



NATIONAL  
HOUSING  
T R U S T

October 10, 2007

To: Senator Patty Murray  
*Chair*, Senate THUD Subcommittee of the Appropriations Committee  
173 Senate Russell Building  
Washington, D.C.

Senator Christopher Bond  
*Ranking member*, Senate THUD Subcommittee of the Appropriations Committee  
274 Senate Russell Building  
Washington, D.C.

Representative John Olver  
*Chair*, House THUD Subcommittee of the Appropriations Committee  
1111 Longworth House Office Building  
Washington, D.C.

Representative Joseph Knollenberg  
*Ranking member*, House THUD Subcommittee of the Appropriations Committee  
2349 Rayburn House Office Building  
Washington, D.C.

Dear Chairmen and Ranking Members:

The undersigned 50 organizations, representing affordable housing lenders, state and local housing agencies, investors, tenant groups, and owners, are writing to inform you of a critical situation currently threatening federal government contracts on thousands of affordable housing properties subsidized through the U.S. Department of Housing and Urban Development (HUD). Congress is poised to provide an insufficient amount of money to fully fund all project-based Section 8 contracts in fiscal year 2008.

In order for federally assisted housing to stand the test of time, the federal government must act as a fair and consistent partner by honoring the contracts it has entered into with property owners. If Congress fails to provide a full year's funding for Section 8 it's a "lose-lose-lose" situation: owners will choose the unregulated private market and the federal investment in this housing will have been squandered; residents will be displaced; and communities will suffer the loss of an essential source of affordable housing.

We appreciate your already expressed interest in this issue. As you are aware, the current funding dilemma stems from HUD and OMB's failure to request adequate funds to renew all project-based Section 8 contracts. Over the last decade, a number of accounting maneuvers have been used, such as including "rescissions" in appropriations bills and borrowing from state housing finance agency long-term contracts, to distort the actual funding needs for contract renewals. This has led us to our present situation.

If there is an issue under the Antideficiency Act with one-year section 8 renewal contracts that cross fiscal years and are not fully funded by the initial year's appropriations, the problem can be solved by statutory authority in the FY'08 T-HUD appropriations Act that specifically authorizes the Secretary to enter into these one-year contracts even if a portion of the payments are paid through future appropriations. This is not an uncommon practice. We recognize that the congressional budget process puts some constraints on this practice, but exceptions or waivers can be obtained.

To clear up any confusion on this matter, we suggest language be included into the FY'08 T-HUD appropriations bill as follows:

"Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may enter into a renewal contract for section 8 project-based assistance that obligates the Secretary to make assistance payments for one year, notwithstanding that some portion of these payments may be funded from future appropriation Acts."

### **Background**

In response to HUD's FY'07 request, Congress appropriated \$5.9 billion for Section 8 project-based contract renewals, an amount that has proven to be \$1.2 billion less than what was actually needed. As a result, thousands of property owners have received late Section 8 payments, forcing them to use reserves to cover operational costs. Since most owners have reserves that are inadequate to compensate for this funding shortfall, owners have been forced to cut back on paying for essential services.

Despite this funding shortfall, HUD's budget request for FY'08 is *less than* what was appropriated in FY'07, even though the number of contracts up for renewal will increase. If the Administration's current FY'08 budget request is accepted, the FY'08 shortfall will be \$2.5 billion.

**The Administration's response to this crisis is to propose funding "stub" contracts. Under this plan, HUD will require owners to renew their contracts multiple times throughout the year and will not guarantee a full year of payments to property owners, as is contractually required.**

## **Loss of Investor Trust**

The Section 8 contract has already been devalued by sustained talk of inadequate funds, widespread late payments in 2007, and the inability of HUD to provide one-year extension contracts due to insufficient funds. **The following are just some of the anticipated consequences if HUD's "stub" contract solution is approved for FY'08:**

