



400 North Columbus Street  
Suite 203  
Alexandria, VA 22314  
(703) 683-8630  
(703) 683-8634 FAX  
[www.nahma.org](http://www.nahma.org)

**Testimony of Karen Newsome, SHCM, NAHP-E  
House Financial Services Subcommittee on Housing and Community Opportunity  
June 4, 2009  
Section Eight Voucher Reform Act (SEVRA)**

Thank you, Chairwoman Waters, for inviting me to testify before this Subcommittee. Good morning, Ranking Member Capito and members of this distinguished Subcommittee. My name is Karen Newsome, and I am here on behalf of the National Affordable Housing Management Association (NAHMA). NAHMA is a trade association which represents multifamily property managers and owners whose mission is to provide quality affordable rental housing. NAHMA is also the voice in Washington for 20 regional affordable housing management associations nationwide. I am also Vice President of Administration for WinnResidential, a property management company headquartered in Boston, Massachusetts.

NAHMA strongly supports the Section 8 Housing Choice Voucher Program. This versatile program is helping to stabilize the lives of millions of families by providing them access to affordable housing of their choice. Overall, it has been a highly successful public-private partnership. NAHMA looks forward to working with this Subcommittee to make further improvements to the Section 8 Housing Choice Voucher program, as well as the project-based Section 8 programs administered by the Department of Housing and Urban Development's Office of Housing.

My testimony will focus on the positive results that can be achieved by creating greater efficiencies in the voucher inspection process, authorizing a limited English proficiency technical assistance program at the Department of Housing and Urban Development (HUD), and expanding the project-based and enhanced voucher programs. I would also like to voice NAHMA's strong support for authorizing a stable voucher renewal funding formula and 150,000 new incremental vouchers for each of fiscal years 2010 through 2014 proposed in SEVRA. Finally, as an important aside, I would like to thank Chairwoman Waters and this Subcommittee, for the strong leadership you provided in stabilizing the project-based Section 8 funding.

## **Inspections**

The streamlined inspection process proposed in SEVRA would remove a major obstacle for voucher holders in tight rental markets. Before a Section 8 voucher holder can rent a specific apartment, the administering agency must first inspect the unit to confirm that it complies with HUD-prescribed Housing Quality Standards (HQS). The resulting delays in lease-ups cause apartments to remain vacant. The financial implications of such delays are enough to deter many owners from participating in the program, especially in low-vacancy markets.

SEVRA proposes common-sense reforms to the inspection requirements that will help expedite the lease-up process for voucher holders. NAHMA strongly supports provisions in SEVRA which will:

- Permit housing agencies to approve lease-ups in properties which passed inspections under a program with standards as least as stringent as the HQS, such as the HOME or the Low Income Housing Tax Credit (LIHTC) program;
  - Streamlining this process will provide the residents with much needed housing sooner, and the owners are not losing income due to delayed move-ins;
  - Moreover, this reform will help the voucher program work better with other federal rental assistance programs;
- Allow minor repairs to be made after the tenant moves into the apartment; and
- Give public housing agencies (PHAs) the discretion to inspect units occupied by voucher holders every other year, rather than annually, for the term of the HAP contract.
  - We support biannual inspections for professional landlords, but recommend continued annual inspections for small apartment properties (less than 20 units) that are generally not professionally managed.

## **Limited English Proficiency**

NAHMA strongly supports Section 17 of the SEVRA draft, which allows HUD to better serve persons with limited English proficiency by providing technical assistance to recipients of Federal funds. In the 110<sup>th</sup> Congress, this language was included in both the House and Senate versions of SEVRA.

HUD's limited English proficiency guidance became effective on March 7, 2007. The guidance states that recipients of HUD funding, including affordable rental housing providers, have an obligation to provide translated documents and oral interpretation services to persons who have difficulty communicating and reading in the English language. Originally, HUD provided no additional funding for affordable housing

providers to offset the costs of providing language services. Another major concern with the guidance was HUD's failure to identify a specific list of documents housing providers would be expected to translate.

In the summer of 2007, a coalition of multifamily housing representatives and civil rights advocates proposed the LEP language which is included in SEVRA. Our compromise addresses the cost and vagueness concerns raised by housing providers, and it will provide greater assistance to our residents and applicants with limited English proficiency. NAHMA is especially interested in the provisions which:

- Create a task force of industry and civil rights stakeholders to identify vital documents (to include both official HUD forms and unofficial property documents);
- Require HUD to translate the vital documents within six months;
- Create a HUD-administered 1-800 hotline to assist with oral interpretation needs; and
- Authorize appropriations.

Since the LEP authorization language was first proposed, Congress appropriated \$380,000 in FY 08 and another \$500,000 in FY 09 for HUD to provide LEP technical assistance and document translations. So far, HUD has used this funding to translate the 4 multifamily model leases and other important documents into 12 languages.

