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**Testimony of the National Leased Housing Association
Presented by Roy Ziegler, Trenton, NJ
Housing Affordability Hearing – June 21, 2001
Committee on Financial Services
Subcommittee on Housing & Community Opportunity**

The National Leased Housing Association (NLHA) is pleased to submit our views relating to housing affordability issues impacting the Section 8 programs. For the past thirty years, NLHA has represented the interests of housing agencies, developers, lenders, housing managers, and others involved in providing federally assisted rental housing. Our members are primarily involved in the Section 8 housing programs – both project-based and tenant-based. NLHA's members provide housing assistance for nearly three million families.

We appreciate the opportunity to present our views on the Section 8 programs and look forward to working with the subcommittee on improving the housing opportunities for low and moderate income Americans.

Section 8 Vouchers

A critical component of any national housing policy is the Section 8 voucher program. Under the voucher program, tenants receive a portable subsidy to allow them to afford to rent an apartment or single family home that is decent, safe and sanitary. Over 1.5 million families currently benefit from participation in this program.

Over the years, the Section 8 tenant-based programs have been improved dramatically by consolidating regulations, removing certain barriers to landlord participation and adding flexibility to enable the voucher program to increase a family's chance of achieving self-sufficiency and/or to provide homeownership opportunities. NLHA's members appreciate the interest this subcommittee has shown in sustaining and improving the voucher program over the years. However, more needs to be done to maximize this

important housing tool. We urge Congress to maintain funding for these families and to continue to increase the number of vouchers available each year, but we also request a number of program improvements.

Scope of the Voucher Utilization Problem

We agree with congressional criticism that vouchers have been underutilized in a number of communities and that reforms need to be made to ensure that all vouchers are leased-up. After all, the voucher is just a wasted piece of paper if the family cannot find a unit to rent. However, we believe the scope of the problem is often misunderstood. In FY2001, the congressional appropriators recaptured \$1.8 billion in Section 8 funds. Many believe that these funds were entirely recaptured voucher authority. Not so. Of the \$1.8 billion recaptured, half of the funding was Housing Assistance Payment (HAP) monies remaining in project-based Section 8 contracts that were not renewed. In other words, the owner opted out of the program when the Section 8 contract expired and the remaining funds in the contract were recaptured. The remaining \$981 million included voucher funds, but many of them had been obligated for special purposes including litigation, conversion and to house special populations. Such vouchers are special to a PHA's voucher program and for various legitimate reasons can not be leased-up within one year. We estimate that underutilization of regular vouchers represents less than \$500 million in recaptured amounts and not the \$1.8 billion that has been reported. Arguably, this is still unacceptable, but not as dire as has been portrayed.

Recognizing Rising Rents

The rents permitted under the voucher program have not kept pace with the rising rental markets in many parts of the country. As a result, there is a dearth of available apartments resulting in vouchers being turned back to our agencies at a much higher rate than normal. In fact, many agencies issue more vouchers than they have available due to anticipated turn backs. For example, a PHA with 10 available vouchers may need to allocate 25 vouchers before the 10 vouchers are successfully leased up. In other words, an agency can have a 95 percent utilization rate, but only a 75 percent success rate. Not only is this frustrating to the families waiting for assistance, it significantly increases the workload of the issuing agency.

HUD has already taken one important step by allowing the increase in Fair Market Rents in some areas to be raised to the 50th percentile. We request that Congress urge HUD to expand this increase to all markets. The Fair Market Rents (FMRs) being set at the 50th percentile means that 49 percent of units rent above that amount and 49 percent rent below it – in other words, the 50th percentile FMR is the average rent for the area. Since most of the FMRs are currently set at the 40th percentile, HUD is actually saying that a “fair” market rent is **below** the average rent for the area.

Congress can also take steps to improve the ability for families to successfully use their vouchers by amending the statutory provisions relating to the “payment standard.” The payment standard sets the subsidy amount under the program and families pay the difference between that standard and 30 percent of their income. If the rent for the unit

exceeds the payment standard, the family also pays the difference between the payment standard and the apartment rent - up to 40 percent of median income (for new voucher participants). Generally, PHAs set the payment standard at the FMR, but current law allows PHAs the flexibility to set the payment standard for the voucher program between 90 and 110 percent of the Fair Market Rent (FMR). HUD field offices can approve exception payment standards up to 120 percent of FMR. This enables the PHA to adjust the payment standard to more accurately reflect the rental market in the area. However, with increasing rents in many communities, it would be more helpful if the PHAs had the authority to raise the payment standard to 120 percent of FMR without HUD approval.

