

# MEMO OF MEMBERS

The Weekly Newsletter of the National Low Income Housing Coalition

Volume 8, Issue No. 39 • October 3, 2003

## Capitol Hill

### Senate Recesses Without Considering VA/HUD Appropriations; Voucher Action Planned

The Senate recessed on Friday, October 3, without acting on a number of pending appropriations bills, including the VA/HUD bill. Senators will return on October 14, and it is now expected that the VA/HUD bill could be considered the week of October 20. (The Senate first will deal with the supplemental appropriation for Iraq.) It remains unclear whether the VA/HUD bill would be considered as a stand-alone measure or rolled into an omnibus bill with other appropriations bills that have not yet been considered by the Senate.

When the bill does come up for consideration, Senator Paul Sarbanes (D-MD) plans to offer as an amendment a Sense of the Senate resolution urging full funding of the Section 8 Voucher program. As currently written, the amendment would ask the Senators to reinforce three main points:

- Housing vouchers are a critical resource in ensuring that families in America can afford safe, decent, and adequate housing;
- Public housing agencies must retain the ability to use 100% of their authorized vouchers to help house low-income families; and
- The Senate expects HUD to take all necessary actions to encourage full utilization of vouchers, and to use all legally available resources as needed to support full funding for housing vouchers in FY04, so that every voucher can be used by a family in need.

Senators Kit Bond (R-MO) and Barbara Mikulski (D-MD), chair and ranking member respectively, of the VA/HUD Appropriations subcommittee have indicated support for the measure. Senator Susan Collins (R-ME) has officially signed on as a co-sponsor, and a number of Senators have expressed an interest in co-  
(See **Capitol Hill** on p. 2)

## HUD

### HUD Memo Halts Approval of Exception Payment Standards by Field Offices

NLIHC and other housing advocates have learned HUD Assistant Secretary for Public and Indian Housing Michael Liu has issued a memo, dated September 13, 2003, to all HUD field offices, notifying them that "effective immediately and until further notice, approval or renewal of exception payment standards amounts and success rate payment standard amounts by Headquarters and field office staff is rescinded." The memo included an exemption for requests that are intended to reasonably accommodate families that include a person with a disability. Exception payments standards amounts and success rate payment standard amounts allow housing authorities in high cost areas to raise the value of vouchers to meet the fair market rent for that area.

The implications of the memo, if its intent is as written, are of serious concern having negative consequences for voucher utilization as well as deconcentration of low income residents from poor neighborhoods, both of which are major federal policy priorities. NLIHC, the Center on Budget and Policy Priorities, the

(See **HUD** on p. 3)

## POINT OF VIEW

by Sheila Crowley, President

The debate is raging about how much the American taxpayers will spend to rebuild Iraq. The Bush Administration says they need \$20.3 billion now (which includes building new housing) and at least three times that eventually. Should it be grants or loans? Why aren't other countries chipping in? What about all that Iraqi oil that was supposed to generate all the revenue Iraq would need? Why didn't we know how much it would cost before we started the war? Who is going to get rich off the contracts for work in Iraq? Why should the American government spend money to help people in Iraq when in America, poverty is growing, jobs are disappearing, fewer people have health insurance, and housing costs are skyrocketing?

The answer to the last question at least is clear to me. The United States has a moral obligation to rebuild Iraq because we bombed their country and forced the crisis that they are now enduring. We also can afford to spend money to improve the lives of people in Iraq, just as we can well afford to spend money to improve the lives of needy people in our own country. Indeed, we can afford anything that we choose to afford. The American Parity Act, introduced this spring, makes exactly this point. H.R. 1738 would require funding for social and public safety needs in the United States in an amount equal to what the US spends for similar purposes in Iraq. The bill's sponsors hope to amend the Supplemental Appropriations bill for \$87 billion for military and social spending in Iraq with the American Parity Act.

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NATIONAL LOW INCOME  
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## Capitol Hill *(cont'd from p. 1)*

sponsoring the amendment. Housing advocates will spend the recess urging their Senators to join Senator Sarbanes in cosponsoring the resolution.

While Sense of the Senate language does not carry the full weight of legislative language, it shows strong support for carrying out the action indicated in legislative language. Therefore, if Senator Sarbanes' proposal is included in the bill, it would send a strong message to the Secretary of HUD regarding the Senate's intentions for the program.

Once passed by the Senate, the full bill will go to a conference committee to resolve the differences between the House and Senate bills. In preparation, Representatives Jerrold Nadler (D-NY) and Nydia Velasquez (D-NY) are drafting a letter to the Chairmen and Ranking Members of both the House and Senate VA/HUD Appropriations subcommittees encouraging them to support full funding of the voucher program when the measure is in conference.

