

**Testimony of Sheila Crowley, MSW, Ph.D.**  
**President of the National Low Income Housing Coalition**  
**presented to the**  
**Financial Services Committee**  
**United States House of Representatives**  
**July 9, 2009**

Chairman Frank, Ranking Member Bachus, and Members of the Committee, thank you for the opportunity to testify today about H.R. 3068, "TARP for Main Street Act of 2009."

I am Sheila Crowley, President of the National Low Income Housing Coalition. Our members include non-profit housing providers, homeless service providers, fair housing organizations, state and local housing coalitions, public housing agencies, private developers and property owners, housing researchers, local and state government agencies, faith-based organizations, residents of public and assisted housing and their organizations, and concerned citizens.

The National Low Income Housing Coalition (NLIHC) is dedicated solely to achieving socially just public policy that assures people with the lowest incomes in the United States have affordable and decent homes. NLIHC does not represent any sector of the housing industry. Rather, NLIHC works only on behalf of and with low income people who need safe, decent, and affordable homes, especially those with the most serious housing problems, including people without homes.

Specifically, I am testifying today on Section 2 of the TARP for Main Street Act, the section that designates \$1 billion from dividends paid by financial institutions that received TARP funds to the National Housing Trust Fund (NHTF).

As I prepared for today's testimony, I reflected on past occasions in which I have come before this committee to discuss the NHTF. It was almost two years ago on July 19, 2007 that the Committee held a hearing on H.R. 2895, the National Affordable Housing Trust Fund Act of 2007, introduced by Chairman Frank with eight Democratic and eight Republican co-sponsors, including Ms. Waters, Mr. Miller, Ms. Velasquez, Mr. Hinojosa, Mr. Clay, Mr. Lynch, and Mr. Green. Eventually the bill garnered 103 cosponsors and was passed by the House on October 10, 2007 by a vote of 264-148, including all the Democrats on the committee and Mr. Castle, Mr. King, Mr. Gerlach, and Ms. Capito. NLIHC and our many partners in the NHTF campaign are proud of and grateful for the bipartisan support that the NHTF has enjoyed in the U.S. House of Representatives.

After similar success in the Senate, when President Bush signed the Housing and Economic Recovery Act (HERA) on July 30, 2008, he enacted the NHTF into law. This victory was due in no small part to your vigorous championship of the National Housing Trust Fund, Mr. Chairman. On behalf of the millions of poor Americans who will someday have decent and affordable homes because of your leadership, I thank you.

As I said in my testimony two years ago, "establishment of a national housing trust fund

with dedicated sources of revenue for the production and preservation of housing affordable for people with the most serious housing problems has been the top priority of the National Low Income Housing Coalition since 2000. (However) NLIHC's interest in a national housing trust fund actually predates my tenure at NLIHC; the original proposal for a national housing trust fund was developed under the leadership of NLIHC founder, the late Cushing N. Dolbeare, in the early 1990s." I would like to acknowledge the presence here today of Louis P. Dolbeare, Cushing's husband, who remains one of our most ardent supporters.

### **What the National Housing Trust Fund Will Do**

To recap the purpose and structure of the National Housing Trust Fund, primarily it is intended to produce, preserve, and rehabilitate rental homes that are affordable for extremely and very low income households. HUD will distribute funds to states using a formula that is based on the need for rental homes affordable for this income group. States will make grants to qualifying public, non-profit, or for profit entities that will produce and operate the rental homes. All the funds must benefit households with incomes at or below 50% of the area median; at least 75% of the funds must benefit households with incomes at or below 30% of the area median. At least 90% of the funds must be used for rental homes.

This is the first federal rental housing production program that is specifically targeted to extremely low income households since the Section 8 program was established in 1974.

The goal for the NHTF set by the NHTF campaign and articulated in H.R. 2895 is to build or preserve 1.5 million rental homes over 10 years.

HUD is now completing the interim regulations for the NHTF as required by statute for implementation this fall. The version of the NHTF legislation that ultimately was enacted did not have the level of specificity on the structure of the program that was found in H.R. 2895. Therefore, the NHTF campaign has submitted suggestions to HUD on how to shape the regulations to reflect some of the decision-making that went into the drafting of H.R. 2895. (A copy of letter to former Secretary Preston is attached.) Because the regulations have not yet been made public, I cannot comment today on whether additional legislation is needed to clarify or augment Congressional intent on how the NHTF should and will operate.

