Council for Affordable and Rural Housing

Serving the Affordable Housing Needs of Rural America

Testimony of Robert L. Rice, Jr.

Representative from the
Council for Affordable and Rural Housing
Before

The U.S. House of Representatives
Committee on Financial Services
Subcommittee on Housing and Community Opportunity

May 8, 2007

1112 King Street • Alexandria, Virginia 22314 • (703) 837-9001 • (703) 837-8467 Fax
carh@carh.org • www.carh.org

TESTIMONY OF ROBERT RICE ON BEHALF OF THE COUNCIL FOR AFFORDABLE AND RURAL HOUSING BEFORE THE SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY, HOUSE COMMITTEE ON FINANCIAL SERVICES

RURAL HOUSING PROGRAMS: REVIEW FISCAL YEAR 2008 BUDGET AND PENDING RURAL HOUSING LEGISLATION

MAY 8, 2007

Chairman Frank, Chairwoman Waters and members of the Subcommittee:

I am Robert Rice, president of Crest Realty located in Frankenmuth, Mich. I have been involved in the rural housing industry for over 30 years. My company is a full-service real estate company with an emphasis on the management of affordable multifamily housing. I am appearing here in my capacity as President of the Council for Affordable and Rural Housing (CARH). CARH is a national organization headquartered in Alexandria, Va. CARH has sought to promote the development and preservation of affordable rural housing throughout its 27-year history as the association of for-profit, non-profit and public agencies that build, own, manage and invest in rural affordable housing.

On behalf of myself and CARH, I want to thank you and the Committee for the opportunity today to address issues surrounding federal rural housing programs, the 2008 Budget and pending rural housing legislation. We very much appreciate the Committee's ongoing interest and focus on affordable rural housing.

The condition of our nation's housing stock, in general, has improved over the last thirty years, but affordability of that stock is a growing problem. In rural areas throughout the country, there continues to be an overwhelming need for both affordable and decent housing. The need for rental housing is even more acute. With lower median incomes and higher poverty rates than homeowners, many renters are simply unable to find decent housing that is also affordable. While the demand for rental housing in rural areas remains high, the supply, particularly of new housing, has decreased. This is in large part due to a reduction in federal housing assistance. Neither the private nor the public sector can produce affordable rural housing independently of the other. It has been and should be a partnership. Therefore, CARH believes that a number of legislative initiatives should be supported and enacted to address this crucial need.

CARH supports H.R. 1980 and H.R. 1982, two bills introduced by Representative Hinojosa of Texas, co-founder and chair of the Congressional Rural Housing Caucus, together with Chairman Frank, Chairwoman Waters, and Representative Renzi of Arizona, vice chair of the Congressional Rural Housing Caucus. H.R. 1980 assists the Housing Assistance Council (HAC), with whom CARH has worked for decades to further rural rental housing. HAC offers valuable services to public, nonprofit, and private organizations in rural areas throughout the country, with a special focus on high-need groups and regions: Native American country, the Mississippi Delta, farmworkers, the Southwest border colonias, and Appalachia. By building their capacity through providing loans, training, technical assistance, and information, HAC enables communities to assist themselves.

H.R. 1982 further supports the U.S. Department of Housing and Urban Development's Rural Housing and Economic Development (RHED) program. RHED provides support directly to community organizations in rural places with high needs, small populations, and/or locations far from sizeable cities. Designed to be flexible in order to fit local conditions, RHED encourages innovative approaches that combine both economic and housing development.

