NCDA WASHINGTON REPORT

FROM: **CHANDRA WESTERN**
VICKI WATSON
KAREN MEANS
JEFF FALCUSAN
TAMARA JACKSON

DATE: **October 4, 2002**

NCDA Region I Annual Meeting; October 7-9, Hyannis, MA
NCDA Region VI Annual Meeting; November 14-16, Santa Fe, NM

FEATURED ARTICLES

- ***Status of FY 2003 Appropriations***
- ***Legislative Forecast: Bleak***
- ***CDBG, HOME Formula Update: What to Expect with the CR***
- ***Senate Subcommittee Holds Hearing on Affordable Housing Production***
- ***Martinez Appears at House Committee Hearing on RESPA Reform***
- ***Energy Policy Act Increases Public Services Cap***
- ***HUD News: HUD Releases Final HOME Rule; HUD extends Lead-based Paint Clearance Reimbursements Program***
- ***NCDA Notes: NCDA President Honored with the First Terrence R. Duvernay Community Development Humanitarian Award; CDBG and HOME Training; NCDA Regional Meetings; 2003Annual Audrey Nelson Award Application Notice***
- ***Job Announcements***

STATUS OF FY 2003 APPROPRIATIONS BILLS

As predicted, Congress did not get the 13 spending bills completed and signed by the President by September 30. In fact, none of the 13 bills has reached the President's desk– not even the Defense bill. The only spending bills that have been signed by the President are the Supplemental bill and the Continuing Resolutions (CRs) that will keep the federal government operational until October 4, 2002. A second CR will be signed on October 4 to keep the government functioning through October 11.

As reported in the September 20th issue of *The Washington Report*, Congress has spent much of its time focusing on developing legislation for the new Department of Homeland Security and trying to agree to a joint resolution on authorizing possible military action against Iraq. By the time members receive this newsletter, the federal government will be operating under its second Continuing Resolution, which expires on October 11. Only three spending measures have passed in both the House and Senate: Defense, Military Construction, and Legislative Branch. None of these measures have been signed by the President. The House has also passed the Interior bill and the Treasury/Postal Service bill. The VA/HUD/Independent Agencies bill (S. 2797) passed the Senate Appropriations Committee on July 25 and is expected to be marked-up by the House Appropriations Committee next week. Still, time is running out to enact the VA-HUD bill and the remaining appropriations measures. Congress is expected to adjourn on October 11 to allow Congressional members more time to campaign for the upcoming November 5th elections. Unless Congress returns for a lame duck session after the elections, expect no action on any of the appropriations measures this year, except for the Defense bill and possibly the Legislative Branch and Military Construction bills.

By most accounts, Congress will not return after the elections. Instead, we have heard that Congress is expected to pass a long-term Continuing Resolution that could extend as long as March 2003. What does this mean for the CDBG and HOME programs? It means that they will operate at the funding levels appropriated last year: $4.341 billion in formula funds for CDBG and $1.759 billion in formula funds for HOME. This funding level does not take into account the new entitlement grantees that will come on board in both programs or the new 2000 Census data that will be incorporated into each of the program formulas. Both of these factors will cause changes in the amount of funds allocated to cities and counties nationwide. Some grantees will see increases, others will see losses, and still, others will see virtually no change in their formula amounts.

We fought hard for funding increases to the CDBG and HOME programs this year, knowing that budgetary constraints will probably limit increases. Still, both of these programs enjoy wide bipartisan support in Congress, and we were assured that both programs would at least receive level funding from last year, with the hope that slight increases could be forthcoming. In passing its VA-HUD bill through Committee, the Senate did increase both programs. The Senate Appropriations Committee recommended that the formula funding for CDBG be increased from $4.341 billion to $4.6102 billion and that formula funding for HOME be increased from $1.759 billion to $1.909 billion

LEGISLATIVE FORECAST: *BLEAK*

It's a been a slow year, a year where very little has been passed by Congress. NCDA and other groups had hoped that H.R. 3995 would move through Congress and that we would see increased appropriations for both CDBG and HOME. Not so this year. H.R. 3995 would have authorized new funding for affordable housing production – whether through a National Housing Trust Fund or a matching grant program for State and local housing trust funds. NCDA, NACCED, and NACo spent much of the year on the Hill seeking a new production program within the HOME program. We were successful in having this program incorporated into the original version of H.R. 3995, but it was later replaced by language that would have created a National Housing Trust Fund, which was then replaced by language to create a matching grant program for State and local governments. Any of these methods would have provided the basis for a new affordable housing production vehicle which is sorely needed to meet the unyielding demand nationwide for affordable housing, particularly for extremely low-income households. Unfortunately, barring a miracle, nothing will be enacted this year. We will begin our efforts again next year.

