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NATIONAL LOW INCOME HOUSING COALITION

MEMO TO MEMBERS

The Weekly Newsletter of the National Low Income Housing Coalition

Please Make a Year-End Contribution to NLIHC

If this newsletter is of value to you, please consider supporting NLIHC with a holiday contribution. Make a gift now through our secure website at http://nlihc.org/donate.

Many thanks for your support, and happy holidays from NLIHC!

NATIONAL HOUSING TRUST FUND

Endorsements of Proposal to Fund NHTF through Housing Tax Reform Grow

When Community Development Solutions of Washington, D.C. signed on to endorse NLIHC's proposal to fund the National Housing Trust Fund (NHTF) through housing tax reform, the number of endorsing organizations reached 500. All fifty states and the District of Columbia are represented among the endorsers.

NLIHC proposes to make improvements to current housing tax policy that provides tax breaks to homeowners who pay mortgage interest. NLIHC would lower the cap to $500,000 on the size of mortgages for which interest can be deducted and convert the deduction to a non-refundable tax credit. At a 20% credit, the number of homeowners who would receive a tax benefit would increase by 18 million, 92% of whom have incomes of $100,000 or less.

These changes would yield considerable new revenue that NLIHC proposes be used to create a permanent dedicated source of revenue for the NHTF. The goal of the NHTF Campaign is to expand affordable housing options for extremely low income households by 3.5 million over ten years.

There is a growing consensus that the value of the mortgage interest deduction for upper income households should be reduced in order to raise revenues for to reduce the deficit. The challenge for low income housing advocates is to make sure that a substantial portion of the savings be used to address unmet housing needs. Endorsing NLIHC's proposal is one way for housing advocates to express that position.

To add your organization to the list of endorsers, please go to http://bit.ly/R4CZWo.

For more information on NLIHC's proposal, go to http://bit.ly/TM2VXC (PDF).

FEDERAL BUDGET

Fiscal Cliff and Sequestration Talks Proceed as Deadline Nears

Hopes for an agreement between Democrats and Republicans on averting the fiscal cliff first dwindled, and then rekindled, during the week of December 3. Republicans began the week opposing the President's plan to address the end-of-year fiscal challenges and later indicated room for negotiation on a deal to keep the country from going off the fiscal cliff.

The term fiscal cliff encapsulates the potential economic decline the nation could face if a solution is not found to the end-of-year expiration of the Bush-era tax cuts, the start of sequestration in 2013 and the simultaneous expiration of other tax provisions and benefits at the end of 2012. The Budget Control Act of 2011 (BCA) requires the sequestration of discretionary funds for 10 years starting in FY13, which means making across-the-board cuts, to achieve a $1.2 trillion reduction in the deficit over a 10-year period (see Memo, 11/30). If sequestration is allowed to take effect on January 2, 2013, affordable housing programs at HUD and the USDA Rural Housing Service would be cut by 8.2%.

On November 30, President Barack Obama released his two-part plan to avert sequestration, address end of the year tax extensions, and close the remaining $3 trillion deficit gap addressed by the BCA (see Memo, 11/30).

The President proposes to reach an additional $3 trillion in deficit reduction, on top of the $1 trillion already enacted through the BCA's discretionary spending caps, through two stages of spending and revenue changes. Stage one would reduce the deficit by nearly $1 trillion through tax policy changes affecting marginal income tax rates, capital gains and dividends, postponing the sequester, and creating a multi-year $50 billion stimulus package. Stage two would achieve $1.9 trillion in additional deficit reduction-- $1.5 trillion through comprehensive tax reform and $400 billion through Medicare and other entitlement reforms. The threat of sequestration at the end of 2014 would serve as impetus to pass comprehensive tax reform.

Republicans immediately objected to the plan and then released their own plan, which would make additional cuts to discretionary spending, cut mandatory spending, cut health care savings and draw revenue from comprehensive tax reform. The plan would not change tax rates. Republicans' most vehement objections to President Obama's plan focused initially on its increase of tax rates for the top 2% of income earners, its increase of the debt limit and the multi-year stimulus package in stage one. The Congressional Joint

Economic Committee held a hearing on the fiscal cliff on December 5, at which these objections were voiced by numerous Republican House and Senate committee members.

Later in the week, House Speaker John Boehner (R-OH) indicated that he may compromise on his position of the tax rates. Leaders in both parties closed the week saying that lines of communications were open.

MORE CONGRESS

Senate Panel to Hold Second Hearing on Rental Assistance Programs

The Senate Committee on Banking, Housing, and Urban Affairs has scheduled a hearing, "Streamlining and Strengthening HUD's Rental Housing Assistance Programs, Part II," for December 11. HUD Assistant Secretary for Public and Indian Housing Sandra Henriquez will be the sole witness.

The hearing will follow up on a hearing held August 1, at which NLIHC Senior Vice President for Policy and Research Linda Couch testified in support of the advancement of Section 8 reform legislation (see Memo, 8/3).

The hearing will be held at 10:30 am in room 538 of the Dirksen Senate office building.