For all of the reasons stated above, CARH believes that a greater financial commitment is needed. This certainly means more financing than provided in the Administration's FY 2008 Budget. We note the U.S. Department of Agriculture (USDA) Rural Development (RD) Housing and Community Facilities (HCF) FY 2008 budget is reduced by $175 million, which amounts to a 1/3 cut in the entire RD HCF budget over the last six years. Primary budget cuts include the Section 515 multifamily direct loan program, which is again budgeted for zero funding (compared to $100 million passed by Congress last year). In addition, Section 514/516 farm labor housing direct loan/grant programs suffer a $21 million cut in the budget – funding is reduced from $31 million to $10 million. The Section 502 single family direct loan program is also zeroed out, while the Section 523 self-help housing grant program, which covers administrative costs for nonprofit community organizations running self-help housing programs, sustains a $24 million cut. CARH seeks funding at least at the FY 2007 levels passed by Congress as a starting point. Indeed, a substantial budget increase is needed.

The Section 521 Rental Assistance (RA) contracts, which were originally five years in length, were cut to four years in FY 2005 and FY 2006 in order to lower the budget outlay for RA. The FY 2007 budget proposed shortening them to two years; P.L. 110-5, the joint funding resolution effective through September 30, 2007, provides two-year contracts in the total amount of $616 million. The proposed FY 2008 budget would provide $567 million for rural rental assistance; with the funds to be provided under one-year contracts.

CARH believes there are two problems with RA. The first is that RA contracts, even if subject to annual appropriations, should be 5- to 20-year renewable terms, similar to Section 8 renewals. The administrative strain of more frequent renewal processing is already being felt by our members and observed in RD staff. Shorter term renewals and static staffing levels cause more work without corresponding increases in resources. Second, the movement to one-year RA contracts has caused a budget paradox, causing the various multi-year RA contracts in place today to be renewed with ever shorter terms, causing all or nearly all of the RA contracts to be again renewed and reprocessed together in 2011. This will make the budget jump to about $1.1 billion in 2011 just to keep the contracts we have today.

Increases are being proposed for the agency's guaranteed loan programs. The budget contains $200 million for Section 538 guaranteed multifamily loans. CARH supports use of the Section 538 Rural Rental Housing Guaranteed Loan Program. While the focus of the Section 538 program has been in new construction, we believe that the program can be used for preservation of the Section 515 portfolio. There have been a few transactions where the Section 538 program has been used for this purpose, but we believe that more transactions will follow as soon as the viability is proven. The program should also be expanded to communities with populations not in excess of 50,000.

The Fiscal Year 2008 proposed budget also allows for $27.8 million for rural housing vouchers for low-income tenants in Section 515 projects where loans have been prepaid. CARH recommends that RD should be allowed to carry over unobligated funds from one fiscal year to the next year. To the extent that these funds are not spent this year for vouchers they can be used to for revitalization/preservation activities, subject to an authorization bill.

In addition, we believe there are several other legislative initiatives that can further housing preservation, and particularly, rural housing preservation. Prime among these is a reintroduction of the revitalization provisions of the "Saving America's Rural Housing Act of 2006" that was introduced in the 109th Congress by Representative Davis of Kentucky and many other Representatives. We want to thank Representative Davis for taking the lead on this bill, and we want to thank the other members of the Committee last session and presently for their ongoing efforts supporting the legislation. CARH had supported H.R. 5039, as introduced, but in all the discussion about 5039's prepayment provisions that followed, the paramount issue of preservation and revitalization of the Section 515 portfolio seemed to get lost. CARH continues to work with other industry groups for the key and central point of preservation and revitalization. We look forward to working with the Committee in your efforts to pass legislation during this Congress that will provide the necessary tools for owners to restructure the current debt on many properties across the country, thus preserving an integral part of the affordable housing stock.

