks of some very important and exciting amendments to the HUD Section 202 program. All of the proposed items mentioned in this amendment make a great deal of sense and will allow us to preserve our oldest project, which is in deep financial trouble.

This oldest project is known as the Center building. It is functionally obsolete. It has 100 efficiency apartments that are no longer rentable. These are the only efficiencies among the 622 apartments on the campus.

The efficiency apartments living space is only 300 square feet compared to the one-bedroom apartments that are 540 square feet in size or more on our campus. We have no demand for them and there is no waiting list for them either. Currently 85 of the 100 efficiencies are sitting empty and as our older residents vacate these units, we expect these 15 efficiencies will become empty too.

Our problem at Mayslake Village in renting these efficiency apartments is so bad that two years ago after Hurricane Katrina hit New Orleans we had five senior citizens who had evacuated from New Orleans come to Mayslake Village seeking shelter. Of these five senior citizens, only two would accept an efficiency apartment. The other three people informed me that they would rather squeeze in and stay with their families than move into one of our 300 square foot efficiency apartments. Today only one of the two people still lives at Mayslake Village as the other person moved out after a few months telling me that living in that small efficiency apartment was driving her crazy.

Since we have such a large number of empty apartments in this building, we have experienced significant financial losses over the last five years totaling $1.58 million. We have used our own funds to cover these losses so that the building could remain solvent however; we are running out of funds. For the year just ended June 30, 2007, we had to put $400,000 of our own money into this building to keep it afloat.

We do have a practical and efficient plan prepared to rehabilitate this building. It calls for taking two efficiency apartments and combining them into a one-bedroom apartment, which would measure approximately 600 square feet. Ultimately, this would result in creating 50 one-bedroom apartments, which we know we could rent immediately. We have been working on this rehabilitation project for the last three years and our architects, engineers and consultants inform me that to rehabilitate this building today will cost approximately $10 million. In contrast, if we were to construct a new building with 100 one-bedroom apartments, it would cost approximately $15 million. The rehabilitation results in a $5 million savings.

H.R. 2930 would create a "Senior Preservation Rental Assistance Contract" which would allow our property to be refinanced and rehabilitated. Additionally, this amendment would give our residents a rental assistance program, which we never had for this building. Both the funding to rehabilitate and the rental assistance program would enable us to keep this building going for another forty years.

In closing, I would like to thank you for giving me this opportunity to speak to you about Mayslake Village and the importance of passing H.R. 2930. These changes will benefit all of our low-income seniors in the United States. Thank you.

WRITTEN STATEMENT OF

JOHN GARVIN
SENIOR ADVISOR TO THE FHA COMMISSIONER,
ACTING DEPUTY ASSISTANT SECRETARY FOR
MULTI-FAMILY HOUSING

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

"H.R. 2930, SECTION 202 SUPPORTIVE HOUSING
FOR THE ELDERLY ACT OF 2007"

BEFORE THE

SUBCOMMITTEE ON HOUSING AND

COMMUNITY OPPORTUNITY

U.S. HOUSE OF REPRESENTATIVES

SEPTEMBER 6, 2007

Chairwoman Waters, Ranking Member Biggert, and distinguished Members of the Subcommittee, thank you for the opportunity to testify on the efforts made by the Department of Housing and Urban Development (HUD) to address the housing needs of America's seniors. As the Subcommittee is aware, the Department has a long-standing history in providing affordable housing and delivering related services to one of the nation's most vulnerable populations, low- and very-low income seniors.

Recent studies highlight the overwhelming growth of this population and thus their corresponding affordable housing needs. It is important to note that there is an overwhelming amount of data proving:

- Baby Boomers will remain active and independent longer than previous generations;
- Many of them have wealth to manage retirement like no previous generation has; and
- As voters, they are going to challenge how America's seniors will be treated.

I am certain that this Subcommittee is well aware of senior population growth patterns so I will not recite those statistics. I will get right to the housing related facts.

Of the 21.8 million households headed by seniors in 2001, 80 percent were owners and 20 percent were renters. Approximately 73 percent of senior homeowners owned their homes free and clear. The median net worth of elderly households in 2000 was $188,885 compared to $55,000 for the total population. Eighty percent of seniors being homeowners may sound good, but the remaining 20 percent - or more than 4.3 million - are renters, and we simply are not producing the necessary affordable housing at a pace that adequately reflects their needs.

Our own data from 2003 estimates that there are over one million senior renters experiencing worst case housing need, generally defined as people without housing assistance paying more than half of their income for housing or living in severely substandard housing. In short, this nation is facing a shortage of housing assistance for our low-income senior citizens.

I am here today to talk about existing and potential housing opportunities for America's seniors, both for those who have the above-mentioned wealth, and more importantly for those who do not. Meeting the housing needs of America's seniors is one of our top priorities at HUD - and, as you will hear, we are creating new and innovative ways to achieve success.

To adequately address the housing needs of this growing population, it is estimated by the congressionally-established *Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century*, that an additional 730,000 rent-assisted units will be needed by 2020 to house seniors with housing problems (*cost burden*) age 65 and older.

Harvard University's report, *State of the Nation's Housing 2002*, found 8.4 million of the nation's 21 million elderly have incomes of less than $10,500 a year. The median income for a resident in a HUD Section 202 project is $9,480 and that resident is more than likely female. As you all may know, HUD's Section 202 program provides an important resource to address the housing needs of low- to very-low income seniors. However, the program in its current state only addresses a small percentage of senior housing needs. Consider this alarming fact: AARP estimates that there are ten seniors waiting for each Section 202 unit that becomes available.

The Section 202 program makes a significant contribution to addressing seniors' housing needs by providing affordable housing units, many with supportive services. Today's Section 202 program is, simply put, a capital advance (*or construction*) program with project rental assistance. The capital advance is provided without interest and does not have to be paid back as long as the housing remains available for the intended population for 40 years. Projects developed under the current program also provide supportive services dependent upon the needs of the residents.

However, the overall aging of the population and the commensurate need for senior housing has prompted HUD to make some changes in a variety of our programs, including Section 202.

I want this subcommittee to know that this Administration and HUD share your concerns regarding senior housing needs. We are committed to the ongoing viability of the Section 202 program.

Based on the funding appropriated each year, more than 20,000 new units of Section 202 housing units have been approved since 2003. The President's proposed FY 2008 budget provides $575 million in funding for the Section 202 program. This is a net increase of $30 million more than last year's request. This funding will provide: construction of new units, congregate services, service coordinators, funding to convert projects to assisted living, and funds to renew and amend existing contracts.

In the FY 2008 budget, the Department proposed an innovative demonstration program aimed at increasing the production of Section 202 units. Between 1995 and 2005, we witnessed Section 202 production decline by approximately 40 percent despite relatively stable appropriations. One of the main reasons for the recent decline in development is that as rental assistance contracts expire, they are renewed from the same pot of funds that would otherwise be targeted toward development. In the future, as a larger proportion of the appropriation is taken up by rental assistance, there will be less available for new development.

To help stop the decline and, moreover, increase unit production, HUD's FY 2008 budget called for $25 million for a demonstration project that would seek to utilize housing tax credits and other housing resources (tax-exempt bond financing, HOME Program, private grants, etc.) to expand production under the Section 202 program.

It is commonly known that housing tax credits produce a vast number of units nationwide. In fact, according to the AARP study, as of 2003 more than 1.1 million units for low-income individuals and families had been produced using housing tax credits. It is our goal to take the positives from both and produce vastly more units with strong senior services components.

