

# MEMO OF MEMBERS

The Weekly Newsletter of the National Low Income Housing Coalition

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## Housing in the 2004 Elections!

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Join us in Washington April 26-27 for sessions including Housing in the 2004 Elections, the National Housing Trust Fund Campaign, the latest on the Housing Vouchers, and more. Register today! For the complete conference schedule and registration forms, visit <https://www.nlihc.org/conference.html>.

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## Capitol Hill

### GSE Bill Includes \$1 Billion Fund for Low Income Housing

In a stunning turn of events, the Senate Banking, Housing, and Urban Affairs Committee reported out a bill on April 1 to strengthen oversight of the Government Sponsored Enterprises (GSEs) that includes a requirement that Fannie Mae and Freddie Mac spend two and a half percent of their pre-tax profits on capital grants to support production and preservation of low income housing with a special emphasis on rental housing for extremely low income households. Another two and a half percent will fund a loan loss reserve fund. Five percent of Fannie and Freddie's pre-tax earnings was approximately \$1 billion last year.

However, the lack of bipartisan support for the legislation casts doubt on whether the measure will pass Congress this year. The party-line vote of 12-9 with Senator Zell Miller (D-GA) voting with the Republicans reflects deep divisions on the nature of regulation of the financial giants.

All Senators voted for an amendment offered by Senator Jack Reed (D-RI) that significantly expands the role of GSEs in solving the affordable housing crisis. In addition to the grant and loan fund, the Reed amendment expands the affordable housing goals for Fannie and Freddie. It creates multi-family housing goals, requires sub-goals activities be included in annual reports, and requires the enterprises to invest in underserved markets including manufactured housing and affordable housing preservation (including 236, 202, Section 8, 221(d)(4), USDA 515 and trust lands for Native Americans). Senator Debbie Stabenow (D-MI) introduced an amendment that was adopted to create a low income first time homebuyers housing goal. The unanimous adoption of these amendments signals Congressional support for the GSEs to do more for low income families. The Reed amendment reflects the position on the GSE affordable housing requirements advocated by NLIHC and several of our partners.

The primary purpose of the legislation is to create a new, more powerful regulator for the agencies. The major point of contention that resulted in the breakdown of a consensus bill desired by Chairman Richard Shelby (R-AL) was about authority for the regulator to instigate receivership for the companies and sell their assets if they were to fail. Fannie and Freddie, the advocates, the Democrats on the Committee opposed receivership as described in the original bill, asserting that the provision could be used to force the companies to fail.

Senator Robert Bennett (R-UT) offered an amendment that would allow Congress  
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## POINT OF VIEW

by Sheila Crowley, President

If you have not yet focused on it, as soon as you finish reading this column, please read the action alert that NLIHC forwarded to you Friday from the Coalition to Protect Non-profit Advocacy. The alert asks you to sign onto comments to the Federal Election Commission objecting to the FEC's proposed rules that will severely restrict the ability of non-profit organizations, including 501(c)(3)s and 501(c)(4)s, to engage in a range of advocacy activities.

For organizations whose mission is advocacy, the new rules would force drastic changes in how we carry out our mission. NLIHC exists to change and improve public policy for the benefit of low income people. We do that by educating our members and the public about what policymakers are up to, the consequences of pending policy decisions, and how they can best make their views known to policymakers before decisions are made. The most effective way to engage our members and others as advocates is to make sure they know what their own elected officials are doing and that they in turn make sure that their elected officials know what their constituents think about it. This is not complicated. But it does require that people who are elected to federal office and who are making policy decisions be identified as such. They cannot make policy decisions anonymously.

Therein lies the problem. The new FEC rules would prohibit NLIHC and similar organizations under our current structure and funding from communicating in any  
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NATIONAL LOW INCOME  
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## Capitol Hill *(cont'd from p. 1)*

to review the regulator's attempt to appoint a receiver, in an attempt to allay concerns that the receivership proposal in the original bill could be used to purposefully harm the GSEs. The amendment was adopted by voice vote. However, several Democrats spoke against the original receivership provision and the final iteration of the Bennett amendment. Just prior to mark-up, it was anticipated that an earlier version of the Bennett amendment would be acceptable on both sides of the aisle, but it was rejected by several Republican members.

A Democratic alternative to the entire bill that was put forward by Senator Paul Sarbanes (D-MD) did not include a receivership provision. Senator Sarbanes said that while there were many similarities between the chairman's proposal and the alternative that he planned to offer, the receivership provision in the Shelby proposal "runs the risk of upsetting the housing finance system." And while the Sarbanes proposal included language calling for strengthening the housing mission of the GSEs, it did not create a grant program for ELI families. The Sarbanes substitute was defeated along party lines by a vote of 12-9, with Senator Zell Miller (D-GA) voting with the Republicans.

Senator Charles Schumer (D-NY) was very critical of the legislation in general and said he felt the proposal was being driven by forces outside of the Committee that do not like competing with the GSEs. He went on to say that some would use the legislation open the door to privatization of Fannie Mae and Freddie Mac.

While pleased with the housing production provision, housing advocates are concerned about the receivership provision and other provisions that could potentially weaken the GSEs' affordable housing mission. Specifically, the regulatory structure would centralize all GSE oversight under a single director appointed by the president, and an advisory board would report to Congress. In addition, there is concern that the increase in minimum capital requirements included in the measure do not reflect the GSEs' business and could have unintended consequences on the housing market.