### American Dream Downpayment Passes House

On October 1, the House of Representatives passed the American Dream Downpayment Act, H.R. 1276, designed to help low income families move into homeownership. The bill would provide \$200 million for each of FY04 and FY05. Under the program, an estimated 40,000 low-income families per year would receive an average of \$5,000 towards their downpayments and closing costs. The program would be administered under the HOME program.

"By extending the American dream of homeownership to tens of thousands of low income families and individuals, this legislation ensures that they will enjoy a safe, clean, and adequate place to live, while providing them with an unparalleled opportunity to create wealth and improve the lives of their children," said Representative Katherine Harris (R-FL), lead sponsor of the House bill. HUD Secretary Mel Martinez also praised the bill's passage, saying that an increase in homeownership, especially among minority households, falls in line with the President's initiatives.

In a statement, Representative Bob Ney (R-OH), Chair of the Housing and Opportunity subcommittee said studies show that "homeowners are more attached to their communities and more active in community affairs; they take better care of their property; experience greater property value appreciation; and report higher life satisfaction and self-esteem." Representative Michael Oxley (R-OH), Chair of the Financial Ser-

vices Committee, echoed Ney's remarks at a press conference later that day, saying that when he visited tenements in his district he noticed decrepit homes with well-maintained cars parked in front. He said the renters took pride in their vehicles because they owned them. He emphasized homeownership would improve neighborhood quality of life.

The Senate Banking Housing and Urban Affairs committee is scheduled to markup the American Dream Downpayment bill on October 14. It has been reported that there will be some changes in the bill, including changes to the eligibility requirements.

### NLIHC Endorses American Parity Act

NLIHC lent its support this week to legislation that would provide America's families with the same amount of funds to increase domestic priorities—including housing—that President Bush has asked for in rebuilding of Iraq. The American Parity Act, H.R. 1738, introduced by Representatives Rahm Emanuel (D-IL) and Peter DeFazio (D-OR), states that of the \$87 billion dollars in supplement spending requested by the President, the \$20.3 billion that is being earmarked for rebuilding Iraq should be matched to meet the needs of Americans.

The legislation directs the Secretary of the Treasury to create a formula to provide payments to states and localities for priority spending in six areas: education, health care, transportation, housing, social services and public safety needs. Funds would come at a time when state and local governments have suffered severe budget crises.

At a press conference on the September 30, Mr. Emanuel and Mr. DeFazio announced they would offer this bill as an amendment to the \$87 billion Iraq War Supplemental Appropriations bill. The House Appropriations Committee plans to mark the appropriations bill up on October 9, and then send it to the House floor for a vote shortly thereafter. Prospects for the Parity Amendment are uncertain, however, as House rules make it difficult to offer amendments to appropriations bills.

"The same values that we hold for Iraq, we must pledge for America," Mr. Emanuel said. Representatives Rosa De Lauro (D-CT), William Delahunt (D-MA), Sam Farr (D-CA) and Louise Slaughter (D-NY) also spoke in support of increased domestic priorities.

According to the *Associated Press*, the Administration's request of \$20.3 billion for Iraq includes a request for funds to build seven public housing projects at a cost of \$100 million. In a document

*(See Capitol Hill on p. 5)*

## HUD (Cont. from p.1)

National Alliance to End Homelessness, the National Housing Law Project, and other advocates are sending a letter to Mr. Liu expressing dismay over this unprecedented action and seeking clarification as to the memo's true intent. Some HUD staff sought to downplay the significance of the memo, while also acknowledging its less than artful wording. The rationale for limiting approval of exception rents appears to be cost containment of the voucher program.

### Martinez Will Collaborate with Russian Counterpart

On September 22, HUD Secretary Mel Martinez signed a Memorandum of Cooperation with his Russian counterpart, Nicolay Koshman, the Chairman of the State Committee on Construction. In this new accord, the two governments formally agree to share their knowledge and experience in addressing a variety of critical issues in housing and urban policy, particularly the issue of affordable housing for lower income families and urban reinvestment strategies.

### HUD Declares October Healthy Homes Month

On October 2, HUD announced October as National Healthy Homes Month. To kick off the occasion, HUD Secretary Mel Martinez announced more than \$147 million in grants to protect children and families from lead and other home health and safety hazards.

