Affordable Housing Preservation
Federal Policy Context

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What is LISC?

- **Local Initiatives Support Corporation**
  - LISC is dedicated to helping nonprofit community development organizations transform distressed communities into healthy and sustainable communities of choice - good places to work, do business, and raise children.
  - LISC local offices serve 30 urban areas and Rural LISC works with 74 partner CDCs in 36 states nationwide

- **LISC’s Preservation Initiative**
  - Provided $80 million in financing since 2002 to preserve 15,000 homes
  - Supports LISC local offices and our nonprofit partners with financing, project-specific TA, creation of preservation strategies and partnerships, and policy analysis
  - Produces information products: guides, webcasts, trainings
Overview

- What is the universe of at-risk affordable housing?
- Why is affordable housing at risk?
- What policies are in place and being considered to help stem the tide?
- How can we make the inventory sustainable?
What Do We Mean By Affordable Housing?

- **Federally Subsidized**
  - Privately owned but publicly subsidized housing through HUD, RHS, IRS

- **Public Housing**
  - Federally subsidized
  - State and local public housing

- **Private Housing**
  - “Market Rate” Affordable

**Approximate Distribution of Affordable Housing by Type**

*Total is Joint Center estimate of rents affordable to lowest income families*
Timeline of Federal Housing Programs

Deep Subsidy
- Public Housing
  - Housing Act of 1937
- §202 Elderly Housing
  - Housing Act of 1959
- §221(d)(3) BMIR
  - Housing Act of 1961
- §236 (IRP)
  - Housing and Urban Dev’t Act of 1968

Section 8
- Housing and Community Dev’t Act of 1974
- LIHTC
  - Tax Reform Act of 1986

Shallow Subsidy
- MAHRA
  - Multifamily Assisted Housing Reform and Affordability Act of 1997
- ELIHPA & LIHPRHA

Assisted Housing Stock

- **Section 8 Rental Assistance**
  - Tenants pay 30% of income toward housing

- **Subsidized FHA Mortgages**
  - Rents are budget-based

- **Low-Income Housing Tax Credits**
  - Rents set affordable to targeted incomes between 40% and 60% of AMI

* Includes only 9% LIHTC Units
Types of Risk

- **Market Risk**
  - Gentrification – conversion to market rate
  - Neighborhood distress – negative impacts on property
  - Obsolescence – physical and environmental

- **Policy Risk**
  - Contract expiration – owners have rights to renew but can opt-out
  - Mortgage prepayment/maturity – no protection at maturity
  - Appropriations risk – HUD can only renew “subject to appropriations”
  - HUD enforcement actions – terminate S8 contract or foreclose

- **Owner Capacity/Incentive Risk**
  - Owner pulling money out, neglecting property
  - Unsophisticated owner misses program opportunities
Measuring the Risk: Section 8 Contracts

Section 8 Contracts by Year of Expiration
(Number of Units)

Source: LISC analysis of HUD Section 8 Contracts Database. Regions are defined by US Census.
Measuring the Risk: Subsidized Mortgages

Subsidized Mortgages by Year of Maturity
(Number of Units)

Source: LISC analysis of HUD Insured Multifamily Mortgages Database. Includes Section 236 and 221(d)(3) mortgages. Regions are defined by US Census.
Measuring the Risk: LIHTC Year 15

Estimate of LIHTC Volumes Hitting Year 15
(Number of Units)

Source: LISC analysis of LIHTC database based on year placed in service.
Measuring the Risk: Physical Deterioration

Properties with Failing REAC Scores

- **Northeast**: 7.0%
- **Midwest**: 4.1%
- **South**: 5.0%
- **West**: 5.9%
- **Total**: 5.4%

- Percent Failing (Below 60)
- Percent Below 30
Measuring the Risk: Energy Inefficiency

NYEF Utilities as % of M&O 1997/8 vs. 2007

1997/8
M&O = $4,261
Utilities = 34.10%

2007
M&O = $6,325
Utilities = 44.4%
Existing Federal Preservation Tools

- Section 8 Contract Renewals
  - Mark to Market and M2M Green
  - Mark up to Market/Budget
- IRP Decoupling, other refinancing
- 202 Refinancing (“old law” and post-1974)
- PHA Project-Based Vouchers (PBVs)
- Tax Exempt Bonds / LIHTC
- Enhanced Vouchers (EVs) for Tenants
- Project-basing EVs: Moving to Work PHA; FY 2012 provides limited new authority.
Preservation Elements of Stimulus Legislation

- **2008’s Housing and Economic Recovery Act**
  - GSE (Fannie/Freddie) Duty to Serve Preservation
  - Tax Credit Program Reforms – 10 year rule and related party ownership, coordination with LIHTC/HUD; Discretionary basis boost.
  - Project-Based Voucher Enhancements – allows terms to 15 years
  - Neighborhood Stabilization Program – Foreclosed multifamily

- **2009’s American Recovery and Reinvestment Act**
  - Fully Funded Project-Based Section 8
  - Energy Retrofits for Assisted Housing: $250 million
  - Tax Credit Assistance Program and Exchange
  - Weatherization: $5 billion through Dept. of Energy

* funding suspended by GSE regulator until further notice.
2010 Omnibus Preservation Bill: H.R. 4868

- Preservation “wish list”
- Included reforms to Section 202 and RHS
- Some provisions could be handled administratively by HUD
- Failed: lack of industry consensus; poison pills