CDBG, HOME FORMULA UPDATE: WHAT TO EXPECT WITH THE CR

Census 2000 data relating to place, block group, and poverty will be plugged into the CDBG and HOME program formulas, and any other programs that rely on this data for distribution amounts. At this writing, those highly trained statisticians at HUD are incorporating this information into the formulas for these programs to be used in FY 2003. They will recalculate the previously released numbers (the planning estimates) and include the new entitlement communities and urban counties so that grantees will have a good idea of what they can expect to receive should the FY 2003 formula allocations remain the same as those for FY 2002. In the past, and under similar circumstances, the allocation process is as follows: Early grantees, those whose program years begin in January, February, or March, can expect to receive approximately 90 percent of their formula allocations in their lines of credit until the FY 2003 appropriations process is finalized. The reason that HUD will make grant amounts of approximately 90 percent of the anticipated full amount is because it makes it easier for them to adjust the letters of credit when the final amounts are released. If the allocation for FY 2003 is higher than in FY 2002, they would simply increase the letters of credit more, and if it is lower, they would increase the amount to accommodate the Congressional action. It is presumed that Congress will not cut the CDBG or HOME formulas by more than 10 percent.

For HOME participating jurisdictions (PJs), the calculation goes through an additional hoop, because of the minimum amounts requirements for states under the HOME formula, and the number of new consortia. Still, PJs will have an idea of their allocations should the formula amount stay at the FY 2002 levels.

The good news is that all the place and block group data will be available for those early grantees to use in putting together their ConPlans or annual Action Plans. It is very likely that the new block group data will make some neighborhoods CDBG ineligible and others eligible.

SENATE SUBCOMMITTEE HOLDS HEARING ON AFFORDABLE HOUSING PRODUCTION

On September 25, the Senate's Banking, Housing, and Urban Affairs Committee's Subcommittee on Housing and Transportation held the third in a series of hearings on "Affordable Housing Production and Working Families." The hearing provided two Senators with the chance to discuss bills that would create new affordable housing production programs. U.S. Conference of Mayors president and Boston Mayor Thomas Menino also testified, using his appearance to repeat the Conference's call for a new, comprehensive national housing policy.

Only Subcommittee Chairman Jack Reed (D-RI) and Senator Paul Sarbanes (D-MD) were present at the hearing. Although NCDA staff was unable to attend the hearing due to the Executive Symposium in Phoenix, we have received reports that Senator Sarbanes hinted at what we have long assumed: There is almost no chance that the 107th Congress will pass any new housing legislation. This hearing gave those testifying an opportunity to stake out positions on this issue in advance of the 108th Congress, which will form in January.

Senator Christopher Bond (R-MO) used most of his allotted time to discuss S. 2967, the Affordable Housing Expansion Act of 2002, which he recently introduced along with Senator Susan Collins (R-ME). The bill "is intended to begin to meet the long-term housing needs of very low- and extremely low-income families" by establishing a new block grant program that would be administered by HUD. HUD would allocate funds through the block grant to state housing finance agencies "for the development of mixed income housing." Funds would be allocated on a per capita basis with no state receiving less than $6,000,000. The agencies would be required to submit an affordable housing expansion plan to HUD detailing how the funds are being used to meet the low-income housing needs of each state's rural and urban areas. States would have to contribute a 25 percent match, and each state housing finance agency could use up to 20 percent of its block grant funding to preserve and rehabilitate existing low-income multifamily housing.

