

Clearinghouse REVIEW

November–December 2008
Volume 42, Numbers 7–8

Journal of
Poverty Law
and Policy



To: President-Elect Barack Obama
CC: U.S. Congress
From: Shriver Center

In re: Antipoverty Recommendations

1. Strengthen Civil Rights
2. Reform Health Care
3. Fortify Safety Net
4. Solve Federal Fiscal Problem
5. Preserve Affordable Rental Housing
6. Exercise Executive Clemency
7. Foster Career Advancement
8. Link Economic and Workforce Development
9. Ensure Quality Child Care for Workers
10. Build and Protect Assets
11. Legalize Immigrants
12. Guarantee Leave Policies for Women



Keeping an American Promise

Safe, Decent, and Affordable Rental Housing for Everyone in Need

By Katherine E. Walz and Judith Levey

Katherine E. Walz
Senior Attorney

Sargent Shriver National Center
on Poverty Law
50 E. Washington St. Suite 500
Chicago, IL 60602
312.263.3830 ext. 232
katewalz@povertylaw.org

Judith Levey
*Director of Community Outreach
and Coordinator of the
Preservation Compact*

Urban Land Institute of Chicago
1700 W. Irving Park Rd. Suite 208
Chicago, IL 60613
773.549.2655
judy.levey@uli.org

Nearly seventy-five years ago, Congress passed the landmark National Housing Act of 1934, which set forth as its primary goal “a decent home and suitable living environment for every American family.”¹ The National Housing Act’s goal of creating public-private partnerships to increase the supply of affordable housing remains ambitious today. A commitment to end poverty in the United States must ensure an adequate supply of safe, decent, and affordable housing.

However, according to a report released in April 2008 from the Joint Center for Housing Studies of Harvard University, nearly one-half of all renters (approximately 18.5 million people) pay more than 30 percent of their income toward rent.² Nearly one-quarter—approximately nine million people—pay more than 50 percent.³ Affordability remains a serious and growing concern for the nation’s lowest-income renters (those with annual incomes of \$24,000 or less in 2006), with more than one-half of this group spending more than one-half of their income on housing in 2006.⁴ The number of lowest-income renters with severe housing cost burdens increased by more than one million between 2001 and 2006 to more than eight million households.⁵

To meet the growing need for decent, affordable housing in this country, energy must be focused not only on supporting new housing production programs, particularly

¹National Housing Act of 1934, 12 U.S.C. § 1701t (2008).

²JOINT CENTER FOR HOUSING STUDIES OF HARVARD UNIVERSITY, AMERICA’S RENTAL HOUSING—THE KEY TO A BALANCED NATIONAL POLICY 6 (2008), www.jchs.harvard.edu/publications/rental/rh08_americas_rental_housing/rh08_demographic_drivers_bw.pdf.

³*Id.* at 15, www.jchs.harvard.edu/publications/rental/rh08_americas_rental_housing/rh08_affordability_challenges.pdf.

⁴*Id.*

⁵*Id.*

those aimed at low- and very low-income families, but also on preserving existing affordable rental housing. Although preserving existing housing is more cost-effective than building new housing, preservation remains an extraordinarily ambitious goal. For every new low-cost unit built in the United States during the past decade, two have been demolished, abandoned, or converted into condominiums and an estimated one in three national foreclosures involves rental units.⁶

The supply of federally supported project-based Section 8 housing, where a private owner contracts with the federal government to provide affordable housing to low-income families and individuals, has decreased precipitously. Today 1.4 million households live in homes with project-based Section 8 assistance in more than 19,000 housing developments.⁷ However, since the mid-1990s more than 200,000 units of project-based Section 8 housing have been lost because project owners did not renew or opted out of their federally subsidized contracts.⁸ During the next five years, contracts on more than 900,000 Section 8 units will expire.⁹

Although preservation is a national challenge, varied local conditions call for a local response, framed with an understanding of the local housing market, the housing needs of low- and very low-income households, and the level of public and private support for preservation. A recent local initiative in Illinois aims to do just that: preserve the existing supply of affordable rental housing with an infusion of resources, energized commit-

ment, innovative program development, and public-private collaboration.