HUD

HUD Releases FY13 Income Limits

HUD released the FY13 income limits and median family income (MFI) estimates on December 5. These data are used to determine eligibility for households applying for federally assisted housing programs.

The FY13 MFIs are calculated using the 2006-2010 five-year American Community Survey (ACS) data, but in areas with a valid 2010 one-year ACS survey median family income, HUD incorporated these more recent data. These data were updated with Consumer Price Index (CPI) data through the end of 2011. HUD used a new 1.67% factor to trend the 2011 estimates to the midpoint of 2013. The trend factor reflects the annualized change in the national median family income as measured by comparing the 2005 one-year ACS and the 2010 one-year ACS.

HUD income limits are based on the MFIs and are adjusted for family size. Very low income limits for four-person families are used to form the basis of income limits for households of other sizes. Income limits are also adjusted for areas with unusually high or low housing costs. Annual changes are capped at 5% in either direction, or limited to at most twice the national change.

For FY13, the estimated MFI for the United States is $62,400. Between FY12 and FY13, the MFI fell, on average, 1.5%, and income limits fell on average by 2%.

The FY13 Income Limits and MFIs are available online at http://bit.ly/VURrTL.

Sussex County, Delaware Signs Voluntary Fair Housing Compliance Agreement

On November 28, HUD and Sussex County, Delaware entered into a Voluntary Compliance Agreement (VCA) as a result of a complaint filed by the Diamond State Community Land Trust. HUD subsequently determined that the county had failed to administer its programs in a manner that affirmatively furthers fair housing. Communities that receive CDBG and HOME funds must certify that they are affirmatively furthering fair housing, which entails determining impediments to fair housing choice and taking actions to overcome those impediments. Under the VCA, Sussex County has agreed to perform a number of corrective actions.

On the same day, the U.S. Department of Justice (DOJ) announced that it settled a lawsuit against Sussex County and the Planning and Zoning Commission of Sussex County for race and national origin discrimination in violation of the Fair Housing Act. HUD referred the complaint to DOJ because it involved the legality of state or local zoning or other land use laws or ordinances.

The Diamond State Community Land Trust complained to HUD in November 2010 that the Sussex County Planning and Zoning Commission and the county council failed to affirmatively further fair housing when it denied a preliminary plan to develop New Horizons, 50 single-family affordable homes for low and moderate income households. Diamond State asserted that low-density, single-family residential development is consistent with applicable zoning, as well as with the county's 2008 comprehensive plan, which "encourages more limited home equity projects… i.e. community land trusts."

The proposed development is named after the New Horizons Cooperative, formed in 2003 by low income, mostly Latino agricultural workers. Qualified members of New Horizons Cooperative would have the first opportunity to purchase the homes, which would be located in a predominately white, non-Latino area of the county.

As a non-profit land trust, Diamond State sells houses to households with incomes below 80% of area median income (AMI), with the land trust leasing the land to the homeowner for 99 years. If a homebuyer later decides to sell, the sale price remains at a level that low or moderate income households could afford while providing the seller a return on investment.

In the VCA, which runs for four years, Sussex County agrees to:

• Annually provide in-person fair housing training to all county officers, elected and appointed officials, and employees who have duties related to planning, zoning, permitting, construction, or occupancy of residential housing.

• Appoint a fair housing compliance officer.

• Review and evaluate the 1998, 2003 and 2011 Analyses of Impediments, and if past impediments continue to exist develop a proposed priority fair housing plan to address them.

• Include in the fair housing plan a strategy to increase housing opportunities throughout the county, taking into account the housing needs of African-American and Latino residents.

• Develop mechanisms for using CDBG and other funding to affirmatively further fair housing.

• Identify successful models of affordable housing strategies and formulate an affordable housing policy.

• Amend its existing Moderately Priced Housing Unit program to create access for people with incomes between 50% and 125% of AMI.

• Target minorities with disproportionate housing needs to ensure that they are benefitting from affordable housing programs.

• Evaluate certain predominantly minority communities for future infrastructure and community development efforts.

The consent decree with DOJ also runs for four years and contains among its many provisions a requirement for the county to reconsider the New Horizons project.

The Diamond State Community Land Trust is a spinoff of the Delaware Housing Coalition, an NLIHC state coalition partner. Ken Smith, Executive Director of the Delaware Housing Coalition remarked, "We think that the new accent on affirmatively furthering fair housing is very welcome, and we know that Delaware will benefit from the engaged attention that HUD and DOJ paid to this matter. At a tremendous cost to the organization, Diamond State CLT undertook this effort in order to challenge accepted ways of doing business and making decisions in the county. DHC is very pleased with the outcome."

The voluntary compliance agreement is available at http://nlihc.org/sites/default/files/Voluntary_Compliance_Agreement_11-28-12.pdf.

The consent decree is available at http://1.usa.gov/YVEQnL.

A DOJ media release is available at http://1.usa.gov/YVELAt.

Information about New Horizons is available from the Delaware Housing Coalition's website at http://bit.ly/YVEAoE (PDF), and from the Diamond State Community Land Trust website at http://bit.ly/YVEkpR.

