



THE AFFORDABLE HOUSING STUDY COMMISSION
Dedicated to Promoting Affordable Housing in Florida Since 1986

**Affordable Housing Study Commission
Meeting Summary
August 31 & September 1, 2005
Orlando**

Commissioners Attending:

Helen Feinberg (Chair), Gus Dominguez, Howie Carroll, Jill Collins, Paul E. Curtis, Michael Davis, Dorothy Ellington, Robert Gregg, Priscilla Howard, Ann Kashmer, Darlene Pifalo, George Romagnoli, Santos De La Rosa, Jane Johnson, Lloyd Boggio, Scott Culp

Staff:

Odetta MacLeish-White, Nancy Muller

Ad Hoc Workgroup Members Attending:

Stan Fitterman, Wight Gregor

Public Attending:

William O'Dell, Shimberg Center; Sandy Seligman, Dimension One Realty; Kristen Packard, Packard Consulting; Glaister Brooks, Fort Pierce Housing Authority

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August 31, 2005

Meeting convened at 1:25 p.m.

Chair Feinberg welcomed the Commissioners and public to the meeting.

The first presentation of the day was made telephonically by Gideon Anders, executive director of the National Housing Law Project, starting at 1:30pm. Mr. Anders reviewed the history of use restrictions and notice requirements in Rural Development programs. He noted that the displacement of population is the key issue in the loss of rural rental housing under prepayments and conversion. Mr. Anders briefly described the 515 (rural rental housing) and 514/516 (farmworker housing) programs.

Some owners of rural rental housing are selling properties to non profits that have received funds from RHS, and avoided prepayment requirements in the process. In response to underfunding, RHS is now subordinating its mortgages to third parties rather than funding transfers.

Congressional appropriations for rental assistance have stayed at levels that fund only existing residents, so those properties with fewer than 100% residents on subsidy cannot make their financing work.

Mr. Anders reviewed the status of recent lawsuits brought against the Rural Housing Service by property owners facing prepayment restrictions. Breach of contract suits have been more successful; and cases which were thrown out due to statute of limitations were reinstated by the Supreme Court. RHS has had to pay \$12 million in damages to 16 properties so far and there are 800 property owners who could sue RHS – if they are successful funds to pay them would not go to repair or maintenance on the properties and RHS has not required enough reserves to maintain the aging stock.

Recently drafted RHS legislation would remove 515 prepayment restrictions, restructure loans (with additional affordability periods of 20 years) and vouchers for residents (the voucher restructuring would not allow them to stay in their current homes). In Florida, about 1600 – 2000 units of 515 housing would be lost under this legislation. 45,000-50,000 would be lost nationally under this legislation. RD wants funds to go for rehab and revitalization only; no new construction.

Final comments by Mr. Anders included:

- Suggestion that pooling smaller developments together (to achieve at least 100 units) under one owner. Washington and Oregon State have experimented with consolidating loans on multiple properties and using rental assistance from properties not fully utilizing their subsidy
- Where rental assistance is available, private financing is available with 4% Housing Credits
- Currently, not too many state housing authorities involved in funding preservation deals for rural preservation deals
- In the past, funds were sent to the state as a need based formula for 515 new construction. Today, he is not aware of a formula to distribute funding for preservation and rehab.
- There is no state and local control over the federal RD offices.

515 Preservation Demonstration Program

First deadline for this demonstration program was August 2005 but only \$6 million was made available for national projects. This is not likely to be enough for any significant preservation work. If new 515 legislation is adopted this year, new demonstration programs will probably be ended. Congressional House of Representatives has another bill for resident vouchers and revitalization that would provide \$16 million nationally for demonstration programs. Nancy Muller noted that RD oversight under the announced 515 demonstration program was prohibitive.

Following the conclusion of Mr. Anders' presentation, the Commission heard from Sandy Seligman, principal of Dimension One Realty and a developer of rural rental housing in Florida and Georgia. Mr. Seligman shared some of the obstacles to preserving and rehabilitating rural rental housing including:

- 2005 QAP for FHFC eliminates acquisition of RD properties from funding eligibility
- His company lost 3 515 properties to weather but he was only allowed to get 8% of his original investment, and syndication fees come from that 8%
- RD does not allow necessary return on investment to pay deferred developer fee as required by 9% Housing Credit program
- Most residents in rural rental housing are low and very low income families
- Levels of rental assistance do not provide the cash flow

- Currently he can't apply in RD set aside in Florida Housing universal cycle and another set aside simultaneously, but RD set aside is not enough for redevelopment deals.