Cook County's Preservation Compact

The supply of low-cost rental housing in Cook County, Illinois—like that of other large metropolitan areas—has been shrinking severely. Cook County encompasses Chicago and more than 200 surrounding municipalities and townships. Since 1990, the greater Chicago area has lost an average of more than 9,000 units annually.¹⁰ Between 1990 and 2005 an estimated 353,000 units were lost, yet demand for affordable homes in Cook County increased by more than 27,000, driven by increasing numbers of young families, new immigrants, and seniors.¹¹

Five major factors account for the current situation in Cook County:

- Operating costs are rising, driving up rents and making it difficult for new developments to be profitable or existing developments to undertake capital improvements.
- Rental properties are deteriorating, due largely to age; more than 70 percent of Cook County's rental buildings were built before 1970 and have had deferred maintenance, whether due to the owners' legitimate financial limitations or outright neglect.
- Long-term federal subsidies and affordability restrictions are expiring. Of more than 60,000 federally subsidized affordable apartments in Cook County, affordability restrictions on 40,000 will expire by 2011 and on

⁶JOINT CENTER FOR HOUSING STUDIES OF HARVARD UNIVERSITY, AMERICA'S RENTAL HOUSING: HOMES FOR A DIVERSE NATION 2 (2006), www.jchs.harvard.edu/publications/rental/rh06_americas_rental_housing.pdf; Keith E. Wardrip & Danilo Pelletiere, *Renters and the Housing Credit Crisis*, POVERTY & RACE (Poverty & Race Research Action Council, Washington, D.C.), July–Aug. 2008, at 3.

⁷U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, PERFORMANCE AND ACCOUNTABILITY REPORT 439 (2007), www.hud.gov/offices/cfo/reports/2007/2007par.pdf.

⁸Tracy Kaufman & Todd Nedwick, National Low Income Housing Coalition, Project-Based Rental Assistance (Feb. 1, 2008), www.nlihc.org/detail/article.cfm?article_id=5242&id=19. That figure does not account for the number of project-based Section 8 units lost to owners failing to maintain the properties according to U.S. Department of Housing and Urban Development decent, safe, and sanitary standards or lost to mortgage foreclosure.

⁹*Legislation to Preserve Affordable Rental Housing: Hearing Before the H. Comm. on Financial Services*, 110th Cong. 3 (2008) (statement of Michael Bodaken, President, National Housing Trust), www.nhtinc.org/Legislation/NHT_Testimony_061908.pdf.

¹⁰URBAN LAND INSTITUTE, PRESERVE, RENEW, REBUILD: A RENTAL HOUSING ACTION PLAN FOR COOK COUNTY 1 (2007), www.macfound.org/atf/cf/%7BB0386CE3-8B29-4162-8098-E466FB856794%7D/ACTION%20PLAN%20REPORT%2051807.PDF.

¹¹*Id.*

nearly 53,000 by 2020.¹² Upon expiration, owners may choose to “opt out” of the subsidy program.

- Soaring real estate markets in the 1990s and early 2000s encouraged owners to raise rents or convert apartments to condominiums. From 2000 to 2005, an estimated 20,000 rental units were converted to for-sale condominiums.¹³
- The number of foreclosures is increasing exponentially, and, although the impact of foreclosures has not yet been fully quantified, 35 percent of Chicago foreclosure filings in 2007 were on two- to six-unit multifamily properties—4,822 foreclosure filings on multifamily buildings in a single year.¹⁴

“The Preservation Compact” was launched in 2007 to implement a set of strategies designed to reverse the downward trend in Cook County’s affordable rental housing supply, with a specific goal to preserve 75,000 existing units of affordable multifamily rental housing by 2020.

