TESTIMONY OF SCOTT C. SYPHAX
PRESIDENT AND CEO
OF NEHEMIAH CORPORATION OF CALIFORNIA
BEFORE THE
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY
OF THE FINANCIAL SERVICES COMMITTEE
OF THE HOUSE OF REPRESENTATIVES

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Madam Chairwoman and Members of the Subcommittee:

Thank you for inviting me to testify today. I am Scott Syphax, President and CEO of Nehemiah Corporation of America, the oldest and largest of the so-called "privately –funded" downpayment assistance providers. Nehemiah has made gifts of over $909 million dollars to 228,000 families enabling them to become home owners. I joined Nehemiah over seven years ago because I believed in its mission of promoting homeownership among those traditionally underserved by the customary mortgage market: lower-income, single parent, and minority families. Today, I believe more than ever in Nehemiah's mission of wealth creation and prosperity development through the opportunity of homeownership.

Nearly 230 years ago, my ancestor Charles Syphax arrived in this country not five miles from here at the plantation of George Washington Parke Custis. He took a wife, Custis' daughter by a slave woman. Custis gave his daughter and her husband acreage that now is the resting place for this nation's most sacred sons and daughters who made the ultimate sacrifice, Arlington National Cemetery. Eventually, Custis gave them their freedom as well and the ownership of that land which was eventually sold in pieces to the Army for our fallen heroes. That property ownership formed the basis for my family to seek higher education and to achieve prosperity that carried generations forward to this very day. I stand on the shoulders of the sacrifices of those who came before me.

Unfortunately, my history is not the typical history of far too many Americans. Any reader of the Federalist Papers knows that property ownership and the right to use that property were inextricably at the center of the American Revolution and the creation of this nation. But for far too many, the ownership of property and the access to ownership -- basic tools for achieving prosperity -- is still a dream deferred.

However, because of the creation of private downpayment assistance that dream has become reality for almost a million American families. Nehemiah was the first private downpayment assistance provider; its Program started in Sacramento with a $5,000 loan by small black, Baptist church, Antioch Progressive, in 1997. Nehemiah created the downpayment assistance mechanism at the request of a late Sacramento City Councilman in order to move 160 low-income families into ownership of a small development of duplexes purchased in a foreclosure sale in South Sacramento. The impediment for the would be purchasers -- members of the local community -- obtaining mortgages was a lack of savings and no access to a down payment.

The Nehemiah Program achieved unexpected success. In fact, the program was so successful that we were was subsequently approached by others throughout northern California who were in possession of foreclosed single-family homes or standing inventory of unsold homes that were in the affordable range, and who wanted to serve LMI buyers.

Nehemiah later expanded throughout California. During this time, there was much controversy surrounding the program, primarily related to the assumption that individuals and families who did not put down significant savings toward the purchase of a home: (1) had not demonstrated "worthiness" or appropriate personal responsibility to be granted the privilege of homeownership and; (2) were more likely to walk away from their mortgage responsibility.

During this time, staff at HUD sought to close the program down. These attempts were rebuffed with assistance from several members of Congress, primary among them the late Congressman Robert Matsui of Sacramento. After litigation, a settlement with HUD allowed the Nehemiah Program to be used in all 50 states and also set the stage for the entrance of other players into the downpayment assistance market.

It might be helpful if we have a common understanding of what downpayment assistance is not and, more importantly, what it is. Downpayment assistance does not -- and I emphasize the not -- have anything to do with predatory lending or subprime mortgages. In fact, it is the antithesis of predatory lending and subprime mortgages. In this context, predatory lending is placing a borrower, usually but not always a lower income borrower, in an inappropriate mortgage loan. The interest rate is often several percentage points higher than the rate for FHA-insured mortgages and resets after a specified period at an even higher rate. The worst of these loans contain negative amortization features that essentially trade making smaller payments for adding additional interest costs and fees to the principal balance of the loan resulting in a mortgage that can soon far exceed the value of the house. These mortgages can literally leave a family a virtual prisoner of mortgage debt. Since these loans are usually made to borrowers on the lower end of the credit spectrum, they are known as subprime mortgages and most agree, are predatory.

Nehemiah downpayment assistance is certainly not that. By contrast, over 98% of Nehemiah's downpayment assistance is used solely in conjunction with a comparatively low interest, FHA-insured mortgage loan. Nehemiah is interested not only in FHA's success, but its very survival.

As the Committee is aware, FHA mortgage insurance has been a major engine over the last seventy-five years in propelling America into broadening the national community of homeowners. We believe that downpayment assistance extends the benefits of FHA insurance to a traditionally underserved class of borrowers, and thus, like FHA itself, helps present an alternative to predatory lending and subprime mortgages, an alternative that is far more fair to the borrower. I do not mean to imply that downpayment assistance is perfect; it desperately needs HUD regulation or guidance, which Nehemiah has argued in support of for nearly a decade, a vitally important point to which I will return.