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<th>Provisions of Preservation Bill</th>
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<td>- Rent Supplement, RAP Conversion to Section 8</td>
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<td>- Year 40 subsidized mortgage maturity</td>
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<td>- Right of First refusal</td>
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<td>- Project-basing Enhanced Vouchers</td>
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<td>- Incentives to preserve HFA-financed properties</td>
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<td>- Prohibit federal pre-emption of state preservation laws</td>
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<td>- Rehab grants for distressed properties</td>
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<td>- Establish HUD mandate to preserve distressed housing</td>
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<td>- Clarify Mark-up-to-Market in LIHTC properties</td>
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<td>- Update Mark-to-Market restructuring</td>
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<td>- Streamline continued use of existing subsidies</td>
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<td>- Improve tenant protections</td>
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<td>- Tenant capacity building</td>
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<td>- Transparent property data</td>
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S.118: Section 202 Supportive Housing for the Elderly Act

- Facilitates refinancing of “old law” §202s.
- Creates new project-based Senior Preservation Rental Assistance Contract.
- Clarifies use of equity takeout for mission.
- Permits reconfiguration.
- Clarifies subordination and waiver of Flexible Subsidy repayment.
Section 8 Voucher Reform Act

- House passed bill in 2007; Senate introduced 2008
- Now: Section 8 Savings Act
- Preservation-related PBV provisions proposed:
  - Increase allowable share of a PHA’s vouchers that can be project-based from 20% to an additional 5% to serve disabled, elderly and homeless persons. Base limit on units, not dollars.
  - Relax income-mixing requirements for tight markets and targeted populations
  - Increase maximum initial contract term to 20 Years
  - Good cause eviction protection
- Issue: Proposed increase in minimum S.8 tenant share.
Administration’s Preservation Initiatives

- Fully fund Section 8 requirements
  - Expands HOPE VI concept to federally-assisted housing
  - Connection with school reform and other interventions
- Green Finance Plus
  - Joint program: FHA and FNMA
  - Reduced DSC, increased LTV
  - Result: 4-5% increase in loan proceeds
  - Green PNA required
Administration’s Preservation Initiatives (continued)

- Energy Innovation Fund (FY 2010 Funding)
  - $25 million Multifamily Energy Pilot Program
  - Catalyze innovations in the residential energy efficiency
  - Help create a standardized home energy efficient retrofit market
  - Financing and applied research tranches
  - Data-driven
Administrative Preservation Measures

- Multifamily Preservation Website
- Flexible Subsidy repayment
- Clarification of long-term S.8 renewal terms
- Guidelines for “old law” §202 refinancing
- Subordination of §202 direct loans
- Assumption, Subordination or Assignment of Mark to Market (MTM) Program Loans
  - Eliminate 3 year time limit for QNP assignment?
Administrative Preservation Measures (Continued)

- Conversion of Efficiency Units to One-Bedroom
- Small-area FMR Demonstration
- Collection Procedures for Delinquent Section 202 Direct Loans
- Nonprofit Equity Takeout
- Use of reserve for replacement fund in post-mark-to-market properties.
- Clarification and Implementation of Tenant Participation Requirements
- Revised 2530 Flag Protocol
Administrative Preservation Measures (Pending)

- Section 8 Renewal Guide Revisions
- Clarification of Preservation issues for LIHPRHA and ELIHPA properties
- Clarification of authorities to transfer project-based Section 8
- Implementation of new FY 2012 authority for Rental Assistance Demonstration and renewal & project-basing of “orphan” rental assistance
Other Preservation Issues

- Troubled Properties Spectrum of Actions
  - Improved asset management
  - Enforcement
  - Foreclosure – S.8 HAP Termination
  - Disposition: role of unit of local government; owner selection; adequacy of repairs; future use restrictions and rental assistance
Fair Housing and Preservation

- Subsidized housing is an important fair housing resource
- HUD Secretary is committed to fair housing
- HUD proposed rule clarifying and expanding disparate treatment procedures.
- Supreme Court will hear *Magner v. Gallagher*, over disparate treatment test, which can be a preservation tool.
Budget Control Act of 2011: Sequence

- Debt Ceiling Raised *(estimated to be sufficient until early 2013)*
- $900 billion in binding discretionary spending caps through 2021 (vs. 2011 level, inflation-adjusted)
- Balanced Budget Amendment required vote
- Joint Select Committee vote and report on additional $1.5 trillion in deficit reduction through 2021
- Up or Down vote in both Houses
- Real deadline = January 1, 2013?
- Lame Duck session begins November 7, 2012
Budget Control Act of 2011: Sequence (continued)

- Enforcement: Sequestration (automatic spending cuts) if at least $1.2 trillion in deficit reduction is not achieved.
- Sequestration begins January 1, 2013, ¼ into FY 2013.
- Line-by-line in 2013; allocable by Appropriators after then.
- Disparate effect of rigid formula cuts: e.g., rental assistance
Considerations for a New Preservation Agenda

- Reality: New Resource Scarcity
- Role of state & local government
- Neighborhood Context
- Balancing Incentives with New Resources
- Incentives vs. Mandates
- Universe of Preservation
LISC’s Preservation Resources

www.lisc.org/preservation
LISC’s Green Preservation Resources

www.lisc.org/greenpreservation