Statement to the

Subcommittee on Housing and Community Opportunity
Financial Services Committee
United States House of Representatives

By Debra Junor on behalf of the
Texas Tenants' Union

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Good Morning Chairwoman Waters, Congressman Green, and members of the committee. My name is Debra Junor and I am here on behalf of the Texas Tenants' Union, a nonprofit tenants' rights organization which empowers tenants through education and organizing to protect their rights, preserve their homes, improve their living conditions, and enhance the quality of life in their community. I am a former tenant of a HUD-assisted apartment complex, a former HUD-funded VISTA Volunteer, and a former tenant organizer for the Texas Tenants' Union. I have worked with tenants in HUD-assisted apartment complexes throughout the Houston area.

According to the U.S. Census Bureau's 2006 American Community Survey, there are 400,458 renter households in Houston and almost half (46%) pay 30% or more of their adjusted gross income on housing costs. These families and individuals suffer with affordability burdens which make them vulnerable to eviction and homelessness, substandard conditions and credit problems. This can result in multiple moves during the school year for families with children, determine the quality and quantity of food the family or individual is able to purchase, and impact whether needed medications and medical treatment is obtained. HUD housing programs help thousands of senior citizens, disabled people, and lower income working families keep a roof over their heads.

The HUD properties I worked in and will discuss today are privately-owned apartment complexes that either have HUD-insured loans or project-based Section 8 Housing Assistance Payments contracts, or both. In the 1960's and 1970's, HUD encouraged private developers to build affordable housing through low interest HUD-insured loans. In exchange, the owners were required to keep the rents affordable to low and moderate income people. In Texas, the rents were generally at least $100 to $400 less than private market rents, depending on bedroom size.

In the late 1970's and early 1980's, HUD began providing additional subsidies to some of these developments and created new apartment complexes with the project-based Section 8 program. This program provides greater affordability to very low and extremely low income people similar to public housing or the Section 8 voucher program. Generally, tenants pay 30% of their adjusted income for rent and HUD pays the rest. Many of these contracts had 15-20 year terms and some were as long as 40 years.

In the mid-1980's, some owners began paying off their HUD-insured loans which released them from the obligation to provide affordable housing. One of the first prepayments in the country occurred in Dallas, where the apartments were demolished and replaced with a 17 screen movie theater. In other places, owners simply raised the rents to market levels. At the time, there was no federal program designed to try to keep these properties affordable and no protection at all for the residents.

In 1987, Congress became concerned that much of the subsidized housing stock would be lost so they passed legislation designed to preserve the properties as affordable housing – First the Emergency Low Income Housing Preservation Act (ELIHPA) and later the Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA). These laws provided financial incentives for continued affordability and restricted owners from prepaying their HUD loans. Congress lifted the prepayment restrictions in 1996 and stopped funding the preservation incentives the following year. There were relatively few properties in Texas preserved with these programs and none in Houston.

Owners of at least eight properties in Houston prepaid their HUD mortgages and converted to market-rate housing after the restrictions were lifted. Initial rent increases after prepayments in Texas were usually between 50% and 100%. Where the property has a Section 8 contract that remained, tenants living in the Section 8 units continue to pay 30% of their adjusted income for rent. The other tenants were eligible to apply for a "tenant protection" or "enhanced" voucher. Even with these vouchers, many tenants faced steep rent increases, and some tenants were screened out all together. Some owners overestimated how much unsubsidized tenants would be willing to pay, and faced high vacancies as voucher tenants moved. This resulted in worse conditions at some developments. Conversion to vouchers is also more costly for the government than retaining the project-based subsidies, as the below market rents are raised.

Houston Prepayments

Property Name	Total # units	Prepayment Date	Section 8 Contract?	# Section 8 units	Opt Out?
Allendale Village	96	10/19/98	No	N/A	N/A
Aristocrat/Palomino Pl.	272	5/31/98	Yes	178	No
Dyersdale/Sterlingshire	200	12/12/03	Yes	129	No
Northline	200	4/26/04	Yes	103	No
Parker Square	175	11/21/00	Yes	106	Yes
Southgate	224	12/2/99	Yes	69	Yes
Villa Americana	258	3/25/04	Yes	258	No
Yorkshire Village	248	9/21/00	Yes	103	Yes
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In addition to ending the affordability restrictions by prepaying HUD loans, there are several other ways HUD subsidized properties have been or can be lost to the affordable housing inventory:

1) The owner can "opt-out" (choose not to renew) the project-based Section 8 contract upon expiration.
2) HUD can choose to terminate the contract due to substandard conditions or other owner default.
3) The mortgage can reach the end of the 40 year term, thereby ending the rent restrictions.
4) The owner can default on the HUD loan, which sometimes leads to a foreclosure sale to the highest bidder with minimal use and rent restrictions.

Texas leads the nation in HUD multifamily foreclosures and ranks close to the top on prepayments and Section 8 opt-outs. The expiring mortgage issue will be upon us very soon. HUD has some programs to save subsidized properties, but they need better tools and more guidance from Congress so that preservation is achieved more often. Congress also needs to provide better protections and options for tenants when they face the loss of their housing.

