

**H.R. 3186, THE BUILD HOUSES FOR OUR  
MILITARY'S ENLISTED SERVICEMEMBERS ACT**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON  
HOUSING AND COMMUNITY OPPORTUNITY  
OF THE  
COMMITTEE ON FINANCIAL SERVICES  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED NINTH CONGRESS  
SECOND SESSION

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FEBRUARY 8, 2006  
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**H.R. 3186, THE BUILD HOUSES  
FOR OUR MILITARY'S ENLISTED  
SERVICEMEMBERS ACT**

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**Wednesday, February 8, 2006**

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON HOUSING AND  
COMMUNITY OPPORTUNITY,  
COMMITTEE ON FINANCIAL SERVICES,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 11:00 a.m., in room 2128, Rayburn House Office Building, Hon. Robert Ney [chairman of the subcommittee] presiding.

Present: Representatives Waters, Neugebauer, Ryun, Cleaver, and Green.

Chairman NEY. Good morning. The Housing Subcommittee will meet this morning to discuss H.R. 3186, a bill designed to help our American servicemen and servicewomen gain access to Affordable Housing Now programs.

It was introduced by Congressman Jim Ryun and Congressman Al Green, our two distinguished colleagues who are here today to testify on the bill, and we amended the Department of Housing and Urban Development Act to exclude basic housing assistance amounts received by a member of the Armed Forces from consideration as income for any Federal housing assistance program.

I look forward to hearing from the panel.

Today, enlisted military personnel and their families face a shortage of quality affordable housing in duty stations across the country. This shortage is likely to be further complicated by the disappearance of military units as part of the BRAC, the base closings.

There are several affordable housing programs in existence that could assist our military personnel in finding affordable housing, such as the Department of Housing and Urban Development Section 8, housing choice voucher programs; however, current regulations make enlisted military personnel ineligible for these types of Federal housing programs.

Currently, HUD's policy is to include the basic allowance for housing as income in its calculation for determining if a military household meets the income qualifications for low income Federal housing programs.

I'm not going to dwell on it further, because you two know this bill better than I do.

But in closing, and not to distract from today's hearing, but for me to just publicly get this off my chest. It has nothing to do with either gentleman or the bill, but I wanted to mention my disappointment over HUD's recent budget proposal that would cut the community development block grant program by over 25 percent.

My goal as chairman of the Housing Subcommittee is to make certain the focus of the Department remains on housing, and that it has the tools necessary. We went through this proposal, it was going to switch to Commerce last year, but that went bust and it wasn't implemented.

And I was very vocal in opposition against that, because they were changing the whole focus of what CDBG is about.

And so, it's not a particularly fine bill, but I needed to get that on the record because it's something that scares me, and I think scares my constituents, and worries me about the future ability of our communities that have been hard pressed to recover.

With that, I will yield to Congressman Ryun.

**STATEMENT OF HON. JIM RYUN, A U.S. REPRESENTATIVE  
FROM THE STATE OF KANSAS**

Mr. RYUN. Chairman Ney, thank you. Thank you very much for holding this hearing and I appreciate the opportunity to testify.

The issue which we are discussing today is extremely important and in my estimation very urgent. I thank my colleague, Mr. Green from Texas, for cosponsoring the Build HOMES Act with me. I look forward to his testimony a little later.

Mr. Chairman, we have a problem. We are discriminating against our men and women in uniform. This Congress has a solemn duty to provide high quality of life for the men and women of our Armed Forces.

However, when it comes to obtaining affordable housing, many of these servicemembers are currently at an unfair disadvantage. The best way for me to demonstrate this discrimination is to give you a hypothetical example.

Suppose two people submit applications to live in affordable housing residency. Both are American citizens, both have identical qualifying incomes, both have the same number of family members, and both are in possession of housing assistance of the same amount.

There is only one difference between these two applications.

The first is a servicemember with military-issued basic allowance for housing, or a BAH, and the second is a civilian with a Section 8 voucher.

Currently, HUD rules are such that a civilian is not required to count a Section 8 voucher as income, thereby preserving his or her eligibility for the affordable housing.

However, no such exemption exists for BAH, and after factoring this assistance into his or her income level, the servicemember in a hypothetical situation is rendered ineligible for the housing.

Mr. Chairman, I find this scenario inexcusable. We have affordable housing programs for a reason, and that is to assist low income Americans with obtaining quality housing.

That should be no less true for our men and women who put their lives are on the line for us. Frankly, Mr. Chairman, I was



surprised when I discovered that this was the current policy. There simply wasn't any way I could let this go unchallenged. And I am confident that my colleagues will agree with this.

Fortunately, a solution is relatively simple. HUD must simply be directed to treat BAH assistance as it does Section 8 housing vouchers.

The bill I have introduced would statutorily direct HUD to do just that, thereby ending the discrimination.

A secondary benefit would be a greater incentive for builders to construct additional affordable housing in areas surrounding military bases. This would be especially important around bases that are getting more troops as a result of the BRAC process.

I thank the Members on both sides of the aisle who have agreed with me by cosponsoring the Build HOMES Act. I am pleased about the bipartisan make-up of the cosponsor list, and I look forward to obtaining broader support, even more as we proceed along.

Let me close with a brief word on why this change must be made quickly. As a result of the recent round of BRAC, hundreds of thousands of soldiers are currently in the process of relocating to a new housing area around a base.

During this process, many bases, including Ft. Riley, which is in my district, are dramatically increasing in population. This is causing a significant shortage of quality housing in the surrounding areas. The Ft. Riley area is not alone in this problem; far from it.

Bases across the Nation are in a similar situation. The bill we are discussing today is a small part of alleviating that problem.

Thank you again for considering this important legislation. I hope that my colleagues on the subcommittee will see fit to act favorably on the Build HOMES Act. I look forward to the testimony from my colleague, as well as the next panel, and I am happy to answer any questions.

Thank you for this time.

[The prepared statement of Hon. Jim Ryun can be found on page 28 of the appendix.]

Chairman NEY. We all thank the gentleman.

The gentleman from Texas, Mr. Green.

**STATEMENT OF HON. AL GREEN, A U.S. REPRESENTATIVE  
FROM THE STATE OF TEXAS**

Mr. GREEN. Thank you, Mr. Chairman, and I want to thank our ranking member, Maxine Waters. The two of you and I had the great opportunity to visit Louisiana together, to look at some of the devastation caused by Hurricane Katrina.

And while visiting there with you, I drew some conclusions about the two of you. You both care about people. You both want to make sure that we have quality, affordable housing for every person who needs it in this country.

And if I may, there is something that I would like to devote or dedicate to the two of you. The author of this is unknown to me:

"Some measure their lives by days and years. Others by heart throbs, passions and tears. But the surest measure under God's sun is what for others in your lifetime have you done."

I want to thank you for what you and our ranking member have done to help others in need of housing.

Because this is my first time testifying before Congress as a Member, I also would like to thank all of those who made it possible for me to have this opportunity to serve in the United States Congress. I consider it a great privilege and a great honor.

I have a great staff working with me, so I must thank them for the work that they've done to help me with this piece of legislation.

And finally, I would like to thank all of the Members who support H.R. 3186.

I especially thank Congressman Jim Ryun for allowing me to act as an original cosponsor of this legislation. I am honored to do this because he has demonstrated a willingness to work with others across the aisle and to reach out, and I am honored to reach back.

Mr. Chairman, there is a need for more quality, low-income housing. Right now, there is a 1.6 million unit deficit in extremely low-income housing units. Nationally, there are 43 affordable and available units per 100 extremely low-income renter households. And the majority of those who qualify for affordable housing cannot find it.

It is my opinion, and I believe it is the opinion of Congressman Ryun, that some things transcend politics. Some things transcend party affiliation. There are some things that transcend political persuasion. Eliminating invidious discrimination is one. And supporting our soldiers is another.

H.R. 3186 does both by eliminating what I call added income discrimination.

An example. There is a maximum income at which a person can receive and qualify for low-income housing. My colleague has made it very clear by way of example as to how this can impact one's ability to acquire low-income housing if you exceed that income.

I want to try now to make it conspicuously clear. Take the case of the civilian on one hand, who is at the maximum level, depending on the locality, who receives a Section 8 voucher. That Section 8 voucher will not be considered income and therefore, will not cause the civilian to go over the allowable amount and not receive the affordable housing.

Take the soldier, who receives an income at the maximum level. That soldier receives also the basic housing allowance. That allowance, while comparable to the voucher, will cause the soldier to exceed the maximum income by virtue of that allowance being considered income, whereas the voucher was not.

This clearly is a form of discrimination against the people who serve this Nation so well on a daily basis.

As a result of the Base Realignment and Closure Act, we in Texas will have 9,700 new military persons. Many of them will qualify for low-income housing. There will be others who will not qualify because of what we call the added income discrimination. We need to eliminate the added income discrimination. It is invidious. It transcends politics. It transcends political affiliation and political persuasion. I am honored to join with my colleague in this effort.

And finally, I would like to quote Father Dennis O'Brien, who reminds us that the ultimate protector of freedom is the soldier. And I want to quote him because we should protect the protectors.

