MEMO TO MEMBERS

The Weekly Newsletter of the National Low Income Housing Coalition

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POINT OF VIEW

by Sheila Crowley, President

Sheila Crowley is on vacation. Point of View will return on December 17, 2004.

Capitol Hill

Omnibus Bill Not Law Yet

Congress passed the FY2005 omnibus appropriations bill, H.R. 4818, before heading home for Thanksgiving, but the measure ran into a snag and has not been sent to the President for his signature. Congress instead passed a Continuing Resolution on November 24 to keep the government running through December 8, when Congress will be back in session.

The measure, which contained nine appropriations bills and was over 3,000 pages long, contained a provision that was slipped into the bill prior to its passage on the Senate floor allowing Appropriations Committee members and their staffs to view individual income tax returns with no penalty for revealing information. This provision created a furor. While everyone agreed to remove the provision, House Minority Leader Nancy Pelosi (D-CA) demanded a roll call vote to strike the provision. The Democrats are making the point that the Republican Leadership should stop ramming bills through Congress without allowing Members time to review them. Because few Members were present before Thanksgiving, the roll call vote had to be delayed until Congress returns on December 6.

There is one piece of good news in the Omnibus bill. The American Community Survey was funded at the House-proposed level of $146 million. As reported earlier (see *Memo*, October 15), the Senate Commerce-Justice-State appropriations bill would have provided only $65 million of the $165 billion requested in the President's budget. Without funding at the higher level, the US Census Bureau would not have been complete implementation of the American Community Survey. Housing advocates and researchers consider the American Community Survey to be vitally important to provide timely and accurate data on a range of housing questions to help shape the public policy debate.

Bills At a Glance

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

HUD

HUD Final Rule on Over-Income Families

HUD published a final rule on public housing authorities' discretion in treating over-income families on November 26. The rule is effective December 27, 2004.

In HUD's discussion of public comments on the earlier proposed rule, HUD states, "[p]ublic housing is intended for low-income families. This rule is being implemented so that [the PHA] may, if it deems appropriate, require families with incomes higher than 80 percent AMI to find housing in the unassisted market so that the PHA may tend to its mission of serving truly low-income families on the waiting list."

HUD cautioned, however, that the rule does not require PHAs to evict over-income families. The rule only gives them the discretion to do so provided they are in full compliance with all applicable laws and regulations. The rule also allows PHAs to exempt from eviction specific classes of families, such as the elderly, provided the exemptions are fair, lawful, and clearly stated in PHAs' annual plans.

NATIONAL LOW INCOME HOUSING COALITION

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USDA

Rural Housing Programs "Reinvented"

The USDA released an interim final rule on the "reinvention of the Sections 514, 515, 516 and 521 multifamily housing programs." The interim rule, for which comments will be accepted until December 27, 2004, will go into effect February 24, 2005. However, the National Housing Law Project, the Housing Assistance Council, the National Rural Housing Coalition, the National Housing Trust, the National Low Income Housing Coalition, and 15 other signatories have written to USDA requesting an additional 30 day comment period. While pleased that the rule has been released, the signatories expressed concern at the truncated comment period for such far reaching changes to rural housing programs.

The interim rule consolidates 14 separate regulations and a number of Administrative Notices into one regulation and move procedural guidance to three program handbooks. Today, these programs account for a portfolio of more than 463,632 units and more than 17,100 projects. The average tenant has an adjusted income of $9,452.

The interim rule, which covers all aspects of the programs, makes some significant changes. Among these are changes to RHS's policy waiting lists to receive incentives to remain in the RHS inventory.

RHS borrowers seeking to prepay an RHS loan must submit a written prepayment request to RHS at least 180 days in advance of the anticipated prepayment date. Within 30 days' receipt of this notice, RHS must send a prepayment request notice to each of the property's tenants. If RHS agrees to accept prepayment on the loan, a prepayment will be sent to each tenant from RHS. Other notice requirements are also established in the interim rule.

The interim rule sets guidelines for RHS borrowers seeking incentives. RHS borrowers who will agree to maintain their properties as affordable only if they receive certain incentives, must sometimes wait years before the incentive funds become available, during which time borrowers are on a waiting list for the incentives. The interim rule establishes a maximum time on the waiting list of 15 months and allows borrowers to then stay on the list, withdraw from the list and continue to offer affordable housing, or sell the property to a nonprofit organization. Where borrowers do prepay, tenants will get a letter of priority entitlement, giving them priority in RHS-financed housing elsewhere. If such housing is not available, the impacted tenants may face displacement or increased rents.