To prepare for this likely demonstration project, we have contracted with experts in the field (industry stakeholders, housing advocates, etc.) to look at various ways to improve the program. Some of the areas currently being researched include:

- Identifying ways to complete projects in a timelier manner, utilize various funding sources to expand the impact of the limited 202 dollars, and provide enhanced supportive services;
- Identifying and removing barriers in the Section 202 Prepayment and Refinancing Program to facilitate the preservation and rehabilitation of existing properties; and
- Identifying ways in which HUD can partner with other federal, state, and local agencies to leverage the Section 202 funds.

As I mentioned, we face two unique senior housing challenges: housing seniors of limited means, as I just addressed, and housing those with some level of accumulated assets.

HUD, through the Federal Housing Administration (FHA), has a reverse mortgage insurance program that targets senior homeowners. The Home Equity Conversion Mortgage, or HECM for short, is designed to enable senior homeowners to convert the equity in their homes into tax-free income. FHA-insured mortgages account for over 90 percent of the reverse mortgage market.

Homeowners who are 62 years or older and have a paid-up or low mortgage balance are eligible for a reverse mortgage loan. Many seniors utilize the income to supplement their Social Security, meet unexpected medical expenses or make home improvements. It is also an option for Baby Boomers nearing retirement, who realize they may not have enough income to provide for a comfortable lifestyle.

Seniors can choose to receive the proceeds from a reverse mortgage all at once as a lump sum, fixed monthly payments (for up to life), as a line of credit, or a combination of these. The most popular option - chosen by more than 60 percent of borrowers - is the line of credit, which allows you to draw on the loan proceeds at any time. The borrower is not required to repay the loan until he or she no longer uses the home as a primary residence.

The HECM program started as a demonstration program in 1990 and was seen as a true innovation in the mortgage industry, a way of helping seniors who were house rich but cash poor. The program became permanent in 1993.

Because FHA recognizes that seniors with considerable equity in their homes can be prime targets for predatory lending, we require that seniors considering a HECM loan receive counseling, and we have worked hard to ensure this counseling is of high quality.

According to demographic data on new HECM borrowers over the three years beginning with FY 2004, the median borrower age is 73. Half of the borrowers are between 68 and 78 years old. Another 25 percent are 79 and over.

The program once served primarily single women, presumably widows, who had very little or no income and nowhere to turn for help. These "house-rich, cash-poor" widows took out reverse mortgages to obtain money to live. The program was perceived as a last resort for individuals who had no alternative but to take equity out of their homes. What we are finding now is that the program has slowly shifted over the past decade, to attract more couples with higher incomes and more expensive homes.

Since FY 2000, when we insured just 6,600 loans, the HECM program has been experiencing double-digit growth each year. In FY 2005, FHA endorsed over 43,000 loans, representing a 14 percent increase over the prior year. In FY 2006, volume exploded: it increased by 77 percent to more than 76,000 loans. Endorsements continue to accelerate, and we expect to insure about 90,000 loans in FY2007. Despite this astounding growth, the National Reverse Mortgage Lender Association estimates these numbers represent two-percent of the universe of possible borrowers.

FHA uses underwriting criteria that allow us to operate the program without the need for appropriations of credit subsidy. Because of the long-term nature of these loans and the uncertainty that comes with projections of life expectancy and house price appreciation over such periods, we will remain diligent in assessing the credit risk associated with these loans.

The Department and our industry partners are excited about this growth. However, the current statutory limit on the number of loans FHA can insure is 275,000, which we reached on February 13 of this year. We worked with the Appropriations Committees to secure a temporary increase, but our ultimate goal is to lift the cap altogether. The program has been tested for over 15 years now and has proven to be not only successful, but a model for the reverse mortgage industry. We propose that the cap be altogether eliminated.

We have also proposed another legislative change that would permit HECMs for Home Purchase. One of the best ways to serve seniors well is to permit them to move to alternative housing, whether it's a senior community that offers appropriate amenities and services or simply a smaller, easier-to-maintain home. Our HECM program shouldn't just allow seniors to take cash out of their current homes, but should permit them to move to housing that better meets their needs as they age. A change to the statute would permit FHA to offer a HECM product that would enable seniors to purchase a home and tap into the equity in their old one in a single transaction.

I would be remiss if I did not point out in my testimony that there a number of programs within HUD, but outside of Office of Housing, that serve the housing needs of seniors. There is the Section 8 voucher program, 17 percent of which is utilized by people over the age of 62, and public housing, 32 percent of which is used by this age group. Together, these two programs represent more than two-thirds of the Department's overall budget. Also, both the HOME Investment Partnerships Program and the Community Development Block Grant are administered in a manner that provides state and local governments the flexibility to prioritize local needs, including increasing and supporting affordable housing units for low-income seniors.

In closing, I would like to reaffirm the Administration's and HUD's commitment to aggressively seeking ways to better address the needs of this nation's seniors – we owe them that. I have only touched on a few of the components of our senior housing strategy, but I look forward to having the chance to work with this Subcommittee in the future.

Thank you, I appreciate the opportunity to appear today and discuss these important issues.

PHHF

Testimony of Deje Kondor
Executive Director
Presbyterian Homes and Housing Foundation of Florida, Inc.

Hearing before the House Financial Services Committee
Housing and Community Opportunity Subcommittee
September 6, 2007

H.R. 2930, The Supportive Housing for the Elderly Act of 2007

Good Morning Chairwoman Waters, Ranking Member Biggert, and distinguished members of the committee. My name is Deje Kondor and I am the Executive Director of the Presbyterian Homes and Housing Foundation of Florida, Inc. I am honored to speak to you today as a member of the Florida Association of Homes and Services for the Aging, the Florida affiliate of the American Association of Homes and Services for the Aging and as a member of AAHSA.

We are a faith based non profit organization dedicated to serving older adults for more than 40 years on the West Coast of Florida by providing them an atmosphere to enjoy affordable independent living with dignity and well-being. Although we receive no funding from the Presbyterian Church, USA, our "sponsor", we serving the Tampa Bay and Peace River Presbyteries and provide affordable non-assisted rental housing for low-income seniors in West Central Florida. With 3,095 units at 19 different sites, we are the largest non-profit sponsor of HUD housing in Florida.

Of our 19 communities, four are the "old" 202s (816 units), built between 1959 and 1974. We have three 202/8s (275 units). We also have two 202 PRACs (160 units).
We also have seven Section 236 communities, some with project based Section 8, one 221(d)(3) and two Rural Development communities.

I am delighted to be here today to speak on behalf of HR 2930. It truly is legislation that could provide us with the tools that we need to preserve our housing and to build new housing in the future. We were so honored that Congressman Mahoney chose to announce introduction of this important legislation at one of our communities, Charlotte Towers, a 97 unit Section 202/8 in Port Charlotte.

Let me tell you why this legislation is important.

We have four of the old Section 202 properties, built in the early phase of the program. They have 3%, 50 year mortgages; so the rents are fairly low considering today's rents, but the renovation needs are great with little access to capital. Only some of the units have section 8 project based assistance. Our oldest community, Presbyterian Homes of South Florida, the first Section 202 built in Florida, has a total of 216 units with only 43 project-based Section 8 units. If we were to refinance the property and renovate it, only 43 seniors would be able to pay the new rents because they have section 8 assistance paid on their behalf. The remaining 173 seniors may not be able to pay new higher rents that come with a renovated property. However, if HR 2930 passes, the seniors would receive project based rental assistance to make up the difference between what they can afford to pay and the actual rent needed to pay for the new mortgage and operating costs. They will not be displaced and the resource will remain for future very low income seniors.