We appreciate HUD's progress in making translated documents available, but we strongly believe the authorization language is still necessary. First, it reaffirms Congress' commitment to provide consistency in the level of service for individuals with LEP. NAHMA is very troubled that HUD's FY 2010 budget proposes to eliminate the limited-English proficiency (LEP) program as a line-item account. NAHMA is concerned that HUD's plans to consolidate this account will make it increasingly difficult to secure funding for future translations, or to update the current translations when the documents change. The result of eliminating funding for LEP would be to leave properties to their own resources in providing language assistance, which would lead to an inconsistent level of service and inconsistent quality of translations for individuals with LEP. Secondly, the six month deadline for providing translated documents is essential. It took more than two years after the guidance became effective for HUD to issue the translated multifamily model leases.

### **Project-based Vouchers**

Project-based vouchers are an important tool in expanding the supply of affordable housing, particularly when used with the tax credit program. These vouchers allow owners to build affordability into their properties. SEVRA will allow more families to access this important resource by allowing PHAs:

- To use an additional 5 percent of their budgets (above the 25 percent limitation) to project-base vouchers for special-needs populations, such as homeless or disabled families, for areas where vouchers are difficult to use or other categories HUD may establish;
- To increase the income-mixing limitation for the percentage of units in a property which may be project-based under certain circumstances;
  - For properties which provide comprehensive supportive services to families; or
  - When the property is located in a tight rental market or is located in a low-poverty area; and
- At the request of a property owner, to provide existing residents with project-based preservation vouchers (which are not subject to the PHA budget limitation or the limit on income mixing);
  - This option will protect the residents while ensuring that the actual units are preserved as affordable.

## Enhanced Vouchers

In July 2004, the Government Accountability Office (GAO) released its report, "Multifamily Housing: More Accessible HUD Data Could Help Efforts to Preserve Housing for Low-Income Tenants." The report noted that mortgages on more than 2300 subsidized properties will reach maturity through the year 2013. In many instances, rents in these developments were kept low by subsidizing the mortgage and limiting the rents that could be charged. GAO explained that tenants who receive rental assistance in these properties would become eligible for enhanced vouchers when the mortgages mature;<sup>1</sup> however, the report states,

"No statutory requirement exists to protect tenants from increases in rent when HUD mortgages mature, absent the existence of rental assistance contracts or other subsidies. Without tenant protection requirements, tenants in over 101,000 units under the Section 202, Section 221(d)(3) BMIR, and Section 236 programs that do not receive rental assistance may have to pay higher rents or move to other housing when the HUD mortgages on these properties mature and rent restrictions are lifted."<sup>2</sup>

On several occasions, NAHMA has called on Congress to provide enhanced vouchers to tenants whose rents would be unaffordable after the HUD mortgage matures, and the affordability requirements expire. We are pleased that the SEVRA draft authorizes enhanced vouchers for tenants who live in properties with mortgages due to expire under the Section 221(d)(3) Below Market Interest Rate and Section 236 Interest Reduction Payment programs. The draft bill provides eligibility for enhanced vouchers when the mortgages mature to low-income residents (and moderate-income tenants who are elderly, disabled or living in a low-vacancy area). NAHMA supports this proposal, but we recommend a slight tweak in the language to clarify that

<sup>1</sup> U.S. General Accounting Office, Multifamily Housing: More Accessible HUD Data Could Help Efforts to Preserve Housing for Low-Income Tenants GAO-04-20 (Washington D.C.; January 23, 2004). page 16. At the time the report was issued, GAO was known as the General Accounting Office.

<sup>2</sup> U.S. General Accounting Office, Multifamily Housing: More Accessible HUD Data Could Help Efforts to Preserve Housing for Low-Income Tenants GAO-04-20 (Washington D.C.; January 23, 2004). page 4.

unassisted tenants living in those projects when the mortgages mature are also eligible for enhanced vouchers if they meet the income-qualifications described in SEVRA.

## **NAHMA's Requested Additions to SEVRA**

### *Reduce Tenants' Rent Contribution for Zero-Bedroom Units*

In February 2008, HUD released a policy memorandum permitting owners to convert efficiency units to one bedrooms (and waive one-for-one replacement requirements) when "it can be demonstrated that the conversion is warranted by local demands for affordable housing and results in the long-term financial and physical repositioning of the project." News of this policy revision was welcomed, but we believe additional measures are necessary when conversion is not practical because of structural and / or financial restrictions.

NAHMA believes a win-win solution can be achieved in situations where converting efficiencies to one-bedroom units is not feasible. We respectfully request language in SEVRA which provides an incentive for tenants to accept efficiency units. Under current law, a tenant pays 30 percent of their income regardless of the unit size. We believe reducing the tenant's rent contribution for efficiency units from 30 percent to 20 percent of their income would make these units more marketable, reduce transfers to one-bedroom units, save the property money that would otherwise be spent turning-over and remarketing the efficiency, and allow the tenant to pay less money for living in a smaller unit.

