



# Preservation Notebook

A Cook County Preservation Rental Alliance E-Publication

May-June 2007

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The Cook County Preservation Rental Alliance is one component of the MacArthur Foundation Preservation Compact, which is composed of non-profit advocates, faith-based institutions, community groups, government agencies and other partners committed to preserving affordable housing stock in the county.

## Comprehensive Plan to Safeguard Affordable Rental Housing in Cook County

The Preservation Compact, a [The Preservation Compact](#) project of the Urban Land Institute supported by the [A Rental Housing Strategy for Cook County](#)

John D. and Catherine T. MacArthur Foundation, announced May 31 a comprehensive series of concrete steps that will save at least 75,000 affordable rental apartments in Cook County, IL by 2020. The initiatives represent a joining of forces of area real estate, finance, philanthropic, non-profit and governmental leaders to stem the loss of a critical housing resource.

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"Rental housing plays a central role in the region's economy and is as critical to its infrastructure as highways, transit systems, schools and industrial parks, but we have been losing this critical asset at alarming rates for many years now. The Preservation Compact has forged a private, public and nonprofit partnership that has committed to working together to reverse these trends," said Julia Stasch, co-chair of the Preservation Compact and Vice President for Human and Community Development at The John D. and Catherine T. MacArthur Foundation.

A key component of the plan is a Preservation Fund, through which community development leaders LISC and Community Investment Corp. will offer a suite of

new financing tools to assist both preservation-minded buyers and existing rental property owners seeking to maintain affordability. The MacArthur Foundation has pledged \$10 million in seed money to the Preservation Fund, which will eventually swell to \$100 million with banking industry support.

### Summary for May 10 Rental Alliance Meeting

The second meeting of the Cook County Rental Alliance took place May 10 at the Grace Place Community Center of Grace Church in Chicago's South Loop. Following the first meeting held in March, in which the purpose, functions and goals of the Rental Alliance and the greater MacArthur Preservation Compact were laid out, this second convening of preservation stakeholders got immediately to business sharing issues and strategies around saving key at-risk affordable properties in Cook County.

The meeting began with a sharing of current challenges and accomplishments in the preservation field. The main focus of this discussion quickly became the particular difficulties associated with the preservation of "troubled buildings," which are the most likely of any federally assisted property to opt-out of their subsidy program, according to a GAO study cited by John Bartlett.

One problem pointed out during the discussion was the difficulty of ensuring accountability and oversight in troubled buildings. Questions about government loans that went into the Lawndale Restoration property only to disappear without producing any rehabs, were cited as an example. The discussion also raised another question: How can advocates and organizers speak up and ensure that IHDA and HUD will react to mismanaged buildings without taking away their subsidies?

In some instances, the answer could be as simple as involving the local Department of Buildings to investigate code violations, said one participant. More aggressive use of the Mark-to-Market (M2M) program to restructure aging properties as a way to address physical needs was also offered as a way to deal with the problem. M2M restructuring can occur through acquisitions by tenant associations and nonprofits.

Restructuring preservation properties can be expensive and cumbersome, and may end up costing 2-3 times what was originally invested into a property, another

participant noted. The pace of refinancing can sometimes be painstakingly slow. It is also sometimes difficult for banks or financial backers to support such projects, and longer term HUD commitments, ranging from 10 to 20 years, instead of three to five years are needed.

Two presentations followed the sharing of challenges and accomplishments. First, Sargent Shriver's Kate Walz gave a brief presentation on Section 8(b)(b), a potentially powerful section of the U.S. housing code that is being tested as a preservation tool in Chicago's Grove Parc property. Next, the Project Spotlight of the meeting was presented by Lori Clark of the Jane Addams Senior Caucus and Jennifer Gonzalez of the Lakeview Action Coalition, who shared their organizing victory in preserving what is now the Lincoln Park Plaza, a 250-unit building with 147 units of Section 8 (see below for a full summary of both presentations).