But here's what he says: "It's not the reporter who causes us to have freedom of the press, it's the soldier. It's not the poet who grants us freedom of speech, it's the soldier. It's not the activist who accords us freedom to demonstrate. It's the soldier. It's the soldier who salutes the flag. The soldier who serves beneath the flag. The soldier whose coffin is draped by the flag. It's the soldier who allows the protester to burn the flag."

I believe the soldiers deserve a debt of gratitude from us in the form of the elimination of this added-on discrimination. We ought to protect the soldier.

I thank you for the time, Mr. Chairman.

[The prepared statement of Hon. Al Green can be found on page 25 of the appendix.]

Chairman NEY. I want to thank both gentlemen, and I want to thank the gentleman from Texas for his kind comments. I also would note that the gentleman was there with our ranking member, Maxine Waters, and the staff of the House in New Orleans and down in Gulfport, and I have already asked the gentleman if I can use and somewhat plagiarize him, but it is also about looking and taking care of the least, the lost, and the last.

And when you go down there, you can realize there's a lot of least, lost, and last down there. And so I appreciated your participation and also that of our ranking member and the members of the committee; the gentleman from Cleveland was also down there.

And on this bill, I think you make a very good point. Also, if I could, for the record, I want to submit the testimony presented to us from the National Low Income Housing Coalition.

Some of the people said well, you know, maybe the Department of Defense ought to build in certain housing allowances.

But I think that both of you made very good points. Also, I think Mr. Green makes the point of the IRS issue, and it's a level playing field.

That's what this is about. If you look at people and incomes, whether on the civilian end or the military end, it's about a level playing field, and what's a fair application, frankly, of IRS tax in a fair way.

So, I really don't have any questions about it.

The gentleman knows the system here. The second panel, I would say, there's not a lot of members, but this constitutes a hearing and therefore this helps progress this bill. And so I appreciate it.

Questions?

Mr. CLEAVER. Mr. Chairman, I would like to thank my two colleagues for their vision in pushing forward with this legislation. And I express appreciation to the Chair for aggressively bringing it forward.

One of the concerns I have, and it may be easy to eliminate, is what happens to members—this legislation would affect, impact only those who are in the military and have been sent to or shipped out to some base someplace, Whiteman Air Force Base, just outside my district.

But what about the Reserve? We are seeing, with what's going on in Iraq, that we are calling up tens of thousands of Reservists,

who may from time to time find themselves in a community before they are shipped overseas having this very same problem.

Mr. RYUN. Let me address that question, if I may. First of all, we have looked at the bill very carefully and crafted it in such a way that we are trying to help as many as possible, but the Reserve aspect of it, because they don't have the basic allowance for housing, would not be considered for this particular bill.

Mr. CLEAVER. I know, but what happens when a Reservist ends up in active duty for 1 or 2 years? That is what is happening now.

I have a parent in my district who came to me crying and protesting because her son was scheduled to leave his active duty, and he was called back.

So there is very little difference between him and someone who is in the regular Army. What if somebody is called up from Salina, Kansas, and they end up somewhere for a year? 2 years?

Mr. RYUN. Let me just say this. We'll have to get back to you on that particular issue again when you are dealing with the Reservist aspect. It's a little different. At the same time, we do want to do what we can to help our active duty personnel, and I will be happy to get back to you on that.

Mr. CLEAVER. Thank you.

Mr. GREEN. I would like to respond as well. Congressman Cleaver and I are classmates, and his brilliance is always something that astounds me. And once again, you have come through.

Clearly, you have raised a question that should be addressed. This bill, however, may not address that question. And we would hope that we could at least gain this much and then consider moving another inch, another mile, as we progress.

But I think it is an excellent point for us to consider.

Mr. CLEAVER. Thank you. Thank you, Mr. Chairman.

Chairman NEY. Thank you. Well, thank you both, gentlemen, for your dedication to this issue, and for bringing the bill to us. Thank you.

The last panel consists of Mr. Rod Barnes, city manager, Junction City, Kansas; Mr. Bobby Bowling IV, president, Tropicana Homes, El Paso, Texas, testifying on behalf of the National Association of Home Builders; and Mr. Timothy R. Kenny, executive director, Nebraska Investment Finance Authority, Lincoln, Nebraska.

Also, without objection, the written statements will be made part of the record. You will each be recognized for a 5-minute summary of your testimony.

We will start with Mr. Barnes.

#### **STATEMENT OF ROD BARNES, CITY MANAGER, JUNCTION CITY, KANSAS**

Mr. BARNES. Chairman Ney, thank you very much for this opportunity to be before you today, to talk about this important issue. I am the city manager for Junction City, Kansas. I have with me also Sam Robinson, our military affairs director for that area.

We are right outside the gates of Ft. Riley, Kansas, and we are very proud to be the hometown of what's going to be the Big Red One.

We are growing rapidly due to the increase in force strength and growth at Ft. Riley. We currently anticipate receiving approxi-

mately 30,000 people in the next 3 years in our region, and need to have 9,000 additional housing units.

However, we do have a big problem with the Section 42 tax credit program. Military families simply cannot meet the income guidelines when their base housing allowance is included as income. That means a large segment of our population is being excluded, as Congressman Green and Congressman Ryun so eloquently outlined.

Some of the newest, highest quality affordable housing units in our community and the City of Manhattan, just 15 miles away, are Section 42 tax credit units. The City of Junction City currently has 264 units, 112 of those units constructed after 1999. The balance has all been completely remodeled.

Manhattan has 108 brand new units which opened last year, constructing 112 units, but because of the way that the base housing allowance is calculated, the only military folks who can live in these units would be an E-1, with various numbers of dependents.

In our community, it means an E-1 with three dependents. In Manhattan, it means an E-1 with two dependents. So it makes it very difficult for those units to be available for that large segment of our population.

We provided you in my written testimony with some information on Investment Resources, Inc., that owns the units in both Junction City and Manhattan. Ten percent of their units are leased to military families. Three years ago, that was 40 percent.

Since the military housing allowance increases, these families are squeezed out of their affordable income bracket and forced to pay higher rents. Sometimes it's inferior housing, and soldiers are forced to live in units that are not inspected and approved by post housing.

We need affordable housing in our region. The tax credit units provide a wonderful opportunity to help reduce the risk to developers associated with military deployments. The State of Kansas has set aside millions of dollars to assist with the development of housing units. However, they are not going to take that risk if a large segment of our population cannot live in that housing once it is constructed.

We would like to have that as a tool again for an opportunity to build affordable housing in our community.

We provided you today with color pictures of the units that are in Junction City, and I think you'll see that they are something you yourself would want to live in and be proud to live there.

I will be happy to answer any questions a little bit later on. We believe this is an important issue that needs to move rapidly. We think that it is a tool that we need to have available to us as we continue to grow housing units in our community to help meet the growing demand for not only our military folks, but our civilian personnel and folks who also need quality affordable housing.

Thank you.

[The prepared statement of Mr. Barnes can be found on page 31 of the appendix.]

Chairman NEY. Thank you very much.

Chairman NEY. Mr. Bowling.

**STATEMENT OF BOBBY BOWLING, IV, PRESIDENT, TROPICANA HOMES, EL PASO, TEXAS, ON BEHALF OF THE NATIONAL ASSOCIATION OF HOMEBUILDERS**

Mr. BOWLING. Chairman Ney, members of the subcommittee, thank you for the opportunity to testify today.

My name is Bobby Bowling, and I am a third generation home builder and the president of Tropicana Homes in El Paso, Texas. My family has been building homes in El Paso for 50 years, and we currently build about 400 single family homes, and about 225 affordable multifamily units every year.

I am pleased to be here today on behalf of the 225,000 members of the National Association of Home Builders to testify in support of H.R. 3186, the Build HOMES Act.

This important legislation increases access to affordable housing for enlisted military personnel, specifically through the housing tax credit program. It does this by excluding the military's housing subsidy, the basic allowance for housing, or BAH, from income when qualifying residents for low-income housing tax credit properties.

This would be especially helpful at Ft. Bliss in El Paso, where there is a tremendous shortage of decent, affordable housing for enlisted military personnel and their families.

I am here today instead of before the Ways and Means Committee because the Housing Tax Credit Program takes its guidance on calculating income from the Department of Housing and Urban Development Section 8 guidelines.

These guidelines provide for a number of exclusions from income, such as hazard duty pay for military personnel, but do not exclude the BAH.

Curiously, Section 8, the primary housing subsidy for non-military individuals and families, is not included as income for the purposes of qualifying for housing tax credit properties.

Further, neither Section 8 nor the BAH are considered income for Federal income tax purposes.

The first concern we have is one of equity. Imagine, as the examples that Congressman Ryun and Congressman Green gave, two potential residents of a housing tax credit property. One is a civilian and the other a military servicemember who each received a subsidy for housing.

The civilian's housing subsidy is in the form of Section 8 assistance, and the servicemember's is in the form of the BAH. Both residents meet the housing tax credit income restrictions, in the absence of these housing subsidies. When a leasing agent is qualifying each of the potential residents for that property, he or she excludes the Section 8 assistance for the civilian, but must include the servicemember's BAH in that income calculation.

This often results in the rejection of the servicemember because they are over-income, but by only a small amount, in many cases. The end result is that enlisted military personnel are disqualified for no other reason than the form of their housing subsidy.