### HUDClips

On September 29, HUD's office of Public and Indian Housing released PIHN-03-24. The notice serves as guidance to PHAs on procedures for the procurement of legal services. This notice supersedes notice PIH 90-47 and other guidance provided to HUD staff. The notice expires September 30, 2004.

HUD's Office of the Secretary released the Fair Market Rents (FMRs) for FY04 on October 1. HUD releases FMR data annually and the new FMRs take effect October 1 of every year. HUD uses FMRs for the Housing Voucher Program and to determine payments for other programs, such as the renewal rents for some expiring project-based Section 8 contracts. The FMRs issued in this notice are for all areas that reflect the estimated 40th and 50th percentile rent levels trended to April 1, 2004.

All notices are available at [www.hudclips.org](http://www.hudclips.org).

## National Housing Trust Fund

### AAPD Endorses Campaign

The American Association of People with Disabilities, the largest national nonprofit cross-disability member organization in the United States, has endorsed the National Housing Trust Fund Campaign. The total number of endorsers is now at more than 4,460, and continues to grow.



In other news, Campaign organizers will be in the Milwaukee and Green Bay areas of Wisconsin October 6 through 8 for a series of events drawing attention to the need for affordable housing and attracting support for the National Housing Trust Fund Campaign.

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- Sheila Crowley, President, x224
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(Continued next column)

## GAO

### GAO Releases EITC Pre-certification Report

On October 1, the General Accounting Office (GAO) released “Qualifying Child Certification Test Appears Justified, but Evaluation Plan Is Incomplete,” a report that evaluates the recent changes to the Earned Income Tax Credit (EITC). The EITC program is a refundable tax credit program for low income taxpayers.

This past summer, the Internal Revenue Service (IRS) made changes to the EITC program, including requiring those with children who claim the credit to engage in a pre-certification process. The pre-certification process is a pilot program of 25,000 EITC filers with children that will require filers with children to document their eligibility for the program. For example, an EITC filer claiming children will have to submit a signed affidavit proving that a child has actually lived with him or her for at least six months.

The changes to the program are the result of assertions that the program has a high rate of overclaims because the IRS issues payments to EITC filers before formally evaluating their eligibility. GAO performed this study to evaluate whether the certification process prevents an unreasonable burden on filers or improves compliance. The study also describes the design and basis for the certification program and the current status of the program.

GAO notes that as a result of the certification process, some participants in the certification program may experience delays in receiving their refunds. This is because filers do not have to pre-certify until the beginning of the filing season. Originally, filers were going to be required to pre-certify in August, but advocates expressed concern in the comment period that some filers may require assistance from tax centers, which are open only during the tax season. As a result, the IRS delayed the start of the program to December.

Overall, GAO supports the certification program, concluding that the certification program does not cause an undue burden on filers and will address the high overclaim rate. The report does, however, note that the IRS’s plan for evaluating the certification program is incomplete. The study states that there is little information on how the IRS plans to evaluate whether certification would reduce the EITC overclaim rate, minimize burden, and maintain a high participation rate. GAO concludes in the study that the IRS has some time to complete its evaluation plan, but recommends accelerating development of the plan. The IRS will determine the future of the program next year, once the evaluation of the current program is completed.

## OMB

### OMB Measures Costs and Benefits of Some HUD Rules

The Office of Management and Budget (OMB) recently released “Informing Regulatory Decisions: 2003 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities,” a major review of 107 major federal rulemakings finalized from October 1, 1992 to September 30, 2002. Continuing the policy of using highly formalized cost-benefit analysis started under the Reagan administration, the review estimated the total annual quantified costs and benefits of the rules it considers.

The report includes a few rules promulgated by HUD, namely those resulting from Real Estate Settlement Procedures Act (RESPA) and the Manufactured Housing Wind standards, which were both issued in the study period. The report found that benefits stemming from RESPA were in the range of \$258 million to \$332 million, and the costs were estimated at \$135 million. According to the report, the wind standards generate benefits of \$103 million and costs of \$63 million. Thus for the HUD rules included in the report, a total benefit of \$551 to \$625 million was accrued, with a total estimated cost of only \$348 million.

More broadly, the review found that there were \$146 billion to \$230 billion in benefits from these 107 rules and only \$36 billion to \$42 billion in costs. In other words, there were three to six times the benefits compared to the costs. The startling conclusion of this report, which made news across the country, was that the “the majority of the quantified benefits are attributable to a handful of clean-air rules issued by EPA pursuant to the 1990 amendments to the Clean Air Act.” Less well publicized was the negative benefit-cost relationship found for many workplace safety regulations.