Presentation of Florida Housing Data Clearinghouse Preservation Inventory by William O'Dell
The Florida Housing Data Clearinghouse includes 4 Affordable Housing Inventories, including Preservation using information from HUD, RHS, Florida Housing and local housing authorities. The Preservation inventory only tracks HUD and RHS developments at this time and does not give explicit aging information. Nancy Muller reported that Florida Housing will be moving to web based resident info in the next 6 months or so.

The Commission discussed both the limits of the current database and the kinds of additional information that should be considered:

Limitations

- No opt out information for rent supplement contracts
- There is a lag time, up to 6 months, between contract expiration dates and when HUD shows the expiration
- There is a need to routinely calculate which properties have actually opted out of their rent supplement contract
- Resident income levels are not provided

Additional Info

- Florida Housing data and local bonds from HFAs
- Flag projects of a certain age to anticipate conversions or opt outs
- ID types of ownerships
- Track "risk" indicators
- Financing history of a property
- Whether or not a property can get additional funding and what sources might provide that funding

Comm. Boggio noted that keeping this information can help advocates in their discussions with local governments about the importance of affordable housing.

Comm. Johnson suggested tracking the trends of lost and new units juxtaposed with income and population trends.

Comm. Ramsey commented that HUD replaces only the number of vouchers currently being used even if the entire property is under a rent supplement contract. This means opt outs can result in an even larger net loss of subsidized units.

Comm. Kashmer suggested putting column totals into the table for easier use.

Review of Future Meeting Dates

The Commission reviewed staff's suggested meeting dates for the remainder of the study year and agreed that if no changes were offered by the end of the week, staff could proceed with planning locations and hotels using the suggested dates.

Review of Agenda for Stakeholders Meeting scheduled for 9/14/05

The Commission approved the draft agenda for the Stakeholders Meeting. Commissioner Davis agreed to include a copy of the 2005 Final Report in the registration notebook for the Florida

Housing Coalition conference. The Commission briefly discussed the questions that might be posed to attendees of the Stakeholders Meeting to generate conversation on the preservation topic.

Public Comment

There was no public comment.

Meeting adjourned at 5:30 pm.

September 1, 2005

Meeting convened at 8:45 am.

Work Groups Breakout Session

The Commission spent the day meeting as the Finance Workgroup and Capacity Workgroup to identify issues and develop action items for future meetings. Notes from each Work Group session are attached to this summary as Attachment A.

Meeting adjourned at 12:30 p.m.

ATTACHMENT A

Capacity Workgroup Notes

September 1, 2005

Orlando, FL

CAPACITY BUILDING

Catalyst Program

- Funded through Sadowski Act
- Provides workshops and trainings free of charge
 - Core curriculum is offered due to high staff turnover for many non profits
 - Advanced curriculum provides more policy and financing perspectives
- FHC contracts with FHFC to deliver a certain number of workshops per year
- FHC also provides web based training and the funding is flexible enough to allow the addition of new and/or timely workshop topics
- They are also looking to lengthen the amount of time spent with each program participant

Currently, 2 workshops are being offered on home ownership preservation.

Predevelopment Loan Program

- FHC provides technical assistance along with funding in this program
- Currently assisting 46 deals
- They have found that start ups, with no prior experience, require a high investment of resources (funding and TA) with small returns in terms of units developed
- FHC has made the choice to assist those with even minimal prior experience to better leverage available resources. They have found that prior experience, even if it is brief, improves chances of success.

Stan Fitterman and Wight Greger emphasized that linking funding and TA is vital to the success of the program. Also, more should be done to educate NPs about the risks of entering real estate development field.

Commissioner De La Rosa raised the issue of newly formed rural housing authorities (done by county commissions under statutory authority) which are created on paper but not funded. These entities also need funding and TA, as they currently have few staff or none. Small PHAs were also discussed – they do not have staff or funding to be effective. Some are creating consortia (eg Highlands and Hardee Counties).

The workgroup discussed the high turnover of staff in affordable housing esp in local government, where someone will move from department to department in search of higher salaries. Affordable housing arena not seen as a career or profession outside the development sectors:

FHC and Shimberg Center in preliminary conversations about creating a graduate program in affordable housing development (concern was expressed about how much you can teach someone about housing development outside the actual experience).