The Preservation Compact is led by the Urban Land Institute with participation from organizations with expertise and an interest in affordable-rental-housing preservation. Key participants are the City of Chicago, the Cook County Assessor’s Office, the Community Investment Corporation, the Local Initiatives Support Corporation/Chicago, the Center for Neighborhood Technology, the Chicago Rehab Network, the Sargent Shriver National Center on Poverty Law, the Illinois Housing Development Authority, the Real Estate Center at DePaul University, and the U.S. Department of Housing and Urban Development (HUD).

The Preservation Compact’s priority activities—known as keystone initiatives—were developed on the basis of input

from local housing experts and data from the Real Estate Center at DePaul University.¹⁵ A project coordinator employed by the Urban Land Institute Chicago District Council helps create greater awareness of the value of and need for preservation activities.

These are the six keystone initiatives:

Preservation Fund. The Preservation Fund focuses on market segments not fully served by products offered at traditional financial institutions or by government subsidy programs. Modeled after a similar fund in New York City, an acquisition fund administered by the Local Initiatives Support Corporation’s Chicago office provides bridge loans for nonprofit and for-profit developers to acquire and hold at-risk properties while permanent, long-term financing is assembled.¹⁶ The acquisition fund is supported by a consortium of banks and foundations and targets projects with both an immediate need for capital to acquire the buildings and a solid plan for long-term financing. A predevelopment fund for smaller projects and a fund for troubled properties and mortgages are part of the suite of products.

All of the elements of the Preservation Fund will have been unveiled by the end of 2008. While the collapse of the real estate market over the last year has changed the market conditions in Cook County, making the “need for speed” in acquiring some properties less pressing, some owners are interested in accessing the fund to acquire buildings with expiring subsidies. Due to the cooperative work of the banks and other lending entities, the Preservation Compact is well positioned to consider additional lending products that respond to preservation market needs.

¹²*Id.* at 11.

¹³REAL ESTATE CENTER AT DEPAUL UNIVERSITY, THE STATE OF RENTAL HOUSING IN COOK COUNTY: CURRENT CONDITIONS AND FORECAST 5 (2005), http://ulichicago.org/PreservationCompact/Docs/The_State_of_Rental_Housing_Cook_County.pdf.

¹⁴Woodstock Institute, Foreclosure Crisis Impacts Chicago’s Rental Housing Market 1 (May 2008), www.woodstockinst.org/foreclosurerentalhousing_may2008_smith.pdf.

¹⁵URBAN LAND INSTITUTE, *supra* note 10, at 10.

¹⁶See New York City Department of Housing Preservation and Development, New York City Acquisition Fund, www.nyc.gov/html/hpd/html/developers/acquisition_fund.shtml (last visited Oct. 31, 2008). For more information on the Local Initiatives Support Corporation, see www.lisc.org/.

Interagency Council. Senior representatives of the government agencies that provide resources for affordable rental housing—the Chicago Department of Housing, the Illinois Housing Development Authority, HUD, and the Cook County government—meet monthly to explore how government programs can be coordinated to preserve affordable rental housing strategically. The council identifies high-priority preservation opportunities or needs and channels municipal, county, and state resources to those areas. It focuses on buildings with expiring project-based Section 8 contracts, buildings eligible for prepayment of federally insured mortgages, and troubled properties or portfolios. It also engages in long-term planning for preservation.

To date, the Interagency Council has identified—based on building conditions, market dynamics, and other factors—the 100 properties most at-risk of being lost from the affordable housing stock. The Preservation Compact is reaching out to owners of these buildings to discuss owner intent and needed resources. This experience will help the Interagency Council better understand owner needs and identify preservation-minded buyers when an owner opts out of a project-based Section 8 contract or prepays a federally insured mortgage or both.

Rental Housing Data Clearinghouse. Created by the DePaul University Institute for Housing Studies to give timely, accurate information about Cook County rental housing stock, the Rental Housing Data Clearinghouse collects and coordinates data and develops new sources of data that government agencies, community groups, and developers can use to analyze rental housing market dynamics. The clearinghouse staff is working with the Cook County assessor to capture rent levels in thousands of unsubsidized multifamily buildings. Rent-level data help identify the unsubsidized rental housing in Cook County and thus enable the Preservation Compact to develop preservation strategies that target this housing stock.

