

Testimony of Damaris Reyes for
National People's Action
before the
House Financial Services
Hearing on Public Housing
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Thank you Chairman Frank, ranking member Bachus, Congresswoman Waters, Congress Woman Velazquez, and members of the Committee for inviting me here today to speak about the legislative proposal, Preserving, Enhancing and Transforming Rental Assistance, or PETRA.

My name is Damaris Reyes. I am a public housing resident and the Executive Director of Good Old Lower East Side or GOLES in New York City. I speak to you today on behalf of National People's Action.

National People's Action (NPA) is a network of community organizations from across the country that work to advance a national economic and racial justice agenda. NPA has over 200 organizers working to unite everyday people in cities, towns, and rural communities throughout the United States. NPA also coordinates and staffs the Housing Justice Movement (HJM), an alliance of more than 30 community and tenant organizations. HJM represents thousands of residents in America's public and subsidized housing who demand a voice in their housing and a voice in decisions that will affect their lives.

I would first like to address the purpose of this proposal. The stated goal of PETRA is to streamline funding and policies for all social housing in America. The main advantage of the proposal, we are told, turn our public housing assets into leveraged properties eligible for mortgage to banks. According to HUD this is necessary because the tens of billions of capital needed to make the needed repairs to our public housing stock.

The need for repairs and maintenance on this scale is irrefutable, but it is worth taking a moment to reflect on why there is such a massive amount of money needed to make our public housing viable. It is because the current Administration, previous Administrations, and Congress as a whole have failed to act. Previous Congresses have turned their back on millions of Americans by refusing to adequately fund public housing. Previous HUD Administrations have turned their back on the very people they were suppose to serve by not requesting full funding for public and other subsidized housing programs. It is apparent that we as a country have turned our backs on struggling families, on the elderly poor and on the disabled people that live in HUD assisted housing. We are here today discussing this bill because this country has refused to live up to its responsibility to care for our nation's most vulnerable, and has starved public housing of the necessary resources.

So now we are looking to the private market to save our public assets. Make no mistake, the private market's only motivation here is profit and let us not forget that this is the same private market that just crashed our economy, took billions taxpayer funded bailouts and aren't fixing the mess they created. Is this the best answer we can come up with?

But hoping that Congress will act in the best interest of the citizens it is charged with serving hasn't worked and despite the leadership from Congresspeople like Chairman Frank, Representative Waters, Representative Velasquez and many others, this Congress is sadly no more likely than its predecessors to as a whole make the commitment to preserve our national housing assets. And sadly, despite the hope and optimism many housing advocates had for the Obama Administration to work with us in addressing this crisis, we have found that they are no different than the previous Administrations. So with no other viable option presenting itself we have to look at the proposal on the table and try to work with it. But, if we are going to take the monumental gamble of throwing ourselves on the mercy of the market it is imperative that we do it right. If we go down this road we won't easily be able to go back – we have to get it right the first time.

I must state upfront that the National People's Action Network DOES NOT support PETRA in its current form, and we are prepared to actively lobby against it. That being said, there are several areas in PETRA we feel MUST be changed and strengthened in order for us to support the bill.

There are three main areas that have to be addressed are:

We have to ensure that the affordable housing units we have now – a number that is frankly far below the number needed – stay affordable in perpetuity.

We have to ensure that the human rights and dignity of all public and subsidized housing residents are enshrined into law and not subject to individual Housing Authority interpretation.

We have to ensure that protections are in place to retain hard housing units and keep units from reverting to the private market via foreclosure and/or bankruptcy.

I. Affordability in Perpetuity

As PETRA is currently written, converting units would be subject to a 30-year use restriction with a 20-year renewable subsidy contract. It would seem that HUD has not learned anything from the current subsidized housing crisis. Thousands of units are currently bleeding out of the system as landlords who were given subsidized mortgages and tax credit financing reach the end of the contract term that kept the units affordable. The crisis has spawned many HUD task forces and prompted Chairman Barney Frank to introduce legislation aimed specifically at staunching the loss. Yet while in the middle of this, HUD proposed to make the same mistake again

by kicking the problem down the road 30 or even 40 years. That may seem like a long time now, but in 1990, 2010 also seemed very far away.