Another concern is the practical impact on enlisted military personnel and their families in markets with high housing costs, or where there is a shortage of affordable housing. This is a trend in

many military duty stations around the country, including Ft. Bliss in El Paso.

The Department of Defense is straining to renovate and modernize its existing on-base housing at Ft. Bliss, and there are no plans to add substantial numbers of new on-base units. As a result, the private market will continue to provide the bulk of housing for troops stationed at Ft. Bliss.

However, El Paso's primary source of rental housing is through Federal housing programs, like the housing tax credit, and servicemembers cannot qualify for these properties, which are also the best rental housing available in our market.

There is tremendous competition for the remaining rental units, which will only get worse, once troops start relocating at Ft. Bliss, as part of the BRAC process. Ft. Bliss is scheduled to receive nearly 21,000 new troops and their families over the next 5 years as part of BRAC, and demand in the private housing market is going to skyrocket.

Servicemembers will have to search for affordable housing at a substantial distance from Ft. Bliss. Enabling enlisted troops to access housing tax credit properties would be a great help in addressing this problem.

But even further, H.R. 3186 would create incentives for new construction of affordable housing units or rehabilitation of existing affordable housing stock. This would be especially helpful in communities where the low- and moderate-income civilian population alone cannot currently sustain housing credit properties.

Also, States will have more options for helping low- and moderate-income civilian and enlisted military personnel, especially as the BRAC process moves forward.

H.R. 3186 is an important piece of legislation that will help increase access to affordable housing for America's enlisted military servicemembers and their families.

Thank you for the opportunity to share my views on this legislation and I would love to entertain any questions that you or the members might have, Mr. Chairman.

[The prepared statement of Mr. Bowling can be found on page 38 of the appendix.]

Chairman NEY. Thank you.

Mr. Kenny.

**STATEMENT OF TIMOTHY R. KENNY, EXECUTIVE DIRECTOR,  
NEBRASKA INVESTMENT FINANCE AUTHORITY, LINCOLN,  
NEBRASKA**

Mr. KENNY. Mr. Chairman and members, thank you for the opportunity to testify before the committee today. My name is Timothy Kenny, and I am the executive director of the Nebraska Investment Finance Authority, located in Lincoln, Nebraska. We are the State authority that administers the Section 42 housing tax credit program. I have had the honor of doing that for the last 12 years, and then also did that in two other States.

I have been asked to testify today in support of H.R. 3186 in light of my recent experiences with the regulatory conflicts that the bill seeks to correct.

The first experience was when I was on a tour with a civilian support group in San Antonio, Texas, at Ft. Sam Houston. And I was talking with our young tour guide, a sergeant, an E-4, and I asked him what life was like in the Army.

I was surprised when that young soldier told me that he loved the military and he loved his job, but he was going to have to quit. And when I asked him why, he said because I can't find a safe place around here for my wife and kids, where I can afford to live.

His problem struck me as quite strange, and I decided to do some research. And that opportunity came not much later when into my office in Nebraska came my tax credit program administrator, who informed me that two important multifamily rehab projects that we had going on in Bellevue, Nebraska, just adjacent to our own Offutt Air Force Base, were having a hard time achieving tax credit eligible occupancy.

What I discovered at that time was that military personnel, as you have learned today, who have a housing voucher from the Department of Defense are not treated in the same way as a client of our local housing authority with a Section 8 voucher.

Unfortunately, when the Section 42 rules are applied through Section 8 to determine if a low income service person is eligible to live in a tax credit project, the test penalizes that servicemember.

Simply stated, the HUD voucher is not included in income, but the BAH amount from the Department of Defense is included in income for tax credit unit occupancy qualification.

The result is that the low-income serviceman or servicewoman, and their family, is often denied occupancy. This unfortunate result certainly does not seem equitable or appropriate, and furthermore, the designation of BAH as income for purposes of testing occupancy eligibility, is, as you have heard before, inconsistent with the treatment of the BAH for Federal income tax purposes.

This exclusion, I believe, is simply the unintended consequence of the conflicting regulatory provisions. I have attached some graphics to my testimony that show the impact in Omaha, Nebraska, which is the location of Nebraska's only large military base.

The first graphic shows that for a single enlisted person, E-1 to E-5, there is a problem at the E-4 and E-5 level in Nebraska, our very highly technically trained sergeants and sergeants first class.

The second graph shows that for a married person with no outside income, E-5's are excluded because the rates change slightly.

The third graph, which is very interesting, for married personnel, and assuming that there might be a little outside income, and a minimum wage job for, say, half a year—shows that the problem begins at the E-1 level. Married military personnel at the E-1 level, that's the basic recruit level.

Essentially enlisted personnel and noncommissioned officers with dependents E-1's through E-5's, the lowest paid but the highly trained technical working portion of our military services, are excluded from this excellent housing resource simply because their voucher comes from the Department of Defense, as opposed to HUD.

Is this a temporary problem? Even after the major privatization effort across the United States, it is estimated by the Pentagon's



privatization manager that the military bases will still count on the local communities to provide up to 60 percent of the necessary housing for the base. The surrounding communities will be expected, or counted upon, to provide up to 60 percent of the necessary housing for the military personnel.

And that responsibility will continue after the completion of the current excellent privatization and improvement efforts.

One other issue. Could the proposed voucher change or could the proposed change make military personnel with BAH allowances eligible for Section 8 vouchers? I am certain that is not the intent of H.R. 3186, and I believe that the HUD regulators can insert the appropriate language to avoid that circumstance.

Let me note at this time that we have had great support from other members in the community talking about this particular issue. Many of your colleagues have supported us. Members of the National Council of State Housing Agencies have also given us their input, and I understand that they favor improvements to the tax credit program, and they support the concept proposed by H.R. 3186, with the understanding that State HFA's, like myself, would be able to use their discretion, as they do currently, in their qualified allocation plans, to introduce this opportunity into their States in a manner that is consistent with their State's housing needs in the existing inventories.

This change, however, needs legislative action because in our correspondence and conversations with HUD, they have indicated to us that they cannot make this regulatory change without evidence of Congressional intent.

So, members of the committee, I close by asking you to consider this low-cost opportunity to improve the lot of all military personnel and housers like myself, in trying to provide affordable housing for our deserving military personnel and their families.

Thank you.

[The prepared statement of Mr. Kenny can be found on page 45 of the appendix.]

Chairman NEY. Thank you. I note our current general counsel, Clinton Jones, over here to my left, was raised from the ages of 2 to 16 in Junction City. His dad was deployed on Big Red One to Vietnam, and as far as I know, in his teen years he didn't cause any trouble in Junction City.

So here's old history.

Mr. RYUN. We don't have his picture up on the hall of fame in the police department, so I think that's a good sign.

Chairman NEY. There you go. I've got one quick question. Anybody is free to answer. In 1996, Congress created the privatization program initiative or MHPI, Military Housing Privatization Initiative. That was supposed to, at the time, be able to do construction a little bit quicker, some incentives, tax credits, than military construction would do. That was supposed to help.

Do you see any way this bill is a duplicative effort of that original intent in 1996?

Mr. KENNY. Mr. Chairman, I have had conversations with the people in the privatization effort, and they actually see this as an enhancement to the overall challenge of housing military personnel. Again, when the whole privatization process is completed,

the Defense Department managers of that privatization process have told me that they still are intending for the surrounding communities on the average across the United States to provide housing.

They are relying on the surrounding communities to provide off-base housing for up to 60 percent of the military personnel. It varies from community to community, depending on branch and mission, but for the most part, they still, after all of the privatization is completed, are looking to the private sector and this particular resource to provide that housing.

Chairman NEY. So this is more of an enhancement?

Mr. KENNY. Right.

Mr. BOWLING. Yes, I could address, too, Mr. Chairman, your question specific to the part of the country where I live, in El Paso, Texas, with Ft. Bliss. We are scheduled to get, as I said in my testimony, over 20,000 new troops over the next 5 years. In discussions that we have had with the director of base housing, through our chamber of commerce, and through our home builders association, we understand that most of the privatization projects that they are undertaking right now at Ft. Bliss are designed to renovate and rehabilitate their existing housing stock.

They really have come to us as an industry in our local community and tried to emphasize to us that they are relying on us in a big way to house these new troops who are coming to our city in El Paso.

So this will be a tool that we want to have all the options available to the troops when they come to El Paso to live in a variety of different types of housing.

Right now, even as low as an E-1 with a BAH added in, in El Paso, it's really hard to serve any military and tax credits right now.

Chairman NEY. Thank you. Mr. Cleaver?

Mr. CLEAVER. Thank you, Mr. Chairman. Let me preface my comments by saying I am going to support this strongly. I think our troops deserve the very best housing that we can provide them as they are in some cases waiting to hoist themselves in harm's way, thousands of miles from home.

With regard to legislative intent, I don't know if anybody is here from HUD or not, but Section 202 was initially, with regard to legislative intent, designed for elderly housing. I am sure that Omaha has a number of 202 projects. I am not sure about Junction City and El Paso. It was intended for elderly housing. Over time, somehow, the project also began to include the disabled.

This bill is so important that if there is a way for HUD to do this, without having us go through fire and water to get it approved, then I'd rather see that happen. If we can do what is intended by this legislation, the same thing we did with 202, or somebody did, that would help us solve the problem.

Is anyone here from HUD?

[No response.]

