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**ASSISTANT EDITOR**  
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**DESIGN & PRODUCTION**  
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**ADVERTISING REPRESENTATIVE**  
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**NAHRO HEADQUARTERS**  
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 Washington, DC 20001-3736  
 202/289-3500;  
 Toll Free: 877/866-2476  
 Fax: 202/289-8181  
 Web site: [www.nahro.org](http://www.nahro.org)  
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# The Problem Is the Rent Structure

BY TIM SCIACQUA

**T**raditional low-income public housing programs seek to deny human nature in the way rents are structured. It makes sense that if lower income equates to lower rents, you'll get both.

The problem started with implementation of the Brooke Amendments of 1968, 1970, and 1971, which in part "affirmed that public housing also had to be affordable"<sup>1</sup> and thus tied rents to income. This statement almost single-handedly makes it impossible for public housing authorities (PHAs) and the federal government to predict how much subsidy they need for budgetary purposes. It also serves as a disincentive for tenants to be forthcoming about their true incomes. People are people. As with income taxes, if the government can't find it, the tendency of many families will be not to report it.

Income-based rents have resulted in views among some low-income families that the system can be "gamed." That makes it seem inherently unfair because if families work hard and make more money, the government will step in and take it.

The public housing program was designed to be locally owned and controlled.<sup>2</sup> After the homes were built, the total cost of operation was to be paid for by the PHA through its rental receipts. But supporters argued the rents ought to be affordable, and that poor people shouldn't be responsible for paying management and maintenance costs if it represented too much of their income. As Genung remarked: "Since rental income is only required to cover operating costs and reserves, with little or nothing being applied to debt services, rents should be established at a level poor people can afford, assuring the low-income character of public housing." This funding formula was adequate in the early stages of the program. No provision, however, was made to compensate for the escalating economy that has severely affected the program in recent years.<sup>3</sup>

It was this attitude, and the political tide of the day that led to passage of the Brooke Amendments limiting rents tenants were required to pay by restricting and pegging maximum rents at 25 percent (now 30 percent) of a household's income. This dropped PHAs' rental incomes drastically as tenants sought to lower

rents by reducing their incomes.

The effect didn't take long to manifest. It soon became clear that many PHAs would be unable to survive with the federal limit on the rents they could charge. Congress passed the Housing and Urban Development Act of 1970 providing for "operating subsidies" to make up the difference in rents and revenues.<sup>4</sup> This was a major, and endless, debt that has burdened housing programs and the federal budget since.<sup>5</sup>

By 1972, outlays for federally subsidized housing exceeded \$1 billion, and were increasing at a rate approaching a half-billion dollars a year.<sup>6</sup> In fact, the Nixon administration imposed a moratorium on subsidized housing production in January 1973, partially because the costs were increasing so rapidly. The Nixon administration sought to study better and cheaper ways of providing housing subsidy. To some extent it is surprising then that the Section 8 program came out of the 1974 Housing Act, because the program was saddled with the same income-based rental formula that was plaguing public housing.<sup>7</sup>

Today, public housing operating subsidies (\$3.9 billion) and the Section 8 Housing Choice Voucher program (\$16.5 billion) account for nearly 80 percent of the total budget of the Department of Housing and Urban Development (HUD).<sup>8</sup> Although the rent formula is not the only culprit that encourages tenants to underreport income, it is a large part of the problem.

How do we know families are underreporting income? Even though PHA personnel throughout the country work hard to discover unreported income, the government has data on which to base this premise. Government Accountability Office (GAO) estimates continuously assign massive subsidy overpayments to underreporting.<sup>9</sup> Also, through its Rental Housing Integrity

Improvement Project (RHIIP), HUD released data from a 2001 study showing \$848 million in excess subsidies because of unreported earnings.<sup>10</sup>

Most of the statistics come from comparing existing databases, but there may be much more missed income. Databases are unable to account for the money made by unreported people living in dwelling units, and the affects of the underground economy. It is easy for people who are not named on leases to live in public housing. It is easier yet for them to live in Section 8 units that are privately owned and managed all over the country. It is also easy to understand why low-income families would be reticent to report income that would increase rents.<sup>11</sup>

Still, advocates for the poor argue the lost income is small. They argue that lower-income households are struggling to make ends meet, and the small amounts of income that they fail to report do not significantly impact the national budget. Is that true? It is largely a matter of perspective. About \$1 billion may not represent a huge amount of the federal budget, but it is hardly insignificant in the housing budget.

Rather than argue the numbers, it would be better to fix the system, so low-income households are encouraged to report all of their income and at the same time reward them by not increasing their rents.

