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Testimony

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Committee on Government Operations, and Subcommittee on
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Financial Institutions, Committee on Banking, Finance and
Urban Affairs, House of Representatives

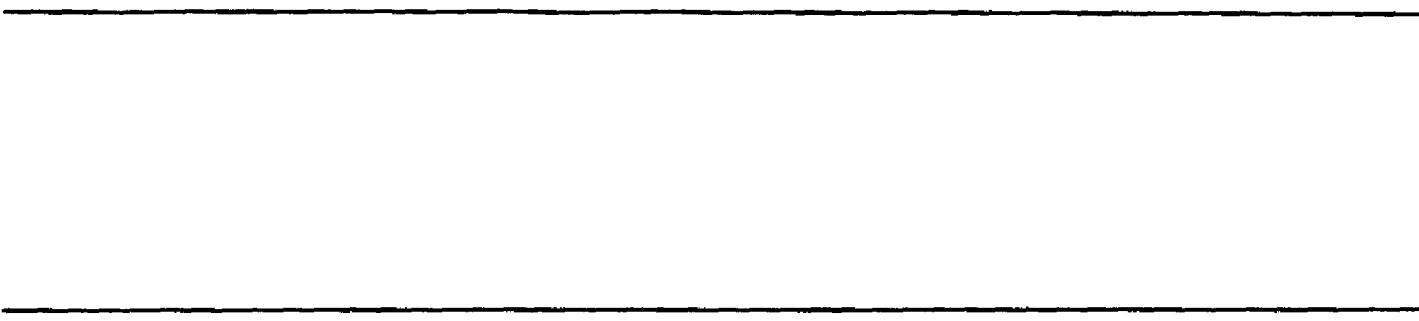
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PUBLIC HOUSING

**Housing Agency Officials
Want More Flexibility in
Replacing Deteriorated
Housing**

Statement of Jacquelyn L. Williams-Bridgers,
Associate Director, Housing and Community
Development Issues,
Resources, Community, and Economic
Development Division





Messrs. Chairmen and Members of the Subcommittees:

We appreciate the opportunity to testify today on matters affecting this nation's ability to provide low-income families with decent and affordable housing. Chairman Peterson and Chairman Flake, your oversight of this issue is timely, given upcoming reauthorization of the Housing and Community Development Act and Secretary Cisneros' plans for reinventing the Department of Housing and Urban Development (HUD), particularly his priority of improving public housing.

HUD classifies over a dozen large public housing authorities (PHA) as "troubled" because, in part, the public housing they operate is plagued with excessive vacancy rates. While public housing vacancy rates nationwide are 8 percent, troubled agencies average more than double that because many deteriorated properties are unlivable and have no occupancy. Until PHAs can demolish or dispose of these properties, HUD continues to pay PHAs large sums to prevent further deterioration. Today, we will discuss three issues that we believe bear directly on PHAs' ability to take the worst properties out of their inventories and thereby reduce their costly vacancy rates. Those issues are (1) the one-for-one replacement statute that requires replacing every demolished or disposed of public housing unit with one meeting acceptable housing standards, (2) site and neighborhood standards that seek to avoid over-concentrations of persons receiving federal assistance or minorities, and (3) HUD oversight of troubled housing agencies.

Our testimony presents the preliminary results of ongoing work we are doing at Chairman Peterson's request, and it is still subject to change. We base it on discussions with officials of 8 large public housing authorities--3 of which we visited--and HUD headquarters, regional, and field offices. (See attachment for list of PHAs.) We plan to gather and analyze additional data so that we can verify the problems, establish their causes, and have a basis for recommendations at a later date.

In summary, housing agency officials told us that a maze of interrelated constraints prevents them from replacing worn out and often vacant or crime-ridden public housing with livable stock. These officials told us that because of inflexible rules and red tape, they spent millions of dollars on vacant properties and more money to rehabilitate aging buildings than it would have cost to construct new ones. HUD headquarters officials characterized the process of public housing replacement as gridlock.

During our discussions, PHA officials generally made the following three points:

- First, although the one-for-one replacement requirement is important in maintaining the stock of public housing, insufficient funding for new construction and other low-income

housing assistance, as well as a cumbersome application process for demolishing or disposing of properties, have made it nearly impossible to replace deteriorated housing with decent housing for low-income families. Moreover, with little new construction funding, modernization funding is often used unwisely to rehabilitate the oldest housing. This often perpetuates preexisting and undesirable social conditions, such as high crime and drug usage.