- (1) If a property receives insufficient, legally obligated funding to operate, the low-income residents, many of them elderly and disabled, may well be displaced, and a scarce housing resource will be lost.
- (2) Lenders will be less willing to make long-term loans for refinancings or purchases of Section 8 properties, transactions that are key to the rehabilitation and preservation of the our nation's affordable housing stock.
- (3) Investors will be less willing to purchase low income housing tax credits, which are key to the sale and rehabilitation of these properties.
- (4) Owners who can opt out of the Section 8 program will do so at the first opportunity.
- (5) Owners will select the highest income tenants they legally can select in order to mitigate the effect of missed or reduced assistance payments.
- (6) The cost of enhanced vouchers and other tenant protection vouchers will soar, or, alternatively, not all tenants will be protected if there is an opt-out.
- (7) There will be an increase in defaults on FHA-insured mortgages.
- (8) Affordability use restrictions that have been restructured in the mark-to-market program, which run 30 years, will be converted to permit higher income tenants to be served.
- (9) For those remaining in the Section 8 program, there will be an increase in deferred maintenance, depletion of replacement reserves, and little likelihood of obtaining tax credits for rehabilitation.
- (10) The lack of sufficient Section 8 funds will thwart the refinancing of older Section 202 housing for the elderly and disabled that have Section 8 subsidies. Many of these are 20 to 30 years old and can be preserved for another long period with recapitalization and rehabilitation, but lenders and investors will be wary of participating.

**It is inappropriate for HUD or OMB to suggest a program of partial funding. This approach distorts the actual funding need, without addressing a critical funding shortfall.**

Further, the continued delay in providing year long contracts without partial payments undermines the confidence of owners, resulting in owners' terminating such contracts. It is simply not acceptable that the nation's most vulnerable people, many of them elderly and disabled, will be put out on the street because the Administration requested insufficient funds to meet its contractual obligations.

We can ill afford to lose this unique housing resource.

**Please support the appropriation of sufficient funds to renew for 12 months all Section 8 project-based contracts in FY'08.**

If you have any questions, please contact Michael Bodaken at 202-333-8931, ext. 11.

Sincerely,

National Housing Trust, joined by:

**Investors and Lenders**

Community Capital of Maryland  
Community Economic Development Assistance Corp. (MA)  
Enterprise Community Investment, Inc.  
Great Lakes Capital Fund  
MMA Financial  
National Affordable Housing Trust  
National Association of State and Local Equity Funds  
National Equity Fund  
SunAmerica Affordable Housing Partners

**Housing Finance Agencies**

National Council of State Housing Agencies  
Florida Housing Finance Corporation  
Maryland Department of Housing and Community Development  
MassHousing  
National Association of Local Housing Finance Agencies  
New York State Housing Finance Agency  
North Dakota Housing Finance Agency  
Ohio Capital Corporation for Housing  
Oregon Housing and Community Services  
Vermont Housing Finance Agency  
Washington State Housing Finance Commission  
Wisconsin Housing and Economic Development Authority

### **Local Governments**

City of Boston  
City of New York  
City of Portland  
City of San Francisco  
City of Seattle

### **Developers**

Affordable Housing Management, Inc.  
American Capital Advisors, Inc.  
Chicago Community Development Corporation  
Community Development Trust  
Evergreen Partners (national)  
Gill Park Cooperative (IL)  
Homes for America (MD)  
Lake View Towers Residents Association (IL)  
Leasing and Management Company (IL)  
Mercy Housing  
Mulford Square Preservation Corporation (IL)  
National Housing Trust/Enterprise Preservation Corporation  
Realty & Mortgage Co. (IL)  
St. James Capital, LLC (MI)

### **Intermediaries and Advocates**

Affordable Housing Tax Credit Coalition  
California Housing Partnership  
Community Alliance of Tenants (OR)  
Enterprise Community Partners  
Gideon Court Residents Council (IL)  
Housing Preservation Project (national)  
Local Initiatives Support Corporation  
National Housing Conference  
National Housing Law Project  
National Low Income Housing Coalition  
Stewards of Affordable Housing for the Future (SAHF)  
Tabernacle Senior Citizens Project (IL)  
850 West Eastwood Tenants Association (IL)