The benefits of homeownership are well known, which has made promoting homeownership a longstanding goal of the National Housing Act. In addition to enabling families and individuals to build equity in their homes, homeownership causes owners to take better care of their homes and be more concerned with their neighborhoods and communities. Downpayment assistance brings those benefits to the underserved -- minorities, single parent households, and low-income families and individuals. In supplemental testimony which I will shortly submit to the Subcommittee, the advantages of DPA programs are discussed more fully.

Instead of being an agent of predatory lending and subprime mortgages, downpayment assistance can help with the problems created by subprime lenders. FHA has been touted as a partial solution to this crisis, and downpayment assistance can help those families who have very little or no equity in their homes to refinance out of subprime mortgages into lower interest, fixed rate FHA-insured loans.

I am aware that the Financial Services Committee has reported legislation authorizing FHA to issue flexible downpayment mortgages. Nehemiah supports flexible downpayment mortgages and applauds the Committee for its action. While we view flexible downpayment mortgages as slightly less advantageous to the homebuyer than privately-funded downpayment assistance, Nehemiah supports the introduction of this additional tool for FHA for the public policy reason that we believe that possession of personal savings should not be a determinant of moral fitness or that access to family wealth for a downpayment by accident of birth should not be assumed a proxy for worthiness of an individual attempting to purchase a home. For too many generations, both of these assumptions have locked minorities, immigrants, female-headed household, and other disadvantaged American families out of homeownership. Nehemiah sees the passage of this legislation as HUD's tacit acknowledgement of the arguments that we advanced in birthing the Nehemiah Program and our contribution to changing the dialogue and assumptions held by far too many regarding the capacity of the underserved to successfully join the American mainstream. We support FHA's efforts in helping to change that dialogue through innovation.

Assuming that DPA has proper regulation or guidance from HUD, we believe that the combination of DPA and "zero down," as it is informally known, could lead to a true resurgence of FHA and a reasserting of its historical role in being the provider of choice for low and moderate income families seeking homeownership.

There have been substantial criticisms of downpayment assistance over the years, such as allegations of fraud, which are more properly described as improper enrichment of the officers of some providers. That type of conduct was unacceptable and has been almost completely eliminated. In the preamble to the NPR, HUD asserts that downpayment assistance leads to inflation of housing prices. While Nehemiah disputes this and while the submission by Dr. Hassett of the American Enterprise Institute refutes this assertion, we emphasize strongly that any such problem is not confined to DPA. (Indeed, according to Dr. Hassett's research, neighborhoods with a preponderance of FHA DPA activity appreciate faster than non-DPA FHA neighborhoods studied in the control group.) Appraisals are the real issue, and they are an FHA and industry wide concern. Nehemiah, Ameridream and others have consistently urged HUD leadership to address issues related to appraisal accuracy as part of comprehensive reform of national appraisal standards. Nehemiah supports a "blind pool" appraiser selection process such as the one utilized successfully by the Department of Veterans Affairs.

There have been a number of studies of DPA default/claim rates over the years. With all due respect, all miss the mark because they compare DPA-supported loans with other FHA loans, which, by definition, are supported by more equity. The proper comparison should be to subprime loans supported by little or no equity. A Government Accountability Office study showed a claim rate of approximately 6 percent for DPA-supported mortgage loans; that compares with a subprime rate which is reported to be 12 percent and climbing.

Default statistics are misleading at best. If everyone who was ever late on a mortgage payment was deemed "unworthy" for homeownership, America would be a rental society. The FHA insurance fund only has to pay for claims, not for defaults. Therefore, the superficial discussions relating to default rates are moderately useful for information purposes, but ultimately not substantive from a cost perspective.

Nevertheless, Nehemiah believes that comprehensive reform would diminish claim rates and should include such things as mandatory homeownership education that permits the flexibility of web-based training. Nehemiah itself, through its on-line course available in both English and Spanish, graduates thousands of prospective homebuyers every month.

Another issue usually raised regarding downpayment assistance is the perceived cost to taxpayers. Let us review the results. Since the creation of this form of downpayment assistance, close to one million families have become homeowners. This achievement is even more striking in that this accomplishment has taken place without a single direct appropriation or subsidy by the Federal Government to Nehemiah, Ameridream, or any other downpayment assistance providers utilizing the Nehemiah model. (Of course, there is the possibility that DPA-supported mortgages have a negative net impact on the FHA insurance fund. Arguably, that would constitute a subsidy by other FHA-assisted borrowers to DPA borrowers. If any such negative impact exists, it can be corrected by variable insurance premium rates, which would be authorized by H.R. 1852, as reported out by this Committee.)

