

TESTIMONY OF THOMAS K. SHELTON

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AND

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ON BEHALF OF THE

NATIONAL APARTMENT ASSOCIATION/

NATIONAL MULTI HOUSING COUNCIL

JOINT LEGISLATIVE PROGRAM

BEFORE THE

HOUSE COMMITTEE ON FINANCIAL SERVICES

SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

JULY 1, 2003

*The American apartment industry...working together for quality, accessible, affordable housing.*

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Chairman Ney, Ranking Member Waters, and distinguished members of this Subcommittee, my name is Thomas Shelton. I am Regional Partner of Greystar Real Estate Partners, one of the largest privately held apartment firms in the country. Greystar manages a portfolio of 48,000 units in 22 states, and for the past five years has annually developed in excess of \$100 million of multifamily housing. I am currently responsible for all geographic areas west of Austin, Texas. I am also President of the National Apartment Association (NAA), an industry group representing over 30,000 apartment executives and professionals who own or manage 4.2 million apartment units and a member of the National Multi Housing Council (NMHC), a national association representing the nation's larger and most prominent apartment firms. It is my pleasure to testify on behalf of both organizations. Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, professional management, and finance. Together, NAA/NMHC members own and manage over five million apartment homes nationwide.

NAA and NMHC commend you, Chairman Ney, for your leadership, and we thank the Members of the Subcommittee for your valuable work addressing affordable rental housing in America. We also commend U.S. Department of Housing and Urban Development (HUD) Secretary Mel Martinez and the Administration for their interest in improving the Section 8 Housing Choice Voucher Program.

We, too, believe it is critical to meet the housing needs of low- and moderate-income families, and believe that improving the Section 8 program is a central part of meeting those needs. NAA/NMHC urge Congress, and HUD, to enact reforms to the existing Section 8 program that will encourage apartment owner participation and, in turn, increase housing available to voucher holders. Although it is well intentioned, we think the Housing Assistance for Needy Families Act of 2003 (H.R. 1841) will not reduce the administrative costs to participating property owners and will not maximize program benefits for residents as it does not bring the program closer to conforming to conventional market practices. Instead, the proposed legislation could create new obstacles to apartment owner participation without alleviating existing burdens. The net result could be fewer available apartments for voucher residents.

Professional apartment owners, in partnership with the current voucher administrators, have made great strides in helping low-income families find quality affordable rental housing through the Section 8 program – a partnership that helps the community as a whole. NAA/NMHC wholeheartedly support the Section 8 program as a means to engage private housing providers in providing affordable rental housing to families who need it. We believe more apartment owners would participate in the program if the costs of renting to voucher residents were more comparable to the costs of serving unsubsidized residents. Market “transparency” is especially important in high-cost areas where affordable rental housing is particularly scarce.

## **The Section 8 Program in High-Cost Markets**

Barriers to program participation can be particularly formidable in large, high-cost areas. For example, the Los Angeles City Council recently adopted an ordinance that effectively prohibits property owners from terminating Section 8 leases which, in turn, discourages owners from joining the program for fear that they will not be permitted to opt out in the future. Under the new law, if an owner chooses to terminate a Section 8 lease and convert that unit into a conventional one, for five years the owner may only collect the portion of rent for which the Section 8 resident was formerly responsible. Local property owners report that the new law has already contributed to a decrease in affordable housing stock because they left the program in advance of the law's passage and are not entering into new Section 8 leases. This city ordinance will only serve to deter owner participation and, in turn, reduce the availability of Section 8 apartments.

Local Los Angeles-area owners also say that inefficiency in Section 8 administration results in frustration among owners. Poor communication to owners from Section 8 administrators is particularly troublesome. For example, periodic unit inspections are not scheduled at specified times, so owners must often wait for hours to meet inspectors. Relatedly, inspectors have difficulty with accurately identifying resident-caused property damage and owners are forced to pay for repairs caused by Section 8 residents. According to local owners, improved education for local inspectors would result in more efficient, streamlined administration and encourage owner participation in Los Angeles.

NAA/NMHC propose the following recommendations to achieve the goal of market transparency:

### **1. Fair Market Rents, Payment Standard, and Income Caps**

The lack of affordable rental housing in America is particularly acute in high-cost metropolitan areas like Los Angeles. The Section 8 program is a crucial part of helping those with the greatest need find decent homes, however, the program's success is hindered because Fair Market Rents (FMRs) are too low and have not kept pace with fast-rising rental markets. Since FMRs do not reflect market realities, too many vouchers are turned back because voucher holders are unable to find housing with rents that are within the allowable range. In high-cost areas, many more vouchers are usually allocated than will actually be used because a significant number of those vouchers will be returned unused.

FMRs, set annually by HUD for each metropolitan area, must be set high enough to encourage owner participation and, in turn, create a sufficient supply of apartments and choice for voucher holders. We thank HUD for raising the current FMR level to the 50<sup>th</sup> percentile in 39 high-cost areas, but that level is insufficient in certain areas with extremely high-cost sub-markets. We urge HUD to allow flexible FMRs that are more reflective of high-cost sub-market realities.