The interim rule also eliminates the requirements for interim rent recertifications for tenants' monthly income changes of less than $100. Further, the interim rule provides some protections so that tenants' contribution to rent will not increase if rental assistance is terminated due to actions by the property borrower/owner, e.g., when rental assistance payments decrease due to a default by the borrower/owner. And, rental assistance can be transferred from one property to another (after the property has been unused for six months).

The rule makes numerous changes regarding property maintenance, reserves and rent levels for loan originations, loan servicing, replacement reserve set-asides and preservation. There is also a new section on cost reasonableness for the evaluation of project proposals. Here, RHS recognizes the long-term cost savings that can occur after higher-than-usual initial investment. These include, for example, the long term cost savings offered by brick exteriors and increased thermal standards.

The interim rule also consolidates separate program regulations for the Farm Labor Housing loan and grant program, with separate subparts remaining for on-farm labor housing and off-farm labor housing.

The definition of "nonprofit organization" is changed so that "more nonprofit organizations are eligible for participation in the Agency's multifamily direct loan programs. Most notably, the aspects of the definition that describe local and regional nonprofit organizations have been broadened."

For more information on the interim final rule, RIN 0575-AC13, or how to comment, go to http://rdinit.usda.gov/regs/. (A copy of the letter requesting extension of the comment period will be available at www.nlihc.org.)

CRA

OTS proposes weakening CRA Regulations

On November 19, the Office of Thrift Supervision (OTS) proposed to weaken its Community Reinvestment Act (CRA) regulations by expanding the CRA definition of "community development," allowing savings associations to design their own CRA examinations, and possibly eliminating the CRA investment test. These actions would reduce lending, investments, and services in both rural and urban low to moderate-income communities, the very communities the CRA was designed to benefit.

Specifically, the OTS proposes to divert lending, investments, and services from these communities to higher-income communities by expanding the CRA definition of "community development" to "include: (1) Community services targeted to individuals in rural areas; and (2) activities that revitalize or stabilize rural areas," regardless of whether these are low to moderate-income areas.

The OTS also proposes to reduce the amount of investments and services in low to moderate-income communities by allowing large savings associations to design their own CRA examinations. "[E]ach savings association could choose to have OTS weigh lending anywhere from 50% to 100% for that association's overall performance assessment, services anywhere from 0% to 50%, and investments anywhere from 0% to 50%." The current weight is 50%, 25%, and 25% respectively.

In addition, the OTS is considering diverting much needed capital from low to moderate-income communities to higher-income communities by further "encouraging savings associations to perform community development activities in any areas affected by natural disasters or other major community disruptions" regardless of whether the affected areas are low to moderate-income. Finally, the OTS is considering cutting the amount of investment in low to moderate-income communities by eliminating the investment test.

The CRA is the primary reason for increased lending in low to moderate-income communities. For example, from 1993 to 1998, CRA regulated banks and savings institutions provided $467 billion in mortgages to these communities. Over the years, CRA has generated billions of dollars in financing for community development projects, including affordable housing development, in these communities. Advocates are being urged to comment on the OTS's proposal.

For additional information on the proposal and how to file comments with the OTS, see www.ots.treas.gov/docs/7/77449.html. The OTS must receive all comments by January 24, 2005.

Update from the Field

California Initiatives Impact Housing

California voters passed two initiatives on November 2 that have implications for housing policy. Californians voted in Proposition 63, which adds a 1% surcharge to income over $1 million to funds services for the mentally ill, including housing. Funds can be used for acquisition, new construction, and rental subsidies. (See *Memo* on October 22.)

The initiative with the greatest impact on housing – Proposition 1-A – is a constitutional amendment crafted out of the State's budget crisis last June. A complicated and detailed initiative, its long-term negative impact on housing production was not even discussed during the campaign season.