HUD Issues Notice on Policy for Amending LIHPRHA Use Agreements

HUD's Office of Multifamily Housing Programs issued Notice H-2012-25 providing guidance about the circumstances under which HUD may consider amendments to use agreements for projects assisted under the Low Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA). The intent is to preserve housing built up to 40 years ago and now in need of resources for significant repairs. HUD oversees an inventory of approximately 640 properties with more than 75,000 units subject to LIHPRHA provisions.

In a use agreement, the owner agrees to keep a property affordable and occupied by households meeting specific income eligibility criteria in return for additional HUD subsidies. Many current LIHPRHA use agreements restrict periodic distributions of surplus cash generated by properties to 0% or 6% of initial equity. Some use agreements also restrict owners from realizing any proceeds from project refinancing. Other LIHPRHA use agreements expressly prohibit owners from bringing LIHTC equity into the project. Such restrictions may hamper owners' ability to refinance and make substantial repairs. None of these restrictions are imposed by the statute. For example, the LIHPRHA statute allows owners to take distributions up to 8% of "preservation equity" as calculated at the time of the original LIHPRHA closing.

In general, HUD will only consider amendment of a use agreement when the owner proposes a transaction to prepay an existing FHA-insured, HUD-held, or state-insured mortgage in conjunction with a refinancing or sale or acquisition transaction that meets a number of criteria spelled out in the notice. Key criteria include:

• Permitting an owner to receive proceeds from refinancing a property.

• Allowing the owner to receive annual distributions of proceeds up to 8% of preservation equity as calculated at closing of the LIHPRHA transaction.

• Removing any express prohibition on the use of LIHTC equity.

• Continuing the same affordability and income restrictions through the remaining useful life of the property.

• For properties that received rental assistance under the Section 8, Rent Supplement or Rental Assistance Payment programs, executing a Section 8 renewal contract with a 20-year term, along with a preservation exhibit that automatically renews the HAP contract for an additional term at least equal to the number of years that were remaining on the original HAP contract.

The first few pages of the notice provide helpful background for those unfamiliar with LIHPRHA. In the 1960s and 1970s, FHA mortgage insurance under Sections 221(d)(3) and 236 helped finance the development of thousands of properties for lower income households. The mortgages were typically for 40 years, with an option for owners to prepay the FHA-insured mortgage after 20 years. At prepayment, the owner could convert the project to market rate housing, which happened for hundreds of thousands of units.

To address the loss of affordable housing stock, Congress enacted LIHPRHA, which imposed a prepayment limitation while offering owners fair market value incentives to:

• Extend low income affordability standards for the remaining useful life of the property (no less than 50 years), or

• Transfer their properties to nonprofit organizations, tenant associations, and community-based organizations that would keep the housing units affordable for the remaining useful life of the properties.

LIHPRHA incentives were utilized for approximately six years. In 1996 Congress restored owners' right to prepay federally insured mortgages and removed all federal LIHPRHA preservation funding.

Notice H-2012-25 is available at http://1.usa.gov/QWBwGa.

DISASTER HOUSING

Administration Releases Sandy Supplemental Appropriations Request

The Obama Administration submitted a supplemental appropriations request of $60.4 billion for recovery from Super Storm Sandy to Congress on December 7. The request includes $15 billion in disaster Community Development Block Grant (d-CDBG) dollars for recovery and repair activities. An additional $2 billion in CDBG funds is requested for mitigation projects.

The request includes broad waiver authority for the d-CDBG funds as well as a reduction in the standard CDBG income targeting requirements to require that at least 50% of funds benefit low and moderate income households. The request specifies that housing repair dollars be only used for repairs to primary residences. The Administration further requests that HUD "be provided the authority to disapprove action plans and request modifications if inconsistent," and that HUD be authorized to allocate dollars based on estimates of unmet needs.

While no funds are requested for tenant based rental assistance, the proposed supplemental requests that Congress not allow the funding of public housing agencies affected by Super Storm Sandy to drop below 2012 levels. Without the requested language, the funding allocation formula may result in impacted PHAs receiving a decrease in renewal funding and administrative fees for the next fiscal year.

Senator Mary Landrieu (D-LA) has indicated that she hopes to advance a supplemental appropriations package by the end of the calendar year.

Also on December 7, the Administration announced the formation of the Hurricane Sandy Rebuilding Task Force, which will be headed by HUD Secretary Shaun Donovan. Secretary Donovan was named on November 15 as the Administration's point person on the Super Storm Sandy Recovery (see Memo, 11/16).

Advocates expect Senator Charles Schumer (D-NY) and Senator Robert Menendez (D-NJ) to introduce tax legislation soon that would, among other provisions, provide an allocation of low income housing tax credits (LIHTC) for communities impacted by Super Storm Sandy.

The Administration's supplemental appropriations request is available at http://nlihc.org/sites/default/files/OMB_Reid_Sandy_Relief_Ltr_12-7-12.pdf.

House and Senate Committees Hold Hearings on Super Storm Sandy

Two hearings held the week of December 3 addressed the response to, and continued recovery from, Super Storm Sandy.

