



December 24, 2010

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street, SW., Room 10276
Washington, DC 20410-0500.

Re: Docket No. FR-5246-P-02, RIN 2506-AC30, Housing Trust Fund

The National Housing Trust is the only national nonprofit engaged in housing preservation through public policy advocacy, real estate development, and lending. The Trust advances federal, state, and local policies that create equitable and sustainable communities by safeguarding our nation's affordable homes, partners with investors to buy and renovate affordable apartments that are at risk of being converted to non-affordable use, and provides early money to developers to help them purchase and renovate affordable apartments. Over the past decade the Trust has helped save and improve more than 22,000 affordable rental apartments in 41 states.

The National Housing Trust strongly supports the National Housing Trust Fund (HTF) as a means to provide decent, safe, and affordable housing for households with some of the lowest incomes, and we appreciate HUD's release of draft regulations to specific how the HTF will operate.

We support the comments provided by the National Low Income Housing Coalition with respect to ensuring that Trust Funds resources be dedicated to supporting affordable housing for the neediest households.

We support long-term affordability restrictions for properties receiving funding from the HTF. However, as a property developer and owner, we recognize that long-term affordability for the poorest households is not feasible without the financial resources necessary to support the long-term physical needs of the property. We urge that long-term affordability restrictions for properties receiving HTF support be contingent upon the continued availability of any existing rental assistance and that it be further contingent upon the availability of financing to make normal capital repairs and improvements. The owner of assisted properties shall be responsible for renewing existing assistance contracts and making reasonable efforts to find necessary financing for capital repairs and improvements.

We are particularly supportive of efforts to establish basic standards of energy efficiency for properties supported by the HTF and welcome the opportunity to comment on these draft standards. While we endorse the basic framework of this proposal, there are certain special cases that require additional consideration. We believe the following modifications would significantly enhance the approach to combining energy efficiency with affordability for those who need it most.

Mixed Properties

In general we favor the energy efficiency approach specified in the proposed rule, and in particular we applaud HUD's recognition that rehabilitation of existing buildings (even at a slightly lower level of energy efficiency) is generally more energy-efficient than demolition and new construction. However, we believe a clarification is needed for properties with a mixed development plan (the National Housing Trust/Enterprise Preservation Corporation has several such properties). In properties where there is a mix of construction or rehabilitation types (some new construction, some gut rehabilitation, and some moderate rehabilitation), the rule should state explicitly that the standards be applied on a building by building basis, given the level of construction/renovation for that particular building, and not to the entire property.

Historic Properties

We believe a performance-based standard for new construction and gut rehabilitation, as defined in the proposed rule, makes sense for most properties. The proposed standard is also consistent with the energy performance requirements of Enterprise 2011 Green Communities standard. Nearly all historic properties can be made more energy efficient, but most will not be able to meet prescribed efficiency standards within reasonable cost constraints. The National Housing Trust/Enterprise Preservation Corporation has two properties in its current development pipeline, in Syracuse and Washington DC, that fit this scenario. The inability of most redevelopment plans to successfully accommodate the competing goals of historic preservation and substantial energy retrofit will result either in the demolition of the historic building or the rejection of any comprehensive energy efficiency goal. In either case, the HTF would not support energy efficient improvements or the preservation of historic structures as homes for low-income households, which we think would be an unfortunate outcome.

For this reason we recommend that, for properties with new construction or gut rehabilitation, an exception should be provided for buildings that are seeking historic tax credits or that are located in a historic district, in which case the standard for moderate rehabilitation should be applied (requiring ENERGY STAR and WaterSense products to be used for any replaced components).

High Rise Gut Rehabilitation

Rehabilitation of existing structures presents developers with a wide variety of rehabilitation challenges. The age, type, and condition of each building will reflect differences in building codes, construction technology, and systems and materials

available at the location and time of the building's construction. Beyond those general variations, each individual property may have its own individual idiosyncrasies that complicate the rehabilitation process.

We support a performance-based criteria for gut rehabilitation of buildings 4 stories or higher. However, we urge that the standard for centralized systems should be to exceed the ASHRAE 90.1-2007 by 15%, rather than 20%. This standard is better suited to the challenges and existing conditions of existing multifamily properties around the country and is also consistent with the EPA Multifamily High Rise Program and the energy performance requirements of the Enterprise 2011 Green Communities standard. We do not undertake high-rise new construction projects, so our comments do not apply to proposed standards for these properties.

We also urge that buildings with individual HVAC and/or water heating units should be under the requirements of EPA's Multifamily High Rise program, allowing for individual units to undergo energy audits, rather than meeting performance requirements exceeding ASHRAE 90.1-2007. The National Housing Trust/Enterprise Preservation Corporation has completed several green retrofits of existing multifamily properties, and our experience clearly indicates that the energy efficiency advantages of high-performance systems and appliances reaches its full potential only when residents have a direct incentive to manage their energy consumption by paying for their individual energy use. This is also consistent with the approach of the Enterprise 2011 Green Communities standard.

Thank you for your consideration of these comments.

Sincerely,

Toby Halliday
Vice President, Federal Policy