NCDA WASHINGTON REPORT

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NCDA 2002 Executive Symposium: September 25-28 in Phoenix AZ
at the Point Hilton at Squaw Peak
***CDBG Basics: Training For Practitioners*; September 23-25 Phoenix AZ**
at Point Hilton at Squaw Peak

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SUPPLEMENTAL SPENDING BILL PASSES SENATE, DELAYS FY 2003 APPROPRIATIONS PROCESS

On June 6 the Senate finally passed a supplemental spending bill that addresses anti-terrorism efforts and other priorities. Senate Democrats, ignoring President Bush's veto threat, pushed through a $31.6 billion bill, which is about $4 billion more than the President had requested. The House's version of the supplemental bill has a price tag of $30.1 billion, according to the Congressional Budget Office (House Republicans claim the price tag is closer to $28 billion). House and Senate appropriators have their work cut out for them as they attempt to settle their differences in conference before the Fourth of July recess.

A bipartisan group attempted to insert language into the bill that would have set legal fiscal 2003 spending at $768 billion, but that plan failed. The group now hopes to attach the budget package to federal debt limit legislation or to the first FY 2003 appropriations bill that makes it to the Senate floor. The Administration supports the $749 billion spending limit endorsed in the House. House appropriators are feeling the calendar pinch and have floated the idea of wrapping all non-defense appropriations bills into one or two omnibus measures.

Meanwhile, President Bush's decision to push for a new Department of Homeland Security has the potential to complicate and further extend the Appropriations process. Bush wants the new department funded for FY 2003, and the number of existing programs and agencies that would be absorbed by the new department sets the stage for a myriad of turf battles. Under the current structure, 53 subcommittees would have jurisdiction over at least part of the new department. Responsibility for the department's first-year budget will be shared among 10 of the 13 Appropriations subcommittees.

CENSUS BUREAU PUBLISHES FINAL DATA ELEMENTS

This week the U.S. Census Bureau finally published the data elements that community development practitioners have waiting for– the poverty and housing data that are so important to many federal programs. The Census Bureau has been releasing these data on a state-by-state basis since April, and finally released the last two states' data this week. According to HUD officials, the Department will spend the next few weeks tabulating, reviewing and refining the data to ensure that when these new elements are introduced into program formulas, there will be no errors or omissions. Yesterday, NCDA formally requested that HUD provide a tabulation of the FY 2002 CDBG allocations using the new Census data, by June 12. Because the data has just become available, we are requesting this information now because we believe we must begin immediately to help our members understand the possible ramifications of the 2000 Census data to their jurisdictions' CDBG funding levels. At this writing, it is unclear if, or when, HUD will provide the FY 2002 CDBG Allocations using the new data elements. (See a copy of the letter to HUD as an attachment to this newsletter.)

SENATE SUBCOMMITTEE HOLDS HEARING ON LEAD-BASED PAINT POISONING

On June 5 the Subcommittee on Housing and Transportation of the Senate Committee on Banking, Housing, and Urban Affairs held a hearing entitled "Lead-Based Paint Poisoning: Federal Responses." Representatives from HUD, the Department of Justice, the Centers for Disease Control and Prevention (CDC), the Environmental Protection Agency, and the Centers for Medicare and Medicaid Services testified before the subcommittee, which is chaired by Senator Jack Reed (D-RI).

The hearing was the second in a series of hearings intended to gauge progress toward eliminating lead-based paint poisoning by

2010. Senator Reed asked the witnesses to comment on the contributions of their respective agencies toward meeting this important public health goal. The Chairman was interested in learning more about how well each agency has been following the guidelines issued in 2000 by the President's Task Force on Environmental Health Risks and Safety Risks to Children. Reed also wanted to know how well the agencies have been enforcing relevant statutes.