Mr. BOWLING. Congressman, I can't speak for HUD, but there was a copy in my testimony, the letter we received from HUD on this issue, I believe in early 2004, signed by the then Deputy Assistant Secretary for Multifamily Housing Programs, Tillman

Knight, and he articulated HUD's interest in the problem, but indicated that they were hesitant to move forward without evidence of Congressional intent, and I think that was a clear signal that they understood the issue, but they weren't clear as to which way they could go.

Mr. CLEAVER. Thank you. We may want to get a response from HUD. We have had controversy in my community when the elderly felt invaded because they were bringing in more and more disabled, and the buildings were not even adequately built for the elderly. So, if we can solve this problem, we ought to try to solve it. And sometimes, the bureaucrats, they don't mean to be obstructionists, but sometimes they are.

Mr. BOWLING. Right now we are asking Congress for some Congressional action on this issue, because we have gone to HUD and tried to address this with regulations, so it's our understanding that right now, in order to move this particular issue forward, we do need some Congressional action.

Mr. CLEAVER. I'm not certain that HUD said that. Please understand, I am not questioning at all what HUD said. I'm questioning the necessity of it.

Thank you.

Chairman NEY. What the committee can do, gentlemen, is pose this question to HUD concerning 202, and then we would ask HUD to respond back, provide the gentleman with an answer, and then inform the committee. So we will do that formally.

Thank you. Mr. Ryun?

Mr. RYUN. Mr. Chairman, if I could sort of pick up a little bit on the question asked by my colleague. When we went to HUD about this particular issue, they came back and said that they would like a statutory change from Congress. This is the letter. You are welcome to see that.

And that's really what we are attempting to do, to move the ball around the field to help our service personnel. And so the intent of this legislation is to eliminate the inequality that exists now, and to help our service personnel. So you are welcome to copy this as well.

If I could take just a moment and put the question to Mr. Barnes, I am well aware that Ft. Riley is indicative of other military installations that are going through the BRAC process with the adjustments. There's a lot of construction going on, but there is still much to do because it's just really beginning.

But if you could just draw a little comparison between the quality of the units that are in the area and those that would be built. I know I have seen pictures, but perhaps you could provide a little visual word picture for us of some of the comparisons.

Mr. BARNES. Thank you, Congressman Ryun. I appreciate that opportunity. We view the affordable units that are being built through the Section 42 program as some of the nicest apartment units in the area. The good thing about these particular units is—you saw the pictures that you have here. They are two and three bedroom. They have all of the amenities that you could expect to have in an apartment complex with a club house, with playgrounds, equipment, their landscape, their grounds are maintained by the property managers operating these facilities.

So we see in our area, both in Manhattan and Junction City, very affordable, high quality apartment units that anyone would be proud to live in, and not necessarily connected to something that was identified as low-income, but merely affordable. And we think that is very, very important.

Chairman NEY. Mr. Green.

Mr. GREEN. Thank you again, Mr. Chairman. And for fear that I will forget, I have some additional testimony that I would like to submit for the record, if there is no objection.

Chairman NEY. No objection.

Mr. GREEN. Mr. Chairman, you have been more than generous with your time as it relates to me today, so I can only say thank you a thousand times.

I want to thank Congressman Ryun again, for allowing me to work with him on this valuable piece of legislation, and would like to address a question to Mr. Kenny, but anyone may respond.

You touched a nerve, Mr. Kenny, when you indicated that some of our servicepersons have families and they are trying to locate not only themselves, but their families.

And I think too often when we think of military people, we only think of the soldier himself and we think that soldiers are tough, and that they can handle it. But they have families that have to be considered as well.

Explain a little bit more, if you can, please, about the impact that this has on the families. Where do they end up locating sometimes, and how does this impact the persons in that family, children in schools, and that sort of thing?

Mr. KENNY. Congressman, the first thing that caught my attention, when I was first aware of this, was on this trip to San Antonio, my home town. I grew up there, and am very familiar with the area around Ft. Sam Houston.

And we had this wonderful young sergeant who was escorting us. And Ft. Sam is a great medical training facility, where we have very highly technically skilled enlisted personnel in the training, both the medical and the dental areas.

And in just casual conversation with this young man in the quadrangle at the Fort, and he said, I just love this job. And I love the military, he said. But Mr. Kenny, there is no place that I can live in this area, in Ft. Sam, that's in the heart of San Antonio, that's safe for my family and that I can afford.

And so he and his family were having to live in substandard housing on the far edges of the community, and he said it's just—my ability to sustain my family and keep this job are not parallel, and so I am going to have to leave the service.

And I said, two things were kind of sad about that. The first thing, which is obvious, is our military has spent a lot of time training and investing in these young people to bring them to this skill level. And certainly retention is a big issue in the military services, particularly with the heartbeat of what I call the military are our noncommissioned officers.

But the second thing was that issue in the family. We, as Mr. Barnes said, from the administrative side, have excellent housing in the Section 42 program. Well supervised by both the State agencies and the investors. High quality housing.

What happens around military bases, and I can't say this happens in Omaha, because we only have one base, but around the United States, and it might happen in your communities, is the basic allowance for housing typically often puts people into substandard housing that is unregulated and unsupervised, and curiously, the rent always seems to equal the BAH. So, whatever the BAH is in that area, that's what the rent is.

In the Section 42 program, which is, again, excellent units, well supervised and well reviewed, the rent is a function of the actual cost of the housing in the area. It is a function of the area median income.

So it really, I think, is to the advantage in the long term of the soldier and the Department of Defense to have their individuals have the opportunity to this, the well supervised, well maintained units as opposed to substandard units where it's just an opportunity for people to take advantage of them.

Mr. GREEN. Thank you. And I just have a parting comment, and it is that, clearly, we desire to see every person have decent housing. And I wish that this could address the needs of persons in need across the length and breadth of the country. I really wish that it could.

It's been my experience, however, since I have been in Congress that you have to try to do what we can, when you can, where you can.

So right now, here, we have an opportunity to be of service, and I think we should do what we can to help our military personnel, not to the exclusion of any other, but with the understanding that we do want to help all others.

Thank you again, Mr. Chairman.

Chairman NEY. Thank you. The gentleman from Texas, Mr. Neugebauer.

Mr. NEUGEBAUER. Thank you, Mr. Chairman. I also want to thank Mr. Ryun and Mr. Green for bringing forth this very important legislation and I am proud to be a cosponsor of H.R. 3186.

I also want to extend a welcome to my good friend, Bobby Bowling, from El Paso, Texas. Bobby's a longtime friend and a great member of that community, but also very knowledgeable in housing. So it's good to have you here today.

Mr. BOWLING. Thank you, Congressman.

Mr. NEUGEBAUER. You know, I know the members on the dais have had an opportunity to go over to Iraq and Afghanistan and other parts of the world to watch our young men and women do unbelievable things to defend freedom and democracy.

And when they go off and serve our country, they leave behind families. And those families serve right alongside those young men and women that are serving over in harm's way.

And as I have a major B-1 bomber based in my district, Dyess Air Force Base, we have a wait list for housing. So we've got young airmen who can't get on base and are having to drive sometimes 20 to 30 miles to go find an affordable place for them to be able to live.

And if we are going to keep the kind of force that we have in place today, which I believe is one of the finest forces that we have

ever put on the planet, this is an all-volunteer force. Let me repeat that. This is an all-volunteer force.

If we are going to get young men and women to volunteer to serve our Nation, for not the highest-paying job in the world, but many of them are dedicated and love to do it, we have to make sure that there is a quality of life that meets at least their subsistence.

So I think this is a great plan. We are not reinventing the wheel. We are just making some changes here so that we can encourage the development of housing, to make sure that our young men and women have the housing that they deserve.

So I again want to compliment the two gentlemen that brought this bill forward.

And, Mr. Chairman, I hope that we will act quickly on this bill and get this out of the committee, and let's get this to the House Floor, and let's give those young men and women who are in harm's way the kind of housing that they deserve.

Thank you, and I yield back.

Chairman NEY. Well, thank you, gentlemen. Also, Congressman Ryun has asked for another moment.

Mr. RYUN. If I may, I would just like to make a point, and actually, ask Mr. Bowling a question.

For the record, we are really dealing with as many as 50 bases across this country. So it is a significant number and amount of housing.

And, as it has been said earlier, what we are trying to do is make sure they have affordable and good housing.

I know, for example, in my area of Ft. Riley, we can have long drives, which means less time for our servicemembers to have with their families. And it doesn't necessarily mean that they have better housing with that drive.

So, if we are able to move this legislation forward and eliminate the inequity, Mr. Bowling, could you comment on the fact, or have your comments on, would this eliminate some of the risk and encourage builders to move forward with more housing, if we can eliminate this inequity?

Mr. BOWLING. Yes, sir, Mr. Ryun.

Our city has made a very concerted effort for the part of our city—if you look at, geographically, where Ft. Bliss is located in relation to El Paso, the northeast part of our city, northeast El Paso, is where predominately the base entrances are and where the base military families prefer to live.

Our city owns a lot of acreage in that part of El Paso. And they have done a very good job of trying to promote that, and make that available to us in the private sector to develop and build on.

The problem is the amounts of rent that are there in the market. In our world of low income being on the border and being in west Texas, the numbers don't really work for private sector non-subsidized, multifamily housing to be developed. I mean, our rent levels would almost have to double to make those numbers work.