In his opening statement Chairman Richard Shelby (R-AL) said that this legislation would provide a strong, independent and credible regulator for the GSEs, and that the guiding principle behind the proposal is to protect the taxpayer. He also recognized that two provisions in the bill calling for receivership and minimum capital standards did not have consensus.

After the mark-up, Senator Shelby was quoted in the press that he did not expect the bill to be taken up by the full Senate. A joint statement issued by Treasury

Secretary John Snow and HUD Secretary Alphonso Jackson late Friday afternoon expressed their opposition to the bill because the regulator did not have enough power. Given the White House position, the chances of the bill going any further this year dimmed considerably.

Nonetheless, low income housing advocates will be working to assure that the affordable provisions are not watered down if the bill starts to move. Fannie Mae and Freddie Mac oppose the requirement that they provide grant funds for production and preservation of affordable housing.

### Senate VA-HUD Subcommittee Holds FY05 HUD Budget Hearing

The Senate VA-HUD Appropriations Subcommittee heard from top HUD officials at a FY05 HUD budget hearing held April 1. Secretary Alphonso Jackson, FHA Commissioner John Weicher, Assistant Secretary for Public Housing Michael Liu, and Assistant Secretary for Community Planning and Development Roy Bernardi testified.

Mr. Jackson, whose confirmation had been approved by the Senate just the day before, spoke only briefly and left the hearing before it ended. But in his opening statement, Mr. Jackson said that he looked forward to working with the committee to solve problems. He stated that HUD's mission is to address needs of moderate and low income people efficiently and "to ensure that they have the same lives as everyone else."

Senators Christopher Bond (R-MO) and Barbara Mikulski (D-MD), Chair and Ranking Member of the subcommittee, respectively, focused most of the discussion on key programs, with both Senators expressing concern that the FY05 HUD budget was inadequate. "There are more problems with this budget than any other budget that has been submitted before this committee," Senator Bond said. Senator Mikulski cited a 3% cut from FY04 in HUD's programs and asserted that these cuts would "lead to less affordable housing, more run-down public housing, and more kids with lead based paint poisoning."

Senator Bond criticized HUD for including significant policy changes in the appropriations bill, saying such changes should not be considered in an appropriations bill without having sufficient hearings to vet all of the policy concerns. Senator Bond specifically expressed grave concerns over the Flexible Voucher Program proposal, saying that the proposal included insufficient funding and removed requirements that benefit "the most needy families with the greatest housing

*(See Capitol Hill on p. 4)*

## HUD Jackson Confirmed by Senate

Alphonso Jackson was confirmed as HUD Secretary on March 31. The vote in the full Senate came unexpectedly quickly, just one day after the Senate Banking, Housing, and Urban Affairs Committee approved his nomination.

Senate Democrats had vowed to hold up any of the President's executive or judicial nominations until Republicans approved some Democrat nominations, but the that Democratic leadership decided that the blocking of nominations would not apply to Cabinet positions, *Congressional Quarterly* reported.

Consideration of Mr. Jackson's nomination by the Banking Committee had been held up for several weeks in light of Congressional requests for HUD to reconsider a controversial Real Estate Procedures Act (RESPA) regulation HUD had released without Congressional support (see last week's *Memo*).

Mr. Jackson served as Deputy Secretary of HUD under Mel Martinez and had been serving as Acting Secretary since Mr. Martinez resigned to run for the U.S. Senate. Mr. Jackson has run local housing authorities in Texas, Georgia, and Washington DC.

In related news, the *Washington Post* published an account of an examination of trips made by Mr. Martinez while he was HUD Secretary. According to the *Post*, 12 of the 25 stops on Mr. Martinez made on HUD funds in 2003 were to cities in Florida, where Mr. Martinez is running for the Senate.

## HUD Publishes American Dream Downpayment Rule

On March 30, HUD issued an interim rule describing implementation of the American Dream Downpayment Initiative (ADDI). The rule establishes a formula for the allocation of funds and defines eligible activities and costs. ADDI was established under the HOME program to make formula grants to participating jurisdictions for the purpose of assisting low income, first-time homebuyers with down payment costs.

While the rule applies to funds made available in both the FY03 and FY04, there is one major difference outlined in the rule regarding the distribution of the funds allocated in each year. The 2003 funds must be distributed according to participating jurisdictions' prior commitment to homeownership, including their use of HOME, CDBG, and state or local funding. For 2004, funds are to be allocated based on the number of low income families living in rental housing in the participating jurisdiction. The rule further emphasizes that the ADDI statute calls for those currently living in

public housing or receiving rental assistance to benefit from the program.

The rule includes a lengthy definition of a first-time homebuyer, and outlines eligible project costs, both for the home purchase and for rehab and reduction of lead-based paint hazards. The amount of assistance per family may not exceed the greater of 6% of the purchase price of a single family home, or \$10,000. Participating jurisdictions may use their discretion in providing families less than the maximum in order to assist as many families as possible.

The interim rule is effective through April 29, but HUD plans to accept comments until June 1 that will be considered for the final rule. To submit comments, see [http://hudclips.org/sub\\_nonhud/cgi/pdf/7122.pdf](http://hudclips.org/sub_nonhud/cgi/pdf/7122.pdf).

## HUD Publishes Proposed Project-Based Regulations

On March 18, HUD published comprehensive proposed regulations in the Federal Register for the project-based voucher program. While the program was as part of the statutory merger of the certificate and voucher tenant-based assistance program included in the Quality Housing and Work Responsibility Act of 1998, and was revised in 2000, final regulations were never issued. The program is currently operating under guidance issued by HUD in 2001.