The clearinghouse staff will release a report in 2009 on all subsidized units in Cook County. The report will identify indicators of buildings most at risk of being lost from the affordable housing stock, as well as which Chicago neighborhoods and suburbs most need preservation intervention. This information is essential to ensuring that other keystone initiatives are effectively targeted within Cook County.

Energy Savers Program. Steep increases in utility costs have made reinvestment in property improvements difficult for their owners. High and unpredictable operating expenses have led some owners to allow buildings to deteriorate and others to convert rental units to condominiums. The Cook County Energy Savers Program, which includes energy assessments, technical assistance and education, contractor referrals, and low-cost loans for energy retrofits, helps owners reduce energy expenses. After the improvements are completed, the energy use of each participating building is monitored to ensure that energy savings goals are met. Multifamily buildings with five to fifty units are the focus of this program.

The response to the Energy Savers Program among owners has been very positive, and the availability of low-interest loans (underwritten by foundation support) has helped stimulate owner interest. In less than a year, more than 3,000 rental units have undergone energy assessments by program staff, and loans are in progress on one-third of those properties.

Rental Housing Alliance. The Illinois Federally Assisted Housing Preservation Act enables tenants to purchase (on their own or with a designated preservation buyer) subsidized properties whose current owners are threatening to opt out of the properties' project-based Section 8 contracts or prepay the properties' federally insured mortgages.¹⁷ The Act also requires owners to give tenants and government officials one year's notice of the owner's decision not to renew a project-based Section 8 contract or to

¹⁷Illinois Federally Assisted Housing Preservation Act, 310 ILL. COMP. STAT. 60/5 (2008).

prepay the mortgage.¹⁸ However, acting on those rights requires more resources than most tenant groups can muster on their own. The Rental Housing Alliance's education, training, and technical assistance allows tenants and communities to work together to preserve affordability of buildings at risk of losing subsidies. The alliance also serves as a liaison to government agencies and works with the Inter-agency Council to identify at-risk buildings for specific outreach to residents, owners, and elected officials interested in preservation. The Sargent Shriver National Center on Poverty Law and the Chicago Rehab Network constitute the Rental Housing Alliance.¹⁹

One example of the alliance's work is Grove Parc Plaza, a 504-unit, project-based, Section 8 development. HUD had notified the owner that, due to the poor condition of the housing, the owner was in regulatory default and HUD intended to abate and terminate the project-based Section 8 contract. The alliance provided legal representation to tenant leaders, worked with them to influence and educate public and private bodies about the need to preserve Grove Parc, and, with an organizing project, encouraged residents to push for preservation.

Ultimately these efforts led to the tenant leaders recruiting as a prospective new owner Preservation of Affordable Housing, a national nonprofit affordable housing developer.²⁰ The work of the Rental Housing Alliance, the residents, and the prospective and current owners led to HUD granting preliminary approval of the transfer to the new owner. The parties are now negotiating all aspects of Grove Parc's redevelopment plan, which will preserve all 504 units under the Section 8 contract and rebuild much of the development.

Lower Property Taxes. As assessed value has increased, property taxes have increased substantially in many neighborhoods and municipalities. The Cook County Board of Commissioners approved proposals by the Cook County assessor to decrease gradually assessment levels on multifamily buildings from 33 percent to 20 percent in 2008 and to 10 percent in 2011.²¹ The county also offers two property tax reduction programs for owners of rental properties. One program preserves project-based Section 8 multifamily rental housing in gentrifying or gentrified communities by allowing a 50 percent tax assessment reduction for apartments that remain affordable by offering project-based Section 8 units. The assessment reduction is calculated according to the proportion of Section 8 apartments in the particular building.²² The other program offers a 50 percent tax assessment reduction to developers who rehabilitate multifamily rental buildings and keep the rents below certain market levels. Property owners who commit to keeping rents affordable are eligible for a 16 percent assessment level until 2011, when property taxes for all larger multifamily buildings will be reduced.²³

Together these six initiatives are a practical and well-considered set of solutions to the region's most serious preservation problems. Some address factors that directly undermine the long-term viability and affordability of the region's existing rental supply, while others overcome barriers to successful preservation activity. The Preservation Compact is also working with Cook County housing agencies and entities to evaluate options for preserving foreclosed multifamily rental properties. Elements of these efforts will be incorporated into the scope of work for the Preservation Compact. When fully implemented, the Preserva-

¹⁸*Id.* 60/4.

