



Statement of Toby Halliday
Vice President, National Housing Trust
Presented to the
Subcommittee on Housing and Community Opportunity
House Committee on Financial Services

July 15, 2009

Subcommittee Chairwoman Waters, and Ranking Member Capito, Chairman Frank and Ranking Member Bachus, and members of the Committee, thank you for inviting me to testify today. My name is Toby Halliday, and I am Vice President for Public Policy for the National Housing Trust. Let me also thank Subcommittee Chairwoman Waters and Chairman Frank for convening this hearing and for your leadership on this important issue. I'd also like to thank all the members of this Committee who have supported legislative efforts to preserve and revitalize our nation's limited supply of decent, safe, affordable rental housing.

The National Housing Trust ("the Trust") is a national nonprofit organization formed in 1986, dedicated exclusively to the preservation and improvement of existing affordable housing. Our Board of Directors includes representatives of all major interests in the preservation field, including tenant advocates, owners and managers, state housing agencies, national and regional nonprofit intermediaries, housing scholars and other housing professionals who care deeply about protecting this irreplaceable resource.

The Trust acts based on a fundamental belief: preserving existing affordable rental housing is the essential first step in solving our nation's housing dilemma. Our public policy advocacy is informed by our direct experiences on the ground preserving affordable housing. The Trust's loan fund, National Housing Trust Community Development Fund, provides loans to other nonprofits to finance affordable housing preservation. The NHT/Enterprise Preservation Corporation, an affiliated organization formed as a joint venture with Enterprise Community Partners, redevelops and owns many federally subsidized properties. Over the past decade, the Trust has helped save and improve more than 20,000 apartments in over 40 states. The vast majority of these apartments have HUD subsidized mortgages or project-based rental assistance contracts.

Today I also testify on behalf of the National Preservation Working Group, a coalition of 25 organizations supporting affordable rental housing. For over 18 years the Preservation Working Group has convened on a regular basis to respond to preservation issues, share best practices among nonprofit preservation practitioners, and discuss and pursue improvements in public policy to facilitate the preservation of decent, affordable rental homes. On behalf of the tenants of assisted housing around the country, residents of the neighborhoods in which these properties exist, and mission minded nonprofit developers, owners, and managers of these properties, the members of the Preservation Working Group thank you for your attention to the critical need to protect affordable rental housing serving urban, suburban, rural and elderly households that is at risk of loss or conversion to other uses. Each individual provision in the draft legislation corrects some flaw or gap in our patchwork of housing programs and policies, and together these

provisions would significantly strengthen the foundation upon which a balanced and complete national housing policy rests. We welcome the opportunity to work with you to make this proposed legislation become law.

The members of the Preservation Working Group are:

National Housing Trust
National Low Income Housing Coalition
National Housing Law Project
National Alliance of HUD Tenants
Housing Assistance Council
Local Initiatives Support Corporation
Enterprise Community Partners
Action Housing (PA)
California Housing Partnership Corporation
Chicago Community Development Corporation
Chicago Rehab Network
Community Builders (MA)
Community Economic Development Assistance Corp (MA)
Community Service Society of New York
Coalition on Housing and Homelessness in Ohio
Coalition for Economic Survival (Los Angeles)
Community Development Law Center (Portland, OR)
Housing Preservation Project (Minnesota)
Neighborhood Reinvestment Corporation
New York Tenants and Neighbors
Stewards of Affordable Housing for the Future
Texas Tenants Union
Urban Homesteading Assistance Board (NY)
Emily Achtenberg (MA)

Preservation is a crucial national priority

Due to the recession that now grips our economy and the mortgage crisis that precipitated it, this legislation is needed today more than ever.