### **How to Fund the National Housing Trust Fund**

Before the NHTF can be implemented however, it must be capitalized. A key feature of the National Housing Trust Fund is its reliance on dedicated sources of revenue to fund the program, as opposed to discretionary appropriations. There are over 600 state and local housing trust funds and the most successful are funded with housing related dedicated sources of revenue. The National Housing Trust Fund Campaign has proposed several possible sources of dedicated funding and is open to other ideas.

As you know, it was contributions from Fannie Mae and Freddie Mac that were designated for the NHTF in H.R. 2895 and in HERA. These contributions have been suspended in light of the financial difficulties of the two companies. We are confident that whatever form

the companies take next as the country works its way through the mortgage crisis and recession that they will be again be able to make contributions to the NHTF. But Fannie and Freddie's contributions were never intended to be the sole source of revenue. Indeed, the legislation allows Congress to direct any appropriations, transfers or credits into the NHTF. The level of contributions from Fannie and Freddie enacted in HERA would not have generated the level of funding needed to reach the goal of 1.5 million rental homes.

Use of TARP dividends for the NHTF is a welcome proposal from our perspective. According to the GAO, by June 12, 2009 Treasury had received approximately \$6.2 billion in dividend payments from financial and other institutions that received TARP funds.<sup>1</sup> The Troubled Asset Relief Program, \$700 billion in taxpayer dollars used to prevent the failure of major private, for profit institutions caught up in the mortgage crisis, is controversial, but ultimately probably a necessary intervention. Nonetheless, it is difficult for ordinary American citizens to understand how TARP has or will help us weather the recession and not lose economic ground. For people who are truly suffering in the recession, TARP is most likely seen as a bail-out of the very people who are to blame for getting us into this mess.

The notion of "TARP for Main Street" offers some balance and fairness to federal response to the country's economic crisis. Indeed, I would recommend that the Committee and Congress lay claim now to the all current and future dividends that TARP yields for "Main Street" purposes, including the NHTF.

### **The National Housing Trust Fund Is Needed Now More Than Ever**

For years, NLIHC and others have documented the shortage of rental homes that are affordable to the lowest income households. The mortgage crisis and recession have only made the problem worse.

Unfortunately a shorthand analysis of the current housing market causes some to believe that because the country has an excess supply of housing, housing production is unnecessary. This simplistic analysis does not account for the mismatch between housing supply and housing need in the U.S. housing market today. The latest *State of the Nation's Housing* report by the Joint Center on Housing Studies at Harvard documents both the high housing vacancy rate and the growing rates of housing cost burdens (paying more than 30% of income for housing).<sup>2</sup> Unfortunately, the housing that has been produced in recent years seems to be more in line with what Americans desire than what we need and can afford.

A new analysis done for HUD shows that the number of rental housing units increased by between 3.3 and 3.7% between 2005 and 2007. However, all the growth occurred in units affordable to households with incomes at 51% of the area median income or more. The number of units affordable to these households grew by 16% or 2,791,000 rental homes. For households with incomes of over 100% of the area median, the number of affordable units grew by 34%. At

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<sup>1</sup> U.S. Government Accountability Office. (2009, June). *Troubled Asset Relief Program: June 2009 Status Efforts to Address Transparency and Accountability Issues*. GAO-09-658. Washington, DC: Author.

<sup>2</sup> Joint Center on Housing Studies. (2009, June). *State of the Nation's Housing 2009*. Cambridge, MA: Harvard University.

the same time, the number of units affordable to very low and extremely low income households (50% area median income or less) fell by 7% during the same period for a loss of 1,526,000 homes.<sup>3</sup>

With the growth in unemployment and foreclosures continuing unabated, the demand for affordable rental homes remains high. At the same time that delinquencies in multifamily loans are growing at an alarming rate.<sup>4</sup>

The ultimate consequence of the failure of our housing market is that some portion of the population will end up with no home at all. Reports of new homelessness are showing up with some regularity now. The *New York Times* ran a story this week about the surge in homelessness now that school is out. Families hold on in tenuous housing situations as long as they can so that kids can finish out the school year.<sup>5</sup> We know that the rate of poverty increases as unemployment increases and that for ten people in poverty in given year, one will become homeless. Earlier this year when the unemployment rate was expected to reach 9%, 800,000 new people a year were predicted to become homeless.<sup>6</sup> Unemployment has now of course exceeded 9% and shows no signs of letting up.