¹⁹For information on the Sargent Shriver National Center on Poverty Law, see www.povertylaw.org; for information on the Chicago Rehab Network, see www.chicagorehab.org/aboutCRN/index.htm.

²⁰For more information on Preservation of Affordable Housing, see www.poah.org/.

²¹URBAN LAND INSTITUTE, *supra* note 10, at 37.

²²*Id.*

²³*Id.*

tion Compact's Rental Housing Action Plan is expected to curtail substantially the region's projected losses of affordable rental housing and stimulate housing improvements that strengthen communities.

Other Innovative Preservation Efforts

Cook County's Preservation Compact is not alone in its rental housing preservation efforts. As annually documented by the National Housing Trust, state and local governments increasingly focus their efforts on preserving affordable rental housing.²⁴ These public bodies have created an array of laws, funds, and incentives aimed at maintaining their supply of affordable rental housing and ensuring its long-term availability to very low-, low-, and moderate-income families. As noted by the National Housing Trust,

- forty-seven states make preservation a priority in their low-income housing tax credit allocation programs;²⁵
- twenty-five states provide tax credit set-asides for the preservation of affordable rental housing;²⁶
- a majority of states set aside a portion of low-income housing 4 percent tax credits and private activity bonds for preservation;²⁷
- thirty-eight states maintain housing trust funds that finance preservation

and rehabilitation of affordable rental housing;²⁸

- more than two-thirds of states encourage green initiatives through incentives for green construction of rental housing and energy efficiency implementation in existing properties;²⁹ many states also have established green threshold requirements in their affordable-housing finance programs;³⁰ and
- a majority of states provide low-income tax credit incentives for projects near public transit or in sustainable communities or both.³¹

The use of low-income housing tax credits is at the heart of these preservation efforts.³² According to the National Housing Trust, tax credits have helped preserve more than 280,000 affordable rental units over the last five years.³³

Among other state and local initiatives to preserve affordable housing are the following.

Legislation Giving a Right to Purchase to Tenants and Buyers Committed to Affordable-Housing Preservation. States other than Illinois and some municipalities have passed legislation giving certain tenants an opportunity to purchase properties; these are tenants living in federally subsidized properties whose owners are attempting to convert the properties to market rent or another use.

²⁴National Housing Trust, State and Local Housing Preservation Initiatives 1 (Summer 2008), http://nhtinc.org/documents/Pres_Scan_July_2008.pdf.

²⁵*Id.*

²⁶*Id.*

²⁷*Id.* Private activity bonds are tax-exempt bonds issued on behalf of state or local governments for the purpose of providing special financing benefits for qualified projects. These bonds are used to attract private investment for projects, such as affordable housing, that have a public benefit (see INTERNAL REVENUE SERVICE, TAX-EXEMPT PRIVATE ACTIVITY BONDS 2, www.irs.gov/pub/irs-pdf/p4078.pdf (last visited Nov. 3, 2008)).

²⁸National Housing Trust, *supra* note 24, at 1.

²⁹*Id.* See also Peter Levavi, *Beyond Green Roofs*, 42 CLEARINGHOUSE REVIEW 86 (May–June 2008) (review of *Blueprint for Greening Affordable Housing* by Global Green USA (2007)).

³⁰National Housing Trust, *supra* note 24, at 1.

³¹*Id.*

³²See 26 U.S.C. § 42 (2008).

³³National Housing Trust, *supra* note 24, at 1.