In the Section 42 housing tax credit program, however, the numbers work very well. So, a lot of what the city is trying to do, in making this land available to us as builders and developers, is being hampered by this process and this interpretation from HUD

that we can't include the military families in the formula because of the BAH.

And let me just add, we're around the border, and being in west Texas, we have very low median family incomes. The soldiers have the same income levels, pretty much, around the country. And in relation to our area median family income, they will qualify up to like E-5's, and I have provided some charts in our written testimony. But it's as low as like E-1's and E-2's, Congressman, and they can't even get into low-income housing making \$15,000 to \$20,000 a year. That's a severe inequity, I think.

Mr. RYUN. Let me take that a step further. You would not, then, say this is an isolated situation, your situation, but it's characteristic of many other facilities as well?

Mr. BOWLING. Oh, yes, sir. I can only speak to El Paso, that's the location I build in, but in talking to my colleagues and working with the National Association of Home Builders, I think that this problem is pretty commonplace around the country with relation to where bases are.

I was looking at some of Mr. Barnes' numbers. His rent numbers are pretty much what ours are in El Paso. So I would imagine his incomes are pretty close to what we are in El Paso. So, it will affect the whole country, where those military bases are located.

Mr. BARNES. Congressman Ryun, if I may. Investment Resources is the largest provider of Section 42 housing in Manhattan/Junction City. They did a survey and they found the problem to be at Ft. Bliss in El Paso. They found it at Ft. Bragg in Fayetteville. They found it at Ft. Benning in Columbus, Georgia.

So, it is prevalent, not just in smaller communities and not just in, for instance, near El Paso, where the median income is an issue.

We have developers who are ready to build housing in Junction City using the Section 42 program, but they are not going to do that as long as a large segment of the population is excluded from being able to rent their units.

Mr. RYUN. Very good. Thank you. Mr. Chairman?

Chairman NEY. Any other questions?

[No response.]

Chairman NEY. No? Well, thank you. Often members have additional questions, so without objection, we will keep the record open for 30 days, so that members can submit in writing any additional questions, and also the record will be kept open for additions to the record itself.

Thank you for your time on an important issue, and for traveling all the way here to Washington, DC.

Thank you.

Mr. BOWLING. Thank you, Mr. Chairman.

[Whereupon, at 11:53 a.m., the subcommittee was adjourned.]





# **A P P E N D I X**

February 8, 2006

Opening Statement

**Chairman Michael G. Oxley**  
**Financial Services Committee**

**Subcommittee on Housing and Community Opportunity**  
**H.R. 3186, "Build Houses for Our Military's Enlisted Service members Act"**

**Wednesday, February 8, 2006**

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Thank you, Chairman Ney, for scheduling this important hearing today on H.R. 3186, "Build Houses for Our Military's Enlisted Servicemembers Act" or the Build HOMES Act. I want to commend Congressman Jim Ryun, the sponsor of this legislation, for his work to help more military men and women secure quality housing for their families.

The hearing today will focus specifically on the need for this legislation and its impact on communities and military personnel. Quite often, enlisted men, women and their families find it increasingly more difficult to find quality, affordable housing near their base. The recent Base Realignment and Closure (BRAC) process will, no doubt, add to that problem as bases are closed and military units are transferred to bases in other parts of the country.

Currently, the Department of Housing and Urban Development (HUD) includes the Basic Allowance for Housing as income in its calculation for determining if a family meets the income qualification for federal housing assistance programs. This policy prevents many members of the Armed Forces from qualifying for housing assistance. In addition, this policy is a deterrent to developers seeking to build Low Income Housing Tax Credit (LIHTC) properties in the areas surrounding military bases.

The LIHTC program was created by the Tax Reform Act of 1986 as an alternative funding method for low- and moderate-income housing and has become the major engine for subsidizing the production of assisted-rental housing that is affordable to lower-income households. Although there are no hard numbers, about 800,000 new and rehabilitated units have probably received financial support over the program's 14-year history.

The base realignments mandated under BRAC will create a need for additional housing in parts of the country designated to absorb military units being moved due to base closing; but under current regulations, the Housing Choice Voucher program and the LIHTC program may not be a tool available to developers seeking to address housing shortages at bases across the country. H.R. 3186 addresses that problem by amending the Department of Housing and Urban Development Act to exclude basic housing assistance (BAH) amounts received by a

member of the Armed Forces from consideration as income for any Federal housing assistance program.

I look forward to hearing from our witnesses today and to working with Congressman Ryun and Congressman Green, the democratic sponsor as we consider H.R. 3186.

Opening Statement of the Honorable Bob Ney  
Chairman, Subcommittee on Housing and Community Opportunity

Hearing on

“H.R. 3186, Build Houses for Our Military’s Enlisted Service Members Act”

Wednesday, February 8, 2006

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The Housing Subcommittee meets this morning to discuss HR 3186, a bill designed to help our American service men and women gain access to affordable housing programs. Introduced by Congressmen Jim Ryun and Al Green, HR 3186 would amend the Department of Housing and Urban Development Act to exclude basic housing assistance amounts received by a member of the Armed Forces from consideration as income for any Federal housing assistance program. I look forward to hearing from our Member panel and all of our witnesses on the need for this legislation and its affect on communities and military personnel.

Today, enlisted military personnel and their families face a shortage of quality, affordable housing in duty stations across the country. This shortage is likely to be further complicated by the transfer of military units as part of the ongoing Base Realignment and Closure (BRAC) process. There are several federal housing programs in existence that could assistance our military personnel in finding affordable housing, such as the Department of Housing and Urban Development’s Section 8 Housing Choice Voucher Program. However, current regulations make enlisted military personnel ineligible for these types of federal housing programs.

Presently, HUD’s policy is to include the Basic Allowance for Housing (BAH) as income in its calculation for determining if a military household meets the income qualification for low-income Federal housing programs. The result of this policy is that many low-income servicemen and woman are unable to qualify for housing through federal housing programs. It is interesting to note that HUD does not include Section 8 housing assistance as income in the same income qualification process. The net result is that military families are limited in their access to affordable housing.

While today’s hearing focuses on military families and their access to affordable housing, families across this nation often find it difficult to find decent, affordable housing where they live. In addition to some of our enlisted military personnel, police, firefighters and school teachers can no longer live where they work. That is why we must continue our work to preserve existing housing stock and to find ways to work with private groups, state and local governments, and businesses to determine how best to provide affordable housing to all low and moderate income families.

I trust this hearing today will help us better understand the challenges ahead and some of the solutions we can use to address this growing problem, especially as it relates to our military families serving our country. I would like to thank all of our witnesses for being here today and I look forward to their testimony.

Not to distract from today's hearing topic, but I wanted to mention my disappointment over HUD's recent budget proposal that would cut the Community Development Block Grant (CDBG) program by over 25%. My goal as Chairman of the Housing Subcommittee is to make certain the focus of the Department of Housing and Urban Development remains housing and that it has the tools necessary to continue to provide safe, decent and affordable housing to our citizens. With such a significant decrease in CDBG funding levels, I question whether the Department will continue to meet these admirable goals.

Last year, I was very vocal in my opposition to the Bush Administration's ill-fated proposal to move CDBG over to the Department of Commerce. CDBG allows many rural and distressed areas the opportunity to develop viable communities by providing decent housing and a suitable living environment and by expanding economic opportunities, principally for persons of low- and moderate-income. For example, many towns in my district rely on this program for infrastructure enhancements. Without these monies, critical improvements such as new storm sewers and road widening would not have taken place.

I have significant concerns about these proposed funding levels for CDBG, and I look forward to raising these concerns with HUD Secretary Alphonso Jackson when he appears before the full committee early next month.

U.S. Congresswoman

**Ginny Brown-Waite**

*Representing Citrus, Hernando, Lake, Levy,  
Marion, Pasco, Polk, and Sumter Counties*



**Housing Subcommittee Hearing- H.R. 3186  
Wednesday, February 8, 2006**

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Thank you Mr. Chairman for holding this hearing today.

And thank you Mr. Ryun for introducing this important legislation.

Florida's 5<sup>th</sup> Congressional District is home to 107,000 veterans – the most of any district in the nation. Therefore, I am all too familiar with the trials and tribulations that those returning home from war face. Affording a home – a necessity to every American – should not be one of those challenges.

The Low Income Tax Credit has helped millions of financially strapped families purchase a home who otherwise could not do so. However, because HUD includes a military member's Basic Allowance for Housing as income, most of America's service members are disqualified for the tax credit. Yet HUD does not include Section 8 housing assistance as income for others. We ask these brave men and women to fight for America and the War on Terror, but we treat them differently for doing so? This is outrageous.

Passage of H.R. 3186 will provide millions of returning soldiers an opportunity to take part in the American dream of homeownership. I thank my colleague Congressman Ryun again for his leadership on this issue and look forward to swift passage of this important piece of legislation.

Thank you again Chairman Ney for holding this hearing today.

  
Ginny Brown-Waite, M.C.