Continuing home foreclosures will shift many families from homeownership to rental in a market where there is already a shortage of affordable rental housing for the poorest households. Many of the effected families will experience sharp declines in household assets and credit scores, but the increased demand is actually leading to higher rents and tighter credit screening in some markets, despite rising unemployment. At the same time, many cash-strapped states and local governments are reducing assistance to needy families. All of this leads to a heightened risk of homelessness for many families. Addressing this challenge begins with preserving existing affordable housing. As the Harvard report notes, “While efforts to create new units must continue, preserving the existing stock of good-quality, subsidized rental housing is even more important.”¹

¹ Joint Center for Housing Studies. (2008). *America's Rental Housing: The Key to a Balanced National Policy*.

The relatively high overall housing vacancy rate created by current economic conditions masks the critical mismatch between the nature of existing supply and unmet demand. A recent analysis conducted for HUD demonstrates that between 2005 and 2007 the number of units affordable to households at or below 50% of area median income fell by 7%, *or a loss of over 1.5 million homes*, while the number of units affordable to households with incomes of over 100% of area median grew by 34%.²

Further complicating this problem is the impact of the current economic crisis on the Low Income Housing Tax Credit. Uncertain profitability and investor flight from risk has created an unprecedented drop in LIHTC activity, dramatically reducing the creation of new affordable units.

At the heart of this legislation are new tools to protect residents and preserve affordability when assisted housing is refinanced, recapitalized, or when the underlying financing naturally matures. Thousands of apartments created under HUD mortgage subsidy programs are now at risk of conversion to non-affordable use when their mortgages mature. But unlike apartments with project-based Section 8 or apartments with HUD financing that is pre-paid by private owners, there are currently no provisions to extend the affordability of these units or to protect impacted residents. We are very pleased that the current draft includes provisions that would, at the owners' discretion, provide rental assistance for affected apartments, both for HUD-assisted and Rural Development Section 515 properties. These new preservation tools, in providing equal affordability protections to these apartments, are more cost-effective than other approaches to replace affordable apartments that are lost to conversion. Finally, improving preservation tools makes the rehabilitation of these properties less risky, leading to the creation of more construction jobs. According to recent studies in Oregon, the rehabilitation of 100 units creates over 150 new well paying jobs.

There will be intense debate over the proposal to allow new owners to preserve the affordability of federally assisted property when current owners no longer wish to operate their properties as affordable housing. So long as existing owners are provided market value for their properties, we believe that new ownership dedicated to long term affordability will help ensure affordable rental housing at a time when so many families are homeless, at risk of homelessness, paying so much for housing that their food or health care needs are compromised, or living in substandard or overcrowded conditions. We pledge to protect the legitimate interests of owners to ensure that they receive fair and full sales prices to allow these properties to be preserved as affordable rental housing.

There will also be debate over the provision to allow residents to escrow their rents when properties are in disrepair. But let us be clear about what is proposed in the current draft: *all rents are to be paid*, but they will go into an escrow account or used for HUD-approved repairs when the Secretary determines serious violations of housing quality standards or housing program requirements. This is not an arbitrary and capricious standard. No one is suggesting that a tenant is allowed to avoid paying rent. The only parties who have something to fear from this

Cambridge: Joint Center for Housing Studies of Harvard University, p. 22.

² Eggers, F.J. & Moumen, F. (2009, June). *American Housing Survey: Rental Housing Dynamics: 2005-2007*. Prepared for U.S. Department of Housing and Urban Development Office of Policy Development and Research. Bethesda, MD: Econometrica, Inc.

provision are owners with serious property violations, which impact not only residents but the entire community.

We understand that some of these provisions are arguably already within the administrative jurisdiction of HUD, and that some of these actions may be taken without legislative action. While we are very pleased at the new focus on a balanced housing policy that re-emphasizes the importance of affordable rental housing, we are also mindful that any positive steps taken by this administration could be subsequently abandoned. We urge that these provisions be enacted as proposed.

We note that many members of the Committee recently expressed their support that recipients of housing subsidies should be American citizens. This is already the law of the land, and residents are currently required to certify compliance with this requirement. However, we are concerned about the impact on legal citizens created by any new citizenship documentation requirements for housing.