It is irresponsible for HUD and Congress to leave the backdoor open so wide to the loss of tens of thousands of affordable units by allowing units that are currently permanently affordable and turning them into units that are eminently less stable.

We have an opportunity now, in the writing of this legislation to not repeat the mistakes of the past or to, quite literally, mortgage our future. Permanent use restrictions must be included for any conversion plan for public housing. There are many ways this can be accomplished while still retaining the attractiveness of the buildings to banks to write mortgages. Permanent land use restrictions or land trust arrangements can be written into the law that would maintain the affordability in perpetuity while enabling leverage on the structures themselves.

II. Maintaining Hard Housing Units

a. Vouchers

First, let me state unequivocally that we believe that Section 8 Tenant Based Vouchers are not and should not be considered a replacement for hard affordable units of housing. Tenant based vouchers can be a good option for some families as a way to enable mobility and choice, but they should always be in addition to brick and mortar units.

Vouchers are an inherently less stable way of securing affordable housing. Vouchers can be difficult to use. In the majority of cities and states it is perfectly legal for landlords to discriminate based on source of income and refuse to rent an apartment to a family holding a voucher. Vouchers also come with hard dollar limits so they cannot be used everywhere and in some markets are extremely difficult to use in areas near jobs, quality education or adequate transportation.

PETRA proposed to allow landlords to 'voucher out' up to 50% of the hard units that were, before conversion, publicly owned and permanently affordable units. Under this plan half of the units would disappear. Likely forever. As I've outlined above, vouchers should never be considered a replacement for hard units. The reasoning given in PETRA for this potentially massive shedding of units is that there are some markets where vouchers are easy to use. HUD proposes losing 50% of the units in "areas where vouchers are easy to use" and in areas with a high vacancy rate. At no point in the proposal does HUD define what the area is or what 'high' means.

But more fundamentally, HUD should know better than any of us that markets are constantly changing. A housing market with high vacancy rates today very often becomes a hot market tomorrow. And once the units are gone, our experience is they don't come back. This proposal is seriously shortsighted and should be struck from the proposal.

b. Income Mixing

Section 5 (D) of the PETRA draft is particularly disturbing. In that section it states that properties that convert from public housing buildings to project based voucher buildings will only be allowed to retain subsidy on 40% of the units. What is the plan for the other 60% of tenants, who were, until conversion, living in stable, affordable units? This question must be answered before proceeding.

This is proposed under the section entitled “income mixing.” I would like to take a moment to address this and one of HUD’s other guiding philosophies in this bill, avoiding “minority concentration.” The public housing development where I live and those where many of my fellow residents around the country live are vibrant communities where neighbors help each other succeed and support each other. We overwhelmingly are employed and public housing buildings, in particular those with active tenant organization, are high functioning communities. It is highly offensive to state, as these philosophies state, that only by living near someone who is white or someone of means can my family succeed. And that in order to achieve this success, my community needs to be forcibly broken up, families have to be relocated away from family, friends, work and school. This is social engineering at its worst and Congress needs to understand that it has real world consequences.

c. Racial Justice Impact Assessment

One way to mitigate these effects would be to mandate a Racial Justice Impact Assessment (RJIA) on all potential conversions of properties or units and on any initiative that would potentially displace tenants.

For forty years, before undertaking any project, developers have been required by the National Environmental Policy Act to submit an Environmental Impact Statement to outline the impact such development will have on the environment. It’s time that a similar process was put into place to take into account the impact development and displacement decisions have on families and communities and in particular on families of color.

An RJIA would be required as part of the planning before any demolition, disposition, or construction of new housing units and also apply to plans for using Section 8 housing vouchers. The assessment would take into account the impact of any housing decisions on communities of color in the following areas:

- Distance from centers of employment
- Availability of adequate and affordable transportation, health care, and childcare
- Availability of quality schools and educational opportunities
- The concentration of minority populations in areas where residents are likely to relocate

The results of the RJIA would be made public and would guide all housing decision-making. NPA urges Congress to include an RJIA into the authorizing language for PETRA.