At the remaining three properties, only 28 seniors have rental assistance, but it is tenant based assistance; so at those properties as well, if we were to undertake the kind of rehabilitation that is necessary, it is unlikely that the residents would be able to pay the new rents without rental assistance.

We have made do when it was crucial for emergency repairs that our reserves would not cover. We have received two low-interest (1%) loans from the state for elevator rehabilitation at Presbyterian Towers and at Tampa Presbyterian Community. However, when we applied and were awarded another low-interest loan from Florida Housing Finance Corporation in excess of $500,000 last year for the Tampa Presbyterian Community, the Jacksonville HUD office would not let us accept it because we had no other means to pay it back except through operating funds derived from tenant rents. We were told blithely by HUD that the "sponsor" could make the payments, not the communtiy, as if the "sponsor" had deep pockets. Florida Housing Finance Corporation may make these loans available as deferred payment loans; therefore we have reapplied, hoping that a deferred payment loan would be acceptable to HUD.

If this legislation were enacted, we would be able to refinance all the mortgages and accomplish the substantial rehabilitation that is necessary instead of a piecemeal approach in emergency situations. Our very low income seniors would be protected from displacement and higher rents and the housing would remain affordable for future seniors.

We actually need more rental assistance now in these properties which I understand is not available. At least if the legislation passes and we undertake refinancings, rental assistance will be available. Very few of the residents are actually earning the "maximum income" of 80% of area median income. If there were Section 8 Housing Choice Vouchers available through the housing authorities, most of our residents would qualify. Although our communities have the most affordable rents in the area, our residents still would benefit from rental assistance. When we have a budget-based rent increase go into effect, it is very difficult on those residents. It is forcing us to exclude very-low income residents from eligibility in these communities because to forego rent increases would jeopardize project operations. So the availability of rental assistance is critical to preserving housing for very low income seniors.

We have refinanced two of our three 202/8s. It was complicated and a lot of work. It took a lot longer than projected but in the end we were able to complete major rehab work. With HR 2930 enacted, perhaps it would have been more direct and certainly easier.

As I have mentioned, we also own and operate seven 236 developments. Five of them have only partial Section 8 assistance; two have none. As you know, residents of not for profit owned Section 236 developments are not eligible for enhanced vouchers or rental assistance if the mortgages are prepaid and the property refinanced unless they already are receiving rental assistance. In order to preserve the 236 inventory owned by not for profits, we would recommend extending the provision of new project based rental assistance in HR 2930 to those tenants as well as for unassisted Section 202 residents. It is necessary for preservation and avoiding displacement.

Presbyterian Homes and Housing Foundation of Florida continues to apply for new construction funding under the PRAC program. We have experienced what every Section 202 sponsor has experienced – insufficient construction dollars and initial PRAC budgets and time delays in reaching initial occupancy. As for all businesses, not for profit or for profit, time is money. The delays in processing add to the cost of any project. And our sponsor, the Presbyterian Church, USA does not and cannot contribute any funds to help out with either construction cost overruns or operational fund shortages.

The construction costs for our two PRACS were under budgeted. At our newest PRAC that opened in December 2006, concrete costs had exceeded the original budget by $359,000 by the time the actual construction began. There were also additional unforeseen cost overruns. We also requested amendment funding for an emergency generator because the building is 5 stories tall. It was denied by HUD. This community is located in Lakeland, Florida which sustained major damage and power outages in 2004 with Hurricanes Charley, Frances and Jean. We thought it only sensible to include an emergency generator as standard equipment like refrigerators and ranges, but to HUD an emergency generator apparently is a "luxury" expense. As well, the initial operating budget and rents were grossly under budgeted.

We applied for a "pre-occupancy rent increase" at our newest PRAC which was "initially approved" but was never "funded". So, we lost out on the additional rent to fund operations for an entire year and started out behind.

We believe that HR 2930 by delegating processing of applications to state or local housing agencies would be able to more realistically assess the needs of each community proposal more quickly. If a local or state agency had been reviewing our Lakeland community, perhaps the cost overruns caused by time delays and inadequate funding initially approved would not have occurred. A local agency would also have been more sensitive to the needs of a Florida hi rise, approving the funding necessary for an emergency generator as a cost of doing business in a hurricane prone area.

Finally, I would also like to address one of the less jazzy issues in the bill and that is HUD's obligations to provide sufficient rent increases and emergency rent increases to cover operating costs including insurance. Florida has seen exorbitant insurance premium cost increases over the last several years. Presbyterian Homes has seen its insurance premiums rise from $700,000 to $1.25 million from 2004 to 2006. We're waiting for the 2007 premium bill. Not only will HUD not provide rent increases to cover or reimburse these costs, but faulted us for scrubbing project reserves to pay the bills without permission. This legislation would require HUD to address those emergency rent increase requirements and that is critical to operating senior housing responsibly. I want to commend Congressman Mahoney and this Committee for addressing the issue of insurance coverage and urge you to look at multifamily housing coverage as well as single family housing coverage.

The rents and the subsidy payments we receive are our only source of revenue and if the rental income is not sufficient, we can not adequately operate and maintain our properties for the benefit of the seniors who live there. I should add that we provide service coordinators at almost every property, paid for out of our operating budgets or excess income at the 236 communities. We believe they are crucial to our mission of serving seniors with dignity. So this provision ensuring adequate rents is critical. One need only look at the chaos created by late HAP payments to understand why it is so important to have adequate rents. But that is an issue for another hearing, another day.

Conclusion

Because Presbyterian Homes and Housing Foundation of Florida recognizes the uncertainty and even loss of federal funds, we fear that we may not be able to remain self sufficient in the future and provide the same services we do today. The Foundation has pledged to increase its efforts to attract gifts from individuals and organizations to further ensure its mission into the future. In our bleakest moments we have even considered prepaying all our mortgages and opting out of all our subsidy contracts, simply to get out from under all the bureaucracy and uncertainties of dealing with HUD and the PBCA while continuing to serve seniors and meet our mission. But we believe that HR 2930 offers a ray of hope for assuring that we can successfully recapitalize and rehabilitate our oldest properties, protect our vulnerable seniors from displacement, build new 202s without facing time delays and cost overruns, and operate and maintain our buildings with sufficient rental income. We want to thank you for considering this legislation and would urge its adoption as soon as possible.

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Testimony of David C. Lizarraga,
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Hearing before the House Financial Services Committee
Housing and Community Opportunity Subcommittee
September 6, 2007

H.R. 2930, The Supportive Housing for the Elderly Act of 2007

Introduction

Good Morning Chairwoman Waters, Ranking Member Biggert, and distinguished members of the committee. I am excited to be here this morning to talk to you about the importance of H.R. 2930 and the future of the HUD Section 202 senior housing program. My name is David Lizarraga, and I represent TELACU, the largest community development corporation in the United States and a developer of Section 202 Supportive Senior Housing in Southern California. We are a multi-faceted, forward thinking, community based non-profit with a variety of initiatives that are based on TELACU's mission of service, empowerment, advancement and the creation of self-sufficiency in the communities where we work.

Founded in 1968, TELACU is active in community lending, job creation, education, community development, veteran's assistance and the construction of affordable housing for our workforce and especially our senior citizens. TELACU began developing senior housing in 1975 and today, we own and operate Section 202 and tax credit financed housing communities that serve thousands and thousands of low income seniors and families in the Greater Los Angeles Area. The Section 202 program provides funding to address a particularly vulnerable group of seniors – those living on very low incomes, or below 30% of the area median income level. These are seniors with few, if any, housing options, and who need a supportive home environment where they can age-in-place.