In his testimony, Dr. David Jacobs, Director of HUD's Office of Healthy Homes and Lead Hazard Control, discussed the upcoming release of a Notice of Funding Availability for Operation LEAP (Lead Elimination Action Program). This program will award grants to entities that demonstrate an ability to leverage additional funding and resources for local lead hazard control programs. There is $6.5 million appropriated for this effort for FY 2002. Jacobs indicated the NOFA would be out in the next few weeks.

Jacobs told the panel that the Bush Administration remains committed to the timetable established by the Clinton Administration's Task Force. Jacobs pointed out the President's proposed FY 2003 budget includes a $16 million increase to HUD's lead hazard control budget. Like the other witnesses that would follow him, Jacobs freely admitted that there is still much work to be done. According to a recent HUD survey, there are still 25 million homes with lead hazards, and 5. 6 million of those homes house children under the age of 6. According to Jacobs, 41 percent of low-income housing has lead paint hazards, compared to 18 percent middle and upper income housing. However, government-supported housing has a prevalence rate of only 17%, meaning, in Jacob's opinion, that federal standards have been effective in making government-supported low-income housing as safe as middle or upper income housing. HUD will repeat this most recent survey in 2004 in an attempt to identify long-term trends.

The next witness was Thomas Sansonetti, Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice. The focus of Sansonetti's testimony was on the DOJ's enforcement efforts in connection with the Residential Lead-Based Paint Hazard Reduction Act. Sansonetti relayed several examples of civil judicial enforcement cases pursued successfully by Justice, including notable cases against three landlords in Chicago. These three companies controlled nearly 10,000 units in Chicago and Cincinnati and were accused of failing to warn their tenants that their homes may contain lead-based paint hazards. The landlord companies have since agreed to test for and clean up any lead-based paint found in the units and have paid $90,000 in penalties. One of the companies additionally agreed to pay $100,000 to Chicago's Health Department for a child health improvement initiative, and the other two companies gave $77,000 to a community-based health center to provide free blood lead testing for children.

Sansonetti also related the tale of the first criminal prosecution involving the Lead Hazard Reduction Act. David Nuyen, a Washington, D.C.-area landlord had presented HUD with a series of falsified, forged, and backdated forms in an effort to trick the Department into believing that he had given tenants the required hazard warnings. During the course of the criminal investigation, Nuyen also lied at a meeting with civil enforcement officials from HUD and the DOJ. He also was found to have forced tenants to sign affidavits falsely saying they had received the lead paint disclosure forms Nuyen never gave them. Nuyen plea-bargained and was sentenced to two years in prison and a $50,000 fine. Under the terms of his plea bargain, Nuyen was required to provide all tenants with new notices about lead paint assessments performed by an independent contractor.

Adam Sharp, Assistant Associate Administrator of EPA's Office of Prevention, Pesticides, and Toxic Substances, and Dr. Richard Jackson, Director of the CDC's National Center for Environmental Health, shared some data demonstrating the progress that has been made since the passage of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X) and the Department of Health and Human Services' 1991 call to eliminate childhood lead poisoning within 20 years. The percentage of children age 1-5 with elevated blood lead levels fell from 88% in the period between 1976 and 1980 to 4.4% in the period between 1991-1994. The number of total children with elevated blood levels declined from approximately 4 million in 1978 to 890,000 in the mid-1990s. Sharp stated that EPA anticipates full compliance with Title X within a few years.

Dr. Jackson provided updates on many of the lead-based paint hazard reduction programs CDC oversees. Dr. Jackson reviewed the progress made by the High-Intensity Targeted Screening program (HITS) and the Adult Blood Lead Epidemiology and Surveillance (ABLES) program. Sharp discussed several recent rules promulgated by EPA as well as outreach programs such as the bilingual National Lead Information Center, which is a national hotline handling over 60,000 contacts per year. Similarly, Ruben King-Shaw of the Centers for Medicare and Medicaid Studies discussed some of that agency's recent efforts related to combating lead-based paint poisoning. In almost every case, the programs and initiatives described by the witnesses are collaborative efforts involving most and often all of the agencies represented at the hearing.