The Texas Tenants' Union participates in the Preservation Working Group, a coalition of tenants, advocates and owners who are concerned about subsidized housing losses. We have a number of recommendations, some of which are highlighted below.

Provide Adequate Appropriations to Renew Section 8 Contracts

As you know, a huge threat to the success of preserving this housing stock is HUD's failure to request enough money for the project-based Section 8 program. If HUD is unable to make timely subsidy payments, or commit a full year's funding to renewal contracts, owners will likely opt-out at the first opportunity. We urge Congress to solve this problem by providing an adequate appropriation in FY '08 Appropriations bill, passing an emergency supplemental appropriation, or providing advanced funding from FY '09 as has been done for Section 8 voucher renewals.

The Texas Tenants' Union is working with tenants at a property in South Texas now that we suspect is a casualty of the inadequate appropriation request in FY '07. The Mercedes Palms Apartments were sold at a foreclosure auction last year with a 20 year Section 8 contract. Because the property had fallen into disrepair, the new owners were not allowed to draw on the subsidies until the units passed inspection. The first apartments were ready to inspect in December, but inspectors did not come until February. By April, 20 of the 48 apartments had passed inspection and the manager tried to request payment from HUD. She received conflicting instructions, but no real help, and finally was able to request payment in a form acceptable to HUD by the end of June or early July. At that point, HUD had run out of money and was juggling funds to pay owners. Many owners didn't receive rent for July and August until late in the summer, but the Mercedes owners had defaulted on their loan by then, and the property was taken by their lender.

On October 20^{th}, HUD terminated the Section 8 contract and ordered vouchers for the tenants. The Mercedes Housing Authority is telling all the tenants they must relocate. All of the tenants we have talked with want to stay. In addition to the 20 renovated apartments, 9 others are 90% complete. Many tenants have indicated there are not appropriate bedroom sizes available for them nearby, and they don't want to leave their newly rehabilitated apartments or their community. If the senior citizens, disabled people and lower income families are forced out, the City of Mercedes will be left with a vacant, partially renovated property, vulnerable to vandals, with no subsidies to ensure it stays truly affordable.

Strengthen the Mark-to-Market Program

HUD's Mark-to-Market program has generally been an effective program for preserving and improving Section 8 housing in Texas. When Section 8 contracts expire, if the rent is above the market rent in that community, HUD will not renew at the higher rent level. Instead, they mark the rent down to the market level. Owners have two options in Mark-to-Market: a full restructuring with 20 year contract renewal or a simple rent reduction with a shorter term renewal. Because simply cutting the subsidy level might harm the property and put the owner at risk of defaulting on their loan, the Mark-to-Market "full" program provides the owner with the opportunity to refinance the mortgage. The restructuring process also considers the physical needs of the property and has resulted in significant improvements to many properties.

In Texas, 134 properties have entered the Mark-to-Market program, most of which have been full restructurings. There have been nine properties in Houston: 2 full restructurings, 6 "lites", and 1 determined to be ineligible due to below market rents. At least 2 dozen Houston properties could still benefit from full Mark-to-Market restructurings, including the 6 properties where rents were simply reduced.

We appreciate the reforms for the Mark-to-Market program pending in HR 3965. They include expanding eligibility to below market properties, extending the period to provide debt forgiveness for nonprofit transfers, expanding HUD's ability to approve exception rents, and expanding the program in disaster areas. We support these reforms, but also think it is critical to ensure tenants are meaningfully involved in the process as the law intended.

Amend HR 3965 to Direct HUD to Fund the Technical Assistance Programs to Tenants

Expiring subsidies can have a drastic impact on the families and senior citizens living in the properties. The Multifamily Assisted Housing Reform and Affordability Act (MAHRA) required HUD to establish procedures to provide an opportunity for tenants to participate in the mortgage restructuring process, in any proposed transfer of the property, and in rental assistance assessment plans. MAHRA authorized up to $10 million annually for technical assistance, but none has been obligated since 2002.

The Texas Tenants' Union was awarded Outreach and Training Assistance Grants (OTAGs) in 1998 and 2001 to work with tenants in HUD assisted properties through the MAHRA technical assistance funds. We also utilized VISTA volunteers through a joint program with HUD, the Corporation for National and Community Service, and the National Alliance of HUD Tenants (NAHT). This program was very effective in training organizers specifically to involve tenants in the preservation and improvement of HUD housing, and NAHT's involvement was critical. TTU recruited seasoned tenant leaders and recent college graduates who often worked in pairs to empower HUD tenants. We haven't had VISTA volunteers since 2002, and our OTAG funds were completely spent by last year.

Tenants can and have played crucial roles in determining the outcome at their properties, but it rarely happens (if ever) without some outside assistance. Tenants are often initially skeptical that they can make a difference and need support and training to believe it is worth their while to get involved.