Senator Bond conceded that not everyone would agree with his choice of state housing finance agencies as the administering entities. Senator Bond stated that he chose these agencies because of the excellent work being done by the Missouri Housing Development Corporation (which administers the low-income housing tax credit program) in his home state. An especially controversial provision of the bill is its funding mechanism. The new block grant program would be funded by reserving up to $1 billion a year in "excess" section 8 funds. This is part of a growing trend wherein lawmakers are looking to fund new programs with funds that result from inefficiencies in the Section 8 program, rather than committing new money to affordable housing while working to eliminate those inefficiencies. Senator Bond argues that excess Section 8 funds are "a credible source of funds" and that these funds "can be rescinded so that not a single family will lose any housing or housing assistance." The bill also authorizes a new loan guarantee program that would allow public housing agencies "to rehabilitate existing public housing or develop off-site public housing in mixed income developments."

Senator John Edwards (D-NC) accused Washington of "turn[ing] its back" on the housing problems of rural areas and used his testimony to promote S. 652, the Rural Rental Housing Act. Notably, Senator Edwards argued that "HOME and CDBG…neglect smaller communities by mostly funding larger ones." Senator Edwards laid out a fairly convincing case for directing more resources to rural areas, but he did not have much to say about the role that states play in disbursing CDBG and HOME dollars.

Senator Edwards' proposal would create a $250 million fund to be administered by the United States Department of Agriculture. This fund would be allotted to states based on their share of rural substandard units and of the rural population living in poverty. No state would receive less than $2 million. States or other nonprofit intermediaries would be required to provide a dollar-for-dollar match of project funds. Eligible uses would include acquisition, rehabilitation, and construction of low-income rural rental housing. Populations served by the program would have to earn less than 80 percent area median income, and housing would have to be in rural areas with populations not exceeding 25,000. In other words, the program would not assist people living in communities with populations between 25,000 and 50,000, even though, according to Senator Edwards' reasoning, many of these mid-sized communities are also largely "neglected" by CDBG and HOME. Increased formula appropriations for CDBG and HOME would significantly enhance the ability of states to meet rural housing needs using existing, proven programs.

It is highly unlikely that anything will happen with either bill in the final few months of the 107th Congress. What is more likely is that Senators Bond and Edwards are positioning themselves to play leadership roles in the housing debate during the next Congress. One individual who is growing impatient with Congress' inability to move any new affordable housing legislation is U.S. Conference of Mayors President and Boston Mayor Thomas Menino. In his testimony, Mayor Menino gently criticized Washington for not being a "better partner" in the pursuit of affordable housing. He repeated the Conference's call for a comprehensive national housing policy that would include establishing a strong housing production program, such as a National Housing Trust Fund, tax credits to builders for the development of homeownership housing, and the expansion of employer-assisted housing programs for working families.

MARTINEZ APPEARS AT HOUSE COMMITTEE HEARING ON RESPA REFORM

On October 3, HUD Secretary Mel Martinez appeared before the House Financial Services Committee to discuss a proposed rule that would represent a "comprehensive reform" of the Real Estate Settlement Procedures Act (RESPA). Increasing homeownership, especially minority homeownership, is a major priority of the Bush Administration, and the proposed rule would advance this cause by "simplify[ing] and improv[ing] the process of obtaining home mortgages and reduc[ing] settlement costs for consumers."

The proposed rule, which originally appeared in the Federal Register on July 29, has a comment deadline of October 28. Secretary Martinez cast the proposed rule as an integral part of President Bush's goal of creating 5.5 million new minority homeowners by the end of the decade. According to Martinez, the creation of additional homeownership opportunities depends upon overcoming the challenges posed by the financing process and closing costs, described by the Secretary as two "major impediments." According to the Secretary's testimony and the summary of the proposed rule appearing in the Federal Register, the proposed rule "addresses the inadequacies of the existing regulatory scheme" by:

- Making substantial changes to the ways in which compensation to mortgage brokers is disclosed to borrowers;
- Improving HUD's Good Faith Estimate settlement cost disclosure;
- Removing regulatory barriers so that that industry can offer guaranteed packages of settlement services and mortgage loans to borrowers.

The proposed rule does not take any steps toward prohibiting so-called "yield spread premiums," which are payments made to mortgage brokers. It does, however, require that all such payments be reported on both the Good Faith Estimate and the HUD-1 as a credit to the borrower toward his or her closing costs. Many Democrats on the committee indicated their belief that the proposed rule does not go far enough when it comes to yield spread premiums. There was general agreement, however, that most of the provisions in the proposed rule are useful and long overdue. The hearing was interrupted several times due to technical difficulties and was eventually cut short because of impending votes.