Under such legislation, often referred to as a “right of first refusal,” tenants or tenant organizations, public bodies, or a selected buyer committed to preserving a property’s current affordable subsidies attempts to buy the property to maintain the housing subsidies that make it affordable. Such “right of first refusal” or “right to purchase” laws obligate owners to make an offer of sale to tenants, public bodies, or a buyer committed to preserving affordable housing if certain conditions are met.³⁴ In other states, tenants are given the opportunity to make an offer to purchase the property but without any obligation on the owner to sell it.³⁵ “Right of first refusal” or “right of offer” laws sometimes also require that the affected tenants and public bodies (typically the city or state housing authority) receive at least a twelve-month notice of the property’s intended exit from the federally subsidized housing stock. Some laws provide only the additional notice period, without the tenants, public bodies, or buyers committed to affordable-housing preservation having a chance to purchase the property initially.³⁶ However, these “right to purchase” laws have faced some successful legal challenges. Courts struck down the Minnesota state and New York City preservation laws.³⁷

Green Rental Housing Preservation Initiatives. Preserving existing affordable rental housing is “green”—that is, preservation directly benefits the en-

vironment by reducing energy waste, new construction costs, and infrastructure support by maintaining the existing housing.³⁸ More important, because rising energy costs can pressure even the most committed owners of affordable rental housing to convert or sell their properties, rental housing owners (and tenants shouldering utility costs) who include green initiatives as part of affordable-rental-housing preservation strategies will see the direct financial benefit of preserving their housing.

Many state housing finance agencies have made environment-friendly preservation practices a priority by awarding points in their qualified allocation plans, which determine the allocation of low-income housing tax credits, for proposals including green initiatives. The various state qualified allocation plans award points for sustainable building practices, water conservation, low-maintenance design features, reuse of existing structures, the installation of energy-efficient appliances, and proximity to public transportation or other smart growth features.³⁹

Other local green preservation initiatives are aimed at giving property owners interested in greening their properties some financial incentives and benefits. Depending on the state or municipality, owners can be eligible for low-cost loans or grant programs aimed at green reha-

³⁴See, e.g., 310 ILL. COMP. STAT. 60/3 (2008); 20 ILL. COMP. STAT. 3805/8.1 (2008); MD. HOUSING & COMMUNITY DEVELOPMENT CODE ANN. § 7-101 (Lexis-Nexis 2008); ME. REV. STAT. ANN. tit. 30-A, §§ 4972, 4973 (2008); R.I. GEN. LAWS § 34-45-8 (2008); SAN FRANCISCO ADMIN. CODE § 60.4 (2008).

³⁵See, e.g., CAL. GOV’T CODE §§ 65863.10, 65863.11 (Deering 2008); see also National Housing Law Project, Housing Preservation, “Rights of First Refusal” in Preservation Properties—State and Local Initiatives, www.nhlp.org/html/pres/state/state_chart.htm (last visited Oct. 15, 2008).

³⁶See, e.g., TEXAS GOV’T CODE ANN. § 2306.185(f) (Vernon 2008); DENVER MUN. CODE §§ 12-106 *et seq.* (2008); PORTLAND CITY CODE §§ 30.01.030, 30.01.050 (2008).

³⁷*Forest Park II v. Hadley*, 336 F.3d 724 (8th Cir. 2003) (Clearinghouse No. 55,465) (finding Minnesota “right to purchase” law expressly and impliedly preempted); *Real Estate Board of New York v. City Council of New York*, No. 11445912005 (N.Y. Sup. Ct. April 11, 2007) (order striking down New York City “right to purchase” law as preempted by federal law), [www.nlihc.org/doc/DecisionREBNY_04-11-07-\(Legal_1700843\).pdf](http://www.nlihc.org/doc/DecisionREBNY_04-11-07-(Legal_1700843).pdf). But see *Kenneth Arms Tenant Association v. Martinez*, No. Civ. S-01-832 LKK/JFM (E.D. Cal. July 3, 2001) (Clearinghouse No. 53,896) (order upholding California preservation law used to enjoin owner from prepaying and opting out of federal subsidy program).

