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Testimony of
Michelle Norris
on behalf of
The American Association of Homes and Services for the Aging

Senate Banking Committee
Subcommittee on Housing, Transportation, and Community Development
"Modernizing Housing for Seniors and Persons with Disabilities"

Introduction

Good morning Chairman Menendez, Ranking Member Vitter, Chairman Kohl, and members of the Committee. My name is Michelle Norris and I am pleased to be here to today, representing the American Association of Homes and Services for the Aging. The members of the American Association of Homes and Services for the Aging (www.aahsa.org) serve as many as two million people every day through mission-driven, not-for-profit organizations dedicated to providing the services people need, when they need them, in the place they call home. Our 5,700 members offer the continuum of aging services: adult day services, home health, community services, senior housing, assisted living residences, continuing care retirement communities, and nursing homes. AAHSA's commitment is to create the future of aging services through quality people can trust.

I am also the Senior Vice-President for Development and Acquisitions of National Church Residences (NCR). National Church Residences, a Columbus, Ohio-based non-profit organization, was founded in 1961 and is one of the largest developers of affordable senior housing in the United States. NCR is also a founding member of Stewards of Affordable Housing for the Future (SAHF), an organization comprised of nine national non profit housing providers, seven of which are members of AAHSA as well, dedicated to the preservation of existing affordable housing communities. NCR owns and/or manages over 20,000 affordable senior and family housing units in 300 properties in 27 states and Puerto Rico. Our portfolio is diverse in the financing programs we use and the populations we serve, including supportive housing for the homeless, assisted living communities, and five health care facilities in Ohio. NCR continues to be an active developer doing both new construction and preservation of affordable housing. A significant majority of NCR's portfolio Section 202s including many located in states represented by the members of this Committee and the Senators who have co-sponsored S.118.

On behalf of AAHSA, NCR, my staff and the residents and families we serve, I would like to thank you for holding a hearing on this important issue. I especially would like to thank Chairman Kohl and Senator Schumer for introducing S. 118 on the first day of this Congress. This legislation is sorely needed if affordable senior housing is to survive into the future.

Overview of Elderly Housing Crisis

It should come as no surprise that there is an affordable housing crisis in our country. This problem is particularly acute among the elderly living on low or moderate incomes. In 2006, AARP released an update of its Section 202 study and found that, on average, there were ten seniors waiting for each Section 202 unit that became available. Generally stated, the major contributing factors to the elderly-housing crisis are the unnecessary loss of federally subsidized housing units, the lack of significant affordable housing production of new units, an elderly population boom, a national policy that has favored vouchers instead of production as the solution to the affordable housing crisis, escalating rental costs, and a lack of predictability for social services funding. In addition to these factors, our nation's seniors have not been immune to the recession and to the subprime and predatory lending rehabilitation scams.

Despite the estimates of the Congressionally mandated *Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century* that we will need an additional 730,000 units of assisted housing in 2020, the Section 202 program has been level funded, building fewer and fewer units each year. For the past several years AAHSA has urged Congress to provide enough funding for the Section 202 program to develop at least 10,000 units per year. In the FY09 NOFA , HUD has announced funding for only 3,130 new units. The NOFA includes as well the authority to delegate the processing of mixed finance transactions to state housing finance agencies for the first time. The delegation, pursuant to the authority provided in last year's Housing and Economic Recovery Act, along with HUD's welcome efforts to make it easier to combine HUD's programs with the low income housing tax credit program, may make it possible to build additional senior housing units in combination with the 202 units.

For fiscal year 2010, Congress finally is poised to provide an increase in funding for the Section 202 program and for that we thank you. However, even with a more generous funding of the 202 new construction program, the Joint Center on Housing indicates that we have lost two units of affordable housing for each one that we've built. These units are being converted to market rate, or demolished to free the property for other uses. We are still losing ground.

You have asked me to address the positives and negatives of the Section 202 program and what the Congress can do to build on the strengths and correct the weaknesses. Simply put, the Section 202 program is the most successful federal housing production program enacted by the Congress. It has stood the test time – now 50 years—and has offered opportunities for not for profits to carry out their missions to provide affordable supportive housing for the nation's most vulnerable seniors.