Under the new regulations, public housing authorities (PHAs) will be permitted to project base up to 20% of their baseline units, as opposed to the 20% of the total funding as allowed now. The regulation also allows project-based vouchers to be attached to existing housing that meets housing quality standards. In addition, the rule also places a cap of 25% of assisted housing—project-based or other—in each multifamily housing building.

Another change in the proposed rule gives PHAs the authority over site selection for project-based vouchers, as well as the responsibility to determine that HUD site-selection criteria are met. HUD currently has this authority.

The statutory requirement of deconcentrating poverty is in the proposed rules for project based vouchers but the specific standard of 20% poverty rate is not part of the rule. Under this change, PHAs will be able to determine their own standard and insure that a project is consistent with the goal of deconcentrating poverty.

The project selection policy has been modified to en-

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

needs.” The proposal would leave families either with unsustainable rent burdens or homeless, he said.

Mr. Liu defended the Flexible Voucher Program proposal by asserting that the program would provide flexibility to public housing authorities (PHAs) to address current program challenges, such as long waiting lists. He also asserted that the Flexible Voucher Program would allow PHAs to set their own fair market rents, which would save HUD money.

Senator Bond said that HUD had not fully vetted the proposal with all stakeholders and had not done an evaluation of how the proposal would impact communities. He charged HUD with completing an analysis of how the program would impact each PHA. Mr. Liu responded by saying that HUD listened to the concerns of PHAs and used some of the current Moving to Work models when designing the FVP.

Also of concern to Senators Bond and Mikulski was the President’s Zero Downpayment Initiative, which would allow low and moderate income families to obtain FHA mortgages with having to pay any closing costs. Both Senators expressed concern that the initiative would put the FHA fund at risk and would make more families susceptible to foreclosure. “Homeownership is good, but it has to be sustainable,” Senator Mikulski said.

Mr. Weicher assured both Senators that HUD plans to use the current underwriting requirements for FHA loans in deciding who is eligible for a Zero Downpayment mortgage, and that the premiums that participants will pay would cover any risks to the FHA fund.

Senator Mikulski also expressed concern over HUD’s proposal to eliminate HOPE VI. She urged HUD to sustain the program while looking at ways to reform it. Mr. Liu responded that HUD is looking at “different tools for community development.”

In addition, Senator Mikulski said she is worried that HUD is allowing FHA insured multifamily properties to become “run down properties that are becoming concentrations of poverty.” She said that many FHA multifamily properties units are becoming Section 8 units, which are being subsidized by the government but not maintained by the property owners. Senator Mikulski said that the units are becoming “public housing by proxy” and that HUD needs to do more to ensure that FHA multifamily properties are being maintained.

Senator Mikulski also commented on the lack of resources for affordable housing. She urged HUD to increase the production of affordable housing for the middle class, noting that police officers and teachers often cannot afford to live where they work.

Senator Bond said the subcommittee plans to submit additional written questions to HUD before it marks up the budget.

## FY05 Budget Conference Negotiations On Hold

As the House passed its budget resolution last week, the hope among Members was that the House-Senate conference on the resolution could be completed before Congress adjourned on April 2 for a two-week spring break. However, negotiations have stalled over language in the Senate budget resolution known as “pay as you go,” which would require offsets for any revenue lost through tax cuts or spending increases (see Memo of March 5).

There is no pay-as-you-go language in the House budget resolution. However, several moderate Republican Senators have said they would not support a conference that does not include the Senate provision. A procedural vote in the House this week that would have instructed House conferees to support the Senate provision was defeated by a vote of 209-209. Such a narrow margin indicates some House Republican support for the Senate language.

While President Bush has indicated he does not want any restrictions on tax cuts going forward, Senate Majority Leader Bill Frist (R-TN) has indicated some compromise will be necessary in order to get the 51 votes needed to pass the budget resolution in the Senate. Congress will re-adjourn the week of April 19.

## TANF Bill Stalled Over Debate on Income Security

The Senate began debate this week on H.R. 4, the TANF reauthorization bill that passed the Senate Finance Committee in September. The bill is generally considered worse than the bill under which the program is currently operating as it increases work requirements and contains other provisions harmful to low income families. The TANF program was due for reauthorization in 2002, but now has been extended six times. As the most recent extension of the program was set to expire on March 31, both the House and the Senate passed an extension of the program through June.

*(See Capitol Hill on p. 5)*

## Capitol Hill *(cont'd from p. 4)*

Earlier, Representative Wally Herger (R-CA), Chair of the House Ways and Means Committee, introduced legislation that would have extended the program but would also have made significant changes to the program, including requiring states to increase their work participation rates (see March 19 issue of *Memo*). The House did not consider that bill; instead it followed the Senate and passed an extension of the program maintaining current funding levels and program rules.

The Senate was hoping to complete work on the reauthorization bill this week, but debate stalled over disagreement on Democrat-offered amendments. The Democrats are attempting to offer amendments that would force Republicans to vote up or down on labor issues that the White House does not want. Senators Barbara Boxer (D-CA) and Ted Kennedy (D-MA) want to offer an amendment that would increase the federal minimum wage from \$5.15 to \$7 over the next two years, but Republicans are arguing that the bill is not germane to the TANF bill and that there should not be a vote on it. Other amendments that Democrats are trying to get a vote on include ones on issues such as an extension for unemployment insurance and overtime pay protections.