In 1996, Congress sanctioned the Moving to Work (MTW) Demonstration program to test different approaches to providing low-income housing. The different approaches were intended to meet the demonstration's multiple goals of 1) providing work incentives to promote tenant self-sufficiency, 2) increasing housing choice, and 3) reducing program costs.

In 1999, the Housing Authority of the County of Tulare (HACT) started a MTW demonstration program focusing specifically on HACT,

which serves an area in the central San Joaquin Valley of California, manages nearly 5,000 units of affordable rental housing. Its public housing and Section 8 housing programs combined are over 3,500 units.

Among many different approaches, several MTW agencies have been experimenting with changes in rent structures and measuring the effects on reported tenant incomes among other variables.<sup>12</sup> The two most important features of the HACT design involve restructuring rents (decoupling rents from income) and five-year time limits on housing aid. Elderly and disabled households are allowed to opt out of the requirements.

Under the program design, MTW participants in public housing are charged "flat rents" set around 50 percent of the local Fair Market Rent

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(FMR). In the Section 8 program, MTW participants receive a fixed payment subsidy also set at roughly 50 percent of the local FMR and pay the difference between this fixed subsidy and the contract rent for the unit. There are no utility allowances in either the MTW public housing program or the Section 8 program. The rents and subsidy amounts do not vary by household income. Increases in income that would normally increase rents are retained by the households and can be spent or saved as they see fit. Until the household reaches 120 percent of median income for Tulare County, or until they are timed out of assistance at the end of five years, they have maximum flexibility.<sup>13</sup>

To determine whether changes in rent structure from traditional income-based formulas would result in more reported income, HACT has tracked incomes among the MTW participants yearly, even though rents are not based on income. Reported incomes from two income-

based housing programs managed by HACT have been used to compare the findings. Abt Associates has been noting the results and reporting to HUD on at least an annual basis from HACT data supplied before ongoing monitoring visits to the agency.

According to a January 2004 Abt report, data collected between May 1999 and October 2003 suggest that "MTW program participants have experienced much higher increases in income than participants in HACT's income-based programs."<sup>14</sup> Table 1 shows some striking contrasts between the income-based groups, the flat-rent payers and fixed-payment subsidy groups.<sup>15</sup>

The reader should not be confused by the "HUD Flat Rent Option" appearing in the table. This option, provided for in the 1998 Housing Act, allows public housing tenants to pay a flat rent, but gives them the option to convert back to income-based rents annually if they so choose.<sup>16</sup> Household income is only

examined every three years. Only those tenants in place at the time of MTW were given this option. HUD flat rents are higher than MTW flat rents, but do not come with time limits—a major tradeoff. Only a small number of households chose the HUD flat rents when afforded the option, presumably because the rents were higher than the MTW flat rents by an average of \$100 a month. Note that even the HUD flat-rent option produced higher reported incomes than the income-based options.<sup>17</sup>

When considering the data in the table below, it is important to note that the "MTW Conversion" households had the option of converting to MTW or continuing the income-based programs. It might be reasonable to assume, therefore, that families who chose not to convert were doing so because they felt they were better-off with rents tied to income, and did not expect upward mobility. This might explain their smaller increases in reported

**TABLE 1**

**Aggregate Income Increase Between May 1999 and October 2003  
Non-Elderly, Non-Disabled Families**

PUBLIC HOUSING	NUMBER OF FAMILIES	INCREASE IN FAMILY INCOME
<b>Income-Based</b>	<b>83</b>	<b>10%</b>
<b>HUD Flat Rent Option</b>	<b>39</b>	<b>36%</b>
<b>MTW - Conversion*</b>	<b>148</b>	<b>36%</b>
<b>MTW - New Move-Ins**</b>	<b>157</b>	<b>49%</b>
HOUSING CHOICE VOUCHER PROGRAM	NUMBER OF FAMILIES	INCREASE IN FAMILY INCOME
<b>Income-Based</b>	<b>298</b>	<b>13%</b>
<b>Welfare to Work (Income-Based)</b>	<b>363</b>	<b>9%</b>
<b>MTW - Conversion*</b>	<b>665</b>	<b>50%</b>
<b>MTW - New Move-Ins**</b>	<b>547</b>	<b>51%</b>

\* Existing HACT tenants who opted to convert to MTW at the start of the demonstration.  
\*\* Families enrolled into MTW from the waiting list.