The California state constitution now determines how funds generated locally, but sent to the state, are redistributed back to municipalities. When Proposition 13 passed in 1978, local governments in California lost most of their ability to raise local revenues for services. Instead, they have become dependent on revenues that go to the state and are then re-directed back to cities and counties. First among these funds have been sales taxes, which are collected locally, sent to the state and returned to the jurisdiction where the sale took place.

During the years since Prop. 13, cyclical fiscal crises resulted in the state legislature 'raiding' the funds targeted to local government. For political reasons, these raids were always more palatable than raising taxes. Prop. 1-A severely curtails the State's ability to keep locally-targeted funds and use them for state services. This alone may be a classic example of bad public policy, since it comes from, and perpetuates, a battle between state and local governments on which services to cut.

But deep in Prop. 1-A, even worse public policy lurked. Until Prop 1-A, the methods of collecting and re-allocating funds was still subject to political debate, with the possibility of compromise or change. Now, the allocation of sales tax back to point-of-sale (as opposed

(See **California** *on p. 4)*

California *(cont'd from p. 3)*

to being allocated according to population, need or any other method) is part of the state constitution.

From now on, local governments will be even more dependent on sales taxes to fund their local services. The implications for housing are not hard to figure out. What generates sales tax? Big boxes, car lots, malls. What doesn't generate sales tax, but costs local governments money? Housing, particularly affordable housing.

"The arcane details of public financing were not presented in a clear fashion nor publicly addressed," asserts Jan Breidenbach of the Southern California Association of Non-Profit Housing, "Now with the passing of such a Proposition it will be harder and harder to address housing in California."

Where does California go from here? Based on the elections result and the impending consequences of Prop. 1A, housing advocates will continue to advocate for low income Californians and urge for increased funding and production of affordable housing despite the continued uphill battle.

For more information please contact Jan Breidenbach, Executive Director of the Southern California Association of Non-Profit Housing at 213-480-1249 or JBreidenbach@scanph.org.

Resources

USDA Section 515 Study Released

On November 22, the USDA Office of Rural and Community Development, headed by Acting Secretary Gil Gonzalez, released "Rural Rental Housing – Comprehensive Property Assessment and Portfolio Analysis." The report analyzes and makes recommendations on the Rural Housing Service's Section 515 portfolio. The study was done by a team lead by ICF Consulting.

The Comprehensive Property Assessment (CPA) looked at 333 randomly selected properties to allow projections for the entire portfolio of 15,899 properties. The study found that the portfolio is "preservation worthy" based on the quality of the properties as well as their locations. Comprehensive restructuring is recommended, as opposed to short-term solutions.

The study includes a number of findings. Prepayment is found to be not as big of a problem as originally thought, and it might be an acceptable option when both assisted and non-assisted tenants are protected. Another finding states that restructuring a property's capital structure is cheaper than pouring large amounts of rental assistance into a property.

USDA will review the report to determine what actions need to be taken to modify the Multi-family Housing Program. The report can found on the Housing Assistance Council website, www.ruralhome.org.

Report Offers a More Complete View of Low Income Working Families

As part of the Working Poor Families Project, the Annie E. Casey, Ford, and Rockefeller Foundations have released, "Working Hard, Falling Short: America's Working Families and the Pursuit of Economic Security." The report uses recent national and state data to give a more complete view of the difficulties that low income working families have in achieving economic security.

According to the report, one in four working families earns less than two times the poverty standard, the standard the authors use to define "low income." This amounts to 9.2 million low income working families in the United States. Of these families, 2.5 million earn less than $18,392 for a family of four, putting them officially in poverty. The report finds that in 2002, 52% of all low income working families and fully 75% of those living in poverty pay more than a third of the family's income on housing.

Aside from housing, researchers found a variety of other reasons for why low income families could not achieve economic security, even when working full time. They observed that inadequate education and work force development, low wages and poor benefits, differing laws and funding in different states, and outdated government policies accounted for why working hard does not seem to lead directly to the American Dream for these families.

To view this report and find out more about the Working Poor Families Project, see: www.aecf.org/initiatives/jobsinitiative/workingpoor.htm.

Housing Choice Vouchers: Useful or Not?

In November, HOME Line, a Minnesota non-profit tenant advocacy organization, released its 10th annual report about Section 8. Prepared by volunteers and staff

(See **Resources** *on p. 5)*

Resources *(Continued from Page 4)*

of HOME Line, "Vouchers Thwarted and Threatened" investigates the suburban rental situation for tenants with portable Section 8 vouchers.