The HUD rules reviewed may not be central to many advocates’ work, but in general the report gives a thorough review of the methods used to evaluate many very different programs, as well as public comments and the criticisms prepared by outside reviewers. The report is available at [www.whitehouse.gov/omb/inforeg/2003\\_cost-ben\\_final\\_rpt.pdf](http://www.whitehouse.gov/omb/inforeg/2003_cost-ben_final_rpt.pdf).

## Capitol Hill *(cont'd from p.2)*

describing budget tradeoffs, the American Federation of State, County, and Municipal Employees (AFSCME) has calculated that \$20.3 billion could fund more than 3.045 million housing vouchers.

### GSE Markup Rescheduled

H. R. 2575, the bill to reform the regulation of Fannie Mae and Freddie Mac, was originally scheduled for mark up in the House Financial Services Committee on October 2. However, mark up has been postponed until October 8, as apparently, the new language being proposed by the Departments of Treasury and HUD dealing with the change in regulators for the government-sponsored enterprises has not been finalized.

### New Legislation

On October 1, Senator Christopher Dodd (D-CT) introduced S. 1697 to establish the Elderly Housing Plus Health Support demonstration program to modernize public housing for seniors and people with disabilities. The bill would provide funding to enhance, make safe and accessible, and extend the useful life of public housing developments for the elderly and disabled and to increase their accessibility to supportive services; provide elderly and disabled public housing residents a readily available choice in living arrangements by utilizing the services of service coordinators and provide a continuum of care that allows such residents to age in place; and incorporate congregate housing service programs more fully into public housing operations. The bill was referred to the Senate Banking, Housing, and Urban Affairs Committee.

### Bills at a Glance

Current information on legislation being tracked by NLIHC is available through NLIHC's legislative action center, at <http://capwiz.com/nlihc/issues/bills/>.

## News & Events

### Preventing Homelessness Through Discharge Planning in the Corrections System

A national audio conference on Preventing Homelessness Through Discharge Planning in the Corrections System will be held at 3 p.m. ET on October 9. The call is designed to help states implementing projects under the federal Serious and Violent Offenders Reentry Initiative.

Featured speakers will be Commissioner Michael Maloney of the Massachusetts Department of Correction, and James Cuddy, Executive Director of the South Middlesex Opportunity Council. They will share details

about their new public-private partnership and their state's discharge planning policies, which have become a national model. The call will last one hour and will include a discussion period for participants.

Those with Internet audio capability can participate in this conference call via the web free of charge. For complete information on how to listen via the webcast and submit questions by email, see [www.endhomelessness.org/audio/webcast.htm](http://www.endhomelessness.org/audio/webcast.htm). To participate by phone, the cost of the call will be approximately \$30 and pre-registration is required. To register online using a credit card, go to <http://c3.econfcalls.net/mrsrvpform.jsp?refno=4218312>. To arrange payment by invoice, call 1-800-403-3303 x212.

The call is a part of the Leadership to End Homelessness Audio Conference Series, a monthly series of national conference calls focusing on strategies to end homelessness. The series is sponsored by the Council of State Community Development Agencies, the National Alliance to End Homelessness, the National Council of State Housing Agencies, the National League of Cities and the U.S. Conference of Mayors.

### Fannie Mae Foundation Professional Development Fellowships

Each year since 1996, the Fannie Mae Foundation Fellowship program has sponsored up to 35 fellowships for senior managers and officials at Harvard's Kennedy School of Government. The program is designed to support the professional development of senior public and nonprofit officials experienced in managing housing and community development programs and committed to affordable housing. Fannie Mae Foundation Fellows also attend special housing sessions coordinated by the Joint Center for Housing Studies and Fannie Mae Foundation staff.

To be considered for a fellowship, applicants must have demonstrated experience and commitment to affordable housing and community development. The application deadline is November 1, 2003. Complete program and application information is available at [www.fanniemaefoundation.org/grants/kennedy\\_school.shtml](http://www.fanniemaefoundation.org/grants/kennedy_school.shtml)

### Affordable Assisted Living

The day before the American Association of Homes and Services for the Aging's October conference, NCB Development Corporation will host an intensive program focusing on determining the feasibility of affordable assisted living projects and an overview of the development process. The session will be held October 25 in Denver. More information is available at [www.ncbdc.org](http://www.ncbdc.org) or [www.aahsa.org](http://www.aahsa.org).