The House Transportation and Infrastructure Committee held a hearing, "A Review of the Preparedness, Response to and Recovery from Hurricane Sandy," on December 4. Witnesses were Frederick Tombar, HUD Senior Advisor for Disaster Recovery; Craig Fugate, Federal Emergency Management Agency (FEMA) Director; Robert Latham of the Mississippi Emergency Management Agency; David Popoff of the Galveston County Office of Emergency Management; Mark Riley of the Governor's Office of Homeland Security Emergency Preparedness for the State of Louisiana; and Major General Michael Walsh of the Army Corps of Engineers.

Committee members sought to learn more about the role HUD has played thus far as the lead agency for the Super Storm Sandy recovery effort. Mr. Tombar said in his written testimony that the focus of HUD Secretary Shaun Donovan's role "will be on coordinating Federal support as State and local governments identify priorities, design individual rebuilding plans, and over time, begin implementation."

Mr. Fugate further described the importance of HUD's role in response to a question from Committee Chair John Mica (R-FL). Mr. Fugate said that FEMA programs, which only provide housing assistance for up to 18 months, cannot ensure there is sufficient long-term and permanent housing for disaster victims. "We want to avoid people being in temporary housing units for years," said Mr. Fugate.

Further, in response to a similar question from Representative Eleanor Holmes Norton (D-DC), Mr. Fugate added that after Hurricane Katrina not enough was done to identify housing needs at the outset, and that FEMA funds cannot be used for permanent housing or addressing preexisting conditions. "Having a cabinet level person for non-Stafford Act programs will provide an end where housing solutions are available," said Mr. Fugate.

Representative Jerrold Nadler (D-NY) noted in his remarks that a key housing challenge in New York is the lack of available and affordable rental units and hotel rooms for disaster victims. He said reimbursement rates for these rooms are far too low to meet the housing costs in the New York City area. “FEMA is working hard to address these issues, but the lack of a viable long-term housing plan is one of the biggest challenges we face going forward,” said Mr. Nadler.

Mr. Nadler asked Mr. Fugate about environmental contamination in public housing and other large buildings, and said that clean-up efforts must be handled in a coordinated way to avoid re-contamination. Mr. Nadler said that he has “asked that the Environmental Protection Agency (EPA) to conduct or oversee comprehensive testing to ensure that people’s homes and workspaces are safe to inhabit.”

Representative Donna Edwards (D-MD) raised concerns about the denial of Maryland’s request for FEMA Individual Assistance aid. Mr. Fugate said the denial was based on the overall level of monetary damages in the state, but acknowledged the devastation experienced by some communities. Mr. Tombar said that despite Maryland’s ineligibility for some programs, Community Development Block Grant (CDBG) dollars could be used for disaster-related housing needs in the state.

On December 5, the Senate Appropriations Subcommittee on Homeland Security held a hearing, “Hurricane Sandy: Response and Recovery—Progress and Challenges.” The first panel was comprised of Senators who represent states impacted by Super Storm Sandy. The second panel included HUD Secretary Donovan and FEMA Director Fugate.

The purpose of the hearing was largely to determine the level of supplemental appropriations required to address Super Storm Sandy-related needs and other costs related to FEMA’s nationwide ongoing disaster recovery operations. Subcommittee Chair Mary Landrieu (D-LA) said, “Our country is big enough and strong enough to multitask,” and urged that the Super Storm Sandy supplemental appropriations and the negotiations around avoiding the fiscal cliff be dealt with at the same time. (See article on supplemental request above.)

Senator Joseph Lieberman (I-CT) asked that the emergency supplemental appropriations bill be written to ensure that Connecticut be eligible for funding provided under the bill. The New York Senators Charles Schumer (D) and Kirsten Gillibrand (D) both described the damage and challenges faced by New York victims. Senator Gillibrand said that thousands of New Yorkers are now homeless as a result of the storm, and that insurance payments are capped at a level far below what is needed for victims to rebuild their homes. Senators Tom Carper (D-DE), Ben Cardin (D-MD), and Richard Blumenthal (D-CT) also spoke on the panel.

Mr. Fugate said in his written testimony that “there are sufficient resources in the [Disaster Relief Fund] to respond to the immediate needs and impacts of the storm,” but noted in verbal testimony that additional resources will be needed before the current fiscal year comes to a close in September 2013.

Senator Barbara Mikulski (D-MD), who was invited to participate in the hearing, expressed concern over the denial of Maryland’s request for FEMA Individual Assistance aid, and indicated she would continue to work to ensure Maryland’s needs are addressed as Congress proceeds with the response to Super Storm Sandy.

Senate Appropriations Transportation-HUD Subcommittee Chair Patty Murray (D-WA) said she wanted to use this opportunity to help those impacted by the storm, and that she wanted to “make sure we get it right.” She asked Secretary Donovan is the CDBG program should be made more flexible. He replied that the income targeting requirements of the program can make it harder to assist higher income communities and that the public participation requirements might also not make sense during a disaster. But he clarified that these issues only relate to the use of CDBG during a disaster, and not during non-disaster situations. He suggested that a standard disaster block grant program be created instead of a case-by-case tailored program that has been the norm in the past.