Finally, Kevin Jackson of the Chicago Rehab Network (CRN) closed the meeting with a presentation of a current list of federally expiring properties in Cook County. The up-to-date list, produced by CRN's preservation database, provided detailed information on every federally assisted property, including tax credit properties, with contracts that expire between now and summer of 2008. The list was broken down by community area within Chicago, and by township for the rest of Cook County, and included sample guidelines for steps to take to preserve properties, including meeting with owners and management companies, forming tenant associations, connecting with government agencies and officials, and enlisting the help of local community organizations like the Chicago Rehab Network. Jackson encouraged all attending to utilize and distribute the list widely, and invited any requests for assistance to be directed to CRN.

**GETTING INVOLVED:** *The Alliance is an open table with CRN and the Shriver Center leading the effort, convening meetings and forums based on priority, and input from participants. The Alliance will attempt to address everyone concerned with preservation, i.e. tenants, property managers, owners, government agencies and advocates.*

**[Go to the Chicago Network website to view materials distributed at the Rental Alliance meeting.](#)**

## Next Rental Alliance Meeting Slated for July

**The next meeting for the Cook County Preservation Rental Alliance is scheduled for July. Details are still to be worked out. Contact Gené Moreno, 312-663-3936, for more information.**

## Bright Ideas

### Kate Walz: Section 8 (b)(b) -- A Tool For Preservation



*(Below is a summary of a presentation made by Kate Walz of the Sargent Shriver National Center on Poverty Law.)* Changes in federal law and less federal support for affordable housing have often left organizers and advocates scrambling to find ways to protect tenants and preserve housing. As we search for new tools, an arcane provision of the U.S. Housing Act , Section 8(b)(b) has emerged as a potentially powerful law. The provision was thought obsolete until its use at Morningside Property, where the Jane Addams Senior Caucus helped residents fight successfully to preserve affordable housing in the area. Moody Bible Institute, which owned Morningside, was treating elderly and disabled residents badly in a building shared with students from the institute. Moody was no longer receiving federal funds but was still under a Section 8 contract that it was violating.

As the struggle went forward, we came across Section 8(b)(b) in federal housing law. The statute "gives HUD discretion to move budget authority from a project-based contract to another contract, upon termination, etc. by the current owner." Aside from that provision, there are no other published rules or guidance.

At Morningside, Section 8(b)(b) was used to split the Section 8 contract to ensure that current residents have places to stay and to create a new agreement that preserves affordability in a new building until 2033.

Though the statute isn't clear in some places, it does require one event that can involve multiple owners, but owners must take large numbers of units -- not just one or two.

Since the transfers involved are deemed "permanent,

involuntary relocation," the transfers must comply with the Uniform Relocation Act, which means they are paid for by the owner, and include a "comparable replacement dwelling." That means preference for the same community, similar services/access to schools, transportation, and other services, and equivalent costs to tenants in terms of utilities. This is a significant point to be considered by advocates.

Since Morningside, Grove Parc is the next frontier with which to create Section 8(b)(b) policy. HUD is proceeding slowly and cautiously. The agency likely wants to avoid taking actions that could be considered precedent setting.

Still there are buttons advocates can push: contract splits can be allowed in phases and an added stipulation can be that HUD's authority cannot be used as a tool for gentrification (i.e. to push project-based units out of a revitalizing area).

There is, however, no language about tenant consultation. Some have proposed including language similar to Section 318, but currently there is none. The vagueness of Section 8(b)(b) has good and bad points. The good point is that it allows for some flexibility, which is important because of the way projects may vary. But the lack of definition can make it difficult for owners to meet HUD's desires and have transfers approved. Many advocates feel the flexibility should be retained, with additional parameters to better define what the statute can and cannot do. A national working group is trying to devise the language to give greater guidance to all parties, while retaining that flexibility.

Another key point to remember is that Section 8(b)(b)'s success at Morningside was likely tied to pressure exerted by different parties -- lawyers, tenants, and community groups.