An illustration of the efficiency of this model is a comparison of the costs and results between the American Dream Downpayment Initiative (ADDI) and the Nehemiah Program. The following is a chart developed from official HUD documents and budget submissions related to ADDI and its performance and cost achievements.

	Homebuyers Served				
	FY 2004	**FY 2005**	**FY 2006**	**FY 2007 ***	**Totals**
American Dream Downpayment Initiative[1]	2,263	8,894	7,500(Goal)	5,000	23,657
Nehemiah Corporation of America	24,248	16,710	13,211	18,000	72,169

	Federal HUD Appropriations for Downpayment Assistance				
	FY 2004	**FY 2005**	**FY 2006**	**FY 2007 ***	**Totals**
American Dream Downpayment Initiative Budget (in millions of dollars) as approved by Congress[2]	$87	$50	$25	$50	$212 m.
Appropriations by Congress to fund and administer the Nehemiah Program	$0	$0	$0	$0	$0

	Appropriated Cost per Family Assisted				
	FY 2004	**FY 2005**	**FY 2006**	**FY 2007 ***	**Average Cost**
Total Direct Cost to HUD and U.S. Taxpayers per homeowner created by ADDI	$38,444	$5,621	$3,333	$10,000	$8,961
Total Direct Cost to HUD and U.S. Taxpayers per homeowner created by the Nehemiah Program	$0	$0	$0	$0	$0

* Projected

[1] Source: 2007 Annual Performance Plan, U.S. Department of Housing and Urban Development

[2] This number does not include program expenditures not related to the American Dream Downpayment Assistance Act (ADDI)

While Nehemiah Corporation supports the American Dream Downpayment Assistance Act as another vehicle to assist families in achieving homeownership, the evidence clearly demonstrates that private downpayment assistance has achieved significantly greater success in creating new, successful homeowners from underserved communities at no direct cost to the government. Further, Nehemiah provides downpayment assistance to homeowners in an average amount of less than $4000 as compared to almost $9000 per homeowner for the ADDI program.

What are the results of this downpayment assistance that has happened at no direct cost to the government? According to a 2004 study published by the Milken Institute and the United States Conference of Mayors, the Nehemiah Program (which at that time had served 115,000 families) was responsible for increasing the net wealth of these families by **$2 billion over the years 1997-2003; or $18,000 per family**. These families had an average income of just $40,764 per year. Additionally, **these LMI homeowners paid over $287 million in property taxes in the six cities studied**. From an asset development and wealth creation perspective DPA is one of the nation's unacknowledged success stories of the past decade. For further data on this study, Ross DeVol, Director of Regional Economics for the Milken Institute, has submitted testimony for the Subcommittee's review.

There has been much discussion on the issue of DPA performance. Frankly, given the amounts of bad information that have been repeated time and time again, it is confusing to even the most diligent student of this activity to separate fact from biased assertion. However, there are two points that I think we can all agree with. One, the performance of private downpayment assistance could be significantly improved by imposition of industry wide performance standards that support successful homeownership, and two, the lack of standards and best practices for the last decade means that as successful as downpayment assistance has been, its performance would have been greatly enhanced by the best practices and program requirements that groups like Nehemiah and Ameridream have individually and collectively advocated.

The problems of the industry were first brought to HUD's attention by Nehemiah. The proposals to fix the problems were first advanced by Nehemiah. The documents in the possession of the Committee are a historical record of this fact. HUD's response has been nothing but silence for close to a decade until this proposed rule. On the other hand, HUD's Office of the Inspector General has been unrelenting in its criticism of private downpayment assistance. Much of this criticism is wrapped up in the flag of "safety and soundness" and the protection of the FHA insurance fund. While safety and soundness are obviously important from a performance and financial management perspective, the sole focus on this issue without balancing the extension of opportunity threatens to undermine fulfillment of FHA's historic mission. Given the Inspector General's recent testimony of March 15, 2007 before the Senate Appropriations Subcommittee on Housing, Urban Development and other Agencies where he compares private downpayment assistance to FHA's proposed flexible downpayment program by stating "It is reasonable to conclude that zero down payment loans would represent a comparable insurance risk," it appears that neither program pleases the safety and soundness objectives of the Inspector General. What is FHA's alternative? The status quo relegates FHA to an increasingly marginal status. The status quo minus private DPA threatens extinction. I believe an appropriate question for the Subcommittee to ask is "What initiatives does the Inspector General support to expand homeownership opportunities to the underserved and to meet FHA's historic mission?"

I ask the Committee to consider the following: according to most reports, FHA has lost almost 80% of its market share over the past five years. Much of that loss came from three factors:

1. FHA's antiquated processing requirements and program restrictions led many in the housing field to abandon FHA for private sector alternatives.