## Update from the Field

### Jersey City Establishes Housing Trust Fund

The City Council of Jersey City, NJ, recently passed an ordinance creating a housing trust fund to provide resources for affordable housing development. As commercial and luxury residential development has made finding affordable rental housing in Jersey City an increasing challenge, the Jersey City Affordable Housing Coalition (JCAHC), a coalition of non-profit developers, tenant advocacy groups, social service providers and banks, has been encouraging the establishment of such a trust fund for several years.

Since the 1980s, there had been an informal “linkage” policy in Jersey City under which developers made payments in exchange for tax abatements. The funds raised were used to support affordable housing. There was talk in the mid-1990s of formalizing this system into a housing trust fund, but the notion was lost in the brouhaha of raucous local politics and the dwindling of development, which reduced contributions to the fund. When development picked up later in the decade, the City Council passed a resolution that allowed the linkage funds to be put to a wider range of uses than affordable housing.

The JCAHC, founded in 1997, has been urging the City Council to create a housing trust fund since 1999. In 2001, the JCAHC recommended the establishment of a housing trust fund to incoming Mayor Glenn D. Cunningham. The JCAHC had also been using another forum to make its case for the trust fund to the Mayor and the City Council: The Jersey City Housing and Community Revitalization Committee, comprised of government officials, financial institutions, for-profit affordable housing developers, and other non-profit stakeholders. Advocates proposed and discussed the housing trust fund in these meetings.

In August, Mayor Cunningham introduced an ordinance to create a housing trust fund for Jersey City, which passed the City Council on an eight-to-one vote on September 10. As reported in the *Jersey Journal*, the ordinance requires builders receiving tax abatements from the city to provide to the trust fund \$1,500 per market-rate residential unit constructed, \$1.50 per square foot for commercial developments, and \$.10 per square foot for industrial space.

In a recent letter to the Mayor and the City Council president, the JCAHC commended the Council and the Mayor for establishing the housing trust fund and said they consider it an important first step. They also recommended ways to strengthen the ordinance, in-

cluding increasing the developers’ contributions, clarifying the mechanics of the trust fund’s operations, and requiring inclusion of affordable housing in market-rate developments.

Reports are that the Council is open to revisiting the ordinance. The JCAHC will hold an affordable housing event on October 29 and will use that forum to urge improvements to the housing trust fund ordinance. As Telissa Dowling, NLIHC board member and JCAHC treasurer notes, “This is just the beginning.”

## Resources

### Incomes Becoming More Concentrated

The Center on Budget and Policy Priorities (CBPP) has released a report looking at Congressional Budget Office (CBO) Data on income and tax trends through the 1980s and 1990s. “The New, Definitive CBO Data on Income and Tax Trends” focuses on income concentration and tax burden among income groups. The report finds that while incomes rose for all groups in the 1990s, income became more concentrated in the hands of those with the highest incomes.

The CBO figures provide a more complete picture of income and tax levels than the U.S. Census figures for several reasons. By combining IRS and Census data together, the CBO dataset includes income sources not covered in the Census, such as food stamps, housing subsidies and the Earned Income Tax Credit. The CBO data also uses a more complete income picture because for confidentiality reasons, the Census reports income totals only up to \$1 million.

While all income groups saw real income growth in the 1990s, those with incomes in the top 1% saw the largest gains. This means that income concentration actually increased during the 1990s. Because the Census figures do not include complete income pictures, they show a narrowing of the income gap in the 1990s, while in actuality it was only growing at a slower rate than previous decades, the report finds.

For the bottom four income quintiles, tax rates were lower in 2000 than 1979. While those in the top income quintile saw some increase in the percentage of income they paid in federal taxes, those with incomes in the top 1% actually saw a decrease in their share. Those in top income quintile paid 25.6% of total federal taxes in 2000 while receiving 17.8% of all pre-tax income.

Although the CBO data cover only the period until 2000, the CBPP report also looks at post-2000 trends and their probable effects. The authors expect that some top incomes fell in 2001 and 2002, especially those

## Point of View *(cont'd from p. 1)*

What we cannot afford is the runaway deficit and the corresponding debt that the deficit accumulates. In an unusual collaboration, the Concord Coalition, the Center for Economic Development, and the Center on Budget and Policy Priorities issued a joint statement this week entitled *The Developing Crisis - Deficits Matter* ([www.cbpp.org/9-29-03bud-stmt.pdf](http://www.cbpp.org/9-29-03bud-stmt.pdf)). The report refutes the notion that we can "grow out" of the current deficit, asserting that "our deficit problem is structural, not cyclical. It results from a growing mismatch between what Americans are scheduled to pay to government and what they expect government to deliver in return." They further warn that the longer we delay in rebalancing public revenue with public expenditures, the harder it will be. In the absence of leaders who will do otherwise, we are heading for the point of fiscal ruin and no return.