Senator Murray asked for details about the impact of Super Storm Sandy on people living in public or assisted housing. Mr. Donovan responded that helping people who live in public and assisted housing was a critical part of the response. Prior to the storm, HUD assisted with advance evacuations of the most vulnerable residents and now the Administration is focused on rapid repairs to minimize the number of people who will be displaced as a result of the storm.

Senator Murray then asked if all low income families impacted have been re-housed. Mr. Donovan said that there are a small number of households, in the hundreds, for which further evaluation is needed to ensure that their housing units are habitable in winter conditions.

An archived webcast of the House hearing and all witness testimony are available at http://1.usa.gov/VV9RUk.

An archived webcast of the Senate hearing and all witness testimony are available at http://1.usa.gov/VV9UQa.

HUD Posts HOME Program Waivers Related to Super Storm Sandy

HUD’s Office of Community Planning and Development posted waivers of eight HOME program regulations for local participating jurisdictions (PJs) in counties declared disaster areas as a result of Super Storm Sandy. The waivers also apply to the state participating jurisdictions of Connecticut, New Jersey, New York and Rhode Island.

The waivers are as follows:

1. The 15% set aside for Community Housing Development Organizations (CHDOs) is removed for FY11 and FY12 HOME allocations.

2. Tenant selection policies and procedures are suspended for one year.

3. Families being assisted by HOME for the first time may self-certify that they are income eligible.

4. Instead of meeting HOME's property standards, PJs may simply meet state and local health and safety codes.

5. Local match contributions are waived for FY13 and FY14.

6. PJs may use up to 20% of their HOME allocation for administration (up from 10%).

7. Maximum per-unit subsidy limits are lifted for two years.

8. Homeownership housing maximum value/sales price limit for two years.

The HOME waivers are available at http://1.usa.gov/YVGdCJ (PDF).

HUD Issues Guidance for PHAs Seeking Capital Funds After a Non-Presidentially Declared Natural Disaster

HUD's Office of Public and Indian Housing (PIH) issued Notice PIH-2012-48 providing guidance to public housing agencies (PHAs) seeking natural disaster capital grant funding from the Emergency Capital Needs Fund because of damage due to natural disasters that are not presidentially declared disasters.

Each year Congress sets aside funds within the Public Housing Capital Fund appropriation to create a reserve for emergencies and natural disasters. PHAs that experience an emergency or a natural disaster are eligible to apply for and receive funds from the reserve, which in FY13 is $20 million. PHAs may receive natural disaster assistance from the Emergency Capital Needs Fund regardless of the availability of other capital funds or reserves, but only to the extent that the PHA's needs are in excess of its insurance coverage or other federal assistance (e.g., flood insurance).

If the damage occurs due to a presidentially declared disaster, PHAs must obtain capital funds to make repairs from the Federal Emergency Management Agency (FEMA).

PIH- 2012-49 is available at http://nlihc.org/sites/default/files/PIH-2012-49.pdf.

There is separate guidance for emergency capital needs related to safety and security to address crime and drug-related activity, PIH-2012-38, at http://nlihc.org/sites/default/files/PIH-2012-38.pdf.

The Capital Fund Emergency/Natural Disaster Funding webpage is at http://1.usa.gov/YVzt81.

FORECLOSURE

NLIHC Signs On To OCC Letter Regarding Wells Fargo Bank

NLIHC co-signed a letter to Scott Wilson of the Office of the Comptroller of the Currency (OCC) urging that the OCC examine Wells Fargo Bank for its compliance under the Community Reinvestment Act (CRA). The signatories express concerns that some of Wells Fargo's practices have been harmful to some communities in which Wells Fargo is chartered to conduct business, and as such recommend that Wells Fargo's CRA rating be downgraded.

Among other concerns, the signatories write that "Wells Fargo does not consistently comply with the Protecting Tenants at Foreclosure Act (PTFA) and similar state and local tenant protection laws." The signatories add that while offering tenants in foreclosure long term leases is not only permissible by law, but could in fact enhance an institution's CRA score, Wells Fargo does not provide such an option, thereby unnecessarily displacing renters.

A copy of the letter is available at http://nlihc.org/sites/default/files/AFR_Wells_CRA_Letter.pdf.

NLIHC Joins *Amicus* Brief Supporting Kentucky Tenants Evicted in Violation of PTFA

NLIHC joined the National Housing Law Project, Public Justice Center and the National Law Center on Homelessness and Poverty in signing an *amicus curiae*, or "friend of the court," brief in support of a lawsuit filed by a renter household against the Federal Home Loan Mortgage Corporation (Freddie Mac) for violating the Protecting Tenants at Foreclosure Act (PTFA). Paul and Lee Ann Mik were locked out of the home they were renting after the property was foreclosed on by Citi Mortgage, which purchased it at the foreclosure sale and then assigned the property to Freddie Mac. NLIHC also signed an earlier amicus brief in support of a similar lawsuit filed in California (see Memo, 11/16).