During debate on the minimum wage amendment, Senator Jack Reed (D-RI) cited NLIHC's *Out of Reach* statistics. "One of the other aspects of the minimum wage is a family earning a minimum wage in this country cannot effectively afford a two-bedroom apartment in any of the major metropolitan areas and in many rural areas," he said. "That is unfortunate. Without proper housing, how can one ensure family stability and the opportunity to move up in society?"

Low income families did have a victory this week in the passage of an amendment from Senators Olympia Snowe (R-ME) and Christopher Dodd (D-CT) to increase childcare funding for TANF recipients by \$6 billion. The amendment passed 78-20.

Also fortunately for residents of public housing and homeless people, no Senator has yet attempted to offer an amendment to include public housing and homeless programs into the superwaiver proposal, which as currently written would give governors in 10 states the ability to waive federal laws and regulations related to TANF, the child care block grant, and the Social Services Block Grant (SSBG) (see March 19 and 26 issues of *Memo*).

As the Senate did not finish work on the reauthorization bill this week, it does not appear as if a TANF bill

will pass this year, given the relatively short legislative calendar remaining and the politics involved in the various amendments. If that is the case, the current program would likely continue to operate under extensions.

## Committees Hold Joint Predatory Lending Hearing

The House Subcommittees on Financial Institutions and Consumer Credit and Housing and Community Opportunity held a joint hearing on March 30 titled "Subprime Lending: Defining the Market and its Customers" that offered an opportunity for Members to learn the differences between subprime lending and predatory lending. Witnesses included lenders, researchers, and consumer advocates, including ACORN and the Coalition for Fair and Affordable Lending.

The subprime market allows lenders to offer mortgages at a higher interest rate to people with poor credit histories and/or moderate incomes. As Representative Spencer Bachus (R-AL) said, "Many would not be homeowners without subprime lending." Predatory lending, however, is a practice in which unscrupulous lenders offer loans with unorthodox terms to people who are unable to financially handle the terms of the loan. Low income people, seniors, and members of minority groups tend to be at higher risk of falling prey to predatory lending.

As the President continues to push for increased homeownership, many Members on the Committee expressed gratitude to the Chairs of the two subcommittees, Mr. Bachus and Representative Bob Ney (R-OH), for holding the hearing. Several Members and consumer advocates witnesses expressed concern that there is a positive correlation between subprime lending and predatory lending. "Not all subprime lending is predatory, but too much of it is," Representative Maxine Waters (D-CA), Housing and Community Opportunity Subcommittee Ranking Member, said in her opening statement.

Members also said they are worried that subprime and predatory lending can lead to an increase in foreclosures. "Losing a home to foreclosure is a huge step back into poverty," Representative Brad Miller (D-NC) said. Representative Julia Carson (D-IN) suggested that more needs to be done to protect consumers and that the entire lending industry, including appraisers, should be held accountable.

There was consensus among the witnesses that subprime lending creates access to credit for many who otherwise would not have it. But many panelists warned that the subprime market should still be closely monitored.

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## Capitol Hill *(cont'd from p. 5)*

tored for predatory lending practices. "ACORN fights for access to credit, but the question is what kind of access is being offered," said George Butts, Program Director for ACORN Housing.

Lenders testified that states, in their efforts to combat predatory lending, had stymied subprime market activity by passing restrictive anti-predatory state laws. Teresa Bryce of Nexstar Financial Corp. recommended a single national standard for predatory lending in order to thwart states from creating their own laws that hinder competition.

Mr. Ney introduced legislation in 2003, H.R. 833, that would do just that. Advocates, however, assert that Mr. Ney's bill does not do enough to prevent predatory lending, and would in fact weaken state laws. The committee has not taken any action on the bill.

### Samaritan Initiative Introduced

Representative Rick Renzi (R-AZ) has introduced H.R. 4057 to authorize the Samaritan Initiative, the linchpin of the Administration's efforts to end what it terms "chronic" homelessness over the next decade. The Samaritan Initiative Act would establish a grant program to provide permanent housing and supportive services such as health care, mental health, and substance abuse treatment to homeless individuals the Administration defines as "chronic."

HUD, Veterans Affairs, and Health and Human Services would jointly administer the Samaritan grants. Of the \$70 million the Administration has requested for the program, HUD would receive \$50 million and Veterans Affairs and Health and Human Services would each receive \$10 million. Last year, President Bush wanted appropriators to fund the program through appropriations language, but appropriators did not do so.

The Samaritan Initiative Act was introduced with 11 original cosponsors, including Representative Bob Ney (R-OH), Chair of the Housing and Opportunity Subcommittee. The bill was referred to the Financial Services Committee. It is unclear whether the Committee will take any action on the bill.

Advocates are concerned that the Samaritan Initiative may compete with another proposed homeless program, the Ending Long Term Homeless Initiative (ELHSI), that would provide supportive services to homeless programs. Senator Mike DeWine (R-OH) is considering introducing ELHSI legislation. NLIHC supports both initiatives.

## New Legislation

On March 26, 2004, Senators Susan Collins (R-ME) and Joseph Lieberman (D-CT) introduced the Emergency Food and Shelter Act of 2004. The bill would amend the Stewart B. McKinney Homeless Assistance Act to authorize \$160 million for emergency food and shelter in FY05, \$170 million for FY06, and \$180 million for FY07. The amendment would also enact statutory guidelines that would require local social service administrative boards to include at least one homeless individual, former homeless individual, homeless advocate, or recipient of food or shelter services on the board.

Representative Gary Miller (R-CA) introduced H.R. 4110 on April 1. This legislation would "help facilitate homeownership in high cost areas." The bill was referred to the House Committee on Financial Services; no further details are yet available.