Flexibility in Tenant Payment Cap

A second issue that plays a large role in preventing lease-up relates to the 40 percent cap. Currently, families that are receiving voucher assistance for the first time or are currently in the program, but wish to move to a new unit are not permitted to pay more than 40 percent of adjusted income for rent. NLHA supports a cap as a general rule, but believes flexibility is key to address extenuating circumstances. An example of such a circumstance is an elderly woman renting an apartment with her spouse, the spouse dies. The reduction in income qualifies the woman for a voucher, but as she would be paying 42 percent of income for rent, the law requires her to move to a cheaper unit. This is a difficult concept to explain to someone that has lived in their apartment for many years, is afraid to move and to boot, would be paying 60 percent of her income without the voucher.

We urge that Congress provide PHAs with the authority to waive the 40 percent cap to address such situations.

Covering the Costs of Running a Program

Agencies that administer the Section 8 program are paid a fee for each unit leased-up. However, over the years, the fee has been reduced while the costs of administering the program have continued to rise. The current fee is often inadequate for smaller agencies, or in tight rental markets and doesn't reflect the costs of providing significant search assistance to families, especially larger families or families with special needs that require more intensive assistance. We urge Congress to provide sufficient funding to expand the categories of households that qualify for a "hard-to-house" fee and to increase the current "hard-to-house" fee from \$50 to \$75 for disabled persons and households with three or more minor children.

Further, many of the administrative costs for tenant briefings, counseling and inspections are incurred prior to lease-up, but agencies do not receive an administrative fee until a lease is executed. This process can take four to six months. In the past, agencies were paid a preliminary fee for every voucher holder. Congress reduced funding for such fees and only provides them for incremental vouchers. This is caused a huge gap in our funding needs.

HUD can also facilitate the voucher utilization efforts of housing agencies by authorizing us to use a portion of unused Section 8 budget authority for services and payments to help families obtain housing. The ability to offer applicants security deposit loans or grants, housing search services, landlord outreach and incentive programs, expanded mobility programs, transportation, tenant education and tenant/landlord mediation, case management for the elderly and disabled applicants/tenants, would dramatically raise voucher utilization rates.

Project-Based Vouchers

The most obvious barrier to lease-up is the lack of available units. In a tight rental market, there is no incentive for landlords to rent to Section 8 voucher holders. A number of PHAs have been creative in finding ways to convince landlords to participate in the program, but when there is a tight supply, options are limited. Steps need to be taken in such areas to increase the supply of affordable units. Congress made a giant step forward in October by recognizing the flexibility of project-based vouchers and has made a number of statutory changes to the program to make it more user-friendly. A set of recommendations NLHA prepared for HUD is attached that outlines both legislative and regulatory changes that would ensure the successful use of project-based vouchers.

Enhanced Vouchers

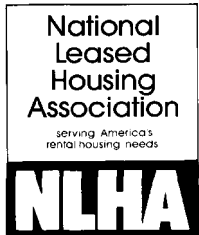
The loss of project-based Section 8 units remains a concern for many communities. Congress has taken steps to preserve this inventory which have mitigated the number of opt-outs, but the project-based Section 8 inventory has shrunk by over 150,000 units. Fortunately, Congress has provided vouchers at sufficient rents to prevent the displacement of the families living in the apartments at the time of opt-out or prepayment. However, the lease-up of the enhanced vouchers can be burdensome and time consuming to housing agencies. The statutory requirement that every unit be inspected before an enhanced voucher is provided has resulted in significant delays, especially in larger projects. Unlike in the regular voucher program, many of the properties have been inspected the Real Estate Assessment Center (REAC) prior to the expiration of the project-based contracts or the prepayment of the mortgage. It is redundant for the PHA to be required to re-inspect the units. We recommend that the law be amended to waive the inspection requirement if the property in question received a REAC score greater than 60 within the previous 12 months.

Section 8 Moderate Rehabilitation

A number of PHAs and state housing agencies administer project-based Section 8 under the Moderate Rehabilitation program. This program provided over 100,000 units of housing, over half of which has been lost as owners opt-out of the program. The law governing Section 8 renewals currently provides disparate treatment of moderate rehabilitation contracts resulting in many owners leaving the program. NLHA has

proposed that Congress eliminate the exception provision in current law as it relates to mod rehab projects to level the playing field and preserve the remaining 50,000 units.

NLHA is committed to maximizing housing opportunities for low and moderate-income families and stands ready to assist the subcommittee in its work. Thank you for the opportunity to present testimony.



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NLHA Comments on Project-Based Voucher Program

The National Leased Housing Association (NLHA) is comprised of both public and private sector housing organizations and agencies engaged in the provision of affordable rental housing. We have significant experience with the Section 8 programs and are quite interested in the recent legislative initiative to improve the use of project-based vouchers. We agree that use of the program has been limited due to burdensome regulatory requirements and statutory limitations. The program changes outlined in the January 16, 2001 Notice represent a good faith effort but fall short in a number of respects. The following comments include recommendations for both statutory and regulatory relief critical to the success of the program.