S. 118 provides an opportunity for the Congress to build on the program's successes and strengths so that housing providers can develop financially sound developments and preserve existing properties that the federal government has spent billions of dollars constructing over a 40 year period. It is unlikely that we will address the affordable housing crisis through significant funding increases given the severe constraints that the federal government is under. What we can do is to address the opportunities and obligations that we see before us by increasing the efficiency and effectiveness of the current 202 new construction program, plus aggressively preserving the existing housing stock. The AAHSA membership and the NCR leadership team are pleased with the provisions of S. 118 which streamline and improve the new development program, encourage the refinancing and preservation of the 202 program and place a renewed emphasis on providing supportive services in 202 housing so that seniors can age in place. Please allow me to use the rest of this testimony to highlight some of the very specific improvements that are created by S. 118 first in new construction, then in preservation and finally in various other means including increased service provision.

Title 1 - New Development

Realistic Development Cost Limits

A 2005 HUD report on construction costs indices for Section 202 and 811 housing included an overall finding that the factors and approach that HUD uses for establishing development cost limits “do not accurately reflect current actual development costs” for the surveyed projects or for the typical private funded construction. HUD itself had commissioned the report because they suspected the inadequacy, and unreasonableness, of their cost limits. As a result of the study, the limits have been raised – but they are still not sufficient to meet costs in most areas. In the case of NCR, I can tell you that the current development cost limits frequently do not work and are often irrelevant compared to the market place. Even with the increased limits, sponsors are still forced to seek additional funding, which significantly lengthens the total development timeframes. As a last resort, we have had to seek amendment funding from HUD which causes penalty points on subsequent grant requests in future NOFA rounds. It’s a catch 22 which ends up denying funding to experienced sponsors who have been unable to find gap financing. Several of the provisions of S. 118 address this capital funding process and amounts.

Adequate PRAC Allocations

In addition to shortfalls in the capital amounts, the initial operating budget for a new building is also based on a HUD formula to create the initial rental subsidy amount. These initial Project Rental Assistance (PRAC) allocations for new development are chronically under funded, leaving developers to limit the scope of the project’s services or staffing. Because the new Section 202 PRAC properties are not eligible for the rent increases in the first year, the operating deficit can be devastating to the properties. I commend HUD for recently revising their policy to now permit PRAC increases for projects before projects open. This has helped alleviate the operational funding problems in many new projects, but not all. One significant place where inadequate initial PRAC funding has had the most detrimental impact is on the ability of projects to fund a service coordinator. In order to be competitive, providers have not included a service coordinator in their application for fear that the PRAC amounts would be too high and non competitive. Projects are always trying to catch up through rent increases in the future but success is case by case and unpredictable at best. We are pleased that Section 101 of the bill requires HUD to approve PRAC increases sufficient to cover reasonable project cost increases including service coordinators and supportive services costs. It also provides for increases to cover emergencies such as energy, insurance or tax increases that are out of the control of the sponsor.

Service Coordination

In addition to providing sufficient PRAC to cover service coordination, S. 118 will establish non monetary incentives for employing a service coordinator. The 202 program is called the "Supportive Housing Program for the Elderly", but the selection criteria have never included the extent to which the applicant ensures that there will be a service coordinator for the property. Section 102 of S. 118 will add service coordination as a selection criterion. NCR believes each property should have a service coordinator so that the seniors can learn about and link to community based supportive services which will assist seniors to remain independent for as long as possible and to age in place.

Proper Use of Owner Deposits

Under the current Section 202 statute, the owner is required to establish an escrow account for new projects to be held for unanticipated operating short falls during the first three years. HUD has implemented an unwritten policy to require non-profit owners to use this deposit virtually in every instance to cover both operating and development short falls caused by the originally under funded capital advance and PRAC amounts. Organizations such as NCR rely on the return of some or all of those deposits to meet other housing mission needs, including overhead for staff and preliminary work to develop new projects and increase our supportive services component in existing properties. However, the deposits are rarely returned because HUD considers them part of the project from the start. S. 118 tackles this problem head on in Section 104.