After the witnesses finished their prepared testimonies, Senator Reed expressed concern over rumors that the Administration was considering giving states the option not to screen children for lead poisoning. The witnesses rebuffed this suggestion, each stating that no such proposal was forthcoming from his respective agency. Reed also expressed support for giving the agencies additional enforcement powers and for making lead-based paint hazard reduction regulations more consistent across states.

SENATOR REED INTRODUCES HOMELESSNESS BILL

Senator Jack Reed (D-RI) introduced S. 2573 – The Community Partnership to End Homelessness Act of 2002 – on May 23. The bill reauthorizes HUD's McKinney-Vento Act homeless assistance programs, proposing several major changes to the programs [see the March 20 issue of the *Washington Report*]. Although the legislation does consolidate some of the programs and streamlines the award process, it doesn't consolidate the programs into a formula-allocated block grant, which is preferred by NCDA and other groups.

The bill combines HUD's three competitive homeless assistance programs – Supportive Housing Program, Shelter Plus Care, and Section 8 SRO – into one competitive program called the Homeless Assistance Program. The Emergency Shelter Grants (ESG) program remains a formula-allocated block grant to States and localities. S. 2573 authorizes $1.6 billion for HUD's homeless assistance programs, including not more than 15% of this amount for the ESG program.

The legislation requires the establishment of a Community Homeless Assistance Planning Board that will be responsible for leading a collaborative planning process to design and execute the application of funds to HUD, and evaluate programs, policies and practices to prevent and end homelessness. S. 2573 requires that at least 51% of the board be composed of homeless persons [no less than two people], homeless advocates, and persons or representatives of organizations providing assistance to the homeless. The remaining 49% of the board must be composed of government officials, business community representatives, and members of neighborhood advocacy organizations. Communities may use existing planning bodies that have applied to HUD in the past through its "Continuum of Care" process.

The bill provides incentives to applicants to create new permanent housing for the chronically homeless and permanent housing for non-disabled families. For permanent housing projects that assist the chronically homeless, HUD will provide ten years of rental assistance as a bonus as well as $250,000 per application, in the case in which the project is the highest priority project in the application. For permanent housing projects that assist non-disabled homeless families, HUD will provide the $250,000 bonus, but not the rental assistance.

NCDA is unhappy with several aspects of the bill. First, the bill limits supportive services beginning three years after enactment of the bill. NCDA does not like the idea of placing a time limit on the type of supportive services that should be provided to projects funded through HUD's homeless assistance programs. The local planning boards should decide what types of services as well as the time limit for providing the services. HUD is pushing the Department of Health and Human Services to step-up to the plate and provide more supportive services for the homeless. Our objection to this idea is that it is much easier to apply to one source, such as HUD, for both permanent housing funds and supportive services, rather than two federal agencies. In addition, we are not supportive of the 30% set-aside for permanent housing development. We would rather let local jurisdictions decide upon the amount of permanent housing development that is needed within their community. The bill also sets a 3% cap on prevention activities and 6% for administrative expenses [half of the administrative funds have to be allocated to non-profit organizations]. Again, we would like to see no cap on prevention activities, allowing the local planning board to decide upon the amount of funding needed for prevention. We would also like to see at least a 10% administrative fee, instead of 6%, particularly if the funds have to be shared with non-profit organizations, which dilutes the overall administrative fee to local jurisdictions.

We are happy to see 3% allocated for management information systems and 1.5% allocated for monitoring and evaluation. These funds will assist communities in defraying the costs of developing the statutorily required homeless management information systems. We are also happy to see that the bill places the Interagency Council on Homelessness within the Executive Office of the President, and includes the Commissioner of Social Security as a member. This action will elevate the presence of the Council.