Regulatory Changes

We applaud HUD for its effort to revise the project-based program regulations to facilitate the successful use of the program and offer the following recommendations:

PHA Flexibility: The current regulations impose numerous unnecessary and burdensome administrative requirements on PHAs that choose to utilize their statutory authority to project-base vouchers. PHAs should be able to outline plans for using project-based vouchers, including application requirements and selection criteria as an addendum to the PHA plan. The specific content of the written selection policy, the form of program advertisement, etc., should not be prescribed by HUD. HUD should set general parameters and let PHAs develop and implement the program based upon those parameters.

Further, relief from the project-based voucher competition requirements should be granted when the project has already received tax credits or bond financing as the projects have already gone through a competition process. HUD should also eliminate the requirement that it approve each housing site. The PHA is qualified to make a proper site selection. Seeking HUD approval

delays the confirmation of a financing commitment. In addition, new construction and rehab projects should not be subject to the site and neighborhood standards. To do so inhibits a PHA's ability to use project-based vouchers to facilitate revitalization efforts (e.g. HOPE VI redevelopment).

Section 236 Projects: The current regs prohibit the use of project-based vouchers in projects that were formerly insured under the Section 236 program. This prohibition should not apply.

Rehab Standard: The \$1000 per unit rehab standard is inadequate. The minimum rehab standard should be increased to \$10,000. Anything less than that should meet the definition of existing housing.

Tax Credit Units: The January 16 notice appears to say that for tax credit rents outside of qualified census tracts, the rent for a project-based voucher unit may not exceed the tax credit rent, even if the tax credit rent is less than the maximum voucher payment standard. We believe that the statute provides that the tax credit rent may be an exception to a rent set at the maximum voucher payment standard, therefore a PHA may set the rent at the *higher* of the maximum voucher payment standard or the rent charged in tax credit units without rental assistance (for tax credit developments outside of qualified census tracts). For HUD to interpret the statute otherwise would mean that the rent for a unit with project based voucher assistance in a tax credit building in a poor neighborhood could be higher than the rent permitted in a tax credit development in a better-off neighborhood. Certainly HUD does not intend for this result. The regulations should be modified accordingly.

Legislative Changes

Many of the concerns with the project-based voucher program will need amendments to the current statute. Paragraph (13) of section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)) is amended as follows:

Limitation on Project-based voucher units: Subparagraph (D) which limits project-basing to twenty-five percent (25%) of the units in any building except for single family properties and properties for the elderly, persons with disabilities or families receiving supportive services should be repealed.

Term of Assistance: Current HUD policy permits Section 8 contracts to be renewed under the project-based program for up to 20 years (subject to annual appropriations). The project-based voucher program should be no different. Subparagraph (F) (which would become subparagraph (E)) should be amended to increase the housing assistance payments contract term from 10 years to 20 years.

FHA Financing: A new subparagraph (F) should be added that for purposes of underwriting a loan insured under the National Housing Act, the Secretary may assume that any section 8 rental assistance contract relating to a project will be renewed for the term of such loan.

Maximum Rents: Subsidy determination in the project-based voucher program should be consistent with the “voucher” program. The law (we think mistakenly) sets rents at 110 percent of the FMRs and limits recipients rent to thirty percent of income. Subparagraph (H) should be amended to provide that the maximum rents for each unit assisted should not exceed 110% of the applicable payment standard, or such other level as determined reasonable by the PHA.

Rent Adjustments: Subparagraph I should be amended to provide that rents may be adjusted by the annual HUD published annual adjustment factor and in subparagraph I(i) the phrase “and may not exceed the maximum rent permitted under subparagraph (H)” should be deleted.

Waiting List: Subparagraph (J) should be amended in the first sentence to provide that selection of families should be the responsibility of the owner and shall be from a waiting list maintained by the Owner in accordance with applicable HUD requirements. Subparagraph (J) should be further amended in the second sentence to provide that projects will *not* be subject to the provision of section 16(b) applicable to tenant-based assistance. Or, in the alternative, that such projects shall be subject to the targeting requirements applicable to public housing as provided in section 16(a)(2)(A) of the Act, i.e., not less than forty percent (40%) of the units in the project must be made available to families whose incomes at the time of commencement of occupancy do not exceed thirty percent (30%) of area median income, as determined by the Secretary with adjustments for smaller and larger families.

Davis-Bacon: A new subparagraph (L) should be added that provides that section 12(a) of the Act (concerning Davis-Bacon Act requirements) should not be applicable to projects with less than 50 units. The current exemption for section 8 is only for 8 or fewer units

Portability: Introducing the concept of portability into a project-based program raises concerns that tenants may move into a project only to move out of the project a year later (in effect jumping the waiting list). This is unfair to tenants who are higher up on the waiting list. This provision should be eliminated.