Many U.S. citizens who are senior citizens, African Americans, who live in rural areas, or who lack a high school diploma often do not have a birth certificate or passport in their possession. Obtaining such documents can be time-consuming and expensive, especially for those living far from their place of birth. In California it generally takes 10 to 12 weeks to get a birth certificate from the county office, and it can take six to eight months if the information submitted is not complete. A birth certificate can cost \$5 to \$23; a passport can cost up to \$100.

Such requirements also create costs and delays for local governments. Since a similar requirement was implemented in Medicaid, Kansas reports a backlog of about 16,000 applications that are being delayed because of the difficulties complying with the new rule. New Medicaid processing requirements are projected to cost the state of Illinois \$16 million to \$19 million in the first year. Colorado allocated \$2.7 million to comply with the requirement in the first year and now fears that it may not be enough. Recent Medicaid data from Alabama, Kansas, and Virginia show that the impacts of these requirements can be unpredictable:

- In **Virginia**, enrollment of Hispanic children actually rose 4.4 percent after the policy was implemented, while it fell sharply for white (4.3 percent) and African American (5 percent) children;
- In **Alabama**, Hispanic children make up 6 percent of those affected by the requirement but just 3 percent of those who lost coverage as a result;
- **Kansas** found that the enrollment decline under the requirement was 2.2 percent for Hispanic children, compared to 7.8 percent for white children and 9.1 percent for African American children.

We urge that Congress move with caution on any such new documentation requirements in order to avoid high compliance costs and disproportionate impacts on elderly and other legal program participants, with little potential impact on illegal use.

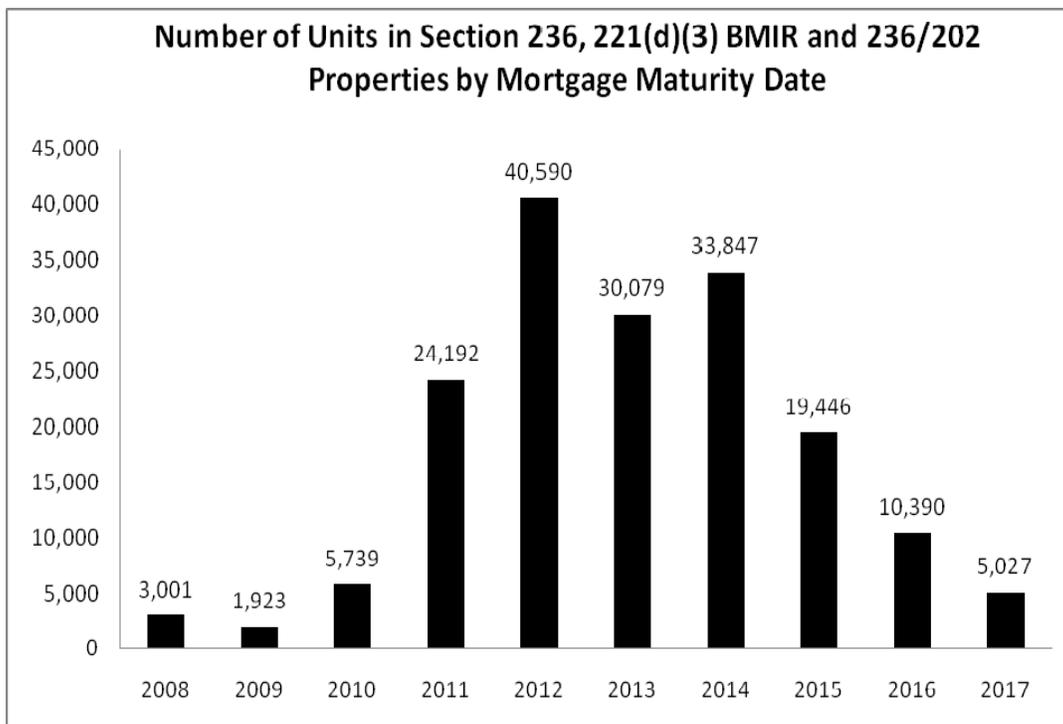
Finally, we support the additional titles for Section 202 elderly housing and for Section 515 rural housing administered by the Department of Agriculture. These proposed changes will provide important new tools to protect vital affordable rental housing for seniors and in rural areas that is at risk of deterioration or conversion, especially in high cost areas.