The Texas Tenants' Union has helped tenants obtain improvements in Mark-to-Market Plans, convince owners to choose full Mark-to-Market restructurings instead of short-term "lite" renewals, identify new ownership for troubled properties, monitor the implementation of the restructuring plans to ensure promised repairs and replacements were completed, and withstand harassment and retaliation from some owners and managers.

Properties in Texas that have entered Mark-to-Market since our funding ended have had very little tenant participation at the required information meetings, much less any sustained meaningful ability to actually influence the outcome. We continue to assist tenants at previously organized properties as best we can with very scarce private resources, but we only have one organizer and no travel money. The $10 million cost to re-start this program immediately is a minute fraction of the overall budget but can be instrumental in determining if a property is saved for the long term or not.

Enact a Federal First Right of Purchase

Congress provided a "right of first purchase" for rural housing developments to allow preservation purchasers to acquire the properties before the subsidies are lost. Several states have similar laws for HUD properties. Establishing a right to purchase at the federal level could help save more housing.

There are currently 472 former HUD-assisted units sitting vacant and boarded up in a very nice North Dallas neighborhood. The mortgages for Northwest and Northlake Terrace were prepaid in 2000, and the Section 8 contract ended a few years earlier. We helped the tenants organize and identify a local non-profit partner to try to acquire the property under the LIHPRHA program in 1996, but the program ended and the owner decided not to sell. When we learned of the pending prepayment, we tried to convince the owner again to sell to the local nonprofit developer for the fair market price, but they refused to even negotiate in good faith. Instead, the property was sold to an investor interested holding the land for redevelopment. Last year, he displaced all the residents and closed the complex down, with the expectation that the property would be sold to a luxury townhouse developer. That sale fell through, the townhomes have not been developed, and what was once a very nice HUD property is now a ghost town. A right of first purchase would have resulted in the preservation of that property.

Ensure Vouchers Are Provided For All Families and Units When Properties Are Not Preserved

Currently, vouchers are provided to "eligible" tenants residing in HUD properties at the time of conversion. Owners are supposed to accept the vouchers if the property remains rental housing, but some refuse and HUD's lease contract does not include a good cause for eviction requirement. In addition, Housing Authorities are allowed to "rescreen" tenants before issuing the vouchers. Tenants in good standing at the property have sometimes been denied a voucher due to things like minor criminal conduct committed by a family member long ago, or an outstanding debt to a housing authority due to moving from crime-ridden public housing prior to the end of a lease. Congress should clarify that all tenants living in the property at the time of conversion are entitled to a voucher, that the owner has a duty to accept, and require the lease contracts to include the good cause for eviction clause.

Vouchers also should be issued for each unit that is converted, instead of just each occupied unit. It is important to note that when a property is undergoing a conversion, landlords often stop leasing units and tenants often leave before the conversion actually takes place due to the confusion about the future of the development and/or due to disinvestment and deteriorating conditions. When HUD terminated the Section 8 contract on the Jerusalem Apartments in Longview, TX last year, there were only 78 vouchers issued for the 100 unit property. 85 units were occupied at the time of conversion, but 7 families were screened out or chose not to take the voucher.

Vouchers should also be issued when properties convert to market-rate housing when the mortgages reach their 40th year. There is currently no provision to protect these tenants from what may be very significant rent increases.

Empower Tenants To Enforce Their Rights When HUD Enforcement Is Lacking
Sometimes, HUD fails to step in to enforce their contracts in a timely manner, with unpleasant consequences for the tenants. Tenants are listed as third party beneficiaries on Mark-to-Market Use Agreements, but not on other agreements affecting their homes. Tenants should be listed as third party beneficiaries on Section 8 Housing Assistance Payments Contracts, Mark-to-Market Restructuring Commitments, and Rehab Escrow Deposit Agreements.

Tenants should also have the right to withhold their portion of the rent when their units fail to pass Housing Quality Standards.

Provide HUD with the Direction to Save Troubled Properties and Other At-Risk Housing through the Enactment of HR 44
Many HUD foreclosures have resulted in less than desirable outcomes for tenants and the community. Unless properties are sold with continued Section 8 contracts, the rents do not remain truly affordable for the long term. Getting property into responsible hands also requires better oversight. HR 44 would:

- restore HUD's ability to provide "up-front grants" from the mortgage insurance fund;
- repeal HUD's "flexible authority" which has been used to dump distressed properties with minimal tenant protections;
- require HUD to maintain rental assistance while properties are being rehabilitated, with the funds going into escrow until the units meet housing quality standards;
- close a loophole by requiring all purchasers to be in compliance with housing codes and statutes, even when HUD is the insurer or subsidizer, but not the direct seller of the property;
- allow HUD to transfer their non-judicial foreclosure authority to units of local government interested in preserving the housing;
- require HUD to maintain and post information on HUD properties including physical inspection (REAC -- Real Estate Assessment Center) scores, and prepayment and opt-out notices; and

- require HUD to use standard industry appraisal practices in determining the value of a property by considering the cost of repairs and the cost of maintaining affordability restrictions.

There are other recommendations in a package prepared by the Preservation Working Group that we hope will be enacted to help save this desperately-needed housing stock.

Thank you for the opportunity to appear before you today.