The Section 202 program was created to be more than just affordable housing. The program develops supportive housing that enables seniors to make the important connections to community based services that will allow them to remain in their homes without unnecessarily being forced into an institutional setting just because they need some additional help. In California, we are fortunate to have both a statewide "In Home Supportive Services" program and in my community of Los Angeles, a PACE program. PACE, which is the Program for All Inclusive Care for the Elderly, is a comprehensive health management program that serves Medicaid-eligible seniors with extreme frailty. Section 202 communities, such as ours, work with these and other service providers to make aging-in-place a reality.

I want to stress the fact that supportive housing is the main component of our nation's long term care system. Most seniors prefer to remain at home and numerous studies tell us that the costs of providing affordable housing with services will prove to be a cost effective alternative to more expensive skilled nursing settings. More importantly, seniors find a greater sense of community and dignity in Section 202 sites throughout the country. However, this program faces the serious challenges of a complex financial environment, increased competition for resources and high construction costs. While the Section 202 program is a very important and good program, it is need of improvement to make it a much more effective program.

New Development of Section 202 Properties

TELACU aggressively applies for new Section 202 projects. We typically submit applications for two 75-unit projects each year. Our organization has been fortunate to have either one or both of these applications funded every year. However, we have found that the repeated under-funding of the Section 202 development awards and PRAC operational subsidies have made development more difficult to accomplish in recent years. The cumbersome process of working with HUD at both the local and headquarters levels increases project delays by sending the developer through a complicated process of underwriting. Currently we must go through layers of approval, including repeated requests for waivers from obsolete program provisions. These waivers would be better eliminated in cases where a given requirement is no longer necessary or possible. To the extent HUD feels that it needs to retain discretion in a given area, we believe it would be more effective to leave those decisions to field offices where HUD staff members are more familiar with projects and local conditions that require a variation.

TELACU, like most non-profit developers, spends a great deal of time looking for additional or "gap" financing to make up for shortfalls in HUD funding. These additional funds typically come from other federal programs administered through state or local governments, such as HOME or CDBG. In the Los Angeles area, there are some non-federal sources of funding that we pursue, such as the City of Industry Fund administered by the County of Los Angeles Community Development Commission. TELACU routinely finds it necessary to apply to the Industry Fund in amounts exceeding $1 million for 202 projects. It is not unusual for an average TELACU-sponsored 202 project to require funding from at least 4 different sources to cover shortages in project funding.

Many of these gap financing sources are awarded on a competitive basis and in funding rounds that rarely correspond with the Section 202 NOFA process. This means that TELACU's development team must prepare additional applications and wait for award announcements before, during, and after the Section 202 application process. This takes time and usually leads to more project delays that result in increased construction costs as the prices of materials and labor continue to rise. After the Section 202 awards are made, we now often find that the amount of gap financing we ultimately need often turns out to be far greater than anticipated, forcing our team to return to those entities that made initial commitments to a project to ask for additional funding. Many of the local governments we work with have expressed frustration that the Section 202 projects are beginning to feel like a "bait and switch," with the developer returning to a city and making greater demands on their decreasing pools of resources. In the City of Pomona, California, TELACU was required to return to the City asking for $900,000 more in redevelopment agency assistance than was anticipated. We are still working with the City to fill this gap, and we are quickly running out of time to do so.

Refinancing and the Future of Affordable Housing Development

As I've stated, the Section 202 Program is a great resource to serve seniors that are most in need, but clearly, it cannot serve all those that need housing. Non-profit developers, HUD and Congress must be more creative in using our resources to further our joint goal of providing more affordable housing.

To this end, two years ago TELACU made a proposal to HUD that would have allowed TELACU to refinance seven of our older Section 202 properties through a private funding source and generate approximately $28 million. The proceeds were to be used to pay off HUD's existing debt, perform certain capital improvements on the properties, and to increase our reserve for replacement account for maintenance. Our proposal had a very unique component. Due to the significantly reduced cost of our private financing, the projects would have generated approximately $800,000 annually in savings. TELACU proposed that these funds be used to create a revolving equity fund. This money would enable TELACU to leverage other financing to develop affordable homes for low income, first time homebuyers. The home sales proceeds would then be deposited back into the equity fund for new homeownership projects. Each year, this fund would be increased by another $800,000 generated by the interest savings from the 202 refinancing.

Despite the fact that our plan was overwhelmingly supported at the local level as a highly-creative model for expanding housing resources, and was also looked upon very favorably by Secretary Jackson, HUD headquarters staff ultimately denied our request to proceed with this transaction. After a year and a half of pursuing a decision from HUD, our request was denied because HUD did not want to approve the utilization of interest cost savings from 202 housing projects to benefit home ownership for low income individuals. Given the recent events in the credit market that will negatively impact millions of low income homeowners, we find this decision to have been very unfortunate indeed.

While the refinancing provisions in H.R. 2930 may not allow TELACU's savings from refinancing to be used as originally proposed, TELACU would be able to use Section 202 refinancing proceeds in excess of our projects' capital repair needs to further TELACU's housing mission. Even if we would not be permitted to create the revolving fund, we would still have an opportunity to use refinancing proceeds and savings to address the funding gaps in new projects, hire additional service coordinators, develop adequate service space in new buildings and possibly create a co-location model with commercial space available for a services provider. This added flexibility will allow housing providers to meet the needs of their various communities with clear, focused direction, as opposed to a vague, drawn out process of submitting requests to HUD with no idea if they fall within permissible policy or not.

Assisted Living Conversion Program

The Section 202 Assisted Living Conversion Program is a worthwhile program that would provide additional funding for the rehabilitation of existing buildings to provide assisted living standards for frail residents. Unfortunately, as with many states, the current version of the program does not work in California. The state's assisted level licensure increases the operational costs dramatically, which are not paid for by HUD or HHS. Furthermore, California would require that the entire building be licensed as assisted living, regardless of the individual residents' needs. As I have mentioned, we have two state programs that currently provide services to frail seniors in existing Section 202 housing through a separate funding stream.

H.R. 2930 would make properties such as ours eligible for funding to create more accessible housing for frail seniors that choose to remain in a housing setting. We are fortunate to have service providers in place and available to housing residents who are capable of providing an assisted living level of care. California is in the process of testing a limited Medicaid waiver pilot in both affordable housing and assisted living, potentially opening up a stream of funding for the licensure requirement, but that could be years away. This bill can make a difference to residents that are living in housing communities now while maintaining the autonomy of the resident to decide when and how they want to receive services.

Conclusion

I would like to express my gratitude to Representative Mahoney, Chairwoman Waters, Ranking Member Biggert and the members of the subcommittee present today for the opportunity to discuss this important legislation. The Section 202 Supportive Housing for the Elderly Act of 2007 will not only improve the ability of non-profit organizations like TELACU to develop new 202 properties; it will advance our collective goal of addressing the affordable housing shortage and increased needs of those seniors in our community. In addition, this bill takes the important step of redirecting the processing of Section 202 awards to the state or local level agencies that have the local development and financing expertise necessary to reduce costly delays.

Senior Americans will continue to face increasing demand for affordable housing and rising costs of living. Your challenge at the federal level, and ours as your partner, will be to make the most of the resources available to provide housing and services seniors can afford, and to provide that in an increasingly complex development environment. I am extremely proud of the many organizations like TELACU which are committed to bringing the Section 202 program into the 21st century with creativity, vision and fiscal responsibility. Thank you for your leadership in making this possible.