Congress has taken some measures to intervene to prevent such a precipitous increase in homelessness. Recently enacted legislation to make sure that renters are not evicted without reasonable notice when their landlords are foreclosed on will give renters some time to find new homes that hopefully they can afford, although that will be harder for lower income households. We deeply appreciate the work of committee members Mr. Ellison, Ms. McCarthy, and Mr. Capuano on the renter protection legislation. Also important is the \$1.5 billion in the American Recovery and Reinvestment Act that is funding the new Rapid Rehousing and Homelessness Prevention Program at HUD.

But in the absence of new resources that will expand the supply of homes that people who are elderly, disabled, employed in the low wage force, or out of work all together can afford, we will see a growth in homelessness that rivals the recession of the early 1980s. We made the mistake back then of thinking it was a temporary problem that could be addressed by providing temporary shelter, instead of providing permanent housing. We know better now and should not repeat the same mistake.

### **What We Mean By Housing**

I would like to close with a quote from an open letter to the Congress and the

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<sup>3</sup>Eggers, F.J. & Moumen, F. (2009, June). *American Housing Survey: Rental Housing Dynamics: 2005-2007*. Prepared for U.S. Department of Housing and Urban Development, Office of Policy Development and Research. Bethesda, MD: Econometrica, Inc.

<sup>4</sup>Parkus, R. (2009, March). *Commercial Real Estate Outlook Q1 2009: Commercial Real Estate at the Precipice*. Deutsche Bank.

<sup>5</sup>Bosman, J. (2009, July 7). Summer brings a wave of homeless families. *The New York Times*, pp. A-1, A-16.

<sup>6</sup>National Alliance to End Homelessness. (2009, January 23.) *Homelessness Looms as Potential Outcome of Recession*. <http://www.endhomelessness.org/content/general/detail/2161>. Parrot, S. (2008, November 28). *Recession Could Cause Large Increases in Poverty and Push Millions into Deep Poverty*. Washington, DC: Center on Budget and Policy Priorities.

Administration that has been signed by more than 1000 organizations across the country. We call the letter “what we mean by housing.”

“The economic crisis that has beset the United States is rooted in excesses in the home ownership housing market that must be corrected for our economy to recover. But housing is much more than the private market home ownership. The undersigned organizations want to call attention to what *we* mean by housing. We mean enough homes renting at affordable prices so that our nation’s lowest income families and individuals are assured of safe and decent places to live.

As the Administration and Congress consider action to stem housing foreclosures and to reform the housing finance system, equal attention must be paid to the long-standing and unmet need for decent, affordable homes for households with the lowest incomes. Despite the surplus of single family homes for sale today, the shortage of rental homes that extremely low income households can afford continues unabated.

When we compare the unprecedented attention paid to homeownership and the investment the federal government will make to shore up troubled mortgages to the resources for programs serving the nation’s most vulnerable people, we are dismayed and disappointed that those households for whom stable homes are most threatened in today’s economy are once again being shortchanged.

The solutions to the housing crisis of the lowest income renters are simpler and less expensive than what is needed to repair the home ownership market. We know what to do: preserve and expand the supply of rental homes that these members of our communities can afford. To do so, we call for dedicated sources of funding for the National Housing Trust Fund that will generate the necessary revenue to produce or preserve 1.5 million homes in the next ten years and 200,000 new housing choice vouchers a year for ten years.”

Thank you for the opportunity to testify today.

November 18, 2008

The Honorable Steven Preston  
Secretary, U.S. Department of Housing and Urban Development  
451 Seventh Street, SW  
Washington, DC 20410-0500

Dear Secretary Preston,

On behalf of the National Housing Trust Fund Campaign, I am pleased to submit the following recommendations for the implementation of the National Housing Trust Fund (NHTF). We are grateful for this opportunity to provide our views on the implementation of this critical program.

The National Housing Trust Fund is the fulfillment of a campaign that began in 2000. The NHTF Campaign is led by 40 national non-profit and faith-based organizations, and has been endorsed by over 5,700 organizations, state and local elected leaders, and editorial boards in every state. The campaign's goal is to establish a National Housing Trust Fund with ongoing, permanent, dedicated and sufficient sources of revenue to build, rehabilitate and preserve 1.5 million units of housing for the lowest income families over the next 10 years.