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TESTIMONY OF

**AL GREEN  
MEMBER OF CONGRESS**

IN SUPPORT OF

**H.R. 3186  
“Build Houses for Out Military’s Enlisted Service Members Act”**

BEFORE THE

**SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY**

2128 RAYBURN HOUSE OFFICE BUILDING  
FEBRUARY 8, 2006

Chairman Ney, Ranking Member Waters, members of the Committee, let me begin by thanking you for providing Congressman Ryun and me with the opportunity to testify on H.R. 3186, the Build Houses for Our Military's Enlisted Servicemembers Act.

I would also like to thank Congressman Ryun for introducing this important piece of legislation and for allowing me the opportunity to join him as an original co-sponsor and serve as the Democratic lead on this bipartisan bill.

The Build HOMES Act focuses on two issues that we in Congress have a duty to address: increasing access to affordable housing for all who need it and supporting the brave men and women who fight for our country. As you know, our enlisted military personnel and their families face a shortage of quality, affordable housing around the country. This problem will only be made worse by the transfer of military units as part of the ongoing Base Realignment and Closure (BRAC) process. I firmly believe that this bill can help improve the quality of life for thousands of servicemen and women by giving them and their families access to the affordable housing they have earned.

#### **LOW INCOME HOUSING PROBLEMS FOR SERVICEMEMBERS**

Today, there are 1.5 million servicemembers protecting our country. These brave men and women are often forced to place the needs of the military above the needs of their families. Too often, they are called to make the ultimate sacrifice. As Americans, we have a moral responsibility to make sure that they have access to affordable housing. Our national security relies on the quality and commitment of the men and women who serve in uniform. The quality of military housing – as a part of the military quality of life – is a key component of military readiness.

As I stated earlier, our enlisted military personnel and their families face a shortage of affordable housing around the country. Although the Defense Department does not routinely track the number of military personnel in need of low-income housing, it is clear that there is a problem. Typical waiting lists to secure on-base housing have ranged from several months to two years, driving military personnel to seek private housing. In addition, the number of servicemembers in need of private affordable housing will only increase as a result of the transfer of military units as part of the ongoing BRAC process. In Texas, we will add over 9,700 new military personnel as a result of BRAC. Fort Bliss in El Paso alone will receive over 20,000 new troops. We can only guess as to how many of these new servicemembers will need help finding affordable housing as the housing prices are driven up by the new demand for housing.

#### **BASIC ALLOWANCE FOR HOUSING**

The Defense Department's long standing housing policy is to rely first on the private sector for its housing, where roughly 65 percent of military families live. Any member with permanent duty in the United States who is not furnished government housing is then eligible for Basic Allowance for Housing (BAH).

Basic allowance for housing began in January 1998. It provides uniformed servicemembers accurate and equitable housing compensation based on housing costs in local civilian housing markets. BAH now pays 100 percent of the average housing costs in a given market, based on the type of quarters authorized for that specific military rank.



Currently, the Department of Housing and Urban Development (HUD) includes BAH as income in its calculation for determining if a military family meets the income qualifications for all federally-assisted low-income housing programs, including those under HUD. Such programs include Section 8 Tenant and Project-Based Vouchers, public housing, rural housing, veterans housing, and properties developed using the Low-Income Housing Tax Credit (LIHTC) program and the HOME program.

HUD, however, does not include Section 8 housing assistance as income in the same income qualification process for civilians. The discrepancy in these regulations penalizes our military families and makes access to affordable housing that much more difficult. Government assistance, whether it is BAH or Section 8 housing vouchers, should be treated equally when determining eligibility for affordable housing. It is for this reason that Congressman Ryun and I introduced the bipartisan Build HOMES Act.

#### **BUILD HOMES ACT**

The Build HOMES Act, H.R. 3186, would statutorily direct HUD not to consider BAH as income when determining a servicemember's eligibility for low-income housing. It would fairly amend our low-income housing program to allow more servicemembers access to affordable, low-income housing – the same way civilian persons qualify. This would end the “added income discrimination” our military personnel currently experience.

I want to say to my friends working to provide affordable housing to all Americans that I hear your concerns. I understand that there is a shortage of low-income housing and that the waiting lists persist. I agree that Congress must do more to eliminate these waiting lists. But I also strongly believe that this is an issue of fairness. If we do not consider housing vouchers for civilians as income, then we should not consider equivalent housing subsidies as income for our servicemembers.

The answer is not to unfairly penalize our men and women in uniform, but to continue our effort to increase funding for public housing and Section 8 vouchers. I hope my colleagues on both sides of the aisle will join us in this effort. We should not have to choose who we help, civilians or our servicemembers. With proper funding for low-income housing programs, we will not have to make that choice. All needy Americans, whether military or civilian, should have access to low-income housing.

#### **CONCLUSION**

Our men and women serving in our nation's armed forces have made an admirable commitment to protecting this country. As servicemembers, they take many risks and make many sacrifices in the protection of liberty both here and abroad. Just as they have made a commitment to us, we should make a commitment to them by ensuring that their families have a place to call home. I ask you to support this bill and our efforts to help our servicemen and women. We should end this “added income discrimination” against our needy military personnel. Thank you.

**Testimony of Congressman Jim Ryun  
HR 3186 – Build HOMES  
Subcommittee on Housing and Community  
Opportunity  
February 8, 2006**

Chairman Ney, Ranking Member Waters, and colleagues of the Subcommittee on Housing and Community Opportunity, thank you for convening this hearing today and for inviting me to testify. The issue we are discussing today is extremely important and, in my estimation, very urgent. I thank my colleague, Mr. Green of Texas, for cosponsoring the Build HOMES Act with me. I look forward to his testimony.

Mr. Chairman, we have a problem. We are discriminating against our men and women in uniform. This Congress has a solemn duty to provide a high quality of life for the men and women of our Armed Forces. However, when it comes to obtaining affordable housing, many of these servicemembers are currently at an unfair disadvantage.

The best way for me to demonstrate this discrimination is to give you a hypothetical example. Suppose two people submit applications to live in an affordable housing residence. Both are American citizens. Both have identical income qualifications. Both have the same number of family members. Both are in possession of housing assistance of the same amount.

There is only one difference between these two applicants – the first is a servicemember with military-issued Basic Allowance for Housing (BAH) while the second is a civilian with a Section 8 voucher. Current HUD rules are such that the civilian is not required to count the Section 8 voucher as income, thereby preserving his or her eligibility for the affordable housing. However, no such exemption exists for BAH, and after factoring this assistance into his or her income level, the servicemember in our hypothetical situation is rendered ineligible for the housing.

Mr. Chairman, I find this scenario inexcusable. We have affordable housing programs for a reason, and that is to assist lower income Americans with obtaining quality housing. This should be no less true for the men and women that put their life on the line for us. Frankly, Mr. Chairman, I was surprised when I discovered that this is the current policy. There simply wasn't any way I could let this go unchallenged, and I am confident that my colleagues will agree.

Fortunately, the solution is relatively simple. HUD must simply be directed to treat BAH assistance as it does Section 8 housing vouchers. The bill I have introduced would statutorily direct HUD to do just that, thereby ending this discrimination.

A secondary benefit would be a greater incentive for builders to construct additional affordable housing in areas surrounding military bases. This would be especially

important around bases that are getting more troops as a result of the BRAC process.

I thank the Members on both sides of the aisle who have agreed with me by cosponsoring the Build HOMES Act. I am pleased about the bipartisan makeup of the cosponsor list, and I look forward to broadening that support even further.

Let me close with a brief word on why this change must be made quickly. As a result of the recent round of BRAC, hundred of thousands of soldiers are currently in the process of relocating to a new home base. During this process, many bases – including Fort Riley in my district – are dramatically increasing in population. This is causing a significant shortage of quality housing in the surrounding areas. The Fort Riley area is not alone in this problem...far from it. Bases across the nation are in a similar situation. The bill we are discussing today is a small part of alleviating this problem.

Thank you again for considering this important legislation. I hope that my colleagues on the Subcommittee will see fit to act favorably on the Build HOMES Act. I look forward to the testimony of my colleague, as well as the next panel, and I would be happy to engage in discussion on this important issue.

**Rodney D. Barnes**  
**City Manager**



P.O. Box 287  
 Municipal Building  
 Junction City, KS 66441  
 (785) 238-3103 ext. 300

February 8, 2006

**CITY MANAGER'S OFFICE**

Committee on Financial Services  
 Subcommittee on Housing and Community Opportunity  
 Rayburn House Office Building, Room 2128  
 Washington, DC

Support for H.R. 3186 Introduced by Congressman Jim Ryun

Chairman Ney,  
 Ranking Member Waters,  
 Members of the Subcommittee:

It is a pleasure to be here to testify in support of H.R. 3186 introduced by Congressman Jim Ryun. I'm Rod Barnes, City Manager for the City of Junction City, Kansas. With me is Sam Robinson, Military Affairs Director for the Junction City/Geary County Military Affairs Council. Junction City is a community of approximately 19,000. We are located on Interstate 70 in the Flint Hills of Kansas, 125 miles straight west of Kansas City. We are home to Fort Riley, Kansas.

We are growing rapidly due to the increase in force strength and growth at Fort Riley. We currently anticipate receiving over 30,000 people in the next 3 years in our region. That means the region will need over 9,000 additional housing units. We are using every incentive available to insure that quality, affordable housing is constructed.