ENERGY POLICY ACT OF 2002 INCREASES PUBLIC SERVICES CAP

On September 27th, Conferees came to agreement on HR 4, The Energy Policy Act of 2002. For the most part, this bill has little to do with the work of NCDA's members, however there is an interesting provision tucked away in HR 4 that pertains to CDBG. Section 932 would allow entitlement communities to spend an additional 10 percent of their CDBG funds on public services activities as long as the additional monies are used to support energy conservation efforts. This means that a community could spend as much as 25 percent of its CDBG funds on public services activities as long as the additional 10 percent is used for energy conservation efforts.

This odd little item is interesting in that HUD and Congress have been pushing many communities that have received exceptions on the 15 percent cap to justify the use of the additional expenditures. Now, it appears that Congress is willing to allow the additional expenditures as long as it fits in with energy conservation efforts. However, since this bill was passed by the conferees, the last hurdle– before it is sent to the President for his signature– is passage in both houses. Given the current situation within the 107th Congress, it is not at all likely that either house will have the time or the room on their schedules to schedule a vote on the bill. There are other possible scenarios under which this change could be effected within the CDBG program. First, this particular section of HR 4 could be added to an omnibus bill, or the entire language of HR 4 could be added to and omnibus bill or into one of the upcoming CR's, or it could be attached to one of the appropriations bills that gets passed and signed by the President. The likelihood of something like this taking place is probably better than HR 4 making it to the President's desk as a standalone bill, but not by much.

HUD NEWS

HUD EXTENDS LEAD-BASED PAINT CLEARANCE REIMBURSEMENT PROGRAM

HUD informed the interest groups on October 2 that the Lead-Based Clearance Examination Program will be extended through January 31, 2003. CDBG and HOME grantees can continue to submit their payment requests and grantee work estimates (GWE) directly to Destiny Management Services, the contractor hired by HUD to allocate reimbursements to grantees. To expedite the processing of your information, please fax your documents to the attention of Veronica Williams or David Barrett at fax number 301-650-5947. Please feel free to contact either one of them directly at 301-650-0047 or toll free at 1-888-937-9690.

HUD RELEASES HOME PROGRAM FINAL RULE

The Department of Housing and Urban Development (HUD) has released a new final rule for the HOME Investment Partnerships Program (HOME). According to a notice appearing in the Federal Register on October 1, this final rule makes "streamlining and clarifying" amendments to the HOME Program in several areas. The final rule becomes effective October 31. A full overview of the draft final rule was provided in the August 20 Washington Report.

The final rule adopts a statutory change, effected by the FY 1998 HUD Appropriations Act, that allows participating jurisdictions (PJs) to continue to receive allocations in years when their annual allocation falls below the $500,000 minimum participation threshold ($335,000 in years in which the HOME appropriation is less than $1.5 billion). This provision protects PJs with smaller allocations from losing their allocations due to an increase in the total number of PJs, a decrease in the HOME appropriation, or an increase in the total amount set-asides from the HOME appropriation.

The final rule also amends the regulations to reflect statutory changes eliminating Federal preferences for the selection of public housing residents, as approved by Congress in 1998 as part of the Quality Housing and Work Responsibility Act (QHWRA). PJs using HOME funds for tenant-based rental assistance can still establish local preferences. The new final rule also eliminates the provision within the HOME regulations stipulating that HOME-assisted homebuyers must re-qualify as income eligible at the time of occupancy or when the HOME funds are invested, whichever is later. QHWRA established new statutory language within HOME that requires the homebuyer to qualify as low-income: (1) in the case of a contract to purchase existing housing, at the time of purchase; (2) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, at the time the agreement is signed; or (3) in the case of a contract to purchase housing to be constructed, at the time the contract is signed.

The new final rule amends the HOME regulations to permit participating jurisdictions to use 10% of both program income deposited in the local HOME account and program income earned and reported by State recipients and sub-recipients for eligible administrative and planning costs. It also clarifies the prohibition against using HOME funds to pay delinquent taxes, fees, or charges associated with assisted properties. The final rule also includes language allowing HUD to use renter-households in poverty rather than renter-families in poverty in the HOME formula. The U.S. Census Bureau does not routinely produce the last indicator, and HUD would have to ask for a special tabulation that would delay this data in the HOME formula allocation until late 2003. This minor change is a byproduct of HUD's transition to Census 2000 data. The effect on PJs should be minimal, but HUD is inviting public comment on the change.