### 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/>.

## HUD *(cont'd from p. 3)*

able previously approved projects that have gone through a competitive selection process to be eligible for the project-based program. This change should encourage greater participation by landlords.

The 2001 rules are in effect until the new regulations are final. Comments are due by May 17. To submit comments, see [http://hudclips.org/sub\\_nonhud/cgi/pdf/5827.pdf](http://hudclips.org/sub_nonhud/cgi/pdf/5827.pdf).

### April is Fair Housing Month

HUD declared April as Fair Housing Month and acknowledged the 36<sup>th</sup> Anniversary of the Fair Housing Act in a press release. HUD notes that housing discrimination is underreported, citing HUD research showing that 80% of people who experience discrimination fail to report it. Fifty percent of HUD discrimination complaints are based on race and national origin, and 39% are based on a disability.

The press release also announced a newly launched national ad campaign designed to educate the public about fair housing laws. The campaign includes a toll-free number, 1-800-669-9777 that people can use to file discrimination complaints. In addition, the campaign includes increased enforcement efforts by HUD, including a new office within the Office of Fair Housing and Equal Opportunity that will investigate specific discriminatory actions.

## Update from the Field

### HUD Cracks Down on LA Housing Auth.

A last-minute agreement between HUD and the City of Los Angeles has stopped what appeared to be an imminent take-over by HUD of the Housing Authority of the City of Los Angeles (HACLA) and the planned cancellation of several thousand voucher contracts.

But the news is not all good. While HUD has not immediately placed HACLA under federal receivership, the agreement reached by two parties calls for HACLA to implement a \$50 a month minimum rent policy and to immediately increase rents from 30% to 35% of voucher holders' current incomes, said Larry Gross of the Coalition for Economic Survival. There is also the possibility that that percentage will rise to 40%.

HUD had threatened HACLA with federal receivership for the housing authority's technical default of new rules against the overleasing of vouchers. The practice of overleasing has been a long-standing one among public housing authorities as a way of ensuring maximum voucher utilization throughout the year. The practice is analogous to airlines overbooking to ensure full flights.

Until recently, HUD encouraged overleasing. But as a cost-savings measure in the FY03 appropriations bill, Congress removed PHAs' ability to overlease, and the FY04 appropriations bill kept the prohibition. HUD was supposed to work with local agencies to help them adjust to the new policies.

HACLA was one of several agencies that overleased after the rule change in order to use as many available vouchers as possible. In Los Angeles, the practice was ultimately too successful—the agency has a utilization rate of about 107%. HACLA operates one of the largest voucher programs in the country with 44,000 vouchers. It is also an agency that must manage a high rate of portability given the multiple jurisdictions in the local housing market. Both factors made it especially difficult for HACLA to implement the new rule in a timely manner.

HACLA was forced to "suspend" the contracts for approximately 1,500 voucher holders, some of whom had found housing but had not yet signed leases. Another 5,000 voucher holders' housing was also in jeopardy. Now, under the agreement reached, it appears these families will be able to use their vouchers, with HUD allowing HACLA to shift to the voucher program \$50 million it had saved from administrative fees and was planning to use for other projects.

"It seems that housing authorities under the new rules are in a Catch-22," said Ruth Schwartz, Director of the Shelter Partnership in Los Angeles and Commissioner

on the Los Angeles Homeless Services Authority. "They are penalized if they don't lease up to 100%, and they are penalized if they overshoot." If a housing authority does not reach 100% utilization, it may receive fewer funds the following year.

HUD's actions are especially troubling given HACLA's reputation of being one of the best-run housing authorities in the country. "This housing authority, in its Section 8 administration, has a national reputation for going way out of its way to make sure low income people have housing," Jan Breidenbach, Director of the Southern California Association of Non-Profit Housing, told the *Los Angeles Times*. "They have tried to be innovative and they have done everything they can to fulfill their mission." HACLA's director resigned in the wake of the upheaval, one month before he was set to retire.

Some advocates have wondered whether HACLA's troubles are related to President Bush's proposal to cut voucher funding and restructure the program, or to the actions LAHA took to stand up to HUD on the overleasing issue. "It's hard to look at what they're doing here and assume it is nothing more than fiscal oversight," Ms. Breidenbach said.

## Housing in the Elections

### Protesters Greet President Bush in AZ

President Bush visited Arizona last Friday to tout his housing policies that promote low income and minority homeownership such as the American Dream Down Payment Act and the Zero Down Payment Initiative. He also called attention to recent record growth in the housing market and levels of homeownership. The visit comes at a time when many advocates and Section 8 voucher holders are immersed in a fight to stop the President's proposal to cut funding and bring disastrous policy changes to the Housing Voucher Program.

In Arizona, President Bush was met with criticism by housing advocates and Representative Raul Grijalva (D-AZ). According to Mr. Grijalva, the current housing and homeownership boom has more to do with the Federal Reserve Board's low interest rates than Bush's housing policies. "I think [Bush] is getting credit for a phenomena that his policies have nothing to do with in terms of homeownership," Mr. Grijalva told KVOA in Arizona.

During the visit to Phoenix, about 100 protesters rallied to highlight contradictions between President Bush's statements on his housing record and his attempts to cut funding to the housing voucher program. If his voucher proposal is enacted, 2000 Arizona families will lose housing vouchers that keep them from becoming homeless, Jim Driscoll of Protecting Arizona's Family Coalition told *The Arizona Republic*.