³⁸See National Housing Trust, *Preserving Affordable Housing Is Green—Fact Sheet: Environmental Benefits of Affordable Housing Preservation 1–2* (May 2008), www.nhtinc.org/documents/NHT_Green_Fact_Sheet.pdf.

³⁹See National Housing Trust, *Green Resources Relevant to Preservation of Affordable Multifamily Properties* (July 2007), www.nhtinc.org/documents/Green_Preservation_Summary_NHT_July2007.pdf.

bilitation, sales tax exemptions for the purchase of energy efficiency systems, property tax reductions or exemptions for installation of renewable energy systems, income tax reductions, rebates on renewable energy resources, or free municipal help to navigate the various green programs.⁴⁰

State and Local Housing Trust Funds.

State and local governments have created housing trust funds dedicated to the production and preservation of affordable housing. Arizona, the District of Columbia, Illinois, Iowa, Maryland, Massachusetts, Minnesota, Missouri, Montana, North Carolina, Ohio, Oregon, Rhode Island, Utah, and Washington have housing trust funds.⁴¹ Among municipalities that have created housing trust funds is Fairfax County, Virginia, which has dedicated “one penny for housing” from real estate tax levies to raise \$18 million for a local affordable-housing preservation fund.⁴²

In addition to these state and local trust funds, the Housing and Economic Recovery Act of 2008, signed by President Bush in August 2008, establishes this country’s first permanent national Affordable Housing Trust Fund.⁴³ Spearheaded by the National Low Income Housing Coalition and advocates throughout the country, this national trust fund is one of the first new federal housing production programs created since 1990. How the government takeover of Freddie Mac and Fannie Mae in October 2008 will affect the trust fund’s ability to generate dollars is unclear (because its revenue was based

on the business growth of Freddie Mac and Fannie Mae); however, states should receive a minimum of \$3 million annually.⁴⁴

Bridge and Acquisition Financing to Preserve Affordable Rental Housing.

Low-interest bridge and acquisition funds can provide critical and quick loan dollars to developers attempting to purchase at-risk rental properties when traditional financial institutions or public sources may not be able to step in on time to save the housing. Besides the Cook County and New York funds referred to above, for example, in 2008 Oregon created a \$6 million affordable-housing acquisition fund. The fund will provide interim, bridge financing to buyers attempting to purchase at-risk federally subsidized rental housing and preserve its affordability.⁴⁵ Wisconsin’s Saving Our Stock initiative focuses on the preservation of project-based Section 8 housing and provides financing to address, among other matters, acquisition and transfer of ownership.⁴⁶ Washington, D.C., recently set up a \$20 million fund to facilitate the expedient preservation of subsidized rental housing in the district.⁴⁷

Information Technology as a Preservation Tool.

The National Low-Income Housing Coalition, with the support of the John D. and Catherine T. MacArthur Foundation, is investigating the possibility of creating a national database, which the coalition is calling a “preservation catalog,” of government-subsidized rental properties.⁴⁸ The catalog, which would be

⁴⁰See *id.*

⁴¹See National Housing Trust, *supra* note 24.

⁴²National Housing Trust, State and Local Housing Preservation Initiatives—Virginia: Affordable Housing Preservation in 2008 (updated summer 2008), www.nhtinc.org/documents/VA_Preservation.pdf.

⁴³Housing and Economic Recovery Act of 2008, Pub. L. No. 110-289, 122 Stat. 2654.

⁴⁴See Press Release, National Low Income Housing Coalition & National Housing Trust Fund, President Signs Bill into Law to Create a National Housing Trust Fund (July 30, 2008), www.nlihc.org/template/page.cfm?id=40.

⁴⁵*New Acquisition Fund Expected to Preserve 6,000 Affordable Oregon Homes*, NATIONAL HOUSING TRUST NEWSLETTER (National Housing Trust, Washington, D.C.), March 26, 2008, at 1, www.nhtinc.org/newsletter_archive.asp?month=0308.