MILLENNIAL HOUSING COMMISSION RELEASES LONG AWAITED REPORT

After nearly a year and half, the Millennial Housing Commission released its long-awaited report on *Meeting Our Nation's Housing Challenges* on May 30, 2002. Established in December 2000 by legislation introduced by Rep. James Walsh (R-NY), Chair of the House Appropriations Subcommittee on VA-HUD-Independent Agencies, the Commission was charged with "examining, analyzing, and exploring": (1) the importance of housing, particularly affordable housing, to the infrastructure of the United States; (2) the role of the private sector in providing affordable housing; and (3) whether the existing programs of HUD work with one another to provide better housing opportunities for families, neighborhoods, and communities, and how these programs can be improved.

The members of the Commission were appointed by the House and Senate appropriations committees and banking committees. Needless to say, ***not one*** **single local government official was appointed to the Commission,** with the exception of two public housing authority officials. NCDA and other local government interest groups had hoped for several members from local government representing CDBG and HOME programs, or at least several public officials, but there were none. The Commission's members were divided between a mixture of state agencies, real estate development groups, national interest groups representing non-profit organizations, and think tanks.

The Commission offers 13 primary recommendations and 15 supporting recommendations. The recommendations are grounded in four policy principles: strengthening communities, devolving decision-making, involving the private sector, and ensuring sustainability. A summary of the Commission's 13 recommendations follows. These recommendations are divided into three categories: new tools, major reforms of existing programs, and streamlining of existing programs. The report's recommendations are heavily weighted towards a greater role for States in several new initiatives.

New Tools

- Enact a state-administered homeownership tax credit, modeled on the Low Income Housing Tax Credit, that will be used by states to build or rehabilitate affordable homeowner units, including providing lower-cost mortgages.

- Support the preservation of affordable multifamily properties through the enactment of preservation tax incentives to encourage sellers to transfer their properties to "preservation entities," organizations that would acquire the properties and commit to long-term affordability of the projects.

- Provide capital subsidies for the production [construction, rehabilitation, or acquisition] and preservation of units for extremely low-income households [those households at or below 30% of area median income]. The 100% capital subsidy program would eliminate the need for debt on the units. The state-allocated program would target 20 percent in new developments for occupancy for extremely low-income households.

- The Commission recommends that the limits be taken off states' ability to issue tax-exempt debt for specific multifamily properties, with the condition that eligible properties must restrict rents on at least 20 percent of the units to levels affordable to families with incomes below 80 percent of AMI.

- Facilitate strategic community development by allowing states to set-aside up to 15 percent of their federal block grant funds [CDBG, HOME, Workforce Investment Act, Social Services Block Grant, Child Care Block Grants, and transportation] to support comprehensive redevelopment projects sponsored by local governments.

Major Reforms

In terms of major reforms, the Commission recommends several reforms to public housing. First, the Commission recommends that public housing projects be transitioned to project-based properties, with subsidies flowing to specific properties based on the rents that units would command after any needed renovation. This transformation would enable PHAs to rehabilitate properties using funds borrowed in private markets. The Commission also recommends that HUD simplify its rating process of PHAs, that Congress allow new rent-setting approaches, and that small PHAs [PHAs with fewer than 250 units] be exempted from burdensome reporting requirements. In terms of the Federal Housing Administration (FHA), the Commission recommends that FHA be structured as a wholly-owned government corporation within HUD, governed by a board chaired by the HUD Secretary. The Commission recommends ending chronic homelessness within 10 years by creating more permanent supportive housing and transferring the renewal of contract funding to HUD's Housing Certificate Fund. Finally, the Commission recommends that, over time, HUD establish a work requirement linked to housing assistance, enabling residents to increase their incomes and free up housing for other, unassisted families.