Flexibility to Work with Local Boards

Many of you may be familiar with Plymouth Congregational Church here in Washington, DC. This is an active, vibrant church at North Capitol and Riggs Road in Northeast. Retirement Housing Foundation (RHF), a national non-profit based in California, worked closely with Reverend Hagler and his congregation to get this project built. I urge you to visit this property and talk to those involved about the importance of partnership and the role of development experts to help a community realize its dream of taking on a new mission to serve low-income seniors live in safe, decent housing with dignity. Because of the need for active community partnerships such as this to support the property and residents, AAHSA members are committed to continuing the involvement of local boards, on an advisory or governing level.

Unfortunately, experience has shown that often local board members tend to be very active at the beginning of a project and often include many of the individuals and local politicians that were instrumental in getting a project approved. The simple fact is that over time it is difficult to maintain an active local board involved in the major decisions. Many national non-profits in AAHSA's membership have to retain a high degree of control over these small owner boards to make certain that they remain consistent with the terms laid out in the by-laws and execute the necessary business of the property. This is not to say that we no longer want to work with local communities – this is vital to our success and an integral part of our mission. S.118 allows a degree of flexibility for larger organizations that have difficulty maintaining active board participation in some areas.

Title II - Preservation

Title II of S.118 will further the preservation of senior housing, one of the most important federal housing policies Congress can endorse and facilitate. Preservation of existing housing can be done at a fraction of costs of new construction and it helps retain the best HUD properties in prime locations with access to transportation and services. We are encouraged that the current Administration is focused and committed to a national policy of preservation. Secretary Donovan stated at a June hearing on preservation before the House Financial Services Committee that "HUD needs to be a leader and a partner in preserving critical housing resources. Too often it seems that HUD policies and practices get in the way of preservation efforts instead of supporting them. That is going to change." S. 118 will equip HUD with many new tools and clear authority to preserve affordable senior housing.

It is a fact that many elderly housing facilities have "aged" and need modernization and/or retrofitting and refinancing in order to accommodate supportive services to aging residents, assure quality of life, and accessibility. These projects could be preserved for an additional 30 years with the infusion of private dollars far less than the cost of new construction. In addition, if these facilities are allowed to disappear, it is unlikely that many communities will support large scale affordable housing of the size that currently exists in the Section 202 portfolio. We estimate that new construction costs in our 202 portfolio are approximately $100,000 per unit, yet NCR's preservation projects only need $45,000 per unit in renovation. When we acquire a property and rehab that property, the total cost of preservation instead of allowing an owner to "opt out", the total preservation cost can be approximately $70,000 compared to $100,000 per unit for new construction.

The provisions in Title II of S. 118 are essential to the successful preservation of existing housing. To many, these changes appear very detailed and technical. Yet I can assure you that each of these can be critical to the success (or failure) of real preservation efforts. The changes will go a long way towards navigating the various legal and regulatory requirements involved in today's preservation transactions. However, many of the provisions simply require HUD to do what it already has the discretion to do, but haven't in the past. That may change but providing legislative authority guarantees that the policies will survive any change in administrations. In the end, even the best of tools won't produce large scale preservation results. However, this bill will definitely equip and encourage HUD to take the active leadership that it must take in order to make preserve the nation's irreplaceable senior housing stock.

Use of Unexpended Amounts to Provide Equity

Christian Church Homes of Northern California, another AAHSA member, has attempted to purchase troubled 202 and 236 properties from other not-for-profit, single asset owners that were no longer interested in pursuing affordable housing. HUD denied their requests to purchase the properties at a price above the outstanding indebtedness, thus denying the selling not-for-profit any equity, which they planned to use to further their mission. I can personally confirm that NCR has had very similar experiences in other areas of the country. Though there may need to be appropriate limitations on the amount of equity permitted and on how that equity may be expended, without the ability to pay some equity, these owners can simply wait out the terms of their mortgages and these properties may not be preserved. I am aware of many situations where paying a seller any price above the existing debt may make the preservation less feasible, but where the payment of some equity is feasible, it should be permitted. S.118 addresses the issue of appropriate equity payments.

