Preserving Public Housing

The Public Housing Capital Fund provides annual grants to PHAs for the development and modernization of public housing. The public housing inventory faces a mounting capital needs backlog, but Capital Fund appropriations continue to lag dangerously behind accruing modernization needs. At the same time, funding for operations has endured deep cuts, forcing PHAs to forego critical maintenance functions and further jeopardizing the long term sustainability of many properties.

The need for improved access to capital financing tools has not gone unnoticed by Congress. By adding Section 30 to the US Housing Act of 1937, the Quality Housing and Work Responsibility Act (QHWRA) provided PHAs with the tools required to access capital markets and begin to address these needs. Section 30 allows PHAs to mortgage or otherwise grant a security interest in any public housing project or other property of the public housing agency through the Public Housing Mortgage Program (PHMP). The PHMP allows PHAs to place a mortgage or other encumbrance on public housing properties where the subject property is owned by the PHA.

Unfortunately, HUD’s regulations regarding the use of the PHMP greatly limit the ability of PHAs to utilize this funding stream. Currently, HUD prohibits the subordination of the “federal interest” (the Declaration of Trust) in public housing dwelling units. By maintaining that the declaration of trust must remain in first lien position, HUD limits the value of the public housing real estate as collateral and severely reduces the potential utility of Section 30.

NAHRO raised concerns with Congress about the regulatory impediments PHAs face in utilizing the PHMP. The Senate’s FY 2017 Senate Transportation and Housing and Urban Development, and Related Agencies (THUD) Appropriations Bill included NAHRO language requesting that HUD report to Congress regarding the utilization of the PHMP. The report provided background on the program as well as examples of PHA’s that had successfully used certain Section 30 programs. None of the examples listed, however, included a PHA that was able to obtain a primary mortgage on a property that contained public housing units. The report also discussed potential solutions that would improve the program. Many of these suggestions were provided to HUD by NAHRO. These suggestions included using Land Use Restriction Agreements (LURAs) as opposed to Declarations of Trust and subordinating the Declaration of Trust to second position.

The report noted HUD’s concerns about residents living in potentially foreclosed public housing properties. As a potential solution, the report includes a NAHRO provision that would increase tenant protections for residents that live in developments undergoing modernization through Section 30 financing. It also notes the need for statutory changes to allow residents to qualify for these specific tenant protections. Although HUD thinks there may be ways to statutorily improve tenant-protections for residents of PHAs utilizing the PHMP, HUD remains concerned about protecting the federal interest of public housing. NAHRO will continue working HUD to improve PHA access to Section 30 in order to provide PHAs with a range of options that can help restore the physical and financial health of public housing.

ADDITIONAL RESOURCES:

For up-to-date information on this issue and other affordable housing issues go to www.nahro.org/resource-center and follow the NAHRO blog at www.nahroblog.org