- Second, when funding is available, site and neighborhood standards tie PHA officials' hands as they try to find adequate land on which to locate the replacement housing. The standards limit housing authorities' options to build new housing, particularly in cities where little land is available that is not already in use by heavy concentrations of federally assisted persons or minority populations. In addition, concerns of low-income advocacy groups pitted against the "Not In My Backyard" syndrome play a large role.
- Finally, PHAs believe that although HUD's Public Housing Management Assessment Program for overseeing troubled public housing authorities has promise as a monitoring tool, the Department's followup actions after an assessment, such as providing technical assistance and support, do not always provide the assistance that PHAs expect or need.

BACKGROUND

Section 18(b)(3) of the U.S. Housing Act of 1937, as amended, requires a one-for-one replacement of public housing units that are to be demolished or otherwise taken out of the inventory. The replacement can be accomplished with any one or a combination of either acquiring existing housing, constructing new housing, or providing rent subsidies to families renting privately owned housing through project- or tenant-based section 8 assistance programs.¹ In cases when a public housing authority (PHA) proposes to demolish or dispose of 200 or more units, at least 50 percent of the replacement units must be provided through acquisition of existing housing, construction of new housing, or through project-based assistance. Furthermore, no more than 50 percent of the

¹ Under section 8 project-based assistance, a qualifying tenant pays 30 percent of his or her income as a portion of the contract rent on a unit, and HUD contracts directly with and pays the property owner the remaining portion of the rent. Contract terms of 5 to 40 years are allowed for project-based assistance. Under section 8 tenant-based housing certificates, tenants use certificates to rent units in acceptable condition from landlords willing to participate in the program.

replacement units can be provided through section 8 tenant-based housing certificates.

When a PHA plans to demolish or dispose² of deteriorated public housing, federal regulations require HUD approval of both the PHA's application for demolition or disposition and its plan for replacing the housing. Under the regulations for public housing development, PHAs must comply with HUD's cost guidelines, which represent the maximum total development cost that may be approved for a project. Under regulations dealing with acquisition of existing properties, HUD's Assistant Secretary for Public and Indian Housing must give prior written approval for the acquisition of existing PHA-owned, city-, county-, or state-assisted properties or for acquiring properties secured by an Federal Housing Administration-insured or HUD-held mortgage or owned by HUD. Along with the demolition/disposition application, the PHA must provide extensive documentation, including a detailed description of the property involved, a description of the proposed action and justification for the proposed action, a plan for relocating the tenants who will be displaced by the demolition, a description of PHA consultation with the tenants, and a replacement housing plan.

According to HUD regulations, proposed sites where public housing projects will be newly constructed or rehabilitated must be approved in accordance with standards for the adequacy and suitability of the site and neighborhood. These standards state that public housing cannot be built in areas of minority concentration. New construction in these "impacted" areas can be approved if (1) sufficient and comparable opportunities exist for minority families to find housing outside the area of minority concentration or (2) a project is necessary to meet overriding housing needs. Furthermore, the site must avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

HUD developed the Public Housing Management Assessment Program in March 1992 to monitor PHAs' performance, assess their risks of financial distress, and identify troubled PHAs--those authorities that score low on a series of performance indicators. The indicators include excessive levels of vacancies, outstanding work orders, uncollected rents, and unmet modernization needs. HUD scores PHAs on these indicators and determines an overall score which it uses to identify troubled PHAs and subsequently to target corrective actions and provide technical assistance. Memorandums of Agreement between HUD and troubled PHAs are required that set forth (1) targets for improving performance, (2) strategies for meeting the targets, (3) incentives for effective implementation of strategies, and (4) sanctions for ineffective implementation.

²Disposition of public housing occurs when a PHA transfers, by sale or other transaction, any interest in the property.

The 1992 Appropriations Act for HUD required changes in HUD's assessment program. The act required, among other things, that the HUD Secretary administer the program flexibly to ensure that public housing agencies are not penalized as a result of circumstances beyond their control. The act also required that HUD reflect in the scoring process the difference in the difficulty of managing individual projects that result from their physical condition and neighborhood environment.