Federally subsidized housing is an essential housing resource

The federally assisted housing rental stock is an especially important resource because it provides homes affordable to those with worst case housing needs at a time when housing affordability challenges are growing worse. The largest of these programs, the project-based Section 8 rental assistance program, provides affordable apartments for more than 1.3 million extremely low income households.

Our nation's most vulnerable families and seniors depend on quality affordable rental housing. According to a 2000 HUD survey, nearly 50% of federally subsidized housing is occupied by elderly or disabled persons. More than 77,000 veterans also depend on project-based affordable housing according to a December 2007 GAO report.

Federally subsidized housing serves nearly every community in the nation. The Trust's analysis shows that nearly 170,000 federally assisted apartments with contracts expiring over the next decade are located in the districts of the members of this committee, as shown in Attachment A. Many properties were constructed more than 30 years ago and are suffering from physical deterioration and are in need of significant capital improvements.



Current federal policies provide few incentives for the owner to retain the property's original use, compared to strong market incentives encouraging the owner to opt out of affordability requirements. Over the next five years, contracts on more than 900,000 Section 8 units will expire. When a Section 8 contract expires, the owner can choose to opt out of the program, ending the obligation to maintain the housing as affordable. In addition, nearly 200,000 affordable apartments in properties with HUD subsidized mortgages will be at risk of conversion to non-affordable use when their mortgages mature over the next 10 years. Many of these

apartments have project-based assistance included in the numbers above, but many receive no assistance but remain affordable to residents because of restrictions associated with the HUD-subsidized mortgages.

Federal government costs increase when an owner opt outs of a federal project-based rental assistance contract because the vouchers provided to protect eligible tenants from being displaced typically cost more—\$1,000 more than the average project-based subsidy.

Current policies tend to limit the ability of preservation-minded owners to recapitalize, earn sufficient cash flow, and build a sustainable capital base. Owners, particularly nonprofit owners, are often not rewarded for taking risk. For example, HUD's current policy is to restrict the ability of nonprofit owners of federally regulated properties to take built up equity from the properties and use it for its housing mission. Current programs and regulations are fragmented, cumbersome, unpredictable and inconsistently applied. Owners are frustrated with HUD's inability to promulgate meaningful regulations or to sensibly apply them. Here are but a few examples:

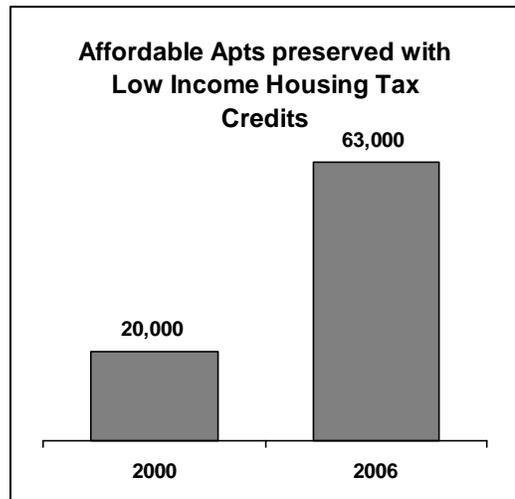
- Owners of Section 8 properties financed by State Housing Agencies are not entitled to mark their rents up to market, even though the market rents in the community may be higher than their current rents and the owner could use the funding to avoid operating at a deficit;
- HUD routinely terminates, rather than suspends, the Section 8 contracts on troubled properties, making it quite difficult for a new, mission minded owner to obtain debt and tax credits to repair the property;
- Current law requires that owners give notice to tenants and the federal government of a decision to opt out of a Section 8 contract or prepay the subsidized mortgage, but this information is not made publicly available. If preservation minded organizations knew which owners were planning to leave the federal programs, they could offer to purchase the property and preserve the apartments as affordable.