CARH also supports the RD demonstration program effort known as the MPR – Multifamily Preservation and Revitalization. (Funding for the MPR program has been provided from RD's appropriations bills during the last two years.) MPR has funded some properties, but of equal importance, with perhaps even wider impact, is what the MPR and RD are able to do on an ad hoc basis, with just a few regulatory tools. Unfortunately, RD authority today is not enough to translate these ad hoc efforts into broader preservation, and the demonstration program has not had the impact we had hoped, notwithstanding RD's substantial efforts. We believe this is for two reasons. First, RD needs additional staff at the National Office to coordinate these activities. By all reports, much or most of the nearly 17,000 Section 515 apartment complexes are some 30 years old or older, with extremely thin capitalization. This has kept program costs extremely low but the deferred need is widespread and means we now need new funding for revitalization on most properties. The State Offices have begun working on these issues too, but preservation is in addition to the existing asset management work already demanded of the State Offices. RD needs to hire additional National Office staff to oversee this effort, but also needs authorization and funding to hire outside contractors, which is something that we discovered the Department of Housing and Urban Development (HUD) needed in its Mark-to-Market preservation program and the Resolution Trust Corporation (RTC) needed in its real estate restructuring efforts. Second, RD would benefit from new legislation and a single program rather than individual annual efforts. The demonstration programs are appreciated but it seems RD needs to ramp-up the effort anew each year. Developers and housing advocates also need to refocus their efforts and this does not advance the goal of a consistent program.

In addition to a housing preservation bill, CARH believes certain tax-related issues must be addressed by Congress. While tax issues are under the jurisdiction of the House Ways and Means Committee, we thank you for the strides this Committee, Mr. Frank and staff have made in working more in tandem with Ways and Means. Many of you on this Committee, because of your co-sponsorship of H.R. 1491, the "Affordable Housing Preservation Tax Relief Act of 2007," introduced by Representative Davis of Alabama and Representative Ramstad of Minnesota, understand the need to have "exit tax" relief for owners. H.R. 1491 would correct an imbalance inadvertently caused by the Tax Reform Act of 1986 and remove a barrier to preservation and reduce preservation costs. Almost all Section 515 properties were constructed through limited partnership arrangements and before 1986, were heavily reliant on tax depreciation. This structure makes it exceedingly difficult to introduce new capital into these properties, either through additional capital contributions from current owners or through the transfer of such properties to new owners. Because of rent restrictions that limit any cash flow from the property, new capital contributions would only generate additional passive losses which cannot be utilized by current investors. Yet, if the current owners sell the property it is almost impossible to generate sufficient cash to pay off the steep recapture taxes that would be owed. The best alternative for investors, many of whom are elderly themselves, is to hold the investment until death enabling their heirs to acquire the property with a stepped up basis that avoids any recapture taxes.

There are other important concepts as well, such as allowing financing based on statewide median income rather than local limits, which for rural areas are usually set in a nearly arbitrary manner and we believe artificially deflate median income limits. We also believe there is an important need to amend Section 42 of the Internal Revenue Code, so that Low Income Housing Tax Credits provide to Section 515 properties similar treatment as HOME-funded properties, which would allow for the first time nine percent tax credits with new Section 515 financing. These two changes will allow a more efficient use of existing affordable housing development and preservation tools without creating additional bureaucracy or new programs.

CARH also supports development of single family housing and continued funding of the direct Section 502 program and the Single-Family Guaranteed Rural Housing Loan Program, to enable eligible low- and moderate-income rural residents to acquire modestly priced housing for their own use as a primary residence. Rental properties and homeownership are complementary efforts that largely reach different economic populations. While some people can be helped with either rental housing or homeownership, a vibrant housing economy provides a choice, which also promotes fair housing efforts.

On issues that affect the broader housing industry, we applaud this committee reporting to the full House of Representatives H.R. 1427, the "Federal Housing Finance Reform Act of 2007." This bipartisan legislation would overhaul the regulatory oversight of the government sponsored enterprises (GSE) of Fannie Mae, Freddie Mac and the Federal Home Loan Banks, and provide for an off budget and non-taxpayer financed affordable housing fund.

On behalf of CARH, we again thank the Committee for this opportunity to highlight the important issue of rural housing preservation. With a few relatively minor changes Congress can provide the tools needed to continue the successful public/private partnership for affordable rural housing.