## Resources

### Measuring Racial Discrimination

*Measuring Racial Discrimination*, a new study by the National Research Council of the National Academies, seeks to introduce the broader policy and scholarly communities to methods of determining and analyzing racial discrimination.

The report is divided into three parts. The first provides a framework for thinking about racial discrimination. The second details methodological approaches to measuring discrimination. And the third presents the panel's priorities for data collection and research.

The authors refer to housing discrimination directly in some instances. In the chapter on experimental methods, for example, fair housing studies are cited and explained as examples of the audit or paired-testing methodology. But more generally, housing advocates can use this study to understand how discrimination is measured and understood in the academic literature. Furthermore, a bibliography of articles and reports at the end of the report includes entries under the heading Housing/Mortgage Lending.

In developing a framework for thinking about discrimination, the study adopts a social science definition of racial discrimination with two components: 1) differential treatment on the basis of race that disadvantages a racial group, and 2) treatment on the basis of inadequately justified factors other than race that disadvantages a racial group. In other words, the components get at whether treatment is based primarily on race, or on some other factor that results indirectly in a differential outcome that can be characterized by race. For example, while landlords might directly discriminate against African Americans in renting (component 1 of the definition), policies against renters may put African Americans at a disadvantage (component 2).

In detailing the methodological approaches, the panel looks at four major methods used across different social and behavior science disciplines to measure racial discrimination. These include 1) laboratory experiments, 2) field experiments, 3) analysis of observational data and natural experiments, 4) survey and administrative reports. The study concludes that there is not one single approach that can address the needs of all questions of interest.

Based on this conclusion, the study's authors advocate for greater funding to support research on racial discrimination measurements that cut across many disciplines. They recommend that this research can be cost-effective, as there remains considerable latitude for research with currently available data sources and known methods.

The report can be accessed at [www.nap.edu](http://www.nap.edu).

## News & Events

### Call on FY04 Voucher Funding

The National Housing Law Project (NHLP) is offering a 75-minute audio teleconference program on the how the FY04 appropriations and changes in voucher renewal funding affects voucher utilization and lease up. Many housing authorities are responding to the new funding scheme and voucher applicants and voucher holders are being adversely affected. The teleconference will provide housing advocates with an analysis of the how the new voucher renewal funding rules affect utilization, over leasing and payment with an emphasis on how advocates can respond.

The call will be held Wednesday, April 14, at 3:45 ET. Speakers for the call include Barbara Sard of the Center on Budget and Policy Priorities and a housing authority staff person (TBA). Housing advocates, staff of agencies who deal with voucher tenants and issues, and staff of housing authorities are encouraged to participate. The cost is \$25 per line for the teleconference, which covers the cost to NHLP for the call. Payment must be received by April 9. Materials will be emailed to registrants prior to the call.

A registration form is available at [www.nhlp.org](http://www.nhlp.org).

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## Fact of the Week

### Apartment Absorption

New Census Report shows that new lower-cost rental apartments are rented more quickly than higher-cost ones. Absorption rates for unfurnished apartments completed in 2002, United States

	Number of Units	% Absorbed within		
		3 mos.	6 mos.	12 mos.
Less than \$650	29,700	70	86	97
\$650 to \$749	30,300	60	82	97
\$750 to \$849	29,100	59	80	95
\$850 to \$949	18,900	58	76	92
\$950 to \$1,049	18,700	62	78	93
\$1,050 or more	77,400	53	74	90
Totals	204,100	59	78	93

From: U.S. Census Bureau: *Market Absorption of Apartments; Annual 2003 Absorptions*, April, 2004.  
[www.census.gov/prod/2004pubs/h130-03a.pdf](http://www.census.gov/prod/2004pubs/h130-03a.pdf)

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

way that is perceived as “promoting, supporting, opposing, or attacking” a candidate for federal office. That means that any elected official who is both making policy and running for office at the same time would be protected from any criticism or praise for his or her policy decisions. So if you lived in the district represented by the Member of Congress who happens to be Chairman of the House VA-HUD Subcommittee on Appropriations, for example, whose policy decisions have enormous import for low income housing, you would be prohibited from either praising him or criticizing him in virtually half of the appropriations seasons, that is, every other year when he is running for re-election. Issuing a housing report card on President Bush’s first term, which NLIHC plans to do this summer, would not be permissible during an election year. You get the picture.

Moreover, organizations that provide services directly to low income people (non-profit housing developers, fair housing organizations, homeless shelters, counseling agencies, soup kitchens and food pantries, senior centers, etc.) and espouse empowerment as part of their missions are ethically obliged to engage their clients or residents in civic life. That means voter registration and voter mobilization. Many non-profits place a high priority on voter engagement, but many others fear repercussions if they do anything that is perceived as “political.” Under the proposed rule, most such organizations would be prohibited from civic engagement work with 120 days of an election. The chilling effect on the practice of direct service organizations would be unprecedented.

I know this sounds like something out of a bad futuristic novel about some regime that clamps down on free speech and dissent and thwarts democracy by limiting access to voting to elites. But it is real and current. In the name of campaign finance reform (which I thought was about reducing the influence of big money in Washington), the FEC would silence people of modest means who rely on organizations like NLIHC to represent their interests and viewpoints. In doing so, the FEC would further solidify the power of those who have enough money to buy access to policy makers. It is an extraordinary abuse of power that you still have the power to stop—if you will only use it. Please sign onto the comments to the FEC now, and please make sure that your elected representatives know that you did.