Unfortunately, over the last 5-10 years, there have been many situations where the preservation of properties was made difficult or impossible by HUD’s out-of-date and contradictory regulations, processing delays and absence of clear policy at both the local offices and at headquarters. This legislation along with the new leadership we have seen at HUD will ease this confusion and lack of direction.

The Senior Preservation Rental Contract

Another complication in the efforts to preserve communities is unique to the oldest cohort of Section 202 properties. These projects, built between 1969 and 1974 are often the most in need of substantial rehabilitation in order to be preserved for another 30 – 40 years. Unfortunately any attempt to refinance these projects and do the necessary work means that the existing residents, who are paying rent amounts that often are far below market, will face rent increases that they cannot afford after any refinancing and rehabilitation. There is no rental assistance available to ease the burden and prevent displacement. Preservation entities are faced with a decision to either evict those least able to pay or to not do the necessary rehabilitation to the property. Neither of these options is an acceptable answer for our nation!

The creation of a senior preservation rental contract would permit owners to actively preserve properties while protecting the homes of existing and future low-income seniors. To give you an idea of the magnitude of this exposure, there were 292 properties built during this period comprising 45,000 to 50,000 units. While some have full or partial Section 8 or Rent Supplement Assistance, most do not. Section 205 of S.118 would establish a new project based rental assistance contract for unassisted residents upon refinancing. I would respectfully request that this provision be made retroactive to address the very few projects from this generation of 202s that have been refinanced to date. The impact of not having rental assistance is devastating as is described in one of our Ohio case studies, Kirby Manor, attached to this testimony.

<u>Excess Use of Proceeds</u>

Another example of complicated 202 preservation occurred in California. NCR had three Section 202 properties in California which we refinanced and rehabilitated. We'd requested permission to use the $2 million in excess proceeds to create a housing trust fund for new development. HUD denied this request and required NCR to put the funds into each project's reserves for replacement, which were already fully funded. This essentially locked the funds into each individual project instead of allowing the funds to be distributed (within HUD approved parameters) "as needed" across a portfolio of affordable projects. Others can give more graphic examples of the flawed HUD policy that requires the passage of legislation to permit not-for-profit sponsors to use excess proceeds to further their housing and supportive services mission. S. 118 will correct HUD's policy.

<u>Waiver of Flexible Subsidy Loan Repayment</u>

In April, 2006, NCR acquired a property in Asheville, NC in order to preserve the property as affordable. The property had an existing flexible subsidy loan, which could not be paid off as part of the refinancing and financial restructuring. NCR requested consideration that would allow the loan to be assumed into the new ownership. It took HUD almost eight months to inform us that they would only allow 75% of "flex sub" loan to be assumed and they required 25% of the loan to be paid off. NCR applied for, and was awarded, state HOME funds – which was then used to pay off the required amount of the flexible subsidy loan. Essentially, NCR used local HOME funds to pay down the flex sub loan in lieu of using the HOME funds to do more rehab. There are countless other examples of HUD's refusal to permit forgiveness of flexible subsidy loans that make preservation deals unworkable. S. 118 will correct this HUD policy that inhibits preservation.

Title III - Assisted Living Conversion Program

Affordable assisted living is an option almost completely unavailable for low and very low-income seniors. Assisted living costs range from $1,742 to $5,197 per month in the United States with the average assisted living resident paying $2,968 per month.[1] To meet the needs of the very low income frail elderly, the Section 202 program includes an Assisted Living Conversion Program (ALCP) to fund the rehabilitation of existing properties to serve frail seniors that need assisted living services. NCR has been awarded three ALCP grants in Ohio over the last couple of years. We are delighted to have received these grants and have been working with the leadership at the Columbus HUD office and the Ohio Dept of Aging to create the first affordable assisted living models in the state. We are dedicated to implementing each of the projects; however, we also realize that as currently designed, they are more complicated and expensive than necessary. For instance, although HUD does not provide funding for direct services or licensure, by law the current ALCP program is only open to those buildings able to become **licensed** under their state's assisted living statute. This requirement can be extremely expensive to comply with and has left the program underutilized. It almost guarantees that the only states where ALCP grants will work are those with Medicaid waiver programs. As well it locks all the residents into services that are required as part of the assisted living license. To encourage less costly and more "flexible housing plus services" models, S. 118 amends the definition of eligible