However, we have a big problem with the Section 42 tax credit program. Military families cannot meet the income guidelines when their base housing allowance is included as income. That means a large segment of our population is being excluded from the ability to live in quality, affordable housing.

Some of the newest, quality, affordable housing units in our community and in the City of Manhattan, 15 miles away is Section 42 tax credit units. The City of Junction City currently has 264 units, 112 of these units were constructed after 1999. The balance of the units was completely remodeled and updated after 2000. The City of Manhattan has 108 units that opened in 2005 and is currently constructing 112 additional units. The 2 and 3 bedroom units in Junction City rent for \$465 to \$600 per month. In Manhattan, they rent for \$495 to \$695 per month. Market rates in both communities would be \$715 to \$950. This means that when a soldier is forced to live in market rate units, they not only use all of their base housing allowance, they must include additional out of pocket funds to cover utilities and rental insurance, thus reducing their income available for other essential household expenses.

The only soldiers that can qualify for the affordable housing units in Junction City would be an E1 with 3 dependents. In Manhattan, an E1 soldier with 2 dependents can qualify. Currently, it is estimated that 40% of the eligible military families that choose to live off of Fort Riley, choose Junction City or Manhattan to live in; we need quality affordable housing.

Investment Resource Inc. owns 112 units in Junction City and all of the units in Manhattan. Today, Investment Resources are turning away 40 to 50 military families a week. Less than 10% of their occupancy in the 112 Junction City units is attributed to military families. Three years ago, 40% of the units were occupied by the military. The same situation occurs for them in Manhattan. As the military housing allowances increase, these families are squeezed out of the affordable income bracket and forced to pay higher rents. Sometimes this is for inferior housing. Soldiers are forced to live in units that are not inspected and approved by post housing. Investment Resources indicates that qualifying military for tax credit housing is not only a problem in our region, but their research shows it is a problem at Fort Leonard Wood in Missouri, Fort Bliss in, El Paso, Texas, Fort Bragg in Fayetteville, North Carolina, and Fort Benning in Columbus, Georgia. It is clear that our soldiers are being discriminated against.

As I indicated in my opening statement, we need affordable housing in our region. The tax credit units provide a wonderful opportunity to help reduce the risk to developers associated with military deployments. The State of Kansas has set aside millions of dollars to assist with the development of housing in our communities using tax credits. However, with the income problems the military families have in qualifying, developers are reluctant to construct units. The region needs quality, affordable housing for all residents, be it military or civilian. The developers will not assume the risk to construct these units, if a large segment of the population in the area is excluded from living in their housing units. We have developers ready to apply for the tax credit program to build units in Junction City if the income calculation for military families is modified to exclude the base housing allowance from the calculation.

We have included pictures of the tax credit housing units in our community.



All of this housing is of high quality and very affordable. Each of the sites where these units were constructed are located in good locations, adjacent to schools and parks. Please help us insure that our military families have the option to live in high quality affordable housing units.

Please give us the Section 42 tax credit program as an incentive to encourage developers to build enough units to meet the growing demand for affordable housing in our region.

Sam and I appreciate the opportunity to address you today. We hope that you will be able to assist us in moving forward with meeting the affordable housing demands of our military families.

I would be happy to answer any questions you might have.

Thank you,

A handwritten signature in black ink that reads "Rodney D. Barnes". The signature is written in a cursive style with a long, sweeping tail that extends to the right.

Rodney D. Barnes  
City Manager

Sam Robinson  
Military Affairs Director

Attachment: Photos of Housing

# *Coronado Heights*



**2 & 3 Bedroom Units ♦ \$465 to \$600 per month  
36 Units**





# *Coronado Park*



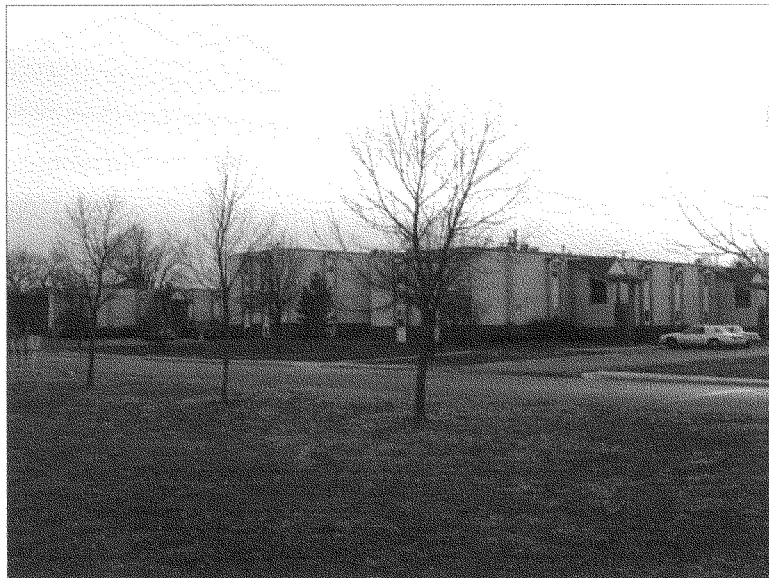
**1, 2 & 3 Bedroom Units ♦ \$395 to \$535 per month  
76 Units**



# GREEN PARK



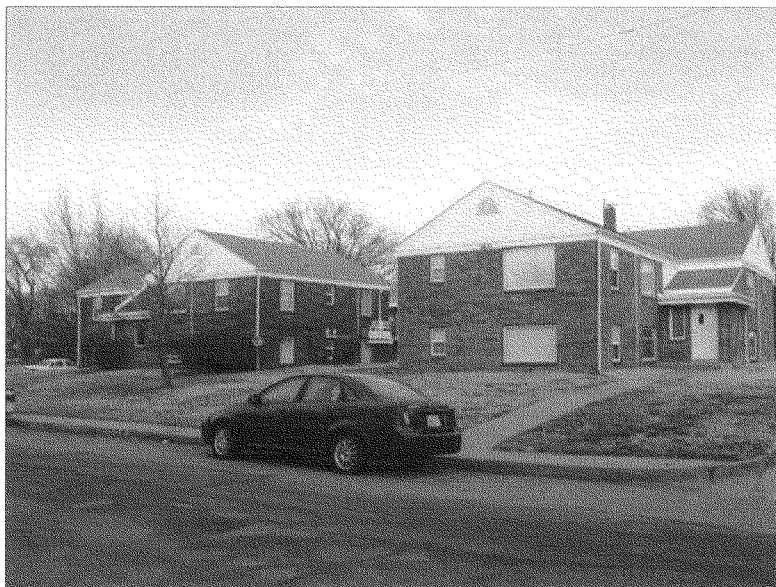
**1, 2 & 3 Bedroom Units ♦ \$400 to \$695 per month  
100 Units**



# WASHINGTON COURT



**1, 2 & 3 Bedroom Units**



**Testimony of  
Bobby Bowling, IV  
President  
Tropicana Homes**

**On Behalf Of the  
National Association of Home Builders**

**Before the  
United States House Committee on Financial Services,  
Subcommittee on Housing and Community Opportunity**

**on**

**H.R. 3186: "Build Houses for our  
Military Enlisted Servicemembers Act"**

**February 8, 2006**

**Introduction**

The 225,000 members of the National Association of Home Builders (NAHB) appreciate the opportunity to share our views on H.R. 3186, the "Build Houses for Our Military's Enlisted Servicemembers Act." NAHB supports this important legislation, which will expand opportunities for enlisted military personnel and their families to have access to safe, decent and affordable housing. Many of NAHB's multifamily members develop and operate affordable housing built under the Low Income Housing Tax Credit (LIHTC) program in communities with substantial military populations, such as El Paso, Texas and Norfolk, Virginia. However, they report a sense of frustration in having to turn down some members of the military, particularly junior enlisted personnel, because their incomes are just over the maximum permitted under the program's rules. With enlisted military personnel and their families facing shortages of affordable housing at duty stations across the country, a situation likely to worsen by the transfer of military units as part of the recent Base Realignment and Closure (BRAC) process, NAHB believes Congress' focus on H.R. 3186 is very timely.

H.R. 3186 seeks to correct a technical anomaly in the method by which income eligibility is calculated for enlisted military personnel to qualify for occupancy in a LIHTC property. Correcting this anomaly could help some enlisted military personnel qualify to live in LIHTC properties who otherwise would be determined to be over-income. Some enlisted military personnel are deemed over income because the LIHTC law directs allocating agencies to use income eligibility regulations set by the U.S. Department of Housing and Urban Development (HUD) for its Section 8 program to determine eligibility for LIHTC properties. HUD's Section 8 guidelines include a military member's basic allowance for housing (BAH) as part of the household's annual income. This is inconsistent with the treatment of Section 8 housing subsidies, which are not considered income under HUD's Section 8 guidelines and, therefore, are also not included for LIHTC eligibility purposes. Further, neither Section 8 nor the BAH are considered income for federal income tax purposes. Including the BAH for purposes of determining incomes for occupancy in LIHTC developments can push a military member's income over the permitted LIHTC maximum, sometimes by just a few dollars.