To read the comments, go to [www.allianceforjustice.org/nonprofit/public\\_policy/NPRM\\_comments.pdf](http://www.allianceforjustice.org/nonprofit/public_policy/NPRM_comments.pdf).

To sign on, send an email to [takeaction@afj.org](mailto:takeaction@afj.org).

## News & Events *(Cont. from p.8)*

### Nat'l Symposium on Affordable Housing

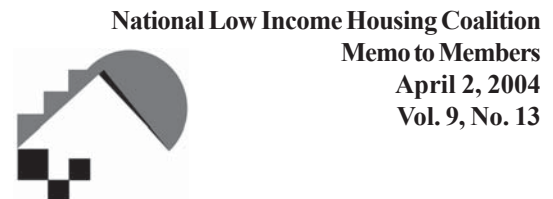
A symposium called “Changing Minds, Building Communities: Advancing Affordable Housing through Communications Campaigns,” will be held in Minneapolis on May 5 and will be co-hosted by the Neighborhood Reinvestment Corporation and The Campaign for Affordable Housing. Minneapolis Mayor R.T. Rybak and Carl Guardino, President and CEO of Silicon Valley Manufacturers’ Group, will provide keynotes from “mayoral” and “corporate” perspectives. The latest research and national campaigns will be presented in morning sessions. The afternoon work sessions will provide food for thought on the kinds of challenges developers and advocates face locally every day—winning approval for developments, bond issues, policy change, and more.

The event is endorsed by the Mortgage Bankers Association, National Association of Home Builders, National Association of Realtors, National Housing Conference, National Low Income Housing Coalition and the National Multi-Housing Council.

For more information: [www.nw.org/network/training/tuitregis/minneapolis2004/minneapolis2004Symp.htm](http://www.nw.org/network/training/tuitregis/minneapolis2004/minneapolis2004Symp.htm).

### NLIHC Board Seeks Nominations

The Nominating Committee of the NLIHC Board of Directors is seeking NLIHC members who are interested in serving on the Board of Director. One to two at-large positions will be filled at the NLIHC Annual Meeting on April 26. The Nominating Committee is interested in potential board members who will expand geographic and racial diversity on the Board. Send letter of interest with statement of qualifications to the Nominating Committee in care of NLIHC President Sheila Crowley at [sheila@nlihc.org](mailto:sheila@nlihc.org) by April 11, 2004.



**National Low Income Housing Coalition**  
**Memo to Members**  
**April 2, 2004**  
**Vol. 9, No. 13**

**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*

National Low Income Housing Coalition

April 2004

## NEW JERSEY

### DOJ Settles Case Alleging Decade of Discrimination Against Latinos

Allegations began surfacing in the mid-1990s that the Borough of Bound Brook, a town located 25 miles southwest of Newark, had engaged in a concerted campaign to reduce the number of Latino residents. By 2000, when the Census Bureau revealed that 35% of the borough's 10,000 residents were Latinos, the campaign appeared to be in full force. An investigation by the U.S. Department of Justice (DOJ) revealed that borough officials had adopted a property maintenance code that was aimed at large Latino families, engaged in selective enforcement of the code against Latino residents, and adopted a redevelopment plan which calls for the elimination of nearly all residential uses in two neighborhoods that are majority Latino.

To support its findings, DOJ pointed to the derogatory comments posted on an Internet chat room called the Bound Brook Forum. DOJ said that at least one elected official used the Forum to solicit addresses for home inspections and responses to that solicitation were derogatory to Latino residents.

DOJ filed a lawsuit alleging that these and other policies discriminated against Latino residents on the basis of race, color and national origin. While denying that it had engaged in any discriminatory action, the borough immediately entered into a consent decree on March 10, 2004, under the terms of which it will pay up to \$425,000 in damages to Latino residents who suffered discrimination and a \$30,000 civil penalty to the federal government. In addition, the consent decree requires Bound Brook to adopt a new property maintenance code, hire a bilingual coordinator to assist Latino residents with housing issues, develop new policies and guidelines regarding code enforcement procedures, and create a non-discriminatory redevelopment plan.

The settlement does not affect litigation in state court brought by a group of Latinos who claimed they were forced from their homes by housing inspectors because of their ethnicity. Brian Cige, an attorney who represents six of the plaintiffs in that case commented, "I'm encouraged that the Department of Justice took this seriously, and that the borough of Bound Brook is making efforts to cure the alleged illegal behavior. I'm hoping that was a first step in addressing the issues."

For more information: Steven H. Rosenbaum, Chief, Housing and Civil Enforcement Section, U.S. Department of Justice, 202-514-4713. Brian Cige, Esquire, 908-685-3775.

## VERMONT

### Community Action Agency Flexes its Fair Housing Muscles

Long known as a progressive state when it comes to dealing with mental health and addiction issues, Vermont sometimes faces tension between the objective need to provide more transitional housing and community-based services for these populations and the resistance of local elected officials and neighbors. The state's "town meeting" tradition means that citizens will have ample opportunities to weigh in on any significant land use decision.

Against this backdrop, Northeast Kingdom Community Action (NEKCA), a local agency focused on meeting the needs of low and moderate income families, proposed to build Aerie, a transitional housing facility for women coming out of substance abuse treatment programs, in downtown St. Johnsbury (pop. 7,571). The zoning board of adjustment approved the site but, after tabling the decision for a month, the planning commission denied the site in February.

Rather than taking the decision sitting down, Trevor Colby, NEKCA's executive director, said the nonprofit is preparing a letter outlining how the decision violates the Fair Housing Act (FHA) and the Americans with Disabilities Act (ADA), and demanding that the town reconsider its denial. "If they don't," Mr. Colby said, "we will file a federal lawsuit against the town. The NEKCA board is very hopeful the town recognizes this discrimination because we really don't want to go through this."