1 MetLife, "Market Survey of Assisted Living Costs 2005"

assisted living under the Assisted Living Conversion Program. The amended definition will permit <u>non licensed</u> properties as eligible grantees that provide supportive services of the resident's choice either directly or through a licensed or certified third party. I believe that this legislation will increase the availability of assisted living services to very low-income elderly so that they can age in place with dignity; and that S.118 will allow more facilities to convert to a model that allows higher level of care with higher resident satisfaction at lower cost to the government.

Conclusion

The need for affordable, supportive, senior housing development and preservation is undeniable and urgent. I am grateful to have an opportunity to appear before the subcommittee in support of S.118. AAHSA members and my colleagues at NCR have been actively involved in these issues throughout the country and have testified before this and other committees on the very problems that I discussed today. We are excited that Congress believes that these topics warrant a national policy discussion. Today you will have a chance to take a positive step in the furtherance of a goal and mission that we all support. I urge you to support S. 118 in order to increase the efficiency of the Section 202 program and to help the residents that the program serves today and those it will serve in the future.

For your consideration, I have attached two case studies which serve as the poster children for Title II of this legislation. I am pleased to report that many of the problems from these case studies are addressed in S. 118. In addition, I am including a listing of all the preservation projects that NCR has completed or is in the process of completing since 2002.

A Preservation Case Study: Kirby Manor in Cleveland, Ohio

Kirby Manor, is a pre-1974 Section 202 development with no rental subsidy. None of the existing seniors were eligible for enhanced vouchers. The rehab needs were substantial, but the residents could not afford to pay for the increased rent that additional debt would trigger. None could bear the burden of higher rents; none wanted to move; and as a mission-oriented purchaser, NCR did not want to displace the residents. NCR's experience with the preservation of this project is illustrative of the typical issues that developers experience. Our goal at Kirby Manor was to preserve the property and keep residents in place. Our plan was to refinance the project using tax credits, reconfigure the existing efficiencies, converting them into one bedroom units and to construct additional units. Most of the 202 units were efficiencies of 287 square feet, a portion were studios of 345 square feet and the remaining were small one-bedrooms of 439 square feet. The project as it stood was unattractive and unmarketable as compared with the West Cleveland neighborhood where new, subsidized, more desirable housing had been built for a younger population. Although the sponsor and owner of the project had maintained the project in excellent condition, all of the building's original plumbing, mechanical and HVAC systems were nearing the end of their life expectancy. Only a significant recapitalization would provide sufficient resources to preserve the property.

NCR submitted a waiver request to HUD to request the subordination of the existing Section 202 loan and received an allocation of 9% tax credits which provided approximately $8,400,000 in equity. In addition, Kirby received a commitment of $1,000,000 in HOME funds from the City of

Cleveland; and, a commitment of $450,000 from the Ohio Housing Finance Agency as subordinated debt. The new first mortgage was a HUD 221(d)(4) insured loan of $4.467 million at 6.5% interest. Because enhanced vouchers were not available to these residents, NCR funded a $1,000,000 reserve from the equity generated in the refinancing to cover the increased rents for seniors as long as they remained. Once those residents pass away or leave there will be no deeply targeted subsidy to allow us to house the lowest income seniors. The rents will revert to tax credit levels and the poor seniors in that community will end up on a waiting list for Section 202/8 or Section 202 PRAC communities. If there were a senior preservation rental assistance program, NCR would be able to house other low-income seniors in those units.

The project redesign included the reduction of the number of units from 202 to 147 units and the conversion of units from efficiencies and one-bedroom units into renovated and newly constructed one- and two-bedroom units. After countless hours of negotiations, legal opinions and waivers, this project was completed. If the statutory changes included in S. 118 were enacted, then projects like Kirby Manor could be accomplished comparatively quickly and with little aggravation. Kirby Manor would be the norm instead of one in a hundred, and preservation of the Section 202 would be enhanced to prevent the loss of affordable housing just as the senior population is exploding.