Preservation Works: Preserving housing is cost effective, environmentally responsible, and is the logical first step in solving our nation's housing dilemma

New construction alone will not produce enough affordable housing to meet the increasing demand. From 1995 to 2005, our nation lost nearly 1.4 million apartments with inflation-adjusted rents of \$600 or less.³ Although the low income housing tax credit program has typically generated approximately 100,000 affordable apartments each year, new construction does not add enough to the affordable rental stock to make up for lost units. In fact, for every new low-cost unit created each year, two are lost due to demolition, abandonment, or conversion to more expensive housing. Only when existing, subsidized and unsubsidized housing is preserved will building new affordable housing *add* to the affordable housing supply.

³ Joint Center for Housing Studies. (2008). *America's Rental Housing: The Key to a Balanced National Policy*. Cambridge: Joint Center for Housing Studies of Harvard University

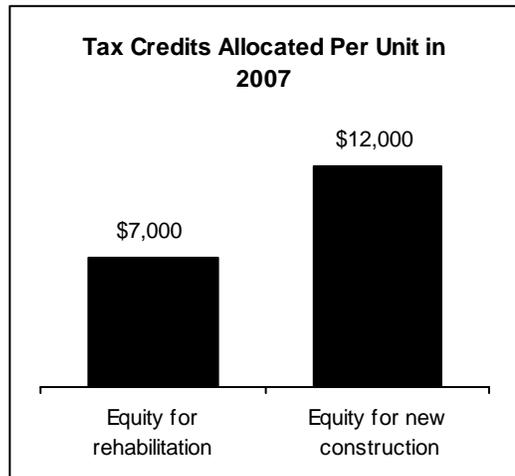
Over the past decade, state and local governments have increasingly devoted scarce resources, including low income housing tax credits, to preserve this housing. These tax credits have attracted billions of dollars in private sector investment in the rehabilitation of federally subsidized housing. Nearly all 50 states are now using low income housing tax credits to preserve existing affordable housing.



States' decisions to emphasize preservation are particularly sensible because preserving an existing home is significantly less expensive than constructing new affordable housing. Using data on the placement of tax credit equity from the National Council of State Housing Agencies, the Trust recently determined that it costs approximately 40% more to build a new affordable apartment than to preserve one in the same community. In more expensive communities, the cost of building new affordable housing is almost double preserving affordable housing in the same neighborhood.

Preserving existing affordable housing provides an opportunity to reinvest in and improve our communities and protect the historic investment made by the federal government. If we do not preserve and improve the millions of apartments that have been produced through these successful public-private partnerships, we will permanently lose our nation's most affordable homes. This will represent a squandering of billions of taxpayer dollars. Safeguarding this housing presents an opportunity to reinvest in and improve our communities.

It is also more energy efficient to preserve existing housing than it is to build new affordable housing where there is not an existing transportation infrastructure. Much of this housing serves as existing transit oriented development in our nation's cities. The National Housing Trust and Reconnecting America have identified federally assisted affordable housing located in close proximity to existing or proposed public transportation in 20 cities. *More than 250,000 federally assisted housing units in these cities are located within a half mile of rail or frequent bus transit. Approximately 63 percent of subsidized apartments near rail stations are covered by federal rental assistance contracts that expire before the end of 2012.*



Policymakers must act to ensure that this essential housing resource remains affordable to families and seniors. Preserving affordable housing near transit means more than simply saving a building—it means preserving meaningful transit opportunities for low-income families and seniors. Affordable housing located near transit allows families and seniors to live an affordable lifestyle in sustainable communities that offer access to employment, education, retail, and community opportunities.