### *Negative Rent*

NAHMA understands that one of the goals of the draft bill is to simplify the rent determination procedures in public housing, voucher, and assisted multifamily housing programs. With that goal in mind, NAHMA would like to bring an issue to the Subcommittee's attention related to "negative rent" in assisted housing.

Negative rent results when a tenant's utility allowance exceeds their rent contribution. For example, if 30 percent of the tenant's income is \$25 and the utility allowance is \$40, the tenant has a "negative rent" of \$15. The owner/agent bills HUD for that \$15, and pays the tenant upon receipt. The process for reimbursing the tenant is administratively burdensome. We ask the Subcommittee to consider including language in SEVRA which might include allowing owners in assisted multifamily housing to establish a reasonable minimum rent policy. Congress established minimum rents for public housing in the Quality Housing and Work Responsibility Act of 1998.

*Relationship to HUD's Regulation, "Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs (Docket No. FR-4998-N-03)."*

Section 3 Rent Reform and Income Reviews requires the use of the resident's prior year income to determine his or her rent contribution, except for the initial or interim certification. This provision offers far greater certainty than the apparent "choice" of historical or projected income offered in the final HUD regulation, *"Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs."* Using historical data will also simplify the income matching to the information in HUD's Enterprise Income Verification (EIV) system. However, we would note for the record that the LIHTC program requires owners/agents to determine whether a tenant is income-eligible by projecting the current income forward for 12 months. These differences may cause some initial confusion on mixed-financed properties, but they should not affect the Section 8 tenant's rent contribution in LIHTC developments.

On September 30, 2009, HUD's income and rent determination regulation takes effect. NAHMA has advocated for multifamily owners' and management agents' access to income matching tools, such as the EIV system, to ensure the proper level of assistance is received by eligible families. NAHMA continues to support--and even encourage--multifamily owners and management agents to use EIV. Nevertheless, we are gravely concerned about HUD's requirement for owners and managers to use EIV for third party verification in assisted multifamily properties as of September 30.

We ask the Subcommittee to prohibit the mandatory use of EIV by multifamily owners and management agents from taking effect on September 30. *NAHMA requests that the Subcommittee require that the deadline for mandatory EIV use in assisted properties be indefinitely postponed until such time as the well-documented administrative problems with this system are resolved and until the system may be used for income verification in the other major federal multifamily housing programs commonly used with HUD programs--the Low Income Housing Tax Credit and Rural Housing Service multifamily housing programs.* These problems include:

- Major problems getting the necessary authorization and information access to EIV--especially passwords and activation key codes;
- The administrative burden associated with setting up and certifying EIV users;
  - Further complicated by high staff turnover at the site level In order to maintain access to EIV; and
- The administrative burdens on property management staff in mixed-financed properties;
  - Different procedures for income verification must be followed, tenant files with EIV information must be kept separately, and compliance auditors may not have access to the EIV information used to verify income for HUD-assisted residents.

In short, NAHMA members are concerned that they will face unfair sanctions for noncompliance due to staff turnover and delays which are beyond their control in HUD's procedures for accessing EIV.

## **Concerns with the Draft Bill**

### *Eligibility for Assistance Based on Assets and Income*

NAHMA interprets section 4 as one which seeks to tighten the income-eligibility restrictions in public and assisted housing. However, our members are concerned that the asset limitations may have unintended consequences in the form of administrative burdens for PHAs, owners, management agents, as well as the tenants and applicants. It is unclear that the self-certification of the family's net assets would be acceptable to the Low Income Housing Tax Credit regulators in mixed-finance properties. Also, with respect to the income-restrictions on initial and continuing eligibility, HUD's policy for assisted housing has been that over-income families may not receive subsidies, but they may remain in their unit if they pay market rent. NAHMA supports mixed-income communities, and many of our members would be reluctant to evict residents who are not receiving subsidies, are paying the market rents and abiding by the terms of their leases. Eviction is a serious, costly legal proceeding with an uncertain outcome. We agree that there is a need for more affordable housing, but we believe a better alternative is to build more units. We respectfully request that the Subcommittee ask the GAO to study the impact of these changes—especially for elderly residents—prior to writing them into law.

### *Fair Market Rent*

Section 13 of the draft proposes substantial changes for establishing Fair Market Rents (FMRs). While the intention of this section appears to be achieving more precise data upon which to base the FMRs, we are concerned that the proposal will be administratively burdensome for HUD. Likewise, we are unsure how the proposed changes would affect rents. For these reasons, NAHMA respectfully requests that the Subcommittee request a study by the Congressional Budget Office, the GAO or HUD on the potential effect of these changes prior to writing them into statutory law.

## **Conclusion**

Thank you again for allowing NAHMA to comment on the draft SEVRA bill. We look forward to working with you to improve what works about the Section 8 program and to reform the areas that need attention.