**TABLE 2****Aggregate Income Increase Between May 1999 and June 2005  
Non-Elderly, Non-Disabled Families**

PUBLIC HOUSING	NUMBER OF FAMILIES	INCREASE IN FAMILY INCOME
<b>Income-Based</b>	<b>64</b>	<b>15%</b>
<b>HUD Flat Rent Option</b>	<b>32</b>	<b>46%</b>
<b>MTW - Conversion*</b>	<b>123</b>	<b>51%</b>
<b>MTW - New Move-Ins**</b>	<b>157</b>	<b>58%</b>
HOUSING CHOICE VOUCHER PROGRAM	NUMBER OF FAMILIES	INCREASE IN FAMILY INCOME
<b>Income-Based</b>	<b>200</b>	<b>14%</b>
<b>Welfare to Work (Income-Based)</b>	<b>156</b>	<b>7%</b>
<b>MTW - Conversion*</b>	<b>526</b>	<b>73%</b>
<b>MTW - New Move-Ins**</b>	<b>415</b>	<b>62%</b>

\* Existing HACT tenants who opted to convert to MTW at the start of the demonstration.  
\*\* Families enrolled into MTW from the waiting list.

income over time.

None of the new households entering the program (except for elderly/disabled) were offered a choice. They either entered the MTW demonstration with fixed rents in public housing or fixed payments standards in the Section 8 program, or were not provided subsidy.

Table 2 provides an updated look at the same data, extended through June 2005.<sup>18</sup> The numbers of families in both tables are snapshots, representing families in place for the period the data was developed. To be included in the data, at least one reexamination of income had to have been completed. Data for families that had already exited the programs are excluded.

It is remarkable that demographically similar families residing in public housing or given Section 8 subsidies reported substantially higher increases in income over time when charged flat rents or provided with fixed payment subsidies, than those families who were on income-based rents.

So what about the rent burden on



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**TABLE 3**  
**Rent Burdens of MTW and Non-MTW Families\***  
**June 2005**

	RENT BURDEN			
	0-30%	31-50%	ABOVE 50%	TOTAL
<b>PUBLIC HOUSING</b>				
<b>MTW Families</b>	<b>260</b>	<b>64</b>	<b>6</b>	<b>330</b>
<b>Non-MTW Families</b>	<b>185</b>	<b>0</b>	<b>0</b>	<b>185</b>
<b>HUD Flat Rent Families</b>	<b>55</b>	<b>1</b>	<b>0</b>	<b>56</b>
<b>HOUSING CHOICE VOUCHER PROGRAM</b>				
<b>MTW Families</b>	<b>1,112</b>	<b>245</b>	<b>111</b>	<b>1,468</b>
<b>Non-MTW Families</b>	<b>850</b>	<b>136</b>	<b>13</b>	<b>999</b>

\* Excludes elderly and disabled households, for whom MTW participation is not mandatory.

low-income public housing and Section 8 households? The Brooke Amendments came about largely because it was the perception of Congress that rents were too high in relation to the incomes of low-income families. However, it is worth considering that the change in rent structure brought about by Brooke (tying rents to income) has led to lower reported incomes as many low-income renters have sought through the years to keep their rents as low as possible.

Table 3 shows actual rent burdens in the HACT programs, based upon those households housed as of June 2005.<sup>19</sup> There is some additional rent burden among the flat rent and fixed payment subsidy groups, but not significantly so. This may be partially explained by the lower incomes of the existing group that chose not to convert, or the restrictions on that group paying more than 40 percent of their income in the first year of occupancy. It may also be that the MTW groups have more options to

rent higher quality units in better locations.

Even though there is a higher calculated rent burden, 82 percent of both the MTW public housing and Section 8 families were not paying in excess of 30 percent of their gross incomes for rent as of June 2005.

As an added note, HACT eligibility clerks suggested to Abt in the 2003 monitoring review that many MTW families were renting larger units in better areas than their income-based counterparts because of cash savings, and better landlord acceptance of the more market-like rent structure. Because both the tenant and landlord clearly understand how much money the PHA is paying, there is no guesswork. It is simpler and more easily understood. Abt pointed out that this outcome met one of the MTW objectives—greater access.<sup>20</sup>

The HACT trial has limits in that it is geographically regional and represents only one approach to the problem. However, it does support

the accuracy of GAO and HUD data on the extent of underreported income that low-income advocates would like to underestimate.

It may also show that rent structures are not just about the federal outlays it takes to support the programs. They are instrumental in encouraging families to report all of their income. With the increasing financial burden of housing assistance programs in this country, since the arrival of operating subsidies in public housing, and the introduction of the Section 8 program in the 1970s, we should no longer assume the standard income-based rent formula should be sacrosanct.