I do not begrudge the people of Iraq the money we will spend to repair the damage that has been done to their country. What I do begrudge are the people in the top 1% of all income earners whose after tax income grew by a higher percentage than any other income category in the last two years in part because of the huge tax cuts they enjoyed. We should not be forced into debating if people in Iraq are more or less deserving of people in the United States. The debate should be about the obligation of all Americans to pay what they can afford so that together we can afford to do the right thing.

## Resources *(cont'd from p. 1)*

of chief executives. However, the new tax policies benefit those with the highest incomes the most, and have introduced structural changes into the tax system that will likely lead to an even greater concentration of income. As a result of the 2001 and 2003 tax cuts, the Center finds that the average increase in after-tax incomes for the top 1% was 4.6%; for the middle fifth, 2.6%; and for the bottom fifth, 0.2%

The CBPP report gives a more exact account of income and tax issues over the past two decades than does the Census. As such, it provides the reader with a good analysis of the issues in question, while tying historical data to current issues. The report is available at [www.cbpp.org/9-23-03tax.htm](http://www.cbpp.org/9-23-03tax.htm).

## Fact of the Week Change in Average After-Tax Income, 1979-2000

Bottom Fifth	9%
Second Fifth	13%
Middle Fifth	15%
Next-to-Top Fifth	24%
81-95%	36%
96-99%	53%
Top 1%	201%

Source: "The New, Definitive CBO Data on Income and Tax Trends," CBPP: [www.cbpp.org/9-23-03tax.htm](http://www.cbpp.org/9-23-03tax.htm).

## Tell Your Friends...

NLIHC membership is the best way to stay informed about affordable housing issues, keep in touch with advocates around the country, and support NLIHC's work. Membership information is available at [www.nlihc.org](http://www.nlihc.org), or by fax, mail, or e-mail. Just e-mail [membership@nlihc.org](mailto:membership@nlihc.org) or call 202-662-1530 to request membership materials to distribute at meetings and conferences.



**National Low Income Housing Coalition**  
**Memo to Members**  
**October 3, 2003**  
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**About NLIHC:** Established in 1974, the National Low Income Housing Coalition is dedicated solely to ending America's affordable housing crisis. NLIHC educates, organizes, and advocates to ensure decent, affordable housing within healthy neighborhoods for everyone. NLIHC provides up-to-date information, formulates policy, and educates the public on housing needs and the strategies for solutions.

# The NIMBY Report

*on the continuing struggle  
for inclusive communities*

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National Low Income Housing Coalition

October 2003

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## **New York Advocates Claim Discrimination in Closure of Veterans Home**

There was a time when communities opposed housing and service programs for people with AIDS, substance abuse and mental illnesses, but made it clear they would feel differently about more “wholesome” populations, like senior citizens, single mothers and veterans. As a measure of how much things have changed, advocates need look no further than Albany, NY, which is in the midst of closing one of the few programs willing to house veterans with emotional and substance abuse problems.

The dispute revolves around a three-building veterans center operated by the Albany Housing Coalition. Open since 1998, the center operates under a special use permit, which evidently limited residence to veterans. In recent years, the coalition (which operates 160 units of veterans’ and low-income housing in the region) began to admit some non-veterans who were participating in a drug treatment program. In response to complaints from neighbors, city officials began an investigation, which culminated in a September 10 decision of the Board of Zoning Appeals to revoke the special use permit.

Coalition Executive Director David Stacey has made it clear that he thinks the decision is discriminatory, and said he will file a Fair Housing Act complaint. “These are disabled people being discriminated against,” Mr. Stacey said. “I don’t have the slightest idea where these people are going to go if the home closes,” said Charlie Johnson, president of the Tri-County Council of Vietnam Era Veterans and a retired Army colonel who served in Vietnam. “This is the last hope for some of them....I hope this doesn’t portend a change in the city’s attitudes toward veterans. We are going to have a whole bunch of them coming back home from Iraq.”

Mr. Stacey told the local newspaper that the city’s zoning decision could bankrupt the not-for-profit coalition, which has existed for about 20 years.

For more information: David Stacey, Executive Director, Albany Housing Coalition. Telephone: 518-465-5251.