2. The private sector provided a number of new, untested mortgage products due to the influx of foreign investment through the international capital markets.

3. The perceived harshness of HUD's audit process led many lenders, especially publicly traded companies with reputational risk exposure, to abandon FHA in order to close off the possibility of a sudden drop in market value and associated costs because of a heavily publicized audit that might later be closed with little or no action.

Against this backdrop, DPA grew in market share to almost 40% of FHA single family production. Downpayment assistance providers virtually alone have continued to promote FHA to the general public and train the community how to utilize the program successfully. Without DPA, FHA's condition would almost certainly be more dire than it is today.

Fortunately, under FHA Commissioner Montgomery's tenure, FHA is finally beginning to address the longstanding issues that have been structural impediments to its vitality. Additionally, Congress' recent focus on the excesses of some of non-FHA lending to low-income and minority families, as well as the promulgation of the Federal Reserve's and the Office of the Comptroller of the Currency's Interagency Guidance on Lending, has Wall Street rethinking its recent love affair with these strange products with uncertain or negative attributes. America is poised to rediscover FHA.

How dark an irony that at the moment of greatest opportunity in a generation for this historic program to reclaim its place as the portal to a better life for low-income Americans, HUD itself is proposing to immediately eliminate 40% of its current volume -- a 40% share that is obtained through non-profits who do not receive a single dollar of support from HUD in serving these populations. It has proposed an alternative, flexibile downpayment product. However, until the product meets the market no one can tell what its prospects are for success. Remember New Coke or the Sony Betamax?

A dispassionate observer would likely say that given the aforementioned facts, the proposed rule makes no sense as rational behavior or measured action. This proposed rule is so draconian that not even local governments, cities, and counties can offer gifts for FHA downpayment assistance if a seller participates in the transaction. Theorectically, a housing authority could not offer downpayment assistance to renters of homes it owns since as the seller, it too would "benefit."

The result of this proposed rule would be to potentially push even more of FHA's traditional constituency away at the moment that FHA should be the answer to the question "Where does the low-income, historically dispossessed homebuyer go to find a fair deal?" It makes no sense. Furthermore, with nearly one million families in homes because of private-downpayment assistance, how can Nehemiah and other providers not be a part of FHA's answer to America's families?

HUD's explanations for such actions makes no more sense than the proposal itself. Discovering why HUD proposes an absolute ban of this model rather than fix this engine of homeownership is a question worthy of Congress. The proposed rule might have happened in silence were it not for this Subcommittee and for the homeowners across the country who have responded to our plea that they let Washington know what they think. Over 7000 responses have been submitted to the federal regulations website to date. They come from every congressional district in the United States. Most of the DPA recipients that we have spoken to gladly offered to communicate on this issue when they heard that this model might not be available in the future for people like them. These are not rich people, they are not well connected people, they are, however, your people. They are your constituents and neighbors, and frankly, they do not like being discussed as mere statistics related to defaults or implied to be not smart enough to "handle the responsibility" of homeownership. As one homeowner who had missed a payment but managed to get current once told me when I shared with him that he was not a human being in eyes in the auditors, but as a "default" who was theoretically costing taxpayers "their" money. His response was "Don't they know that I pay taxes too?"

I respectfully urge Congress to consider introducing legislation setting standards of performance and conduct for private DPA. HUD has refused to act and the time has come to ensure that this model be sustained regardless of what type of organization ultimately continues this activity. It may not be Nehemiah Corporation that continues in this activity in the future, but for the sake of the aspirations of the untold families for whom this assistance may be their only means of purchasing a home, this model must be preserved.

I will close by asking each of you to consider a 2007 adaptation of Ronald Reagan's famous question of the 1980 presidential election:

Would America and the 1,000,000 American families that are homeowners because of DPA be better off today if the Nehemiah Program had never been invented?

If your answer is yes, support the proposed rule and kill the program. Kill it quickly.

If your answer is no, then support us and "mend it, don't end it."

Ultimately, it is in your hands and it is your decision. The Secretary of HUD has stated plainly in a recent interview in Bloomberg that he would not be deterred by any force from shutting down downpayment assistance by the end of 2007, regardless of the comments to the proposed rule.

In closing, I am reminded again of that my personal journey of my family started less than fivemiles from here over 200 years ago. A journey like many others, but the promise of prosperity came from freedom and the ownership of property. Our peoples wants and dreams are much the same as they were at the founding of this country. Despite its mistakes, America always, inevitably moves forward toward a fairer, more just, and compassionate society. Let's continue that tradition by keeping the doors of opportunity open one more time.

The choice and the power is yours. America's families await your decision

Thank you for listening and for caring enough to hold this hearing.

Madam Chair, this concludes my prepared testimony. I would be happy to answer any questions that you or other Members of the Subcommittee have.