Using data from phone interviews in three Minnesota counties, researchers found that, although HUD raised the rent limits for Section 8 vouchers to $951 for two-bedroom units, locating a place to use vouchers still proved difficult. Landlords stood as voucher holders' main roadblock to finding a home. Even though 80.9% of units surveyed were within the rent limits for Section 8, only 33.5% of landlords said they would accept Section 8 vouchers. The report suggests that the Administration's proposal for a block grant and program cuts will not help the matter, as landlords will be less likely to accept seemingly volatile vouchers.

To view this report, see: www.homelinemn.org/downloads/section8/2004_section8_report.pdf.

Events

Housing and Transportation: The Vital Link

On Friday, December 17, the National Housing Conference (NHC) will hold the second session in its Vital Link Discussion Series examining the connection between housing and other social and economic issues affecting families and communities nationwide. This session will provide an overview of the relationship between housing and transportation.

Speakers will include: Anne Camby, president, Surface Transportation Policy Project; Robert Dunphy, senior fellow, Urban Land Institute; and Brigid Hynes-Cherin, deputy associate administrator, Federal Transit Administration. The moderator will be Peter Hawley, outreach coordinator for the America Planning Association.

RSVPs are required by December 10th. To RSVP, please contact Rosalyn Crain at (202) 466-2121, Ext. 225, or rcrain@nhc.org.

Fact of the Week

Facts About Low Income Working Families

• Seventy-one percent of low-income families work.

• The average annual work effort for low-income working families is 2,500 hours, equal to 1.2 full-time jobs.

• Fifty-three percent of low-income working families are headed by a married couple.

• Seventy-two percent of low-income working families have American-born parents only.

• Eighty-eight percent of low-income working families have a parent between 25 and 54 years old.

• Forty-seven percent of low-income working families have white, non-Hispanic parents only; 28 percent have an Hispanic parent, and 20 percent have an African-American parent.

Note: Annie E. Casey Foundation defines Low Income Families as earning less than two times the national poverty standard
Source: Working Hard, Falling Short: America's Working Families and the Pursuit of Economic Security. Annie E. Casey Foundation www.aecf.org/initiatives/jobsinitiative/workingpoor/working_hard_new.pdf

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NLIHC News

Save the Date! NLIHC Annual Conference

NLIHC's 2005 Annual Housing Policy Conference and Lobby Day will be held Monday and Tuesday, May 2 and 3, at the Capital Hilton in Washington, DC. The Leadership Reception will be held the evening of May 3. Mark your calendar and plan to join us!

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NLIHC News

NLIHC Seeks State Coalition Director

NLIHC seeks staff member to enhance and expand relationships with NLIHC's affiliate state coalition members and to increase state coalitions' involvement in federal policy advocacy in a manner that furthers the mission of NLIHC. Reports to the President/CEO. Qualifications include highly developed organizing and communication skills, knowledge of federal housing policy, and commitment to housing justice. Direct experience with a statewide housing coalition a plus. Masters' degree preferred. Salary in the 50s; generous benefit package. Send cover letter and resume to Deputy Director, NLIHC, 1012 14th St. NW., Suite 610, Washington, DC 20005. Applications accepted until position is filled. EE0/AA.

NLIHC seeks applicants for FannieMae Research Fellow Position

NLIHC is seeking applicants for a one year research fellowship to work on three specific re projects developed in conjunction with Fannie Mae. They are: the implications of how Americans view housing costs and expenses and how this affects their choice of tenure and their ability to invest in other areas of their life such as education or retirement; how housing costs affect domestic immigration patterns to high and low housing cost metropolitan areas; and the implications of federal housing subsidy waiting lists for determining demand for housing assistance.

Qualifications for the position is Ph.D. or Ph.D candidacy in economics, political science, sociology or similar social policy related field; substantial quantitative research experience and capacity, particularly in the areas of housing economics or housing policy.

The one year fellowship includes a $30,000 stipend.

Send cover letter and resume/vita to Research Director, NLIHC, 1012 14th St. NW., Suite 610, Washington, DC 20005. Applications accepted until position is filled. EE0/AA.

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. Information is available at www.nlihc.org.

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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.