## **Arizona In the Face of Community Opposition, City Council Says Recovery Home Can Stay**

A relentless campaign by disability and civil rights advocates in western states appears to be paying off. In the August 2003 issue of *The NIMBY Report* we included a short item detailing how the city council of Pleasant Hill, CA, had “reluctantly approved” an 80-bed psychiatric rehabilitation center because it feared that doing otherwise would violate the Fair Housing Act (FHA) and the Americans with Disabilities Act (ADA). Now, in the small town of Cottonwood, AZ (about 50 miles southwest of Flagstaff) the Board of Adjustment has disappointed community opponents and permitted the opening of a small substance abuse recovery home without a conditional use permit, in large part because of advice it secured from a consulting attorney.

When the non-profit Recovery Alternatives made a preliminary inquiry about siting the home, its attorney Steven Horton suggested that because the home would operate as a single house-keeping unit, the city could not require a conditional use permit. Predictably, neighboring homeowners reacted by hiring a lawyer of their own to appeal a city staff approval of the home. The matter was on the public agenda of the Board of Adjustment at its September 24 meeting.

Although the target population for residence in the home is women in recovery from alcohol and drug abuse (and their dependent children), opponents argued at the public hearing that the presence of staff at the home converted it from a residential to a commercial use. But Recovery Alternatives was able to convince the Board that residents would share meals and responsibilities for upkeep of the home, just like a traditional family. With only one dissent, the Board accepted this view and dismissed the neighbors’ appeal. While the local zoning code is silent on this issue, the Board explicitly took into consideration the mandate of federal and state laws, like the FHA and ADA, which prohibit treating group homes for people with disabilities in a fashion different from those of traditional families.

Speaking at the Board’s hearing, Mayor Ruben Jauregui said that he did not see how the city could deny this use. Board member Karen Pfeifer agreed and said the people in recovery

are the people who want to get off drugs. “We can’t choose our neighbors,” she said. Addressing the room full of opponents, she continued, “You people aren’t getting neighbors who are selling drugs.” Many of the other Board members who spoke cited the possibility of a lawsuit if the use was denied.

Reached for comment, Mica Williams, program director of Recovery Alternatives, said she was pleased with the Board’s decision, but regretted the loss of good will occasioned by the conflict with neighbors. Understanding that the residents and neighbors have to find a way to live together, she says she wants to work with the neighbors and establish an open line for communications.

For more information: Mica Williams, Program Director, Recovery Alternatives. Telephone: 928-282-4145.

## Alabama

### Opposition to Foster Home for People With Mental Illness is "the Worst Kind of Discrimination"

In a state whose mental health system has just emerged from 30 years of federal litigation over its failure to provide community-based housing and services, Shannon and Orin Lewis thought their proposal to open a group home for nine elderly women with mental illnesses in Saraland, AL, would be warmly embraced. Their rude awakening came in the form of a September 4 letter from the Board of Adjustment, turning them down. The only stated ground for the rejection was that residents would be “mental patients.” The couple are now pursuing an appeal in state court.

When they applied for permits to renovate the home, the Lewises were told by city staff that they needed a special use permit to provide foster care for their intended residents. After applying for that permit, neighbors used the public hearing process to express their vehement opposition. The expressed concerns included property values, fear of people with mental illnesses and concern about “ghetto-like conditions.” After opposition testimony to that effect, the Board of Adjustment unanimously voted down the Lewises’ proposal.

When asked for his comment on the matter, James Tucker, an attorney with the Alabama Disabilities Advocacy Program, said, “It’s the worst kind of discrimination based on old stereotypes.” He added that federal law favors placing non-dangerous mentally ill patients in the community, instead of keeping them in institutions.

Tuerk Schlesinger, director of the Mobile Mental Health Center, echoed Tucker’s concerns. “Because of the downsizing of state hospitals we have a lot of people in the community who need housing... We have more people needing housing than we can provide.”

The appeal in the Mobile County Circuit Court is likely to proceed on claims that the Board failed to follow proper procedures and that it caved in to discriminatory community opposition in defiance of the FHA and ADA.

For more information: James Tucker, Staff Attorney, Alabama Disabilities Advocacy Program. Telephone: 205-348-4928.

## South Dakota

### Rural NIMBYism Can be Potent Too

One has to look no further than NLIHC’s *Out of Reach 2003*—at [www.nlihc.org/oor2003/](http://www.nlihc.org/oor2003/)—to understand that the shortage of affordable housing is one of the biggest challenges facing rural areas of the United States. Historically, this shortage has been related to lack of infrastructure and limited funding. More recently, however, rural opponents of affordable housing have begun to adopt the tactics of their urban and suburban counterparts.