Streamlining of Existing Programs

- Expand and strengthen the housing choice voucher program

- Improve utilization and success rates of the program by: (1) expanding the resources devoted to rent surveys so that published FMRs do not lag in actual rents, and (2) quickly approve exception payment standards in response to market conditions;

- Increase landlord participation by shortening the inspection and lease approval process, and providing better service to landlords;

- Link vouchers to housing production programs;

- Match voucher holders with services that complement efforts to embrace employment and other opportunities;

- Provide substantial increases in funding for the program (no amount specified).

Reform the HOME and Low-Income Housing Tax Credit programs, and increase funding for HOME

- Enact a substantial increase in HOME funding for both states and local jurisdictions;
- Allow the use of HOME funds to capitalize a long-term project reserve account;
- Permit participating jurisdictions to use HOME funds to refinance low-income housing mortgages;
- When rental housing is financed with both HOME and CDBG funds, HOME rules should apply;
- Improve lead hazard evaluation and control by: (1) repealing the language in Title X that triggers full abatement of lead-based paint when $25,000 in HOME and/or CDBG funds are used for rehabilitation, and (2) the requirements for lead hazard evaluation and control should apply to properties built before 1960, rather than 1978.

Improve the Mortgage Revenue Bond program

- Repeal the Mortgage Revenue Bond's 10-year rule

Revise federal budget laws that deter affordable housing production and preservation

- Move project-based Section 8 contract funding from the discretionary part of the budget (where program funds are subject to annual appropriations) to the mandatory category (where programs are run using permanent spending authorities that do not require annual congressional action)

Other recommendations:

- Increase funding for housing assistance in rural areas
- Increase funding for Native American housing
- Establish individual Homeownership Development Accounts
- Allow housing finance agencies to earn arbitrage
- Exempt housing bond purchasers from the Alternative Minimum Tax
- Undertake a study of Davis-Bacon Act requirements
- Address regulatory barriers that add to the cost of housing production
- Streamline state planning requirements for community development programs

- Expand the financing options for small multifamily properties
- Foster a secondary market for development and construction lending
- Launch a demonstration project for comprehensive community development
- Improve consumer education bout home mortgage lending
- Improve the access of manufactured home buyers to capital markets
- Affirm the importance of the Community Reinvestment Act
- Affirm the importance of the government-sponsored enterprises

There are many positive aspects of the report, such as the substantial increase in funding for the HOME program, the improvements to Title X, the study of the Davis-Bacon Act requirements, affirming the importance of the Community Reinvestment Act, and the transfer of the homeless renewal contracts to HUD's Housing Certificate Fund. However, we are disappointed with the report's total lack of recognition of the importance of local governments in housing and community development, particularly the lack of any recommendation that local governments directly administer the new programs and initiatives created in the report. To focus solely on state-administration of these programs is one-sided, but again, the Commission itself did not have one member represented from local government. So, should we be so shocked by its recommendations?

The report has been forwarded to Congress, but don't expect any legislative action on any of the initiatives this year.

HUD SECRETARY MARTINEZ ADDRESSES MAYOR'S HOUSING FORUM

When HUD's Secretary Martinez addressed the U.S. Conference of Mayors Housing Forum, he pledged his personal support and that of the Administration "...in working to preserve ourt cities as vibrant hubs of commerce that make out communities better places to live, work and riase a family," Mr. Martinez substantiated this support by reinforcing that HUD was the only domestic agency to receive a budget increase last year; a seven percent increase. He said "...The fact that the President increased our budget by seven percent in this particular year, says a great deal...about this administration and this President's commitment to meeting the housing needs of the American people."

After all the "warm and fuzzy" comments about the administration supporting the Mayors efforts to increase funding for affordable housing, Martinez went on to chastise local governments for their role in exacerbating the affordable housing crises. Mr. Martinez cited examples of land costs, permitting fees, exclusionary zoning, development impact fees and NIMBYism as major obstacles for the lack of affordable across the nation. He said that these issues make it virtually unprofitable for developers to build affordable housing. The Secretary said that "...we should be asking ourselves, how can we encourage, not discourage, market forces to create affordable housing.