Legislative Recommendations

Financing: Stabilize and dedicate increased public funding to long-term preservation ownership; provide adequate resources to assist residents of at-risk properties; expand public-private financing sources for preservation transactions. The Preservation Working Group recommends:

1. Providing tenant protections and alternatives to conversion for properties with expiring contracts or maturing mortgages;
2. Permitting owners to transfer project-based Section 8 to another property;
3. Utilizing all available preservation tools, such as up-front grants and retaining Section 8 for purchasers of distressed properties;
4. Enacting tax incentives to preserve affordability for qualified rental housing, as provided in H.R. 2887.

Incentives: Increase tax and regulatory incentives for sellers and owners of existing, affordable rental housing to encourage preservation, reduce speculation and maximize long-term affordability. The Preservation Working Group recommends the following incentives for long term stewardship of the existing inventory:

1. Enact enhancements to the Mark-to-Market program;
2. Protect state and local preservation laws against preemption;
3. Permit owners to project-base enhanced vouchers;
4. Ensure resident participation in the preservation process and full protections for tenants affected by converted properties; and
5. Affirm that HUD has a requirement to maximize preservation.

Information: The preservation database provision requires regular and timely release of property information that is already available in government databases. HUD already makes much of these data public, and is to be commended for these efforts. Unfortunately some of these data often appear too late to be useful for preservation, and often their appearance is irregular and the types of data that are available publically for each program vary considerably. For example, HUD's "Picture of Subsidized Housing," which provides a basic outline of its affordable rental housing programs, has not been updated for nine years. The draft bill provides a way to quickly combine the various databases going forward, through the use of unique property identifiers, so that preservation-oriented owners, developers, local governments, advocates, or federal agencies can quickly see the project-based assistance in place at any one property and in properties across the nation. As Secretary Donovan said in his testimony before this committee June 25, "a comprehensive database would help us do a far better job of preserving as many units as possible for the least amount of money."

Again, thank you for the opportunity to comment on this draft of affordable rental housing legislation. The National Housing Trust is eager to support this effort as it moves forward and looks forward to the formal introduction of this legislation.

I would be pleased to respond to any questions.

Attachment A

Privately Owned, Federally Assisted Affordable Housing In Financial Services Committee Members' Districts

| Committee Member | Apts with Project-Based Contracts Expiring through FY2019 |
|-----------------------------------|--|
| Rep. Frank, MA, <i>Chair</i> | 3,277 |
| Rep. Bachus, AL, <i>Rnk. Mem.</i> | 641 |
| Rep. Gary L. Ackerman, NY | 1,015 |
| Rep. John Adler, NJ | 1,304 |
| Rep. Joe Baca, CA | 2,055 |
| Rep. Michele Bachmann, MN | 2,051 |
| Rep. J. Gresham Barrett, SC | 2,253 |
| Rep. Melissa L. Bean, IL | 1,954 |
| Rep. Judy Biggert, IL | 1,230 |
| Rep. John Campbell, CA | 1,205 |
| Rep. Shelley Moore Capito, WV | 2,520 |
| Rep. Michael E. Capuano, MA | 13,919 |
| Rep. Andre Carson, IN | 5,572 |
| Rep. Michael N. Castle, DE | 4,097 |
| Rep. Travis Childers, MS | 2,263 |
| Rep. William Lacy Clay, MO | 4,226 |
| Rep. Emanuel Cleaver, MO | 4,628 |
| Rep. Joe Donnelly, IN | 3,507 |
| Rep. Steve Driehaus | 4,931 |
| Rep. Keith Ellison, MN | 5,143 |
| Rep. Bill Foster, IL | 2,169 |
| Rep. Scott Garrett, NJ | 781 |
| Rep. Jim Gerlach, PA | 1,126 |
| Rep. Alan Grayson, FL | 822 |
| Rep. Al Green, TX | 2,448 |
| Rep. Luis V. Gutierrez, IL | 2,035 |
| Rep. Jeb Hensarling, TX | 854 |
| Rep. Jim Himes, CT | 3,461 |
| Rep. Rubén Hinojosa, TX | 1,669 |
| Rep. Paul W. Hodes, NH | 3,969 |
| Rep. Lynn Jenkins, KS | 2,479 |
| Rep. Walter B. Jones, NC | 1,213 |
| Rep. Paul E. Kanjorski, PA | 3,338 |
| Rep. Mary Jo Kilroy | 3,463 |