Recently, the town of Tea, SD (pop. 1742) had the opportunity to host 30 “income-based” townhomes, to be developed under the auspices of Catholic Bishop Robert Carlson and St. Joseph Catholic Housing. The bishop has made affordable housing for low and moderate income families a priority in his diocese. The proposed units would be reserved for people making 50% to 60% of area median income, but no government subsidy would be involved. If the first phase is successful, said Kay Sickler, a consultant on the project, another 30 units would be added over the next few years.

The former mayor and some Tea residents are against the proposed housing and have gone door-to-door to collect signatures in an effort to halt the project. Maryanne Hagemann of Tea started a petition after the city council recommended she gather signatures of those against the project. Ms. Hagemann and other concerned citizens are opposing the housing project because Tea does not have the resources to support it, Ms. Hagemann said. “I’m against it because I don’t feel that Tea is prepared to handle a 60-unit townhouse complex at this point in time,” Ms. Hagemann told the *Champion* newspaper. “My main goal would be to stop the project, and my second goal would be to send a message to the citizens because they deserve to know that a development of this size is coming.”

Current mayor John Lawler is also concerned about helping the project fit in and does not want to send the wrong message. “We can’t discriminate against people of lower income,” he said.

Ms. Sickler acknowledges that the petition might influence some members of the city council, but suggests that will not deter Bishop Carlson. “The Bishop does what he needs to do to fulfill his mission,” said Sickler.

For more information: Kay Sickler, Costello Realty, Sioux Falls, South Dakota. Telephone: 605-336-9131.

## West Virginia

### Editorial Voices: An Occasional Feature of the Nimby Report

(Reprinted with Permission of the *Charleston (WV) Gazette*)

September 8, 2003

Neighbors? Not in my back yard.

Many people have the NIMBY (not in my back yard) syndrome. Residents become nervous about proposals to move homeless shelters, halfway houses and the like near their homes.

Still, it's discouraging that real estate investor John Bailey criticized a plan to locate the Rea of Hope transitional home for women at the corner of Lee Street and Ruffner Avenue in Charleston's historic East End.

Bailey told reporter Mandy Rorrer that an apartment building or low income housing would be acceptable, but not a home for recovering alcoholics.

How big of him.

Bailey, vice-president of the East End Association, worries that there is enough transitional housing in the area. Any more might change the character of the neighborhood. Such an attitude is backward.

Sacred Heart Co-Cathedral, Blessed Sacrament Church and the Jewish community will administer the home. It will open next year and house up to eight women at a time for no more than a year. The women will live there while they get their lives together after completing alcohol treatment. They will work or attend school and pay rent like everyone else, organizers say.

The sponsors bought a duplex for \$175,000 and plan to make improvements before the women move in. Sounds like the sort of property owners residents would welcome. All three organizations have a reputation for maintaining their structures.

No neighbor is perfect, whether a recovering alcoholic or not. If the organization and residents keep the house in good repair, mow the grass and mind their own business, who cares if they are recovering alcoholics?

We're thankful for sensible city Councilman Marc Weintraub, also an East End resident and property owner.

"I think it will be fine," Weintraub said.

## Short Item

Mental Help Net, an internet site established in 1995 to help educate the public about mental health issues, has published a thought-provoking short study about the resurgence of age-old antipathy about people who are homeless.

Titled *Patterns Of Exclusion: Sanitizing Space, Criminalizing Homelessness*, the study "aims to illuminate these trends, to raise awareness about and encourage activism around the implications for the homeless and the public spaces they often occupy, and to make 'legible' the violence that pervades such social policies.

One of the most striking findings is that many of the cities in the vanguard of the get-tough approach are among the country's most liberal, including Seattle, New Orleans, and San Francisco. "[I]n city after city, municipal decisions to use criminal sanctions to protect public spaces have come into conflict with efforts by civil rights advocates to prevent the criminalization of homelessness."

The author concludes that "homeless street people have been frequent subjects of demonization and criminalization, and that contemporary trends reflect even further 'advancement' in patterns of regulatory fervor and casual brutality."

The document is available at [www.mentalhelp.net/poc/view\\_doc.php?type=news&id=40582](http://www.mentalhelp.net/poc/view_doc.php?type=news&id=40582)

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Thanks to Michael Allen of the Building Better Communities Network (BBCN) for writing The NIMBY Report. More information about BBCN is available from its website, at [www.bettercommunities.org](http://www.bettercommunities.org) Suggestions for articles for The NIMBY Report can be sent to [Michaela@bazelon.org](mailto:Michaela@bazelon.org).