After telling the Mayors that local government as much to blame for the affordable housing crises as anything else, he went on to say that the solution to the affordable housing crises remains at the local level. He emphasized that our nation is composed of a diverse population and diverse communities. There will be no one-size-fits-all solutions. After this discussion the Secretary went on to outline the Administration's housing initiatives, which included nothing about rental housing, just homeownership.

- The American Dream Downpayment Fund: This program is designed to help 40,000 first tiem home-owners by a home (a set-aside within the HOME program that is already currently eligible).

- Triple funding to support organizations like Habitat for Humanity.

- Allow Section 8 eligible families use one year's worth of vouchers towards downpayment assistance.

- Reform of the Real Estate Settlements and Procedures Act to improve the mortgage process to make it easier for consumers to find the best mortgages.

- Provide a housing counseling program that would improve financial literacy and reduce cases of predatory lending.

For more on Mr. Martinez's comments, please see the June 3, 2002 issue of *U.S. Mayor*

HOUSE PASSES BROWNFIELDS BILL

On June 5 the House of Representatives passed HR 2941 by voice vote. HR 2941, the "Brownfields Redevelopment Enhancement Act," eliminates the requirement that communities obtain a Section 108 loan guarantee in order to receive grants under the Brownfields Economic Development Initiative (BEDI) program. The bill also contains a technical correction that clarifies brownfields redevelopment's status as a CDBG-eligible activity.

As previously reported in the *Washington Report*, HR 2941 offered by Rep. Gary Miller (R-CA), includes language that would prohibit the Secretary of HUD from requiring that BEDI grant amounts be used only in connection or conjunction with projects and activities assisted with a loan guaranteed under section 108. This would, of course, provide communities with opportunities to pursue brownfields redevelopment without having to pledge future CDBG allocations as collateral. The bill would authorize the grant-making program through 2007 at "such sums as necessary." The Congressional Budget Office estimates that the bill would result in additional outlays of $96 million during that time period.
The bill would also amend the Housing and Community Development Act of 1974 to "guarantee financing by eligible public entities for projects and activities to assist the environmental cleanup and economic development of brownfield sites."
Commenting on HR 2941, Congressman Barney Frank (D-MA), ranking Democrat on the Financial Services Housing and Community Opportunity Subcommittee, said "This is a reasonable example of a good way to make the government more flexible. It is an important example of the need for us to act through government to clean up the mess up the private sector."

HR 2941 would also expand HUD's definition of brownfields to include mine-scarred land. It would also authorize funds for HUD to create a pilot revolving loan program from which communities could borrows. Loans could be used as collateral to secure private-sector loans for civic improvements.

HUD has indicated it will publish a proposed rule in July that would explicitly permit the use of CDBG money for brownfield cleanup by making it clear that such activities are eligible under the slum/blight national objectives. HR 2941 could help advance such a rule, but the Senate is unlikely to take up the bill this year.

HUD NEWS

HUD SECRETARY MARTINEZ APPOINTS NEW CHIEF OF STAFF

Last week Secretary Martinez just announced his third Chief of Staff since the Bush Administration took office a year and a half ago. Frank Jimenez, will begin work on June 10. Jimenez replaces Rob Woodson, who served as chief of staff from February through May of this year. Jimenez currently serves as Governor Jeb Bush's deputy chief of staff.

NCDA NOTES

NCDA 2002 Executive Symposium at the Pointe Hilton at Squaw Peak on September 25-28, 2002 in Phoenix, Arizona. (See the attached Flyer)

JOB ANNOUNCEMENTS/ATTACHMENTS

Please go to NCDAonline (http://ncdaonline.org) to access the files below.

- **Bernardi Request Letter**
- **NCDA 2002 Executive Symposium Flyer**
- **CDBG Basics: Training for Practitioners Flyer**