PHAs HAVE THREE MAJOR CONCERNS ABOUT COMPLYING WITH THE ONE-FOR-ONE REPLACEMENT REQUIREMENT

Although PHA officials generally believe that the one-for-one requirement is beneficial in maintaining the existing stock of public housing units, they cited three concerns related to this requirement: (1) a lack of flexibility in the actions PHAs are allowed to take to replace units removed from their inventories through demolition or disposal, (2) insufficient federal funding to replace housing through acquisition of existing housing, new construction, or section 8 certificates, and (3) the cumbersome and lengthy HUD demolition/replacement approval process.

More Flexibility Needed to Meet One-for-One Replacement Requirement

Officials in both troubled and non-troubled PHAs said that their ability to provide more low-income housing would be enhanced if they were not limited by regulation in how they can replace demolished or disposed of housing. Housing agency officials discussed these issues with us as shown in the following statements:

- One PHA official stated that the need to relax the requirements for replacement is particularly true in cities such as San Francisco, where land is very expensive, or Seattle, where a shortage of land exists. For example, a greater use of section 8 tenant-based certificates (more than 50 percent) should be allowed.
- A PHA official believes that PHAs should have the option to replace units by purchasing a foreclosed single-family home or a mid-income condominium and finance this replacement with the funding dedicated to 15-year section 8 certificates.
- A PHA official wants more flexibility in acquiring properties. In some instances, it is cheaper to replace a deteriorated property with one acquired in the private real estate market or from the Resolution Trust Corporation rather than continuing to rehabilitate deteriorated properties.

Regarding PHAs' concerns that their options for acquiring properties are limited, we found more concern over procedural difficulties than legal restraints against acquisition. For example, a HUD official stated that PHAs can acquire Resolution Trust Corporation properties, but they do need the Secretary's written approval, which PHAs perceive to be a difficult process.

Officials with one of HUD's regional offices stated that the one-for-one requirement prevents PHAs from eliminating public housing where it is no longer needed and establishing it where it is needed. The officials believe that replacing units should be tied to the community's demand for public housing so that PHAs do not support nonviable developments long after they are useful. They said that significant costs can be incurred if high vacancy rates continue for long periods. At one large PHA, these officials noted that an estimated \$72 million of federal funds have been provided as operating subsidy over the last 10 years to maintain vacant units.

High vacancy rates can also lead to crime and vandalism. For example, one PHA said that vandalism and graffiti began to take their toll on one of their partially vacant buildings--the building's lobby was sprayed with gunfire. Another project with only 21 percent occupancy suffered from crime and vandalism.

PHAs, whose boards of directors are often appointed by city mayors, also meet resistance within their own local government. For example, one PHA proposed section 8 tenant-based housing certificates to replace some of the units in one of its largest projects being demolished. However, the city council did not approve this option because it would not result in permanent public housing units.

We received a mixed reaction to the possibility of replacing units on less than a one-for-one basis. An official at one housing authority believes that this alternative would be easier than replacing all units, but other officials were concerned that something less than a one-for-one replacement would tend to reduce the affordable housing stock. This official noted that instead of softening the criteria, more flexibility is needed in the types of housing that can replace the original unit. For example, using section 8 certificates or rehabilitating an existing unit not currently part of the authority's inventory would be viable options. One PHA executive director favored replacing units on less than a one-for-one basis only if the PHA could clearly demonstrate, through extensive support and documentation, that no demand exists in the community for these replacement units.

Insufficient Funding for Replacement Housing

HUD's approval of a PHA's demolition/disposition application and replacement housing plan does not necessarily mean funds will subsequently be available for new construction, acquisition of housing, or even section 8 tenant-based certificates or project-based assistance. A general consensus emerged among the PHA officials we spoke with that funding is too scarce for any of these alternatives to be of any great use. The officials made the following comments regarding this issue:

- Funding needs to be dedicated to replacing units, whether for new construction or section 8 tenant-based certificates and vouchers.
- The ability to construct new housing within HUD's total development cost expenditures, which represent the maximum total development cost that may be approved for a project, is limited because the cost of most new construction would exceed allowed expenditures.
- For several projects that need to be torn down and replaced, tens of millions of dollars are needed, but obtaining the replacement funding is very questionable. In the meantime, money is being wasted on these old projects that cannot be brought up to new maintenance standards.

Without knowing all the factors bearing on any specific application for demolishing and replacing public housing, it would be difficult to agree or disagree with housing authority officials' perceptions that funding is scarce or unavailable, no matter which replacement alternative is used. HUD officials have confirmed, however, that funding for new construction of public housing declined by 75 percent over the past 5 years. A portion of that decline is due to increases in other HUD programs such as housing the homeless.