The PTFA provides *bona fide* tenants the right to occupy their homes until the end of the remaining term of the lease. Yet, the U.S. District Court for the Western District of Kentucky dismissed the Mik's suit. The *amicus* brief is in support of the Mik's appeal, arguing that Congress enacted the PTFA to overturn the common law rules most states have that allow leases to be terminated at foreclosure.

The details of the case reinforce the importance of amending the PTFA to provide for a federal private right of action that would enable tenants to file suit in civil court and seek relief for PTFA violations. This would give tenants the ability to secure court orders enforcing their *bona fide* lease agreements, and to pursue money damages for financial losses. NLIHC also advocates making PTFA permanent law, rather than allowing it to sunset in 2014 (See Memo, 9/14).

The *amicus curiae* brief is at http://nlihc.org/sites/default/files/Mik_Motion_Amicus_Brief.pdf.

FROM THE FIELD

Washington Advocates Work to Strengthen New Fair Tenant Screening Law

The Washington Low Income Housing Alliance, an NLIHC state coalition partner, is working with tenant and domestic violence advocates to strengthen the state's new fair tenant screening law. The law is a major step toward overcoming barriers prospective tenants face when they seek housing. At the same time, advocates believe it must go further to address concerns about inaccurate or misleading information that may appear in tenant screening reports and lead to denial of tenancy or high report costs for the applicant.

Enacted in March, the law gives every prospective tenant the right to know the criteria a landlord uses to screen candidates. It also gives applicants the right to know the reason a landlord denies tenancy, imposes a higher deposit or takes any other adverse action (see Memo, 4/6).

In Washington, tenant screening companies must report to landlords whether a prospective tenant was named in an eviction case. However, the companies rarely report the case's outcome or circumstances. Given this lack of transparency, tenants wrongfully named in an eviction lawsuit or even those who won their case remain at high risk of having their application for housing denied, as landlords frequently refuse to rent to tenants named in a suit.

Advocates are particularly concerned about how this systemic flaw impacts domestic violence survivors, who stand to be denied housing because the screening report shows a protection order from the court or an eviction connected to fleeing an abuser. Protections for domestic violence victims initially were included in the legislation, but removed just prior to passage. Similarly, advocates seek changes to the law to protect tenants with disabilities who assert their right to reasonable accommodation, but who instead are sued for eviction, and tenants who assert their right to repair a serious problem that the landlord has failed to address and are then sued for nonpayment of rent if they deduct the cost. In these instances, reports will flag the individuals regardless of outcome, potentially making it difficult to them to find housing.

The law established a stakeholder group to discuss the content of tenant screening reports and develop solutions to address their cost, which can reach as high as $50 to $60 per report. The group includes tenant advocates, affordable housing advocates, residents, landlords and tenant screening lobbyists. The workgroup's findings will be presented to the state legislature.

"When we saw that expensive, inaccurate screening reports were acting as a barrier between low income people and stable housing, it was clear that this was an issue we needed to fix," said Michele Thomas, the Housing Alliance's director of policy and advocacy. "We're excited to be leading the nation in addressing tenant screening issues, and even more excited about the prospect of enhancing this law and expanding protections for survivors of domestic violence and tenants who have been in eviction court."

As part of its Learn at Lunch series, the Housing Alliance will host a webinar, "Fair Tenant Screening Act 101," on Wednesday, December 12 from 12pm-1pm PT. The session will provide a refresher on the new law and highlight protections renters still need. Linda Olsen of the Washington State Coalition Against Domestic Violence, Stina Jansen of the Tenants Union of Washington and Nick Federici of the Housing Alliance will discuss how tenant screening reports can be barriers to housing and what actions advocates need to take when the state legislature returns in January 2013.

For more information, contact Michele Thomas at michele@wliha.org.

RESOURCES

Housing Challenges in Rural Communities Persistent, On the Rise

A new report from the Housing Assistance Council (HAC) examines the housing crisis in rural America. Despite enjoying generally lower housing costs, an increasing number of rural households struggle with poverty. Rural poverty rates exceed comparable national rates across all racial and ethnic groups. These poor households also struggle with housing affordability; the number of housing cost burdened households rose by six percentage points in rural America between 2000 and 2010. (A household has a housing cost burden if more than 30% of its gross income goes towards housing costs.)

Over seven million rural households have housing cost burdens. Renter households are most likely to experience this cost burden, with 47% of rural renters paying over 30% of their income towards rent, compared to 25% of rural homeowners. While renters make up just 28% of all households in rural communities, they make up about 40% of cost burdened rural households. Residents of high cost rural areas in the Northeast and the West face the most acute affordability problems.

Rural households also face substandard housing quality and overcrowding in addition to affordability challenges; minority households are hit especially hard by housing quality problems. African-American households in rural areas are three times as likely to live in substandard housing as other residents, and overcrowding is especially prevalent in rural Hispanic communities, with a rate of three times the average rural rate.

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Affordable rental housing options remain limited due to federal budget cuts, limited financing for nonprofit development, and competition for federal grants that urban areas receive as entitlements. With few new affordable units being built across rural communities, many low income households turn to manufactured housing. Nationally, households living in manufactured housing have a median income of $30,000, and more than half of all manufactured homes are in rural parts of the country. However, the closure of manufactured home parks in recent years, combined with weak legal protections for residents, contribute to increased instability and decreasing affordable housing options for low income rural households.

