April 23, 2004

The Honorable (Name)
Address
Washington, D.C.

VIA FASCIMILE: (FAX NUMBER)

Dear Senator/Representative (Name):

This letter requests your assistance in amending the National Affordable Housing Act to ensure that the City/County of xxxxx, and other communities which administer the HOME Investments Partnership (HOME) Program, will not have to repay HOME funds invested in a project that goes into foreclosure during the required affordability period of the program.

The HOME program provides needed resources to our community and over 600 other State and local jurisdictions across the country to develop affordable rental housing, provide rehabilitation assistance to existing homeowners, and provide downpayment and closing cost assistance to potential homebuyers. Since the start of the program in 1992, participating jurisdictions across the country have always understood that if a HOME-assisted project went into foreclosure during the affordability period, and the participating jurisdiction made every effort to prevent the foreclosure, that any HOME funds invested in the project did not have to be re-paid. The U.S. Department of Housing and Urban Development (HUD) is now telling jurisdictions just the opposite; that they are required to repay the HOME funds in this situation. Moreover, HUD is now telling participating jurisdictions that they must repay HOME funds in situations of non-compliance on the part of a homebuyer during the affordability period. Because HOME program regulations do not require financial or occupancy monitoring of the homebuyer once they purchase the unit, a participating jurisdiction may never know if a homebuyer has not complied with the program regulations (e.g., continued to live in the property during the affordability period). This new policy direction, which was issued in HUD's June 2003 *HOMEFires* publication, will have a chilling effect on the manner in which jurisdictions use their HOME funds in the future. This policy will discourage jurisdictions from developing or continuing homebuyer programs, including utilizing the American Dream Downpayment Program, a new program for first-time homebuyers that uses the same regulations as the HOME program. This policy will discourage jurisdictions from taking investment risks where the possibilities of default and foreclosure are higher and may skew future investment choices in a way that diminishes the positive impact of the program, such as helping lower income households, where a larger amount of HOME funding may be needed to make a project work and where the risks may be greater in terms of credit worthiness.

We believe that HUD's interpretation of the HOME statute is incorrect and contradicts existing law and congressional intent. The National Community Development Association (NCDA), the National Council of State Housing Agencies (NCSHA), and the Enterprise Foundation (Enterprise) have been working together over the past several months to convince HUD that its position is incorrect. However, HUD staff are not willing to budge from their position. It appears that the only course of action at this point is to have the HOME statute changed to make the language more explicit that jurisdictions do not have to repay HOME funds in situations of foreclosure and to add language that jurisdictions do not have to repay funds in situations of non-compliance on the part of a homebuyer. NCDA has developed statutory language that we believe remedies this situation. This language is attached to this letter, along with a

policy paper developed by NCDA that further explains the repayment issue. If you have any questions on the language or the paper, please contact Vicki Watson, Legislative Director, the National Community Development Association at 202-887-5532.
In terms of your assistance, we ask that you send a letter to the chairperson of the committee which handles HUD's programs, asking that the attached statutory language be included with any authorizing bill that moves through the committee this session. In the event that no bills move through the appropriate authorizing committee, we ask that you also send a letter to the chairperson of the Committee on Appropriations, to seek insertion of the language in an appropriations measure this year. The need for this language is dire because many jurisdictions are not going forward with their programs until the statute has been changed.

We greatly appreciate your help in this matter and stand ready to work with you on this issue. Please feel free to contact ______________ of my staff with questions.

Sincerely,