This new final rule also adopts the streamlined Consortium re-qualification procedures developed in FY 1999, clarifies that Subpart H ("other Federal") requirements should be included in written agreements between participating jurisdictions and project owners and developers, and amends the definition of "homeownership" to permit 50-year leasehold interests on trust or restricted Indian lands. It eliminates the 1% set-aside for Indian tribes under the HOME Program since Native Americans are now served through the Native American Block Grant. The final rule also adds a requirement to the HOME regulation that participating jurisdictions keep records on site and neighborhood review standards.

NCDA NOTES

NCDA PRESIDENT AARON LONGORIA HONORED WITH THE FIRST TERRENCE R. DUVERNAY COMMUNITY DEVELOPMENT HUMANITARIAN AWARD

The 2002 Executive Symposium has been called, by all who attended, a resounding success!! The sessions were well-attended and most elicited great dialogue and an exchange of ideas very useful to community development practitioners. However, the highlight of the Symposium had to have been the call from NCDA President Aaron Longoria from Edinburg, Texas. Most of you know that Aaron has beenill recently and was unable to attend the Symposium. But true to his Texas spirit and being the fighter that he is, Aaron called in to the meeting and spoke to the group as he was presented with the first NCDA Terrence R. Duvernay Humanitarian Award. This award was intended to be a surprise for Aaron, but because he could not be at the meeting, his Deputy Director Mike Mesa, and two of his Council Chairs; Armando Barrera, Chairman of the Community Development Council, and Ezekial Garate, Chairman of the Housing Assistance Committee accepted the award on his behalf.

The "Terry Award" will be presented to an NCDA member whose community development career exemplifies the spirit of Terry Duvernay, a Past President and long-time friend of NCDA. Terry committed his life, not just his career, to improving the lives of low- and moderate-income people by providing them the means of giving them a hand-up instead of a hand-out. He was adamant that people should be able to maintain their dignity and be provided with the opportunity to succeed. Aaron's 35 year career in the field of community development and his driving need to help others help themselves perfectly mirrors the passion and commitment that were Terry Duvernay's hallmarks. We honor Aaron and thank him. We wish him the best of luck.

CDBG TRAINING

- NCDA will hold a *CDBG Basics: Training for Practitioners* in Hyannis, Massachusetts on October 7-9, 2002 at the Sheraton Hyannis in Hyannis, Massachusetts. Registration is required. Please contact Chandra Western for more information at 202-887-5521.

- NCDA ***MAY*** hold a *CDBG Basics: Training for Practitioners* in Daytona Beach, FL on December 4-6, 2002, *IF* there is sufficient interest. We must receive at least 35 registrants by November 1, 2002, to do the training. Please contact Emory Counts for more information at: 386-671-8051.

HOME TRAINING

- NCDA will hold a one day *Advanced HOME Training* at the Region I Conference in Hyannis, MA on October 7, from 9:00 a.m. to 4:00 p.m. and a *HOME CHDO Training for Local Participating Jurisdictions* on October 8, from 9:00 a.m. to 4:00 p.m. No registration is required. The training is free. Please contact Vicki Watson at 202-887-5532 for more information.

- NCDA will hold a one day *Advanced HOME Training* at the Region VI Conference in Santa Fe, NM at the La Fonda Hotel on the Plaza on November14, from 9:00 a.m. to 4:00 p.m, and *HOME CHDO Training for Local Participating Jurisdictions* on Friday November 15 from 1:30 - 4:00 p.m. No registration is required. The training is free. Please contact Vicki Watson at 202-887-5532 for more information.

NCDA REGIONAL MEETINGS

Region I October 10-13, 2002
Sheraton Hyannis
Hyannis, MA

Region VI November 14-16, 2002
La Fonda Hotel on the Plaza
Santa, NM

JOB ANNOUNCEMENTS

Please go to NCDAonline (http://ncdaonline.org) to access the latest job announcements.