According to HAC researchers, the demographics and the housing needs of rural Americans are changing. The rural population is becoming more diverse and older, while persistent poverty remains widespread. Counties characterized by persistent poverty have had poverty rates of 20% in 1990, 2000 and 2010. Most (86%) of the 429 persistently poor counties nationwide are entirely rural. Within these communities, minorities make up 60% of the population. Persistently poor rural communities have especially poor housing conditions, and more than half of renters there face affordability problems. HAC dedicates the second half of its report to highlighting specific rural communities facing persistent poverty, including colonias along the Mexican border and Native American lands.

HAC's analysis uses data from many sources, including 2010 U.S. Census of Population and Housing, the American Community Survey (ACS) five-year estimates, the Home Mortgage Disclosure Act (HMDA), American Housing Survey (AHS), Bureau of Labor Statistics Local Area Unemployment (LAUS) and USDA's Economic Research Service (ERS).

The report, *Taking Stock: Rural People, Poverty and Housing in the 21st Century*, is available online at http://bit.ly/YVBUYi.

Number of Shared Households Up Since Beginning of Recession

According to a new brief from the U.S. Census Bureau, the number of people in shared households has risen since the start of the most recent recession. The brief, *Poverty and Shared Households by State: 2011*, found that in 2011 nearly 1 in 5 households had an additional adult. An "additional adult" is defined as a person over 18 who is not the householder, householder's spouse or householder's cohabiting partner. This definition excludes people age 18-24 who are enrolled in school, but includes adult relatives and roommates or other unrelated people.

Prior to the start of the recession, 17.6% of U.S. households were shared households. The number of shared households peaked in 2010, at 19.4%, or 22.2 million households. In 2011, that percentage dropped slightly, to 19.2%. Between 2007 and 2011, the percentage of shared households increased in 40 states and the District of Columbia. The states that saw the largest increases were Indiana, Kentucky, Maryland, New Jersey, South Carolina and Virginia.

While the percentage of shared households increased in the majority of states between 2007 and 2011, the distribution of shared households in 2011 varied state to state. Higher cost states had rates of shared households significantly higher than the national rate of 19.2%. Hawaii (28%), California (25.8%), and New York (23%) had the highest proportions of shared households. North Dakota, South Dakota and Iowa had the lowest proportion of shared households, with 2011 rates ranging from 10.9% to 11.6%.

The brief also looked at the characteristics of additional adults in a household. The brief found that in 2011, 17.9% of adults over the age of 18 were additional adults in someone else's household. This is a 1.9 percentage point increase from 2007 (16.0%), and the fourth consecutive year that the number of additional adults has increased. More than 80% of additional adults in 2011 were related to the householder, with almost one half being adult children of the householder. Nonrelatives made up 19.2% of additional adults in 2011. Many additional adults living in shared households were young. In 2011, 35.4% of adults age 18-24 lived in someone else's household, as did 30.5% of adults age 25-34. For the 25-34 age group, this was an increase of 4.5 percentage points since 2007. Almost 11% of additional adults also lived with a dependent child.

The brief also includes information on the poverty status of shared households and compares individual and household poverty rates to give a better picture of the economic well-being of shared households. Individually, householders who shared a home had a higher poverty rate (19.1%) than those who did not (15.1%). The brief also calculated household poverty rates, which differ from official poverty rates because they take into account all adults in a household rather than just related adults. For householders, those in shared households had lower official poverty rates than those not sharing a household. This suggests that housing affordability problems may explain household sharing. A similar Census Bureau study released this summer came to the same conclusion (see Memo, 6/29). Householders in shared households are more economically vulnerable than those not sharing a home, but household poverty rates for shared households were lower than official poverty rates. While having an additional adult in the household brought in necessary resources, it also highlights the need for more affordable housing.

The brief is available at http://1.usa.gov/VV198D (PDF).

Census Releases New American Community Survey Data

The U.S. Census Bureau released the newest 2007-2011 five-year American Community Survey (ACS) estimates on December 6. The American Community Survey includes data on the social, demographic, housing and economic characteristics of Americans gathered from three million households.

The ACS five-year estimates (2007-2011) are available down to the census tract and block group level. New for this year, the 5-year estimates are available for ZIP Code Tabulation Areas (ZCTAs). In addition, the five-year data set includes new, detailed tables on migration and commuting patterns.

For more information on the ACS, visit http://1.usa.gov/VUQBXe.

To access the data, visit the American FactFinder at http://1.usa.gov/TeivA1.

NLIHC NEWS

NLIHC Welcomes New Members

Welcome to these new members who joined in November 2012:

Aeon, Saint Paul, MN

Joshua Allison, Albuquerque, NM

Andrea Crumrine, Eden Prairie, MN

Doris Hill, Cincinnati, OH

Evelyn Jones, Washington, DC

Lisa Kirt, Akron, OH

National Manufactured Home Owners Association, Salt Lake City, UT

Supportive Housing Providers Association, Springfield, IL

Summit Combined Housing Authority, Breckenridge, CO

NLIHC Still Welcomes Applicants for Research and Outreach Positions, Spring 2013 Internships

NLIHC seeks two well-qualified and talented candidates to fill open positions on our Outreach and Research teams.