| Committee Member | Apts with Project-Based Contracts Expiring through FY2019 |
|-----------------------------|--|
| Rep. Peter King, NY | 324 |
| Rep. Ron Klein, FL | 455 |
| Rep. Suzanne Kosmas, FL | 366 |
| Rep. Leonard Lance, NJ | 1,271 |
| Rep. Christopher Lee, NY | 3,000 |
| Rep. Frank D. Lucas, OK | 1,744 |
| Rep. Stephen F. Lynch, MA | 4,187 |
| Rep. Dan Maffei, NY | 3,622 |
| Rep. Carolyn B. Maloney, NY | 2,908 |
| Rep. Donald A. Manzullo, IL | 2,290 |
| Rep. Kenny Marchant, TX | 624 |
| Rep. Carolyn McCarthy, NY | 2,025 |
| Rep. Kevin McCarthy, CA | 1,001 |
| Rep. Thaddeus McCotter, MI | 2,421 |
| Rep. Patrick T. McHenry, NC | 1,145 |
| Rep. Gregory W. Meeks, NY | 2,698 |
| Rep. Brad Miller, NC | 2,579 |
| Rep. Gary G. Miller, CA | 410 |
| Rep. Walt Minnick, ID | 1,553 |
| Rep. Dennis Moore, KS | 2,330 |
| Rep. Gwen Moore, WI | 5,047 |
| Rep. Randy Neugebauer, TX | 1,388 |
| Rep. Ron Paul, TX | 752 |
| Rep. Erik Paulsen, MN | 2,607 |
| Rep. Ed Perlmutter, CO | 1,191 |
| Rep. Gary Peters, MI | 3,845 |
| Rep. Bill Posey, FL | 1,401 |
| Rep. Tom Price, GA | 285 |
| Rep. Adam Putnam, FL | 1,119 |
| Rep. Edward R. Royce, CA | 692 |
| Rep. David Scott, GA | 1,383 |
| Rep. Brad Sherman, CA | 2,540 |
| Rep. Jackie Speier, CA | 898 |
| Rep. Nydia M. Velázquez, NY | 4,973 |
| Rep. Maxine Waters, CA | 1,879 |
| Rep. Melvin L. Watt, NC | 2,608 |
| Rep. Charles Wilson, OH | 1,903 |
| Total | 169,082 |



Toby Halliday
Vice President

Toby Halliday is Vice President for Public Policy for the National Housing Trust (NHT). NHT engages in the preservation and revitalization of affordable rental housing through real estate development, lending, and public policy initiatives to better the quality of life for the families and elderly who live there. NHT has helped to save more than 22,000 affordable apartments in 41 states through technical assistance, real estate development, and lending activities. Since joining the Trust in early 2008, Toby has worked with other supporters of affordable rental housing to promote policy changes at HUD and in Congress to facilitate the preservation and improvement of affordable rental housing. Mr. Halliday is the moderator of the National Preservation Working Group.

Prior to joining NHT, Mr. Halliday was Program Director for preservation of affordable housing at the Local Initiatives Support Corporation (LISC). During his five year tenure, LISC committed \$69 million in financing and provided technical support to over 100 preservation projects and over 12,500 affordable homes. Previously Toby managed loans and technical assistance for rural community development efforts and administered federal grants and technical assistance for the reuse of closed U.S. military facilities.