It is vitally important that tenants make informed decisions and know the difference between what it means to live in project-based housing, versus having vouchers. It is manipulative to offer tenants vouchers after experiencing awful conditions and management in project-based buildings, without explaining what it means. Education outreach must be done with tenant leaders because residents don't always trust the management companies on the properties.

As advocates we also have to realize that Section 8(b)(b) is not the panacea, it is one tool and may not work

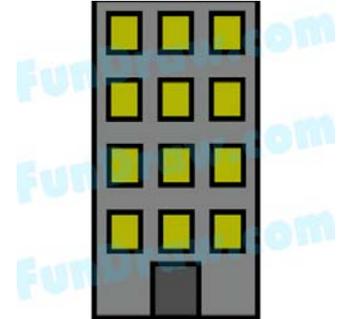
in every situation that arises.

**Lesson Learned: Think Outside the Box, You Just Might Win**

**Lori Clark, Jane Addams Senior Caucus, and Jennifer Gonzalez, Lakeview Action Coalition**

*(Below is a summary of a presentation made by Lori Clark, of the Jane Addams Senior Caucus, and Jennifer Gonzalez, of the Lakeview Action Coalition.)* Eight-years-ago the Lakeview Action Coalition and Jane Addams

Senior Caucus started organizing in anticipation of the 2001 expiration of a project-based Section 8 contract in what was called the Rienzi Plaza, a 250-unit building with 147 units of Section 8. It included seniors and disabled tenants, and immigrant families who built their community around the building.



Good relationships with tenants, a long term commitment to organizing, a successful media strategy and our willingness to fight helped convince the building owner to sign a five-year renewal. His decision was also contingent on passage of the Cook County "Class S" changes to tax laws, which would reduce his tax liability. Class S passed and through negotiations, it looked like things were moving ahead in a good way.

When that owner sold the building, we weren't sure what would come next, so we continued to organize and had a public meeting with the new owner, who wasn't experienced with Section 8 or dealing with government agencies connected with affordable housing. The owner, who renamed the building Lincoln Park Plaza, verbally assured us that he would renew the Section 8 contract, but refused to sign anything. We continued to work with tenants and build relationships with our alderman, federal representative, state officials, county commissioners, HUD and IHDA over the next couple years.

Last fall, we were surprised to learn the owner had signed a one-year contract, thinking that he had signed a market to market agreement and had also entered a preservation contract that required his rents to stay at the same level -- all of which hurt the owner's investment and the possibility of keeping the

affordable units on-line. The owner had signed a contract that didn't adequately provide for his needs or the financial support needed to keep the units affordable. The owner had paid for a compensation study that found he was getting too much money from HUD, and showed it to HUD anyway. A significant part of our work was getting the owner to understand what was actually happening.

We immediately made contact with HUD, and broached the idea of having HUD ask IHDA to void the contract. We emphasized this was an opportunity to save a building. We convinced HUD to drop the contract and provide commitments in writing that immediate funding the owner would have to forgo would be paid as the situation was resolved.

Over time the owner came to see that his interest and over interests coincided with one another: He needed more funding to make the building viable and we wanted the building to be viable in order to preserve the affordable units. We had also exhibited our influence with HUD, had the local alderman on our side and demonstrated our strength in fights with the previous owner.

We were eventually able to facilitate a new contract, educate the owner about comp studies, help get his taxes down, and get his rents to where they should be. It was a great victory all around!

Among the lessons were learned:

- HUD doesn't tell you when you've made a mistake. Advocates and owners must be diligent throughout the whole process. Pay close attention to everything going on, and always ask lots of questions.
- Think outside the box. Policy is often not prescribed by rule or precedent. Having HUD void the one-year contract was a pretty novel idea, but without it we would have likely lost the building.
- Don't assume you've lost the battle. We didn't accept defeat when the owner went ahead with his own contract, but it's important to be aware of opportunities and persistent in pushing for what you want.
- Preservation must always be our priority, which means there are times we will easily work with HUD and IHDA, but there are also instances in which our role is to hold the agencies accountable.