As one of a three-person team, the **outreach associate** will mobilize our members on federal policy advocacy in a manner that advances our mission; assist in the design and implementation of campaign field strategies; and conduct outreach activities in specific states.

The outreach associate position requires knowledge of federal housing policy, strong written and oral communication skills and excellent technology skills, including high proficiency in database management. Priority consideration will be given to candidates with proven organizing experience that mobilized a community or constituent base and led to a significant legislative victory at the national or state level. A Bachelor's degree is required.

The **research analyst** will collect, analyze and present quantitative and qualitative data in a manner that advances the Coalition's research agenda. The successful candidate will be able to translate and disseminate research to varied audiences in an accessible and understandable format.

The research analyst position requires demonstrated professional experience with GIS, databases, SPSS or similar statistical packages, and large datasets; an advanced degree in Sociology, Geography, Public Policy, Urban Planning or similar field; and strong oral and written communication skills. Experience or coursework in survey research is preferred.

A commitment to social justice is a core qualification for both positions, which are based in Washington, D.C. NLIHC is an equal opportunity, affirmative action employer.

NLIHC is also accepting resumes for spring 2013 intern positions. Interns are highly valued and fully integrated into our staff work. We seek students passionate about social justice issues, with excellent writing and interpersonal skills.

The available positions are:

• **Communications Intern**. Assists in planning NLIHC's annual media awards, prepares and distributes press materials and works on website and social media projects. Maintains the media database and tracks press hits.

• **Policy Intern**. Tracks new legislation, attends and summarizes Congressional hearings for weekly newsletter, participates in visits to Congressional offices and develops materials for use in lobbying the House and Senate to accomplish NLIHC's mission. Updates the Congressional database.

• **Outreach Intern**. Assists with grassroots organizing efforts for the National Housing Trust Fund Campaign and other legislative campaigns. Assists with membership recruitment and retention efforts and internal database upkeep.

• **Research Intern**. Assists in ongoing quantitative and qualitative research projects, writes weekly articles on current research for *Memo*, attends briefings and helps staff respond to research inquiries.

A cover letter, resume and writing sample are required for consideration. They should be included as attachments if you choose to submit them electronically. In the cover letter, applicants should specify the position(s) for which they are applying and that they are interested in a spring 2013 internship.

Interested candidates for all positions should forward a cover letter, salary requirements (research analyst and outreach associate only), resume and a writing sample to Bill Shields, Vice President of Operations, 727 15th Street N.W., 6th Floor, Washington, D.C. 20005, or to bill@nlihc.org. Applicants should indicate the title of the position sought in the subject line of the application email. No phone calls, please.

NATIONAL LOW INCOME HOUSING COALITION

MEMO TO MEMBERS

December 7, 2012
Volume 17, Issue No. 47

FACT OF THE WEEK

Ten States with Highest Rates of Housing Cost-Burdened Households in Small Towns and Rural Areas

	Households Calculated	Severely cost burdened households* (#)	(%)	Cost burdened households* (#)	(%)
Hawaii	135,944	28,849	21.2	58,761	43.2
California	959,924	190,626	19.9	414,356	43.2
New Jersey	44,444	8,582	19.3	18,847	42.4
Massachusetts	85,009	16,093	18.9	33,999	40.0
Connecticut	74,973	12,501	16.7	29,753	39.7
Florida	533,411	85,995	16.1	185,502	34.8
Oregon	452,701	69,961	15.5	161,750	35.7
Vermont	178,972	27,498	15.4	67,060	37.5
Colorado	317,557	48,449	15.3	109,502	34.5
New Hampshire	197,646	29,791	15.1	74,410	37.6

Note: "Households calculated" is not the total number of households in each state, but the number in small towns and rural areas.

*Cost burdened households are those paying more than 30% of monthly income toward housing costs. Severely cost burdened households are those paying more than 50% of monthly income toward housing costs.

Source: Housing Assistance Council (2012). Table 10. *Taking Stock: Rural People, Poverty, and Housing in the 21st Century.* Author: Washington, D.C. Retrieved From: http://ruralhome.org/component/content/article/587-taking-stock-2010

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ABOUT NLIHC

The National Low Income Housing Coalition is dedicated solely to achieving equitable federal policy that assures affordable, accessible, and healthy homes for the people with the lowest incomes in the United States.

Established in 1974 by Cushing N. Dolbeare, NLIHC educates, organizes, and advocates to ensure decent, affordable housing within healthy neighborhoods for everyone.

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.

NLIHC membership information is available at www.nlihc.org/join. You can also e-mail us at outreach@nlihc.org or call 202-662-1530 to request membership materials to distribute at meetings and conferences.

Follow @NLIHC on Twitter!

Become a fan of NLIHC on Facebook!

Check out NLIHC's blog, *On the Home Front*, at www.nlihc.wordpress.com!