



**NATIONAL LOW INCOME
HOUSING COALITION**

*Dedicated solely to ending America's
affordable housing crisis*

Testimony of Bill Faith
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(COHHIO) and
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presented to the
Subcommittee on Housing and Community Opportunity of the
Financial Services Committee
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My name is Bill Faith. I am the Executive Director of the Coalition on Homelessness and Housing in Ohio (COHHIO) and a member of the Board of Directors for the National Low Income Housing Coalition (NLIHC). I am testifying today on behalf the NLIHC, and I am here in support of H.R. 647: The Mark-to-Market Extension Act of 2007. I would like to thank Chairwoman Waters for introducing H.R. 647 and for holding this hearing. I would also like to acknowledge the work of Congresswoman Deborah Pryce of Columbus for her support and strong leadership around this issue in the past.

Since 1984, COHHIO has worked on behalf of every Ohioan in need of a house, in hopes that someday these simple physical structures can become lasting homes filled with life's possibilities. At COHHIO we believe that everybody should have a home, so we advocate on behalf of those who do not. COHHIO supports a range of housing related services in Ohio, from stopping predatory mortgage lending to preserving our affordable rental housing. Helping our 600 member housing organizations and homeless service providers pursue their missions, COHHIO provides public policy advocacy, training and technical assistance, research and public education.

NLIHC is dedicated solely to ending the affordable housing crisis in the United States. Our members include non-profit housing providers, homeless service providers, fair housing organizations, state and local housing coalitions, public housing agencies, private developers and property owners, housing researchers, local and state government agencies, faith-based organizations, residents of public and assisted housing and their organizations, and concerned citizens. NLIHC does not represent any sector of the housing industry. Rather, NLIHC works only on behalf of and with low income people who need safe, decent, and affordable housing, especially those with the most serious housing problems.

First, let me start by saying that the most critical issue before the Committee in terms of preserving affordable housing is the need to ensure that all renewing Project-based Section 8 contracts receive full funding. Chairwoman Waters held a very important hearing last week to highlight the need for this funding. Before anyone can address the need for more tools to address the problem of aging Project-based Section 8 housing, Congress must solve the problem of the delays and projected shortfall in the Project-based Section 8 renewal process.

Chairwoman Waters' leadership on this issue has opened the discussion, which must now be pressed to a quick resolution. At this point, owner and investor confidence in the integrity of the funding stream is diminished. The present circumstance erodes owners' ability and willingness to enter into or finance a Mark-to-Market transaction. In the absence of strong, swift action by Congress, investor commitments to financing affordable housing, already shaken by the subprime lending crisis, is made even more precarious. In Ohio, my organization has heard from property syndicators that Mark-to-Market deals are being delayed because of the HAP shortfall crisis. In at least one case in Pleasantville Ohio, the Low Income Housing Tax Credits, granted by the State of Ohio, are at risk because the Office of Affordable Housing Preservation (OAHP) is unable to close the Mark-to-Market restructuring. At the same time, tenants in Project-based Section 8 housing are being put in jeopardy. A concern to the NLIHC and COHHIO is whether HUD can provide tenant protection vouchers if tenants are involuntarily displaced by

foreclosures precipitated by HAP shortfalls or if HUD fails to renew Project-based Section 8 contracts because of lack of funding.

COHHIO and the NLIHC fully support the changes to the Mark-to-Market program proposed in H.R. 647.

Since its enactment 10 years ago, the Mark-to-Market program has preserved 125,000 affordable apartments through full debt restructurings at an estimated savings to the taxpayer of \$2.1 billion. Mark-to-Market is an opportunity to preserve long-term affordability of properties in a variety of settings for a diverse market of low-income households.

It is estimated that about 40% of households in Project-based Section 8 assisted housing are households that are headed by elderly or disabled persons. This percentage of households is bound to grow over the next decade as the baby boomers mature and persons with disabilities increasingly enter into independent living situations. At the same time, Project-based Section 8 housing provides an opportunity for younger families to establish households and build their careers towards greater financial stability. Unlike the stereotype of low income housing from the past, tenants in today's assisted housing are working (at low wage employment) and getting education to increase their life choices. Moreover, demand for affordable units in Ohio will increase over the next 9-12 months as 100,000 more Ohio families, lured into homeownership that they could not afford, will be returning to rental housing.

It is cheaper to preserve these housing opportunities than to try to recreate them, and vouchering-out is not typically the best solution. There is significant resistance to "voucherization" in many communities. In Ohio, the extensive use of vouchers to replace project-based housing has resulted in a backlash against voucher holders and exclusionary rental policies. NIMBY battles that were formerly about the citing of "projects" are now focused on the source of housing assistance. While these battles need to be fought at the community level by local officials and housing and low income advocates, the households in need are caught in the crossfire.

H.R. 647 builds on the Mark-to-Market model to extend the benefits of refinancing to other properties, while reducing operating expenses to the owner and HUD. Mark-to-Market has also been a success in Ohio, providing an infusion of capital for deferred maintenance and rehab into 256 properties that completed a full restructure. HUD's records show that there was a total of 361 Ohio properties enrolled in the Mark-to-Market program. Of these, 302 were "full" restructures and, of those, 186 were completed successfully. Another 44 properties are in the Mark-to-Market pipeline. There were 59 "lite" restructures (adjustment of rent levels without mortgage restructuring). COHHIO estimates that 175 properties (lite or failed full restructures) are potentially eligible for restructuring over the next 5 years as long as they have retained FHA insurance and Project-based Section 8 subsidies.

H.R. 647 makes several important additions to the basic framework of the original Mark-to-Market program.