Testimony of Steve Protulis, Executive Director
Elderly Housing Development and Operations Corporation (EHDOC)

Financial Services Housing and Community Opportunity Subcommittee
The Supportive Housing for the Elderly Act of 2007
September 6, 2007

Introduction

Good morning Chairwoman Waters, Ranking Member Biggert and distinguished members of the Housing and Community Opportunity Subcommittee. My name is Steve Protulis and I am the Executive Director of EHDOC, the Elderly Housing Development and Community Opportunity Corporation. We are a non-profit senior housing development organization, founded in 1978 and based in Fort Lauderdale, Florida. On behalf of my residents and their families, I would like to thank you for holding this hearing. I would also like to thank Congressman Mahoney for introducing this important legislation. The sustainability of the current Section 202 program and the existing Section 202 properties depends on the steps that you and your colleagues take today to address growing inefficiencies in this vital program.

I am honored and grateful for the opportunity to share my views on this bill as a non-profit developer of Section 202 housing. I would also like to reinforce the leadership of the American Association of Homes and Services for the Aging (AAHSA) in proposing reforms to the Section 202 program and encourage prompt enactment of H.R. 2930. EHDOC currently owns or manages 47 senior housing communities, serving approximately 4,000 low-income seniors in 13 states, the District of Columbia and Puerto Rico. In addition to our existing properties we are in the process of developing three new Section 202 facilities in Fontana, CA, Chicago, Illinois and Albuquerque, New Mexico.

Our not-for-profit organization relies heavily on a close partnership with the federal government, particularly with the HUD Section 202 program, in order to fulfill our mission to provide affordable housing with supportive services to our nation's lowest income seniors. EHDOC has very successful affordable housing facilities in states represented by several members of this Subcommittee. The need for affordable senior housing is not relegated to one part of the country, or one type of community. This is a national crisis that impacts a particularly vulnerable population. As evidence of the critical need and success of Section 202, EHDOC has over 4,200 seniors on our waiting list -- more than the number of residents that currently live in our facilities.

Affordable Senior Housing Needs Supportive

My testimony today will focus on the importance of linking affordable senior housing with essential supportive services and how the proposed reforms included in H.R. 2930 work towards that end. While safe, decent and affordable housing for all Americans has long been valued as a national goal, we must recognize the importance of housing for older persons that (1) is suitable for them to age-in-place and (2) allows them to remain in their home and community for as long as possible. Today, more than 300,000 seniors living in Section 202 properties. Supportive senior housing, such as Section 202, needs to be recognized as a vital part of our nation's long-term care strategy, particularly as we prepare our state and federal programs for the dramatic increase in the elderly population.

Although supportive services have long been promoted as an alternative to premature nursing home admission, this option has not been available to many low and moderate-income seniors until recently. Seniors are more vocal about their desire to remain in their own homes, the courts have reinforced the right to community-based placement where possible and the Administration has expanded the ability of states to develop plans, including Medicaid waivers, to serve the frail elderly and disabled outside of nursing home settings. Unfortunately, in most communities there is insufficient housing that is both suitable and affordable available. According to the 2006 MetLife survey, the average cost of assisted living communities is approximately $35,000 per year. That is more that three times the annual income of the average Section 202 resident.

The Section 202 housing program provides an opportunity and much needed foundation where changing public policies and consumer choices can come together to ensure that our seniors are able to live safely and age with dignity. We must, as a country, create more opportunities for supportive senior housing and more flexibility to reposition existing senior communities to ensure essential services through such actions as: 1) the routine staffing of service coordinators, 2) providing suitable space in and/or adjacent to elderly housing for service delivery, 3) developing or retrofitting senior apartments to accommodate the physical needs of residents as they become more frail; and 4) providing the means to leverage community-based services or, if necessary, providing a range of supportive services. I believe that the enactment of H.R. 2930 will be extremely helpful in achieving these goals.

Senior Commission Report: Need and Recommendations

As you know, a few years ago, this Committee recognized the need to link housing and services for the elderly, and was instrumental in the establishment of the "Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century". I was honored to be appointed to serve on this Commission of policy and program experts, including Congressman Emanual Cleaver, a distinguished member of this Committee. In 2002, the Commission's final report to Congress, "A Quiet Crisis in America", included a comprehensive assessment of the existing and future housing options, the level of frailty among seniors and the lack of attention paid to the vital role that affordable housing plays in the wellness and independence of seniors. The Seniors Commission's final report is available on EHDOC's website (www.EHDOC.org) and contains valuable information that I would encourage members and their staffs to read as you begin to address the growing housing crisis and its impact on seniors. Highlights of its findings include:

- An additional 730,000 rent-assisted units will be needed by 2020 for limited income seniors 65 and older;
- The need for supportive services is reflected by the number of persons who are considered frail or at risk. One-third of the 1.4 million seniors in rent-assisted housing have difficulty performing activities of daily living and about a third of residents over the age of 65 require some form of assistance;
- Those living under 150% of poverty level are especially vulnerable with almost 214,000 or over 42% having at least one limitation with activities of daily living; and
- AARP documented that some 36% of seniors were frail or disabled.

I believe that EHDOC's residents reflect the national trend of increased longevity and aging in Section 202 housing. The average age of EHDOC residents is 79 years old and many rely on supportive services to remain in their homes and out of institutional settings. For example, of EHDOC's 620 units in four facilities in Florida, 37% of the residents are considered frail and 41% are "at-risk". This means that approximately 78% of the residents needing supportive services. At one of our properties in New England, 50% of the residents are over the age of 85. We had a resident in one of our Ohio communities who was 101 years old. She regularly participated in our exercise program at the site and had assistance with the services that she needed. Some of our residents have lived at properties for over 20 years – they have aged-in-place from the time the senior housing facility was first opened.

Proposed Section 202 Reforms: What it Means for Services

The Section 202 program represents the only federal program designed specifically to provide supportive housing for low-income elderly. Despite its need and cost effectiveness, limited funding in 2006 froze available funds for this program and provided for the development of only 4,300 new units of affordable senior housing. We need to reform this program, not only to increase the number of units being built annually to meet the increased demand, but to ensure that there are sufficient resources for sound management, routine maintenance, timely modernization and to enable effective linkages with supportive services

Service Coordinators

I cannot stress the importance of making sure that new and existing Section 202 properties have options and sufficient funding for the routine staffing of service coordination. Service coordinator staff was a major recommendation of the Seniors Commission. I commend this Committee for establishing the Service Coordinator program and authorizing the service coordinators as a routine part of a Section 202 operating budget.

Insufficient funding for Section 202 Project Rental Assistance (PRAC) and Section 202/8 properties; have resulted in some Section 202 facilities not having resources available to staff service coordinator(s). While new Section 202 PRAC communities are authorized to have service coordinators as part of their operating budget, they do not receive sufficient funding to actually include the position and are not eligible for the annual Service Coordinator competitive grant program. HUD's repeated under funding of the PRAC awards for new Section 202 projects have resulted in our not being able to afford a service coordinator until the third year of operation, sometimes later. At Worley's Place, an EHDOC property in Jacksonville, Arkansas, property insurance increased by 300%. The added operational increases, which have occurred throughout the country, in health benefits for staff, property taxes and utilities, has left many new projects struggling to meet the basic needs of the properties. HUD awards have failed to reflect the actual operational cost of today's Section 202 properties. Resident services and service coordination staff needs invariably fall by the wayside in the early years of these buildings as sponsors work to maintain the costs at unrealistic levels.

Fortunately, unlike many of the speakers on the panel and throughout the country, EHDOC has – so far - been successful in using refinancing proceeds from one of our properties to fund a service coordinator in another community until the PRAC budgets have increased to a reasonable amount to enable the staffing of a service coordinator as part of the project's operating budget. This uneven treatment among sponsors speaks to the lack of a clear policy directive from HUD headquarters consistent with the goals of the program and the arbitrary nature of the approvals given in the refinancing process. We believe that the EHDOC communities and the residents are better off because of our refinancing plan, however there is no reason that other communities should not have this option available to them.