With the enactment of Public Law 110-289, the Housing and Economic Recovery Act (HERA), the first objective of the Campaign was achieved. HERA section 1131 requires the Secretary of Housing and Urban Development (HUD) to establish a permanent, deeply targeted National Housing Trust Fund, with a dedicated source of funds and the ability to accept additional dedicated sources.

The bill provides that HUD will distribute NHTF funds to states, including the District of Columbia and U.S. territories, according to a detailed formula. This formula must be established by July 30, 2009. Representatives of the campaign have met with HUD staff to begin discussions about the development of that formula. We look forward to additional discussions with HUD. This letter does not contain any recommendation for the development of that formula.

This letter offers suggestions and guidance on the development of the regulations for the implementation of the NHTF. By statute, HUD must develop regulations to implement the NHTF, including regulations to establish the procedural requirements by which states will select designated entities to carry out activities meeting the state's priority housing needs. While the law contains no deadline for these regulations, we recommend developing and publishing these regulations in connection with the development of the allocation formula referenced above.

While HERA provided the basic structure for the NHTF, many details were left to HUD's discretion and definition in promulgating regulations. To assist HUD in expediting this process, the Campaign formed a series of working groups to identify areas needing additional explication and to develop recommendations in those areas. The recommendations below reflect the outcome of that process.

### ***Term of Affordability***

Protecting the investment of federally-designated resources is essential. Even if federally appropriated funds are not used, HUD should ensure that any funds designated by Congress remain available for their original purpose as long as possible. The campaign has given a good deal of thought to maximizing NHTF resources, including reviewing the experiences of state and local trust funds. We recommend that, in establishing regulations defining “the extent to which rents...will remain affordable,” HUD define the period of affordability as 50 years, with a preference for projects that commit to even longer terms of affordability.

### ***Affordable Rents***

We recommend that in establishing regulations defining how states will provide priority for “rents for units in the project [that] are affordable,” HUD adhere to the Brooke rule limiting the rent paid by the tenant to 30% of household income.

### ***Compatibility with Other Federal Assistance***

NHTF funds will often be used in combination with funds from other federal programs. The NHTF should be implemented in a manner that ensures its compatibility with other federal housing programs, including U.S. Housing Act section 8, HOME and the Low Income Housing Tax Credit program. We also expect that HUD will include in the implementing regulations a prohibition against denying access to NHTF-related housing to those assisted under section 8.

### ***Economic Opportunity and Mixed Income Housing***

Families with extremely low incomes should be provided with the opportunity to live in economically diverse communities close to needed transportation, jobs and good schools. Public Law 110-289 requires states to provide priority to applications, based in part on the extent of their use of other funding sources. The use of diverse funding sources should encourage economically diverse housing. But this authority is broad enough to allow HUD to adopt regulations requiring states to consider not only the amount of other funding sources relative to the requested amount of NHTF dollars, but also the extent to which such other funding sources will expand economic and educational opportunities for the residents of assisted units.

### ***Operating Costs***

The statute provides that funds may be used for the “production, preservation, and rehabilitation of rental housing...and for operating costs.” It is our position that the reference to “operating costs” in the statute does not create a fourth separate eligible use of NHTF dollars for rental housing. The core purpose of the NHTF is to expand the supply of units affordable to persons with extremely low incomes. We think that the correct interpretation of the statutory language is that operating costs are eligible uses of NHTF funds only if those costs are incurred in connection with extremely low income units/projects produced, rehabilitated, or preserved with NHTF dollars. Consequently, we recommend that HUD limit the use of funds for operating

costs at the state level by providing that of the funds allocated to a state in a given year, no more than 20% can be used for operating costs with respect to units affordable to those at 30% of area median or below. Further, to maximize the use of NHTF dollars for preservation, rehabilitation and production, HUD should require states to give priority to projects that obtain operating subsidies from sources other than the Trust Fund. Finally, HUD should limit the mechanisms controlling how funds can be used for “operating costs” to 1) provide project-based rental assistance for not more than 12 months or 2) establish capitalized project operating reserve accounts for the sole purpose of achieving deeper affordability levels for households with incomes equal to or less than 30% of Area Median Income (AMI).