NOTICE POLICIES

What would be the penalty for not notifying the required entities?

- Suit by tenants
- Revocation of sale
- Monetary sanctions

Who should be notified?

FHFC, PHAs, local governments, tenants, FHC, Shimberg Center(*)

*It was suggested that the Shimberg Center could become the central point for receiving and posting notices; it was emphasized that Shimberg would not have a legal responsibility to fulfill an owner's notice requirements (waiver language like that on the Texas Multifamily Clearinghouse website would be needed).

Tenant Associations: have been given right of first refusal (e.g. IL statute) but how successful have they been in exercising the right?

Length:

Group agreed that 12 months is not long enough when financing a deal can take much longer than that.

2 years is probably long enough but following questions arise:

- When does the clock start?
- If the only subsidy is rent supplement, can a state require more than one year's notice?
- Can we change notice requirements on tax credit deals?
- Is there any case law (esp. in Florida) on notice and the burden it creates for the owner? Are there any conversion cases?

How do we capture existing units not currently under any notice policies? The workgroup felt that voluntary compliance was the most we could ask for.

- How enforceable has Rhode Island's statute been?
- Check with Jax and Miami HUD about notice requirements on HUD owned properties.

DATABASE

Three uses for a preservation database:

- Planning and Policy
- Training/Capacity Building
- Actual Development

Bill O'Dell has three issues regarding improvement of existing database:

- Getting information: there needs to be a relationship with major points of collection (HUD and RHS). Sharing of information should be routine to keep data current and costs lowered. Also annual reporting by local HFAs would provide needed local preliminary data.
- What information do the "players" need?
- What are the mechanisms for sharing the information the "players" say they need and want?

Collection of primary data would be improved if there is more coordinated communication betw. planning depts, housing depts, community development depts, local HFAs and PHAs. Regional Planning Councils could help in convening groups and getting information out to them.

The Commission needs to consider how to prioritize AHI among its other work and issues in the preservation field.

EDUCATION

Workgroup did not like the idea of an education piece included in the 2006 report itself. They prefer a stand alone piece.

Suggestions were:

- Include congressional district info with each pamphlet
- Do a comprehensive mailing to a targeted audience
- The pamphlet content should focus on solutions
- Include information on funding trends

Areas for Research:

- Have tenant associations been successful in exercising right of first refusal in notice statutes?
- How are other states sanctioning non compliant owners? IL, CA, TX
- If the only subsidy is rent supplement, can a state require more than one year's notice?
- Can we change notice requirements on tax credit deals?
- Is there any case law (esp. in Florida) on notice and the burden it creates for the owner?
- How enforceable has Rhode Island's statute been?
- Check with Jax and Miami HUD about notice requirements on HUD owned properties.

Possible recommendations:

- Bring back rental preservation workshops, like the ones done in the past with OMHAR
- Promote NP specialization in rental preservation by creating a workshop along the lines of FHC's home ownership preservation model (*this is community land trust concept*)
- Additional funding for preservation workshop and TA; the Commission does not want to diminish the current work being accomplished by FHC
- Create a financing program that would pool funds to allow a single owner to buy multiple smaller properties and increase economies of scale; public/private model wd work with this concept through NP ownership of the properties and experienced private (or non-profit) management.
- Require local govts to incl preservation policy or planning in the Housing Element of their Comp Plans
 - Report at level of need and demand reporting requirements
 - Phased in approach for adding this info (need more specifics here)
 - Would need buy in from DCA
 - Suggest a 10 year downstream analysis to promote community awareness of the problem

Finance Workgroup Notes

September 1, 2005

Orlando, FL

Note to reader: The following scenarios apply current funding programs to a set of assumptions about the income and expenses for a preservation deal to determine if the current funding programs can make a preservation deal financially feasible.