- Finally, victory is important, but so is leadership development. Throughout the process, we were able to involve people in a transformative process. The fight was also about people, and how we can change people through action.

## Federal Agenda



**In May, major federal legislation moved through Congress that could have a significant impact on preservation. The long-awaited passage of a National Affordable Housing Trust Fund by the U.S. House of Representatives, H.R. 1427, the Federal Housing Finance Reform Act of 2007, occurred May 22 by a vote of 313-104.** Initially intended as a regulatory reform bill for Government Sponsored Enterprises (GSEs) Fannie Mae and Freddie Mac, the bill was utilized by housing advocates as a vehicle for creating the first National Affordable Housing Trust Fund from a small percentage of GSE profits.

If seen through the Senate, the bill will create an Affordable Housing Fund of about \$600 million a year. After a first year of directing funds to rebuild housing in the Gulf region, the funds will become a dedicated source of revenue for uses such as construction, rehabilitation, and preservation of affordable rental housing through a National Housing Trust Fund. This would be the first major permanent resource stream ever in support of preservation.

Although passage of the bill through the House is a major accomplishment, House Republicans put up serious opposition to the Housing Fund, including a long series of amendments proposing to eliminate or weaken the fund. Of the 19 Illinois delegates, 4 voted against the measure, with 2 abstaining. Passage through the Senate, with its tenuous Democratic majority, is viewed as a much more difficult feat.

**The other major preservation legislation in Congress is H.R. 44, the Stabilizing Affordable Housing for the Future Act. Currently slated to come up for consideration by the Financial Services Committee, H.R. 44 is the most**

**important preservation bill to be proposed in years.** It includes key changes in HUD directives around the handling of foreclosure and property disposition, including a requirement to ensure that units of Section 8 are kept intact if the new purchaser wants to preserve affordability in the building. Another key measure that will especially aid in the preservation of "troubled buildings" is the requirement that HUD fairly appraise its properties when selling to local governments, who have often exercised their first right of refusal to save HUD-foreclosed buildings. This means that buildings with serious rehab needs will be priced with those physical needs taken into consideration.

Other important directives include calling on HUD to publish and regularly update online information about multifamily properties, including any notices to prepay or terminate mortgages and contracts, as well as information on the physical condition of the buildings. This is information that advocates have long struggled to obtain through avenues that can often be complicated and slow. Finally, the bill reinstates the Up Front Grant program as a permanent program to fund preservation; previously, it had depended on annual allocations by Congress, which were eventually zeroed out under the Bush administration.

H.R. 44, the Stabilizing Affordable Housing for the Future Act, could prove to be a key victory for preservation advocates, though it will likely face the same staunch opposition as H.R. 1427. To help call on HUD to commit to prioritizing preservation, see the Chicago Rehab Network's model letter and urge Congress to act now.

#### **County Update: Changes to Class S for Non-Profit Owners**

The Cook County Board of Commissioners amended the Class S property tax classification to expand eligibility to all nonprofit owners renewing under any option of the Multifamily Assisted Housing Restructuring Act. This policy is an important step towards preserving affordable rental housing in Cook County and a model nationwide. The ordinance passed on May 15.

Since Section 8 contracts began expiring in 1997, many owners of units have chosen to opt-out in Illinois. The Class S property tax includes incentives to preserve Section 8 housing at risk of conversion to market rate rental housing or condominiums. For more information, contact the Cook County Assessor's Office.

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*The Preservation Compact, a unique approach to the critical role of housing affordability, represents a potential breakthrough in strengthening rental stock by focusing and reinforcing preservation opportunities, activities and transactions. The Preservation Compact has six inter-woven keystone initiatives that will increase successful preservation. The keystones include:*

- *developing a preservation fund to increase capital flow;*
- *cutting red tape through an interagency council;*
- *creating a rental housing data clearinghouse and early warning system on expiring subsidies;*
- *helping owners cut costs through an energy efficiency program;*
- *developing a Chicago Area Rental Housing Alliance;*
- *reducing property taxes on multi-family rental buildings.*

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