PHAs Perceive Application Process as Cumbersome, HUD Officials Found Some Applications Deficient

Most PHA officials told us that the process they follow to obtain HUD approval to demolish deteriorated housing and replace it with livable housing is frustrating and time-consuming. PHAs must obtain approvals from the local HUD field office and the Office of Public and Indian Housing in Washington, D.C. In some cases or for some parts of the application, PHAs also must receive approval from city councils or other local government entities. HUD officials told us that some applications could not be approved because they either lacked information or did not comply with regulations. Furthermore, some HUD officials believe that the process needs to

be improved. Comments on this issue from PHA and HUD officials include the following:

- Due to recent unsatisfactory experiences with HUD's approval process, one PHA is reluctant to submit a demolition application and replacement plan for one of its deteriorated developments. This PHA has submitted an application for one specific development every year for 5 years and still has not received HUD approval. During this period, the PHA has expended rehabilitation and maintenance funds so that the development would not deteriorate further.

Responding to this PHA's comments, HUD field officials stated that the applications were not approved because they failed to comply with specific regulations, such as providing evidence of approval from the local government for replacing demolished units. Furthermore, according to a HUD official, the PHA could easily have corrected the applications but did not do so.

- The 20-month demolition/disposition approval process for a project of another PHA prompted an official to note that "the wheels of government turn incredibly slowly and the authority had to jump through many hoops" with HUD in order to improve the quality of low-income housing in the city.
- At another PHA, officials cited the maze of HUD regulations for demolition/replacement and described the process as daunting, frustrating and extremely time-consuming. When PHA officials asked for assistance, HUD field office officials told them to contact another PHA to obtain answers. This PHA currently has no pending demolition/disposition applications and probably will not in the near future because it has insufficient resources to mount the extraordinary effort it says is needed to get through the "federal maze."

Some HUD regional officials also criticized the Department's approval process, stating that the requirements are contained in at least five or six different notices. In addition to the process being too cumbersome, these officials believe that it provides them little or no discretion in making decisions concerning demolition/replacement applications. As part of a recent HUD reorganization, regional offices are being eliminated and the staff are being reassigned to do field office work. Officials with HUD's Office of Public and Indian Housing said that as a result of this change the demolition/disposal application process should be shortened.

SITE AND NEIGHBORHOOD STANDARDS POSE
PROBLEMS FOR PHAs IN REPLACING
DEMOLISHED HOUSING

PHA officials told us of many concerns and problems that they had experienced in attempting to comply with HUD's site and neighborhood standards when replacing public housing. PHAs in cities with large proportions of minority groups say they are constrained the most by the standard. PHAs in other cities also were concerned because of the high cost of acquiring land that will meet the standards and not pose undue difficulties in reaching agreements with existing community groups about locating assisted persons in their neighborhoods. PHA officials made the following comments regarding this issue.

- An official with one PHA said that racial concentration should not be the primary criteria for locating replacement housing. If it is, problems arise because the cost of acquiring land in less concentrated areas exceeds HUD's total development cost guidelines. Therefore, PHAs need a degree of flexibility to exceed these cost guidelines if necessary or to place housing in suburbs outside the city limits. Negotiations with white ethnic communities have resulted in agreements to allow low-income concentration in these neighborhoods that will not be excessive.
- One PHA cited the many low-income, subsidized, minority-concentrated neighborhoods in its city and said that it is extremely limited in its search for qualifying neighborhoods in which to locate replacement housing. The PHA is constrained by not only the standards but also by the PHA's jurisdictional boundaries that limit potential locations for public housing.
- Another PHA noted that when it finds appropriate land for replacement housing, city council members, who must approve the land acquisition, say, "Not In My Backyard."

OFFICIALS AT TROUBLED PHAs BELIEVE
ASSESSMENT PROGRAM NEEDS TO BE IMPROVED

Most officials at the four troubled PHAs--those that received the lowest scores under HUD's assessment program--viewed the Public Housing Management Assessment Program as an effective tool for assessing PHAs' performance. However, the officials believed that changes need to be made in the program's scoring process. Furthermore, most officials cited the need for more and better assistance from HUD to improve the PHAs' operations and enable the PHAs to be removed from the troubled list. The following are specific comments from the four troubled PHAs we visited:

- Officials at one PHA believe that HUD's assessment program is a good tool because it helps focus a PHA on problems needing correction. However, the officials also believe that the system also does not recognize any gains a PHA may have made in solving its problems. These officials said that they currently do not have a memorandum of agreement with HUD, as called for in the program guidelines, but hope to have one in place by July 1994.
- Officials at another PHA also view the assessment program as useful but believe that a partnership is lacking with HUD field staff. The officials said that HUD has not been helpful in assisting them to solve their problems and refers them to other PHAs when they ask for assistance. In October 1993, these officials submitted a long-range plan in October 1993 to address some of their problems; they are disappointed, however, that HUD has not responded to date. The 7 months spent so far on developing a memorandum of agreement with HUD also is longer than these officials expected. The local HUD office promised to send a person to help with the PHA's budget, but the time this person spent--1-1/2 days--also did not meet expectations. Although HUD's technical assistance in areas such as engineering has been helpful, HUD has provided little assistance on financial problems and resident services.
- Officials at a third PHA also believe that HUD's assessment program can be effective if it is used properly, but that HUD is misusing the program to "beat PHAs over the head." To date, the local HUD field office has provided no technical assistance to this PHA and no memorandum of agreement is in effect with HUD--a draft agreement was originally submitted to HUD in July 1993, but HUD has not approved it. These officials further believe that the program needs to be changed to focus on improvements and a PHA's progress in resolving problems rather than on score.
- Finally, officials at the fourth troubled housing authority said that the assessment program is "useless" and "irrelevant" for them because the PHA is a very large and very troubled authority. The officials believe that more incremental measures are needed for some of the indicators, other than simply pass or fail on a given indicator. This PHA currently has a 24-month Operational Improvement Plan in effect, which superseded their most recent memorandum of agreement with HUD. The PHA believes that while HUD's technical assistance has improved, it still does not meet the PHA's needs for support.

HUD headquarters officials recognize the problems cited by the PHAs and are working to make improvements based on the requirements involving performance indicators contained in the 1992 HUD Appropriations Act. HUD is looking at ways to adjust certain indicators for PHAs whose projects are affected by the physical condition of the developments and the neighborhood environment--conditions often beyond the management control of the PHA and which seem to be at the heart of some of the PHAs' complaints. Officials at one HUD field office also recognized that they do not have sufficient staff to deal with the serious problems of one of the PHAs under their jurisdiction.

OBSERVATIONS

In summary, officials of both public housing authorities and HUD have reiterated that preservation of public housing is a necessary national goal. However, the message we have heard from public housing officials is that due to the many restrictions and constraints they face, one-for-one preservation could very well be an unattainable goal. PHAs perceive that current conditions present a number of deterrents to achieving the goal, such as procedural difficulties in acquiring existing properties, insufficient funding to take advantage of several existing assisted housing programs, and a lengthy and complex demolition/disposal approval process.

Overlaid on these perceptions and compounding their effect is the impact that site and neighborhood standards have on many cities. These standards are designed to ensure that minority families and assisted persons have housing opportunities outside of housing market areas to which they have been traditionally limited. However, because these standards work against establishing additional public housing in areas where heavy concentrations of low-income persons or minority populations already exist, cities like Detroit and Washington, D.C., find it difficult to replace their most severely deteriorated housing.

As for HUD's new Public Housing Management Assessment Program, we believe as HUD receives more feedback from PHAs on the program's effectiveness, HUD will make further improvements to the mechanics of the scoring system. We do not know at this time whether the reorganization of HUD's field operation will enable HUD field staff to provide more specific and effective technical assistance, but as you have requested we intend to continue monitoring this program and report our findings later this year.

We also plan to issue within the next few months more comprehensive information than we have provided today on the one-for-one replacement policy and site and neighborhood standards.

This concludes our statement, Chairman Peterson and Chairman Flake. We would be pleased to answer any questions that you or the other Members of your Subcommittees might have.

ATTACHMENT

ATTACHMENT

PHAS GAO CONTACTED

1. Detroit Housing Department
Detroit, Michigan
2. Jacksonville Department of Housing and Urban Development
Jacksonville, Florida
3. Philadelphia Housing Authority
Philadelphia, Pennsylvania
4. Washington, D.C. Department of Public and Assisted Housing
Washington, D.C.
5. Chicago Housing Authority
Chicago, Illinois
6. Housing Authority of the City of New Orleans
New Orleans, Louisiana
7. Housing Authority of the City of Seattle
Seattle, Washington
8. City and County of San Francisco Housing Authority
San Francisco, California

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