⁴⁶NATIONAL HOUSING TRUST, STATE AND LOCAL HOUSING PRESERVATION INITIATIVES (Spring 2007), www.nhtinc.org/documents/Pres_Scan_June2007_final.pdf.

⁴⁷National Housing Trust, *supra* note 24, at 16.

⁴⁸National Low Income Housing Coalition, Preservation Catalog, www.nlihc.org/template/page.cfm?id=133 (last visited Oct. 15, 2008).

the first national affordable-rental-housing database, would integrate information on all of the types of housing subsidies for each affordable-housing project.

The catalog would include information on all of the rental properties financed with one or more federal, state, or local subsidies that maintain the housing as affordable to low-income households. The information detailed in the catalog would include ownership and management information, the property's physical condition, the number of units with rental assistance, effective and exit dates for rental subsidies, owner intentions for the future of the property, and at what income level the property is affordable.⁴⁹

To make this catalog accurate and useful, the National Low Income Housing Coalition foresees creating a network of "project monitors" who would essentially function as the source of on-the-ground information for their community.⁵⁰ Project monitors would ensure that the catalog information correctly reflects the current state of the property, including information about recent notices of opt-out or contract termination.⁵¹ This local, front, and center perspective combined with the catalog's comprehensive information should enable affordable-housing preservation advocates to assemble and present quickly a strategy for preserving the affordability and underlying

subsidies of the housing properties.⁵² To create a preservation catalog that contains comprehensive information on the twelve federal rental subsidy programs that fund affordable site-based rental housing, the coalition is exploring legislation that would require the federal government to provide more and better data on all twelve programs.⁵³



Innovative strategies can help preserve affordable rental housing in this country. However, these strategies should not replace a decisive federal rental housing preservation platform. A tremendous start for that platform was the passage this year of the National Housing Trust Fund. The next administration has the opportunity to create an aggressive agenda of federal policies and funding aimed at preserving affordable rental housing. This agenda could in turn substantially make a difference in the ability of families and individuals to have the "decent home and suitable living environment" sought by the National Housing Act of 1934 and, ultimately, to escape poverty. In creating these federal policies and generating new sources of dollars for affordable-rental-housing preservation, the new administration can and should look to the initiatives created at the state and local level.

⁴⁹*Id.*, www.nlihc.org/template/page.cfm?id=133#desc.

⁵⁰National Low Income Housing Coalition, *supra* note 48.

⁵¹National Low Income Housing Coalition, What—or Who—Is a Project Monitor?, www.nlihc.org/doc/ProjectMonitorInfo.pdf (last visited Oct. 16, 2008).

⁵²See *supra* note 49.

⁵³National Low Income Housing Coalition, *supra* note 48.

Subscribe to CLEARINGHOUSE REVIEW

Annual subscription price covers

- six issues (hard copy) of CLEARINGHOUSE REVIEW and
- www.povertylaw.org access to current issues of CLEARINGHOUSE REVIEW and all issues from 1990

Annual prices (effective January 1, 2006):

- \$105—Legal Services Corporation–funded field programs (special discount)
- \$250—Nonprofit entities (including law school clinics)
- \$400—Individual private subscriber
- \$500—Law school libraries, law firm libraries, and other law libraries (price covers a site license)

Subscription Order Form

Name _____

Fill in applicable institution below

Nonprofit entity _____

Library or foundation* _____

Street address _____ Floor, suite, or unit _____

City _____ State _____ Zip _____

E-mail _____

Telephone _____ Fax _____

*For Internet Provider–based access, give your IP address range _____

Order

Number of subscriptions ordered _____

Total cost (see prices above) \$ _____

Payment

- My payment is enclosed.
*Make your check payable to **Sargent Shriver National Center on Poverty Law.***

- Charge my credit card: Visa or Mastercard.

Card No. _____ Expiration Date _____

Signature _____
We will mail you a receipt.

- Bill me.

Please mail or fax this form to:
Sargent Shriver National Center on Poverty Law
50 E. Washington St. Suite 500
Chicago, IL 60602
Fax 312.263.3846

CUT HERE