### ***Rural Areas***

The need for housing in rural areas targeted to those with the lowest incomes is substantial. Because NHTF funding is allocated to states, it is important that HUD ensure equity in the distribution of funds within each state. In defining “priority in funding... based upon...geographic diversity,” HUD should require that states recognize the needs of rural as well as urban areas and the needs of Native Americans on reservation lands. The campaign recommends that HUD adopt regulations that require states to allocate NHTF dollars based on relative need in rural and urban areas. However, “geographic diversity” is not a reason to require that every county in a state receive Trust Funds or to distribute funds in a manner that sets a “cap” on individual projects to achieve a geographic diversity objective. Finally, we urge HUD to include a requirement that, as states develop their allocation plans, they consult with any tribes with reservation lands in that state.

### ***Make Eligibility of Public Housing Agencies Explicit***

HUD should make explicit in its regulations that “agency,” in the list eligible recipients, includes public housing agencies. However, NHTF dollars should not be allowed to be used to supplant the public housing capital fund.

### ***Loans as Eligible Use***

NHTF funds should be available to eligible recipients as grants or loans.

### ***Data Collection***

The campaign, like HUD and Congress, wants to ensure that the data and information necessary to track expenditures from the NHTF are collected and available to the public. To that end, we purpose the attached data collection requirements.

These suggestions are not meant to encompass all of the issues HUD will in encounter in establishing the program rules for the NHTF. The campaign recognizes that developing regulations requires an ongoing dialogue. Other issues, such as tenant protections and ensuring public participation are important and we look forward to additional discussions.

Thank you for this opportunity to offer our recommendations to you as HUD decides how best to

implement this critical program.

Sincerely,

Sheila Crowley  
President and CEO, National Low Income Housing Coalition

## Data Collection Requirements

1. Project-level data collected from the owner/developer by the state agency
  - a. Unique NHTF ID
  - b. Name
  - c. Address
  - d. Owner name
  - e. Owner contact info
  - f. Minority status of owner/developer <sup>7</sup>
  - g. Type of owner (nonprofit, for-profit, etc.)
  - h. Is there an approved affirmative marketing plan for the property? (yes/no)
  - i. Manager name
  - j. Manager contact info
  - k. Type of structure (high-rise, townhomes, etc.)
  - l. Year built
  - m. Occupancy rate of assisted units
  - n. Length of waiting list for assisted units, where applicable and available
  - o. Start and end dates of the NHTF affordability period
  - p. Income targeting of assisted units (<=30% AMI, <=50% AMI)
  - q. Target population (family, elderly)
  - r. Number of total units by size (studio, 1-bedroom, etc.)
  - s. Number of assisted units by size
  - t. Monthly rent for assisted units by size
  - u. Number of assisted units accessible to disabled individuals <sup>8</sup>
  - v. Fields indicating the presence/absence of other project-based subsidies <sup>9</sup>

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<sup>7</sup> Quoting from HUD's Office of Small and Disadvantaged Business Utilization (OSDBU) webpage: "The Federal Government's goal under SBA is to award 23% of its prime contracts to small businesses. Within this goal, there is a subgoal of 5% for small, disadvantaged businesses and minority businesses, and 5% for women-owned small businesses." Data should be collected to ensure compliance, which is monitored by OSDBU.

<sup>8</sup> Units receiving funds from the NHTF likely must comply with Section 504 in terms of being accessible to disabled individuals. Collecting this information would monitor compliance.

<sup>9</sup> See the LIHTC dataset for an example of these fields. Both the state agency and HUD will need to indicate whether an NHTF-funded project receives other federal or state subsidies. While providing an ID consistent with other HUD datasets (specified in 2a) will aid in this determination, there are many federal and state programs for which datasets are not available to the public.

2. Project-level data supplemented by HUD
  - a. ID consistent with other HUD datasets (where applicable) <sup>10</sup>
  - b. Latitude/longitude
  - c. Physical inspection (REAC) scores
  - d. Any notice of intent filed by the owner to prepay/opt-out of/terminate any subsidy associated with the property
  - e. Fields indicating the presence/absence of other project-based subsidies (see footnote 3)
  
3. Summary characteristics of tenants collected from the owner/developer by the state agency
  - a. Race/ethnicity of tenants (as detailed as possible)
  - b. Race/ethnicity of applicants/households on the waiting list (as detailed as possible)
  - c. Family composition
  - d. Age
  - e. Household income
  - f. Other forms of rental assistance
  - g. Disability status

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<sup>10</sup> If a project receives federal subsidies in addition to NHTF funds, it is important to be able to link it with information contained in other HUD databases. An example of this kind of field is the REMS ID, which allows users to identify the same project across several HUD datasets.