One of the sticking points is Mr. Colby's contention that town planners violate federal law by demanding more information about the prospective residents of Aerie than they do of other new housing projects, by publicly expressing fears about women in recovery being located in close proximity to a school and a nursing home, and by suggesting that NEKCA will not provide adequate "supervision" of the residents. At issue is whether town bylaws conflict with federal law, and whether town officials have interpreted the local laws properly. "The planning commission manipulated their interpretation of the bylaws to exclude these people," Mr. Colby said. "The letter will document all the points in which we've been discriminated against." Under the FHA and the ADA, the agency and its residents each have the legal right to sue to stop discrimination.

Meris Bergquist of Vermont Legal Aid has been advising NEKCA, Mr. Colby said, and will be representing them should

the case reach the federal level. Steve Polin, a private attorney representing Oxford House, will be acting as co-counsel.

For more information: Trevor Colby, Executive Director, North-east Kingdom Community Action, 802-748-8997. Meris Bergquist, Esquire, Vermont Legal Aid, 802-885-5181, [mbergquist@vtlegalaid.org](mailto:mbergquist@vtlegalaid.org).

## FLORIDA

### County Commission Tables Request to Fund Housing for People with Disabilities

Manatee County, FL, is short on affordable housing for people with mental and physical disabilities, so Volunteers of America (VOA) secured \$1.9 million in federal funding to build an 18-unit apartment complex for people who are capable of living on their own but occasionally require some assistance. VOA also won easy approval from the Planning Commission and obtained all necessary permits. Construction began in early 2004, and is slated to be complete by summer. A story with a happy ending? Not by a long shot.

Realizing that additional funding could enhance the usability of the new complex, VOA applied to the Manatee County Commission for a grant of \$100,000. But because a pledge of public funds requires public input, neighborhood opponents have found a forum to try to stop the project. Not only have they massed in opposition to the grant, but they also threaten to go to court to stop the construction in its tracks. Elaine Adamo, vice president of the Holiday Heights Homeowners' Association, expressed her feelings to the *Bradenton Herald*: "We don't want to come off sounding like we are heartless. But we don't feel this type of thing should be in our neighborhood."

Ms. Adamo and her allies won a preliminary skirmish on March 9, when they prevailed upon the County Commission to table the request for the funding. The opposition rhetoric is clearly heating up. Holiday Heights residents say the project is really a drug treatment center that will be incompatible with their family neighborhood because it will house the mentally ill, the homeless, people with criminal records, and recovering drug addicts.

Lori Rullo, who moved into Holiday Heights two years ago, told the commissioners: "We are just not capable of the responsibility the neighborhood would take on with this type of individual." She said the neighborhood is willing to take the county to court to stop the project. Attorney Ernie Marshall, an adviser to the Holiday Heights Homeowners Association, warned the apartment complex threatens public safety. "We don't need any more Carlie Brucia crimes here because the county is allowing this to go forward," Mr. Marshall said after the meeting, referring to the abduction and slaying of an 11-year-old Sarasota girl in February. Another attorney says the zoning laws do not permit certain on-site treatment of disabled people, and has encouraged the Holiday Heights homeowners'

association to file suit. Ms. Adamo said the group will decide by the end of the month whether it wants to do so.

For its part, VOA believes it has done everything it is required to do. Kathryn Spearman, the agency's state director, says when the project was proposed two years ago, VOA met with neighbors and gave them a chance to discuss their concerns. She says she is confident the services will be available at the complex fall within the law. "We're used to this kind of opposition," she said. "Social service agencies are always dealing with these NIMBY issues. We're just trying to do the kind of affordable housing projects we think this county needs."

For more information: Kathryn Spearman, Director of the Florida chapter of Volunteers of America, 813-282-1525, x224, [kspearman@voa-fla.org](mailto:kspearman@voa-fla.org).

## SHORT ITEMS

### Pennsylvania Township Decides to Comply with Federal Law:

Skipack Township, part of the northwest exurbia of Philadelphia, doesn't want one of its residential neighborhoods to play host to a group home for "troubled youths," but has decided to follow the advice of its attorney that the Fair Housing Act (FHA) requires the township to approve the application. On March 29, township special counsel Ross Weiss told the board of supervisors that the Buxmont Academy had violated Skipack's zoning ordinance by opening a group home outside the district in which such uses are permitted. On the other hand, Buxmont serves youth with behavioral or addiction disorders, both of which are considered disabilities under the FHA, which prohibits discrimination on the basis of disability. "They technically should have applied to the zoning hearing board to be located where they're located," Mr. Weiss said. "Buxmont, however, is protected, and they are protected under the Fair Housing Act." He concluded both that the township is powerless to close the home down and that the township ordinance restricting group homes to one district is discriminatory and must be amended. Township officials have offered to host a meeting to mend fences. Preliminarily, at least, opponents have said they would rather consider a lawsuit to stop Buxmont's operations. "God forbid something happens to one of our kids—isn't the township leaving itself wide open?" Rainbow Ridge Circle resident Jim Velikaris asked. "You're basically packaging problems and guaranteeing something's going to happen. Forget about property values—we're worried about our daughters and our families here." For more information: Ross Weiss, Esquire, Cozen O'Connor, 610-941-2361, [rweiss@cozen.com](mailto:rweiss@cozen.com).

*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).*