III. Resident Rights

We are pleased to see that some of the recommendations we made to HUD on protecting the rights of residents at the outset of this process have been incorporated. Universal rights to organize, due process rights for most residents prior to eviction, no rescreening of residents during conversion, residents' right to representation, universal location assistance and the application of Civil Rights Act are all positive steps. There are however, several areas that can be improved.

The PETRA proposal maintains the ability of owners to evict residents for activities that occur off or on the property. There is a fundamental problem with these policies. Neither HUD nor PHA's are arms of the criminal justice system and Congress should compel them to stop behaving like they are. If a resident of public housing is convicted of a crime, the courts are empowered to handle it and do – it is not up to providers of housing to insert themselves into the process. If a member of a homeowner's family is convicted of a crime and sent to prison, we would find it outrageous and a gross miscarriage of justice if the state were to foreclose and evict the other members of the family from their home. The same holds for subsidized housing, where the policies are even more draconian. In many jurisdictions, PHA's will evict tenants and their families for an arrest prior to any proof being offered in court.

Similarly, PETRA does nothing to address the policy of refusing housing to ex-offenders. HUD has affirmed that it believes that housing is a human right, yet it maintains policies that contradict this. People who have served their debt to society have a right to rejoin their families and lead their lives. Barring ex-offenders from reunification with families and access to stable housing is not only unjust it is bad public policy. A key to keeping ex-offenders from reoffending is to ensure they have a stable home. Denying them this basic right greatly increases the risk that ex-offenders will be unable to find employment, improve their lives and stay away from the criminal justice system.

We recommend that protections be put in place to allow ex-offenders to rejoin their families and pick up their lives after exiting prison.

RJIA?

IV. Preventing the Loss of Public Assets to the Private Market

A primary goal of PETRA, as I discussed above, is to leverage our public assets on the private market to raise capital for necessary updates, maintenance and improvements. We would never consider mortgaging our national monuments or park system, but this proposal seeks to mortgage our nation's homes. If this is the road we are going down, it is essential that we put every possible safeguard in place to ensure that these assets are not forfeited to private ownership through foreclosure or bankruptcy.

The current economic crisis should stand as a sharp reminder of what can happen when the private market and its profit motivation are given free rein. As written, the PETRA proposal does not go nearly far enough to protect our assets. Instead of guarantees, the proposal sets up an unstable system where HUD can purchase (back) defaulting properties in the case of bankruptcy or foreclosure. But HUD is not compelled to buy the properties back and there is no guarantee that even if HUD wanted to buy them back that the money would be available for it to do so. This is not enough. In order to ensure that we do not lose our properties, we must require that all mortgages taken out against converted properties have FHA multi-family insurance on the first lien. Beyond that, strictures must be put in place so that FHA cannot privately market these REO's. HUD must retain its right to own the properties, or to sell them only to tenants who have organized to purchase their own homes.

Conclusion:

Over the last several months, I have been a part of a series of convening's hosted by HUD with public and subsidized residents from around the country. The stated goal of these convening's was to get resident input on PETRA. At these convening's HUD repeatedly assured residents that PETRA would result in nothing more than a new name, that nothing would change except we would have more money for improvements. HUD officials told residents that PETRA would not disrupt their communities or lead to a loss of housing units. We were told, "when you go to sleep at night it will be public housing, when you wake up in the morning it will be public housing."

Reading the PETRA proposal from HUD I saw that the HUD official left some important parts out. It seems that what she meant to say was that while you may go to sleep in public housing, but there is a nightmare coming. 60% of you tenants will be kicked out of your homes. The remaining 40% will see your numbers cut in half and sent away with vouchers to try your luck in the market. And for those of you that are left the clock is ticking towards the expiration of subsidy – assuming that mismanagement or economic conditions don't lead to a foreclosure that will pull the building out from under you.

We can do better and we call on Congress to work with us to make this proposal one that actually can work to increase capital without decreasing opportunity.