Facility Space for Services

It is essential that senior housing facilities have sufficient common space for the provision of a range of services, such as meals, counseling, adult day care, education, wellness, recreation and cultural enhancement. Unfortunately, many Section 202s with limited development funds as well as some older Section 202s, particularly those developed during cost-containment policies, do not have sufficient common space adequate for the delivery of on-site supportive services. If adequate common space were available, it would provide a means to leverage community-based services into the facility, as well as to make the senior housing facility a community resource to assist both residents and those in the surrounding community.

While some Section 202s have been fortunate to receive community resources, such as HOME or Community Development Block Grants, to finance community space, many have not. It is vital that Section 202 development funds are sufficient to enable options for community space for services. In addition, it is also cost effective to use refinancing proceeds from Section 202 (or other federally assisted housing) to develop within, adjacent or near-by the facility, common space that can be used for services, as well as flexibility by the sponsor to assist other communities within the portfolio of multi-facility sponsors.

Apartment Modernization

Similar to the use of funds for common space, it is critical that development cost limitations be reasonable to fund with new developments or with refinancing existing facilities, design features with individual apartments to accommodate physical needs of seniors as they age, such as universal design. In addition to adaptations for accessibility, hearing, seeing or other impairments, there is a need to retrofit non-marketable efficiencies (particularly those funded under HUD imposed cost containment policies) or other design features to accommodate supportive services, including space for caregivers and use of new technologies to enable increase self-sufficiency.

Tapping Community Services

Another critical feature of senior housing is its ability to enable the facility and its older residents to be a vital part of its local community. Section 202 providers are particularly committed to promoting interaction between residents of the facility and the surrounding community, as well as to promote the involvement of the local community to assist the senior housing residents. Developers work closely with communities in advance to shore up community service relationships and support. In many cases the initial push for the project comes from the community itself in response to aging residents that can no longer live in their homes, or are displaced by escalating housing costs in "hot" markets. Sufficient funds are needed with the development of new facilities to ensure present and projected site considerations for services, as well as the use of refinancing funds to strengthen community infrastructure.

One approach that EHDOC has used to strengthen community relations for our residents (as well as family, staff, etc) is through our Community Action Program (CAP). The motivation for the establishment of CAPs was that each of our senior communities needed to encourage active involvement by residents with their local community and tap community resources. The EHDOC website and newsletter provides examples of many exemplary CAP programs. We need options and flexibility to use operating funds or resources made available through refinancing, to support the development or activities of Community Action Programs and leverage community support.

Council House: A Refinancing Case Study

A few years ago there was a need to identify funds to enable the modernization and retrofitting of an older Section 202 housing property in Marlow Heights, MD. Built in 1981, Council House is an older Section 202 property with 162 units and was in need of repairs and modernization, yet, there were limited funding options. By refinancing through the Low-Income Housing Tax Credit (LIHTC) EHDOC was able to generate nearly $1 million to enable extensive modernization to individual apartments and common space for services at Council House. We were able to increase the accessibility of the property and the units, create an exercise room and provide added security.

The refinancing proceeds were used to extend the use of the property well into the future, provide a better housing environment for its senior residents and generate resources to fund a service coordinator position. In addition, excess refinancing proceeds – the kind referred to under Title II of this bill - were used to provide service coordination and services for other EHDOC affordable senior housing properties. This was a win-win process enabling EHDOC to continue our mission to provide affordable senior housing linked with services. You've heard many people testify today about similar proposals that HUD has denied. These opportunities should not be missed.

I can tell you that the Council House refinancing would have been simpler, faster and less expensive if H.R. 2930 been enacted to expedite and clarify the process. I would urge your prompt enactment of this important legislation to provide a foundation for the next wave of Section 202 communities, and to help usher in a stronger role for affordable supportive senior housing as a vital part of long-term care strategy.

Recommendations

In conclusion, I want to reiterate three points and urge you to support this legislation. First, Section 202 providers are committed to the goals of integrating services to help low-income seniors remain in their homes and preserving existing Section 202 housing properties. Second, our goals must become your goals as you face the policy implications of an exploding senior population. Third, H.R. 2930 goes a long way towards making these goals a reality, by providing a clear policy direction to HUD on preservation, taking advantage of the common sense solutions that are available to us and making the most of the limited resources that we have available. I cannot thank you enough for your time and consideration. I would like to extend an invitation to you to and your staffs to visit Council House and see the impact of our work first hand.

Thank you.

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Testimony of
Thomas W. Slemmer, Board Chair-Elect
The American Association of Homes and Services for the Aging

Housing Financial Services Committee
Subcommittee on Housing and Community Development
Hearing on H.R. 2930: The Supportive Housing for the Elderly Reform Act

Introduction

Good morning Chairwoman Waters, Ranking Member Biggert, members of the Committee. My name is Tom Slemmer and I am please to be here to today, representing the American Association of Homes and Services for the Aging. I have the honor of serving as the AAHSA Board Chair Elect. The members of the American Association of Homes and Services for the Aging (www.aahsa.org) serve as many as two million people every day through mission-driven, not-for-profit organizations dedicated to providing the services people need, when they need them, in the place they call home. Our 5,700 members offer the continuum of aging services: adult day services, home health, community services, senior housing, assisted living residences, continuing care retirement communities, and nursing homes. AAHSA's commitment is to create the future of aging services through quality people can trust.

I am also the President and CEO of National Church Residences (NCR). National Church Residences, a Columbus-based non-profit organization, was founded in 1961 and is one of the largest developers of affordable senior housing in the United States. We own and/or manage nearly 250 affordable senior and family housing communities in 27 states and Puerto Rico, including five health care facilities in Ohio. NCR currently has 25 additional properties in

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development throughout the country. In 2003 NCR joined with several other affordable housing providers, many of which are AAHSA members, to create Stewards of Affordable Housing for the Future (SAHF), an organization dedicated to the preservation of existing affordable housing communities.

On behalf of AAHSA, NCR, my staff and the residents and families we serve, I would like to thank the Chairwoman, Ranking Member and the subcommittee for holding a hearing on this important issue. I would also like to thank Congressman Mahoney for introducing H.R. 2930. This legislation is sorely needed if affordable senior housing is to survive into the future.

Overview of Elderly Housing Crisis

It should come as no surprise that there is an affordable housing crisis in our country. This problem is particularly acute among the elderly living on low or moderate incomes. Last year AARP released an update of its Section 202 study and found that, on average, there were ten seniors waiting for each Section 202 unit that became available. Generally stated, the major contributing factors to the elderly-housing crisis are the unnecessary loss of federally subsidized housing units, the lack of significant affordable housing production of new units, an elderly population boom, a national policy that favors vouchers instead of production as the solution the affordable housing crisis, escalating rental costs and a lack of predictability for social services funding.

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Despite estimates that we will need an additional 730,000 units of assisted housing in 2020 the Section 202 program has been level funded, building fewer and fewer units each year. For the past two years AAHSA has urged Congress to provide enough funding for the Section 202 program to develop at least 10,000 units. In the FY07 NOFA , HUD funded just over 3,600 new units. According to the Joint Center on Housing we have lost two units of affordable housing for each one that we've build. These units are being converted to market rate, or demolished to free the property for other uses. We are losing ground. It is both irresponsible and unforgivable, if we do not take the necessary steps on a national policy level to remedy this problem.