Assumptions about Development to Be Preserved

100 units, with 20 1-bedrooms, 60 2-bedrooms and 20 3-bedrooms
 ELI = \$14,000/year for a household of 2

Net Rents (including utilities)

Size of Unit	60% AMI (85 units)	30% AMI (15 units)
1-bedroom	\$505	\$264
2-bedroom	\$623	\$264 (for now, use this rent for all ELI units)
3-bedroom	\$707	\$264

Financial Assumptions (calculated on an annual basis)

Rent gross	\$ 676,000
Economic loss (7%)	(\$47,320)
Net rent	\$ 628,680
Other income (2.5-3.0%)	\$20,000
Total Income	\$ 648,680
Expenses (\$4,000/unit; includes reserves ^[1])	(\$400,000)
Total Net Income	\$ 248,680

Financing Assumptions – 1.20 Debt Service Coverage Ratio (Fannie Mae)
 Available to service debt: \$207,000/year, allowing us to borrow \$2,850,000

Cost of Acquisition/Rehab

Acquisition (assuming \$50k/unit including 10% for land)	\$5,000,000
Rehab costs (assuming \$30k/unit for rehab)	\$3,000,000
Total cost for acquisition/rehab	\$8,000,000

Scenario #1: Bonds/4% HC

For a Bond/4% HC deal, \$6.5 million eligible basis x 3.4% = \$2 million available for equity

\$8,000,000 Total needed for acquisition/rehab

\$2,850,000 Bonds borrowed at 6.10%¹

\$2,000,000 4% HC equity

\$4,850,000 Total

\$3,150,000 The gap needed to fully finance the deal

¹ A nonprofit would lower the expenses/unit to \$3,300/unit due to tax abatement

¹ The 6.10% interest rate shown is an all in rate comprised of a base rate tax exempt rate of 4.75%, plus .90% credit enhancement fee, .40% issuer fee and a .05% trustee fee.

Scenario #2: Bonds/4% HC/SAIL

See Scenario above – need \$3.15 million to make the deal financially feasible. Using various SAIL loan interest rates, as described below, SAIL funding would provide the following amounts:

At 0%: \$3,150,000
At 1%: \$3,150,000
At 2%: \$2,072,700
At 3%: \$1,381,800

The above calculations show that SAIL funds, at 0% and 1% interest rates, will work to fill the \$3.15 million gap.

With **HOME** instead of SAIL (for profits), rents would be required to go down to 40% at 50% AMI, so we'd need more funding, and there would be additional requirements (Davis-Bacon, environmental studies, etc) which would increase rehab costs

Scenario #3: 9% HC

4% HC on acquisition costs of \$4.5 million (use 3.42 multiplier)
9% HC on rehab costs – figure for \$2.5 million (use 8.1 multiplier)

Acquisition equity	\$1,385,000
Rehab equity	\$1,822,500
Total equity	\$3,207,500
Private Debt at 7.0%	\$2,600,000
Total available for deal	\$5,807,500

\$2,192,500 The gap needed to fully finance the deal

If we could use 9% HC for whole deal, we'd have another \$1.9 million, making the deal feasible. A gap exists because tax credits on the portion of the development allocable to acquisition are capped at 4%. The 10 year rule precludes receiving the 4% credit on the acquisition related portion of development cost unless the property has been owned for a 10 year period.

The amount of the developer fee is included in eligible basis which determines the amount of tax credits received. An increase in developer fee yields more tax credit equity. This equity may be used to pay construction or acquisition costs as the developer fee may be deferred and paid from cash flow.

For this scenario, if the developer fee on acquisition was changed from 4% to 16% (which equals a \$500,000 developer fee), it would bring an additional \$393,000 in equity to the deal, but the cost of the deal would go up, thus increasing the gap. However, to the extent that funds are not available to pay the fee at closing, the fee may be deferred and paid from property cash flow.

Bottom line: additional developer fee is needed.

Scenario #4: SAIL Only (for nonprofits)

\$7.5 million in total development costs (TDC)

Rent gross	\$ 676,000
Economic loss (7%)	(\$47,320)
Net rent	\$ 628,721
Other income (2.5-3.0%)	\$20,000

Total Income	\$ 648,721
Expenses (\$3,300/unit; includes reserves)	(\$330,000)
Total Net Income	\$ 318,721

- Nonprofits can ask for more than 25% in TDC, but would lose in leveraging in the Universal Application cycle
- Because of tax exemption which reduces expenses, NPs would have an additional \$700/unit/year in cash flow from lowered expenses (see note 1) $\$700 \times 100 \text{ units} = \$70,000$
- New Expense figure for NP: $\$400,000 - 70,000 = \$330,000$
- Assuming a 1.20 DSR yields \$275,000 to service the debt
- No Housing Credits in this scenario

The \$275,000 available to service debt would underwrite a SAIL loan at a rate of 3%, to a maximum amount of \$9.1 million which is more than this scenario's TDC of \$7.5 million. This scenario is for illustrative purposes as current Corporation policy would not allow a loan of that size.

THIS ONE WORKS.