First, raising the limit on high-cost restructuring, e.g. exception rents, from 5% of the total restructured units to 9% of the restructured units, gives HUD the flexibility to complete the hardest deals remaining in the portfolio. Exception rents are used for the most at-risk properties to address outstanding problems in the property. Hillside Apartments in Mt. Vernon, Ohio, is an example of a property with high degree of deferred maintenance resulting in high vacancy rates which required "exception rents" to make the Mark-to-Market deal work. Initially deemed infeasible by HUD, local elected officials and a community-based nonprofit stepped forward to urge HUD to approve the restructuring and extend the purchaser incentives to the local non-profit organization, which sought and received Low Income Housing Tax Credits to close the deal. One of the county commissioners who met with HUD officials on a site visit recalled how he was opposed to "government housing," in principle, but knew that this development had been a critical resource for his sister when she was trying to re-establish a home for herself and her children after a divorce. He said that others should have the chance that was available to his sister.

Second, expanding the program for declared disaster areas is also critically important. The impetus for this reform is to facilitate the recovery of housing for the areas stricken by Hurricanes Katrina and Rita, but would apply to FHA-insured housing in future disaster areas. The Congressional Budget Office (CBO) scored a savings on the measure extending eligibility to properties in declared disaster areas.

Third, expanding the types of properties eligible for Mark-to-Market to include those with market or below-market contract rents, will enable cost efficient restructuring and avoid claims on the FHA insurance fund through defaults. Nationally, it is estimated that there are 2,109 "at risk" properties with 174,845 units that also have below market rents. In Ohio, there are 109 properties with 9,367 units, which could qualify for Mark-to-Market restructuring if this change were enacted. Using the "avoidance of default" methodology, a savings could accrue from extending

eligibility to otherwise-eligible properties with rents at or below market. Had this provision been in law in 2006, Centennial Apartments might have been able to be restructured. Instead, after a finding of “below market” rent levels, this tenant-owned housing cooperative was forced into a complex refinancing scheme, which resulted in pre-payment of the FHA mortgage and dramatically increased rents for a portion of the property, which does not receive Project-based Section 8 subsidies.

H.R. 647 also extends the period during which the HUD Secretary may choose to provide debt relief for nonprofit owners from the current three to five years. This provision provides needed flexibility. Current practice allows this benefit for up to three years after restructuring. Right now about 90% of the restructured portfolio is beyond the time limits for purchaser incentives. Passage of this provision will create new opportunities for long-term stability. NLIHC and COHHIO also favor adding language to H.R. 647 that would prevent HUD from recapturing proceeds of a subsequent transaction when the buyer is a tenant endorsed nonprofit, using public funds to reinvest into the property.

Finally, I want to express strong support for the 514 Technical Assistance Funding because it is critically important to the success of the Mark-to-Market program in Ohio and throughout the country. The role of tenants and community stakeholders has been crucial to the progress to date to maximize preservation opportunities, to help improve the process and improve the overall quality of the housing. Project-based Section 8 housing does not operate in a cubbyhole at HUD, but in the real world of competing interests, scarce resources and the demands of local conditions. In Ohio, Project-based Section 8 developments range in size from an eight-unit development in Toledo to complexes of over a thousand units in Cincinnati. Project-based Section 8 exists in communities where there is no mail delivery to communities where a major sports team challenged that team from Boston for a berth in the World Series. Involving local people, tenants and stakeholders, in decision making about the future of these community assets is essential to success. Just jetting in some outside consultants to spend a day on site and then designing a plan based on what is in the HUD files is a waste of money.

My organization, COHHIO, has been the beneficiary of 514 Technical Assistance funding since the program started. We have used these funds to keep tenants informed and to engage local stakeholders in preservation activities. We urge Congress to include in H.R. 647 a new section that will confirm the scope of eligibility for technical assistance to include all FHA insured, HUD subsidized developments where tenants are at risk of displacement by pre-payment of an FHA mortgage, by expiration of an FHA mortgage, by termination of Section 8 assistance due to property disposition, owner opt-out, or HAP shortfall. Moreover, because of the demand from tenants and local stakeholders for these services, we urge that Congress direct HUD to make grants in the most expeditious manner so that organizations like COHHIO can once again respond to these needs promptly. In Cleveland just a few weeks ago, senior and disabled households were told by their management company that they would be forced to pay “market rents” as a result of the HAP shortfalls. Prompt action by local community organizers at the Cleveland Tenants Organization, using local funding sources, was required to get management to retract their threat and ally jangled tenants' nerves. At COHHIO, we continue to put a tenant outreach coordinator on the road thanks to support from the state, through the Ohio Housing Trust Fund. State officials have wondered why HUD can not support its own outreach program it created under MAHRA, when there is clearly lots more need for the program. COHHIO's Tenant Outreach Coordinator ordinarily logs 800 miles a week moving from a tenants meeting to a city council, to meetings with local development corporations to address concerns related to the preservation of affordable housing. To the extent possible, COHHIO maintains a clearinghouse of information about HUD programs, regulations, and specific information about properties. All of these programs were initiated under 514 Technical Assistance funding and, after proving their value, were abandoned by HUD. Ironically, HUD still constantly calls on COHHIO when they want local information or someone to make a site visit.

COHHIO and the NLIHC strongly endorse passage of H.R. 647 with its additional opportunities for preserving more low income units, while at the same time urging the Congress to act decisively on the HAP shortfall crisis. New Mark-to-Market authority alone is not enough to restore the confidence of owners, lenders and tenants in this housing stock. Thank you for the opportunity to be here today.