The current payment standard, the maximum amount that the housing agency will pay toward a family's rent minus thirty percent of the tenant's adjusted income, is generally capped at 110 percent of an area's FMR. If the area's FMR does not accurately reflect local market conditions, and the payment standard is not sufficiently high to allow owners to earn sufficient income to meet costs, owners will not participate in the program. Low FMRs are a primary reason many apartment owners do not participate in the voucher program. NAA/NMHC urge program changes that will allow PHAs to raise the payment standard to 120 percent of FMR without HUD approval, and afford PHAs increased flexibility to request higher payment standards when necessary to reflect actual market conditions in a particular location.

New voucher holders, and those already in the program who are moving to new homes, may not pay more than 40 percent of their adjusted monthly income for rent and utilities. Often times, however, voucher residents would like to rent an apartment that would require flexibility in the 40 percent cap. For example, if the father in a family were to die, the mother's share for the apartment would require a payment exceeding the 40 percent cap. Simply put, the qualified voucher holder would have to move from her home simply because her spouse died. Flexibility is essential in such situations.

## **2. Funding**

Some assert that the Section 8 appropriations structure should be reworked and reduced. Historically, many criticized the Section 8 appropriations structure because too much funding remained unused each year. To be sure, appropriations were once based upon the erroneous assumption that every authorized voucher would be utilized for an entire fiscal year and funds were routinely recaptured and rescinded. Those returned funds reduced annual appropriations to the amounts actually used. Effective this year, Congress enacted changes to minimize recaptures and, moreover, national utilization rates have risen to nearly 96 percent. That success should be recognized and the process supported. NAA/NMHC support increased utilization rates, and we believe that the existing successful appropriations structure is working. We have considerable concerns about the complexity of the proposed state-level funding structure contained in H.R. 1841. We urge continued funding for the existing program structure administered by HUD.

## **3. Inspections**

Under current law, before an apartment is eligible for lease to a Section 8 voucher holder, the administering Public Housing Authority (PHA) must inspect that unit for compliance with HUD-prescribed Housing Quality Standards (HQS). Unit-by-unit inspections cause intolerable leasing delays and do not necessarily satisfy HUD's objective of protecting residents and assuring owner compliance with the Department's health and safety criteria. Unit-by-unit inspections delay resident occupancy even if the

PHA conducts its inspection within the required time frame, and some apartment owners report delays of 30 days or longer. The apartment industry relies on seamless turnover to meet its overhead costs, and the financial implications of such delays are sufficient to deter them from participating in the program.

As proposed, Section 11 of the proposed legislation would extend the existing inspection requirement to HANF. PHAs would conduct individual unit inspections rather than property-wide inspections or relying upon recent past inspections. Importantly, the HANF bill specifically states that owners would not receive any subsidy revenue until an inspection is completed, and the bill is silent on whether residents could move in prior to an inspection. In short, the proposed inspection provision would do nothing to fix the lost revenue problem.

NAA/NMHC propose speeding up the move-in process by allowing PHAs to conduct individual unit inspections within 60 days after the resident moves in and payment commences. PHAs could also conduct building-wide, rather than unit-by-unit, inspections in certain cases and rely upon recent past individual inspections. Alternatively, PHAs could initially inspect a representative sample of units in order to “certify” that the building is eligible. Thereafter, periodic inspections would assure that the property remains compliant with program rules. This approach would reward well-managed properties, allow PHAs to focus their scarce resources elsewhere, and maintain resident safety.

#### **4. Payment System**

PHAs are required to make prompt subsidy payments to apartment owners. However, subsidy payments are sometimes untimely either because of antiquated systems or processing delays. Just as owners would not regularly accept late rental payments from conventional residents, they should not be asked to accept late subsidy payments. We commend HUD for authorizing a \$75 late fee charged to PHAs that do not make timely payments due to accounting inefficiencies. We urge Congress and HUD to continue their efforts to provide timely payments to owners by ensuring that PHAs have the ability to make automated electronic fund transfers to owners. Some PHAs already use automated funds transfer systems but it would be helpful if HUD would provide technical assistance, funding, and other support to ensure that all PHAs have the capacity to utilize automated payment systems. HUD also should establish incentives to facilitate timely payments to owners.

#### **Conclusion:**

In summary, NAA/NMHC believe that the existing Section 8 program, with improvements I have just noted, will make affordable housing available to more Americans. Widespread participation is not always economically feasible in the absence of the aforementioned program reforms that will reduce the sometimes-

significant costs and burdens imposed on implementation of the program. I thank you for the opportunity to testify on behalf of the National Apartment Association and the National Multi Housing Council, and wish to offer our assistance to the Subcommittee as you continue your important work to improve affordable housing opportunities for low- and moderate-income families.