A Preservation Case Study: Viewpoint Apartments, Sandusky, OH

Viewpoint Apartments is another early generation Section 202 property in Sandusky, Ohio , that NCR tackled. It had been developed and owned by the Kiwanis. The property had a number of efficiencies that were no longer marketable and thus experiencing a high vacancy rate. The project was only 50% subsidized and the rest of the units were unsubsidized and ineligible for enhanced vouchers. NCR applied for permission to reconfigure the existing units, changing them into one bedrooms and requested HUD's permission to subordinate the original 202 loan. HUD initially determined that rather than allow the reconfiguration they'd disallow the change under a strict "one for one" replacement policy in spite of the proven limited demand for efficiencies in the Ohio market. HUD also denied our request to subordinate the existing 202 loan or to allow the assumption of the old loan into the new financing structure. The good news is that after months of painful HUD processing, NCR was able to eventually close on the refinancing and provide a $7,000,000 update and facility transformation to this valuable Sandusky community. However, NCR truly believes that it should not be this hard and that HUD should serve as a proactive partner trying to do whatever it takes to preserve these precious community assets. These are extraordinarily complex transactions, but we're hopeful that with this legislation and the leadership at HUD, the next ones will not be as difficult.

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National Church Residences

Preservation

Preservation Efforts Since 2002

Total Number of Units: 3205

State	Name	City	Number of Units
AZ	Memorial Towers	Phoenix	153
GA	Baptist Tower	Atlanta	300
GA	Lakewood Christian Manor	Atlanta	250
GA	Trinity Tower	Atlanta	240
MI	Madison Tower	Detroit	170
MI	Romulus Tower	Detroit	126
MI	Solberg Tower	Detroit	170
MI	Wayne Tower	Detroit	154
MN	Prairie View	Long Prairie	47
MO	Roosevelt Apartments	St. Louis	154
NC	Battery Park Apartments	Asheville	122
NC	Clinton Crossing	Clinton	32
NC	Cotton Street Commons	Monroe	72
NC	Gregg Court Apartments	Rocky Mt	72
NC	Midland Commons	Charlotte	60
NC	Vanderbilt Apartments	Asheville	123
NJ	Alexian Manor	Elizabeth	75
OH	Bristol Court	Waverly	82
OH	Harborview Apartments	Sandusky	100
OH	Kirby Manor	Cleveland	147
OH	Viewpoint Apartments	Sandusky	117
WI	Lakeside Villas I	Milwaukee	151
WI	Lakeside Villas II	Milwaukee	206
WI	Maplewood Commons	Fond du Lac	82

NCR Portfolio Preservation

Total Number of Units: 1231

State	Name	City	Number of Units
CA	Cypress Sunrise	Los Angeles	75
CA	Clara Park	Los Angeles	50
CA	Summerfield Plaza	Sacramento	40
CA	Wysong Plaza	Los Angeles	95

FL	Fair Havens Village	Sebring	80
FL	Franklin House	Eustis	46
FL	Grove City Manor	Grove City	101
FL	Palm Springs Villa	Hialeah	53
FL	PSI Mandarin Center	Jacksonville	80
IN	Rosewood Terrace	Richmond	57
MD	New Towne Village	Leonardtown	36
OH	Trinity Manor	Middletown	90
OH	Meadowview Apartments	Mt. Sterling	40
PA	Neshannock Woods	New Castle	81
PR	Santiago Fajardo	Fajardo	60
PR	Villa Esperanza	Carolina	100
PR	Villa Providencia	Guaynabo	75
WI	Courtyard at Willow Woods	Tomah	72

Future Preservation

Total Number of Units: 341

State	Name	City	Number of Units
MI	Clark East	Detroit	200
MI	Madison Manor	Detroit	81
MO	Friendship Manor	Blue Springs	60

Total Number of Preservation Units: 4777