It's not just about the money, although the burden on federal taxpayers shouldn't be trivialized. There is also compelling evidence that decoupling rents from income may help motivate low-income households to become more self-sufficient.

More widespread demonstrations should be undertaken in different regions, both urban and rural, to test

the concept that rent structures that decouple rents from income may be an important tool in efforts to empower low-income households.

Tim Sciaqua is executive director of the Housing Authority of the County of Tulare in central California. The agency owns, manages or administers about 5,000 housing units for families, seniors and the disabled. Programs include public housing and Section 8 vouchers as well as extensive farm labor housing, tax credit syndications, locally owned and operated projects and homeownership programs. Tim is on the board of directors of several non-profit corporations, and serves as the real estate broker of record for Kaweah Management Company and Kingsco Development Corporations, both 501(c) 3 corporations specializing in the development and management of affordable housing. He has done extensive training for the National Association of Housing and Redevelopment Officials (NAHRO) and other organizations on a national basis.

<sup>1</sup> United States, Department of Housing and Urban Development, Office of Policy Development and Research, *Exploring New Strategies for Improving Public Housing Management*, by Robert Kolodny (Washington: Government Printing Office, July, 1979), p. 8.

<sup>2</sup> George R. Genung Jr., "Public housing—Success or Failure?" *The George Washington Law Review*, 39:4 (May, 1971), 734-63.

<sup>3</sup> *Ibid.*, p. 734-35.

<sup>4</sup> Kolodny, p. 8.

<sup>5</sup> John Hiscox, Vice President for Legislation and Executive Director of the Macon, Georgia Housing Authority, *PHADA testimony before the House Appropriations Subcommittee on VA/HUD and Independent Agencies*, April 22, 1998.

<sup>6</sup> David Listokin, Rutgers University, *Federal Housing Policy and Preservation: Historical Evolution, Patterns, and Implications*, Housing Policy Debate, Volume 2, Issue 2. p. 164.

<sup>7</sup> *Ibid.*, p. 165.

<sup>8</sup> The figures furnished are from the 2005 Appropriations Bill and estimates by the National Association of Housing and Redevelopment Officials for the full 2006 formula funding of Operating Subsidies in Public Housing.

<sup>9</sup> GAO-02-749 (Financial Management)

*Coordinated Approach needed to address the Government's Improper Payments Problems.*

<sup>10</sup> United States Department of Housing and Urban Development, RHIP Audit Findings presentation, NAHRO Detroit Conference, July 16, 2004.

<sup>11</sup> Tim Sciacqua, *Journal of Housing and Community Development*, "Time for a New Model-Income-Based Rental Programs Are Flawed", May/June 2004 Vol. 61. 3.

<sup>12</sup> <http://www.hud.gov/offices/pih/programs/ph/mtw/index.cfm>. The link provides detailed information on the MTW Program, its participants and program designs.

<sup>13</sup> Jennifer Turnham, Abt Associates, Inc., *Tulare County's Moving to Work Program*, Contract#C-OPC-21702, Task OrderDEN-T005-for HUD, September, 2000.

<sup>14</sup> Turnham, Memorandum report to HUD dated January 8, 2004, p. 7.

<sup>15</sup> *Ibid.*, Table 1 entitled "Aggregate Income Increase Between May 1999 and October 2003 non-Elderly, Non-Disabled Families." P. 7.

<sup>16</sup> Rod Soloman, et.al., *Summary of QHWRA of 1998*, Legislative Initiatives, Office of Public and Indian Housing, December 1998, p. 4.

<sup>17</sup> In the author's opinion, while it is obvious as to the advantage to the renter, HUD flat rents afford the worst of both worlds to the federal taxpayer. The option allows tenants to switch back and forth between income based and flat rents minimizing their rents, while accurate budgeting on the part of PHAS is complicated by the option. In addition, although income is only reexamined every three years instead of annually as is the case in the standard rental structures (saving some clerical time, one of the reasons this option was introduced in the 1998 Housing Act), HUD flat rents appear to be less motivational, in that if household income erodes, there is little consequence to tenants, because their rent is lowered.

<sup>18</sup> Table 2 updated HACT data on incomes for the period May 1999 through June 2005.

<sup>19</sup> Data represents gross rents as a percentage of reported gross household income as of June 2005. In the Brooke groups, although burdens are limited to 30% at occupancy, families may choose to select larger bedroom sizes with higher rents, and thereby increase their rent burdens. "Alien prorations" also account for slight irregularities in the Brooke groups.

<sup>20</sup> Turnham, Memorandum report to HUD dated January 8, 2004, p. 3



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