H.R. 2930 provides an opportunity for you, and for providers, to develop financially sound developments and preserve existing properties that the federal government has spent billions of dollars constructing over a 40 year period. It is unlikely that we will address the affordable housing crisis through significant funding increases given the severe constraints that the federal government is under. What we can do is to address the opportunities and obligations that we see before us and increase the efficiency of the current program, with a commitment to preserving existing housing stock.

New Development

The Section 202 program is the most successful elderly housing production programs in the country. I once testified that the Section 202 program was a prefect example of an affordable program because it set up a one-stop shop and did not require outside funding sources. I am here to make it clear that this is no longer the case. Gap financing from multiple sources is necessary for almost every Section 202 project built today. State and local requirements, the increased cost of material and labor, and the complexities of the deals have made the development and preservation of each project a feat of Herculean proportions. That is why the provisions in H.R. 2930 are so important.

Delegated Processing

In addition to understanding the current complexities of financing affordable housing projects, state agencies are in a better position to process new Section 202 deals that will leverage state and local funding for larger projects. The added benefit is one of perspective. The Section 202 program originally was designed to fully fund a project and as such the sole power lies within HUD to approve every aspect of a program. We need a paradigm shift – one that will recognize that today the Section 202 funds are just one of many programs involved in the development of a new project. In more and more deals the Section 202 funding is fully matched or exceeded by other sources. Ideally those agencies that currently administer the federal HOME or CDBG funds or the state tax credit allocating agency will take on the task of processing the Section 202 grants within a specified time frame. I know that many have already expressed interest.

Mixed Financing with LIHTC

The competitive Low Income Housing Tax Credit (LIHTC) program employs rigid time frames makes it difficult to use with the Section 202 program. The unpredictable HUD processing time and constant waiver requests that must be vetted at head quarters make the combination of mixed financing deals almost impossible. Unfortunately the tax credit program represents the most likely

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source of funding to meet the large gaps in the Section 202 deals and it is to our benefit to make this work. These projects are complicated with obsolete HUD regulatory burdens that increase development timeframes, put the tax credit awards at risk and raise operating costs. In addition, these mixed finance projects require a level of sophistication that few sponsors feel capable of tackling. Delegated processing to state agencies will help mixed financing more predictable and easier to use. State agencies are already doing the multiple source, layered financing deals. HUD staff has been candid in the fact that they do not currently posses the expertise and do not have the funding for education to get the current HUD staff "up to speed" on the tax credit program.

Development Cost Limits

The 2005 HUD report on construction costs indices for Section 202 and 811 housing included an overall finding that the factors and approach that HUD uses for establishing development cost limits "do not accurately reflect current actual development costs" for the surveyed projects or for the typical private funded construction. HUD itself had commissioned the report because they suspected the inadequacy, and unreasonableness, of their cost limits. In the case of NCR, I can tell you that the current development cost limits just do not work and are essentially irrelevant. Our development team seeks and is granted waivers of the limits in every case. The report findings also noted that the existing costs limits force developers to seek additional funding, which "significantly lengthened the total development timeframes." Some of the most important provisions of H.R. 2930 address this problem.

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Adequate PRAC Allocations

Initial PRAC allocations for new development are chronically under funded, leaving developers to limit the scope of the project's services or staffing. Because the new Section 202 PRAC properties are not eligible for the rent increases in the first year, the operating deficit can be devastating to the properties. HUD recently announced that they would permit PRAC increases for projects before projects opens. This has helped alleviate the operational funding problems in many new projects, but not all.

Proper Use of Owner Deposits

Under the current Section 202 statute the owner deposit for new projects is supposed to be held for operating short falls during the first three years. HUD has implemented an unwritten policy to require non-profit owners to use this deposit to cover the development short falls caused by the under funded capital advance. Organizations such as NCR rely on the return of some or all of those deposits to meet other housing mission needs, including overhead for staff and preliminary work to develop new projects and increase our supportive services component in existing properties. H.R 2930 tackles this problem head on in Section 104.

Flexibility to Work with Local Boards

Many of you may be familiar with Plymouth Congregational Church here in Washington, DC. This is an active, vibrant church at North Capitol and Riggs Road in Northeast. Retirement Housing Foundation (RHF), a national non-profit based in California, worked closely with Reverend Hagler and his congregation to get this project built. I urge you to visit this property and

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talk to those involved about the importance of partnership and the role of development experts to help a community realize its dream of taking on a new mission to serve low-income seniors live in safe, decent housing with dignity. Because of the need for active community partnerships such as this to support the property and residents, AAHSA members are committed to continuing the involvement of local boards, on an advisory or governing level. H.R. 2930 allows a degree of flexibility for larger organizations that have difficulty maintaining active board participation in some areas.

Local board members tend to be very active at the beginning of a project and often include many of the individuals and local politicians that were instrumental in getting a project approved. The simple fact is that over time it is difficult to maintain an active local board involved in the major decisions. Many national non-profits in AAHSA's membership have to retain a high degree of control over the board to make certain that they meet consistent with the terms laid out in the by-laws and execute the necessary business of the property. This is not to say that we no longer want to work with local communities – this is vital to our success and an integral part of our mission.

Preservation

Title II of H.R. 2930 will further the preservation of senior housing, one of the most important federal housing policies Congress can endorse and facilitate. Preservation of existing housing can be done at a fraction of costs of new construction and it helps retain the best HUD properties in prime locations with access to transportation and services. As I mentioned the tragedy is that due to HUD's lack of focus and commitment to a national policy of preservation, we are losing

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affordable units faster than we are building them. Indeed, rather than encouraging preservation, HUD often has thwarted it. Many elderly housing facilities have "aged" and need modernization and/or retrofitting and refinancing in order to accommodate supportive services to aging residents, assure quality of life, and accessibility. These projects could be preserved for an additional 30 years with the infusion of dollars far less than the cost of new construction. Furthermore, it is unlikely that many communities will support large scale affordable housing of the size that currently exists in the Section 202 portfolio. We estimate that new construction costs in our 202 portfolio are approximately $70,000 per unit, yet NCR's preservation projects only need $20,000-$30,000 per unit in renovation. If you consider acquisition and preservation of a property that a non-profit purchased from an owner "opting out" of the program the total preservation cost can be approximately $70,000 compared to $100,000 per unit for new construction.

While there is little movement to tackle the preservation issue at the federal level, I cannot stress enough how essential the localities have been in helping organizations, such as NCR, preserve senior housing. I have attached two summaries that highlight the importance of the preservation and the real human costs that seniors pay when if we cannot find some way to save these communities. These are far more complex than the new development deals due, not just to the need for multiple funding sources, but the complete restructuring of the existing funding and final financing package.

The provisions in Title II of H.R. 2930 are essential to a successful federal preservation of existing housing. The changes are detailed and highlight the difficulty involved in navigating the

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various legal and regulatory requirements involved in the multiple programs involved in a given project. However, many of the provisions simply require HUD to do what it already has the discretion to do. Before I give you some real world examples of projects where these changes would have made a difference, I want to stress the importance of identifying a point person, or ombudsman, within HUD to tackle the complicated preservation deals that come into are being done across the country.

In a pending case, a group of non-profits is working to bring adequate resources together to purchase a failing development, but HUD is insisting on modernization resources the task force does not have. HUD also refuses to provide any of its own resources or agreeing to hold the foreclosure in abeyance. Without HUD's assistance a for-profit entity will step in and purchase the property. We also do not believe that Congress would want to see these properties sold at below their assessed values.

Use of Unexpended Amounts to Provide Equity

Christian Church Homes of Northern California, another AAHSA member, has attempted to purchase troubled 202 and 236 properties from other not-for-profit, single asset owners that were no longer interested in pursuing affordable housing. HUD denied their requests to purchase the properties at a price above the outstanding indebtedness, thus denying the not-for-profit their equity, which they planned to use to further their mission. As a result of HUD's refusal to treat not-for-profit buyers and sellers as they would have for-profits, the owners decided to simply wait creating the future of aging services

out the term of their mortgages. These properties may not be preserved as affordable housing when the current owners are no longer subject to HUD approval for sale.

Unfortunately, I have many examples of situations where the preservation of properties was made difficult to impossible by HUD's contradictory regulations, processing backlog and absence of clear policy to both the local and headquarter offices to aid developers and funding entities working to save at-risk projects.

The Senior Preservation Rental Contract

The older Section 202 properties are not eligible for enhanced vouchers, placing those properties and residents the most at risk for problems. These projects, built between 1969 and 1974 are in need of substantial rehabilitation in order to be preserved for another 30 – 40 years. Unfortunately any attempt to refinance these projects and do the necessary work means that the existing residents, which are paying rent amounts that have been suppressed by the provider to serve a low-income population, will face rent increases that they cannot afford. Since they are not eligible for enhanced vouchers they would face eviction. AAHSA members are not willing to compromise their mission and struggle to preserve these communities with few options to maintain the property for long term affordability. The creation of a senior preservation rental contract would permit owners to actively preserve properties to serve existing and future seniors. Without a program to provide rental assistance for these properties, these Section 202s become more likely to leave the affordable housing portfolio as they reach the end of their mortgage term. There were

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292 properties build during this period comprising 45,000 to 50,000 units. While some have Section 8 or Rent Supplement Assistance, most do not.

A Preservation Case Study: Kirby Manor in Cleveland, Ohio

Kirby Manor, is a pre-1974 Section 202 development with no rental subsidy. None of the existing seniors were eligible for enhanced vouchers. The rehab needs were substantial, but the residents could not afford to pay for the increased rent that additional debt would trigger. None could bear the burden of higher rents, none wanted to move and the new owner would not displace the residents. NCR's experience with the preservation of this project is illustrative of the typical issues that developers experience. Our goal at Kirby Manor was to preserve the property and keep residents in place. Our plan was to refinance the project using tax credits, reconfigure the existing efficiencies, converting them into one bedroom units and to construct additional units. Most of the 202 units were efficiencies of 287 square feet, a portion were studios of 345 square feet and the remaining were small one-bedrooms of 439 square feet. The project as it stood was unattractive and unmarketable as compared with the West Cleveland neighborhood where new, subsidized, more desirable housing had been built for a younger population. Although the sponsor and owner of the project had maintained the project in excellent condition, all of the building's original plumbing, mechanical and HVAC systems were nearing the end of their life expectancy. Only a significant recapitalization would provide sufficient resources to preserve the property.

NCR submitted a waiver request to HUD to request the subordination of the existing Section 202 loan and received an allocation of 9% tax credits which would raise approximately $8,400,000 in

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equity; a commitment of $1,000,000 in HOME funds from the City of Cleveland; and, a commitment of $450,000 from the Ohio Housing Finance Agency as subordinated debt. The new financing was a 221(d)(4) insured loan of $4.467 million at 6.5% interest for the rehabilitation and new construction. Because enhanced vouchers are not available to these residents, NCR funded a $1,000,000 reserve from the equity generated in the refinancing to cover the increased rents for seniors as long as they remained. Once those residents pass away or leave there will be no deeply targeted subsidy to allow us to house the lowest income seniors. The rents will revert to tax credit levels and the poor seniors in that community will end up on a waiting list for Section 202/8 or Section 202 PRAC community. If there were a senior preservation rental assistance program, NCR would be able to house other low-income seniors in those units.

The project redesign included the reduction of the number of units from 202 to 147 units and the conversion of units from efficiencies and one-bedroom units into renovated and newly constructed one- and two-bedroom units. After countless hours of negotiations, legal opinions and waivers, this project was completed. If the statutory changes included in H.R. 2930 were enacted, then projects like Kirby Manor could be accomplished comparatively quickly and with little aggravation. Kirby Manor would be the norm instead of one in a hundred, and preservation of the Section 202 would be enhanced to prevent the loss of affordable housing just as the senior population is exploding.

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A Preservation Case Study: Kiwanis Village, Findlay, OH

Kiwanis Village is a Section 202 property in Findlay, Ohio. NCR worked on the preservation of this community that had been developed and owned by the Kiwanis under the original Section 202 program. The property had a number of efficiencies that were no longer marketable and a high vacancy rate. The project was only 50% subsidized and the rest of the units were unsubsidized and ineligible for enhanced vouchers. NCR applied for permission to reconfigure the existing units, changing them into one bedrooms and requested HUD's permission to subordinate the original 202 loan. HUD determined that rather than allow the reconfiguration they'd disallow the change under a "one for one" replacement policy and would not permit us to subordinate the existing loan. HUD also refused to allow the subordination of the existing loan Section 202 loan. Because the refinancing involved tax credits, they also refused to allow the Section 202 loan to be assumed by the new partnership.

This property is the perfect example of how desperately developers need the provisions included in H.R. 2930. Allowing the subordination of the Section 202 loan and the reconfiguration of existing units are critical to the success of a preservation deal. This also illustrates how important it is to have a preservation point person at HUD headquarters to evaluate each preservation deal on its own and the unique issues involved in a particular deal. These are extraordinarily complex transactions. While it may be easier for HUD staff to let the owners "opt-out" or foreclose on problem properties, is inconsistent with the goal of preservation. Furthermore it is not helping our affordable housing or the residents who are ultimately displaced. There are countless examples of how the federal government is not maximizing the existing housing resources available to

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properties and non-profit developers. Often these incidences occur where the communities can least afford to lose housing and housing funding.

Excess Use of Proceeds

NCR has three Section 202 properties in California which we refinanced and rehabilitated. We'd requested permission to use the $2 million in excess proceeds to create a housing trust fund for new development. HUD denied this request and required NCR to put the funds into the project reserves to replacement, which were already fully funded. It is a waste to put this into a project that really does not need it and not into another one that does. Other witnesses can give more graphic examples of the flawed HUD policy that requires the passage of legislation to permit not-for-profit sponsors to use excess proceeds to further their housing and supportive services mission. There are countless other examples of HUD's refusal to permit forgiveness of flexible subsidy loans that make preservation deals unworkable. H.R. 2930 will correct HUD's policy which inhibits preservation.

Waiver of Flexible Subsidy Loan Repayment

NCR acquired a property in Asheville, NC in order to preserve the property as affordable. The property had a flexible subsidy loan, which could not be sustained under the refinancing and financial restructuring. It was not being repaid at the time of the acquisition. It took HUD almost 8 months to inform us that they would only allow 75% of "flex sub" loan to be assumed and they required 25% of the loan to be paid off. NCR applied for, and was awarded, state HOME funds – which we then used to pay off the flexible subsidy loan to make the deal work. That is money that

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would otherwise have been spent on project rehab and services or that could have gone to develop a new project.

Conclusion

The need for affordable, supportive, senior housing development and preservation is undeniable and urgent. I am grateful to have an opportunity to appear before the subcommittee in support of H.R. 2930. I, my staff and colleagues have been actively involved in these issues throughout the country and have testified before this and other committees on the very problems that I discussed today. We are excited that Congress believes that these topics warrant a national policy discussion, but unfortunately solutions are not readily available in most cases. Today you will have a chance to take a positive step in the furtherance of a goal and mission that we all support. I urge you to support H.R. 2930, the increased efficiency of the Section 202 program and the residents that the program serves today and will serve in the future.

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