**Enlisted Military Personnel and Housing**

There are approximately 1.5 million servicemen and women in today's active duty military. Enlisted personnel comprise 86 percent or 1.2 million of this total. The U.S. Department of Defense (DoD) traditionally has primarily relied first on the private market to meet the housing needs of these personnel and their families. For many years, typical waiting lists to secure housing on-base have ranged from several months to as much as two years, depending on the duty station and rank. In fact, only 24 percent of all military families live on-base, according to the Office of the Deputy Under-Secretary of Defense for Installations and Environment (DUSDIE).

Further driving military personnel to the private sector is the current state of on-base housing. Again, according to the DUSDIE, DoD's on-base housing is an average of 33 years old with 25 percent of the stock over 40 years old, and 49 percent considered "old and in need of repair." In fact, the substandard condition of on-base housing is the driving force behind the DoD's military housing privatization initiative. Recognizing that there is a shortage of affordable, quality housing in communities surrounding many military installations, DoD has committed to improving the housing stock on its bases. Nonetheless, DoD recognizes that the majority of military personnel and their families will continue to live off base and secure their housing in the private market.

The availability and affordability of housing in the private market in military communities is not consistent across the country. Some duty stations have an adequate supply of affordable housing, while other markets are extremely tight, especially with the significant increases in housing costs seen in many communities over the last several years. In either situation, the supply and cost of affordable housing will be complicated by the troop reassignments from the BRAC process, which will shift massive numbers of personnel and their families.

Below are some of the military communities receiving a large influx of troops:

- Ft. Benning (Columbus, GA) – 13,929
- Ft. Riley (Manhattan, KS) – 4,486
- Cecil Field (Jacksonville, FL) – 21,448
- Ft. Bliss (El Paso, TX) – 20,835

- Ft. Sam Houston (San Antonio, TX) – 17,693
- Ft. Bragg (Fayetteville, NC) – 6,172
- Langley Air Force Base, Naval Shipyard Norfolk, Naval Support Activity Norfolk (Norfolk/Virginia Beach, VA) – 3,919

How these markets will absorb such numbers of new households is unclear – it is very likely housing prices will be driven up by the significant increase in the demand for housing, particularly affordable rental housing. It will be critical that every resource, including LIHTC housing, is available to ensure the housing supply can meet the increased demand.

#### **Income Eligibility Determinations for LIHTC Properties**

Section 42 of the Internal Revenue Code (the Code) does not define annual income. Instead, Section 42(g)(4) provides that Section 142(d)(2)(B) (regarding income eligibility determination for individuals) shall apply for purposes of determining whether any LIHTC project is a qualified low-income housing project and whether any unit is a low-income unit. This section, as well as the regulations governing the LIHTC program, state that “tenant income is calculated in a manner consistent with the determination of annual income under section 8 of the United States Housing Act of 1937 (the Housing Act)...” 24 CFR Part 5 (Section 5.609) sets forth HUD’s requirements with respect to calculating family income in order to make a determination of eligibility for the Section 8 rental assistance program, but HUD does not include the proposed Section 8 assistance as part of family income. While there is no specific provision in the HUD regulations excluding any proposed Section 8 assistance, HUD ignores such assistance because its focus is examining income to decide if Section 8 assistance will be awarded.

Regarding the BAH, there are varying treatments depending on the source. For example, Section 5.609 specifically excludes “special pay to a family member serving in the armed forces who is exposed to hostile fire from income (special pay),” but does not reference the BAH. Further, 42 USC 1437(a)(b)(5)(A) of the Housing Act provides for mandatory exclusions from income for purposes of determining eligibility, but is silent as to whether or not the BAH is excluded from income for purposes of determining eligibility for the Section 8 program. HUD’s Housing Choice Voucher (HCV) Handbook, on the other hand, lists both special pay and the

BAH as income for purposes of determining a family's income eligibility. In short, there is an apparent conflict between the law, HUD's regulations and HUD's other guiding documents. Although there is no provision in the law specifically excluding or including the BAH for purposes of income eligibility for the LIHTC program, because it is included in the HUD HCV Handbook, the BAH is considered income by allocating agencies. As a means of resolving these conflicting authorities, HUD believes it needs specific statutory direction from Congress to exclude the BAH from income for purposes of determining Section 8 eligibility (and, by extension, LIHTC eligibility).

**Examination of the Impacts of the BAH Included as Income**

Two potential residents of an LIHTC-financed property – one a member of the armed forces and one a civilian – each receive a subsidy for housing. The civilian's subsidy is in the form of Section 8 assistance, and the armed forces member's is in the form of the BAH. Both residents meet the LIHTC income limit restrictions in the absence of these housing subsidies. When a leasing agent is qualifying each potential resident for that property, he or she must include the BAH in the income calculation, which often results in the rejection of that applicant because they are over income. The end result is that enlisted military personnel are disqualified for no other reason than the form of their housing subsidy. Below are two examples to illustrate this effect using data for the El Paso, Texas, Metropolitan Statistical Area (MSA).

Tables 1 and 2 show the basic information regarding income limits, military pay and the BAH for the El Paso, Texas MSA.

**Table 1 – 2005 Income Limits (60% AMI), El Paso, Texas MSA**

% AMI	1-Person	2-Person	3-Person	4-Person	5-Person
60	\$17,820	\$20,340	\$22,920	\$25,440	\$27,480



Table 2 – 2005 Enlisted Military Personnel Pay Rates &amp; BAH for El Paso, Texas (With &amp; W/out Dependents)

Pay Grade	Time In	Basic Pay/ Month	BAH w/o Dependents	BAH with Dependents	Basic Pay + BAH w/o Depts.	Basic Pay + BAH with Depts.
E-1	>4 Mos.	\$1,235.10	\$615	\$783	\$1,850.10	\$2,018.10
E-2	<2 Yrs.	\$1,384.50	\$615	\$783	\$1,999.50	\$2,167.50
E-3	>2 Yrs.	\$1,547.70	\$615	\$783	\$2,162.70	\$2,330.70
E-4	>2 Yrs.	\$1,695.60	\$615	\$783	\$2,310.60	\$2,478.60
E-5	>2 Yrs.	\$1,877.10	\$669	\$871	\$2,546.10	\$2,748.10

Tables 3 and 4 show the impacts of including the BAH as income when qualifying enlisted military families under the LIHTC program for a 3-person and 4-person household, respectively. The 3-person income limit is used as an example of a married couple with one child and the 4-person income limit is used as an example of a married couple with two children.

Table 3 – Enlisted Military Pay &amp; BAH Compared w/LIHTC 3-Person Income Limits (60% AMI)

	E-1 (>4 Mos.)	E-2 (<2 Yrs.)	E-3 (>2 Yrs.)	E-4 (>2 Yrs.)	E-5 (>2 Yrs)
Salary	\$1,235.10	\$1,384.50	\$1,547.70	\$1,695.60	\$1,877.10
Salary Plus BAH with Dependents	\$2,018.10	\$2,167.50	\$2,330.70	\$2,478.60	\$2,748.10
LIHTC Income Limit: 3-Person	\$1,910/Mo	\$1,910/Mo	\$1,910/Mo	\$1,910/Mo	\$1,910/Mo
Over (+) / Under (-) LIHTC Income Limit	+\$108.17	+\$257.50	+\$420.70	+\$568.60	+\$838.10

Table 4 – Enlisted Military Pay &amp; BAH Compared w/LIHTC 4-Person Income Limits (60% AMI)

	E-1 (>4 Mos.)	E-2 (<2 Yrs.)	E-3 (>2 Yrs.)	E-4 (>2 Yrs.)	E-5 (>2 Yrs)
Salary	\$1,235.17	\$1,384.50	\$1,547.70	\$1,695.60	\$1,877.10
Salary Plus BAH with Dependents	\$2,018.17	\$2,167.50	\$2,330.70	\$2,478.60	\$2,748.10
LIHTC Income Limit: 4-Person	\$2,120/Mo	\$2,120/Mo	\$2,120/Mo	\$2,120/Mo	\$2,120/Mo
Over (+) / Under (-) LIHTC Income Limit	-\$101.83	+\$47.50	+\$210.70	+\$358.60	+\$628.10

In the cases of E-1 through E-5 (with the exception of an E-1 under the 4-person income limit), enlisted military personnel would meet the income limits for the El Paso, Texas MSA, but when the BAH is included as income they exceed the limits and do not qualify for LIHTC housing units.

**Solution in H.R. 3186**

H.R. 3186 takes a relatively simple approach to addressing the anomaly in the law regarding treatment of the BAH when calculating income for LIHTC housing. It excludes the BAH from consideration as income in order to qualify for an available unit in such properties. More importantly, this legislation treats enlisted military personnel and their families the same as civilian families that make the same income and receive housing assistance. Thus, the bill would allow the use of vacant LIHTC units to meet the need for military housing and would also support the production of new and rehabilitation of existing LIHTC properties in areas where the current non-military population will not support such activity.

**Conclusion**

H.R. 3186 is an important piece of legislation that will help increase access to affordable housing for America's enlisted military servicemembers and their families through the LIHTC program. The LIHTC program is the finest affordable housing production program in history and has provided high quality, affordable housing for millions of civilian families. It can do the same for low- and moderate-income enlisted military personnel and their families as well. Again, NAHB appreciates the opportunity to provide our views on this legislation and looks forward to working with the subcommittee to pass this meaningful legislation.

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Testimony of

**Timothy R. Kenny**  
**Executive Director**  
**Nebraska Investment Finance Authority**  
**Lincoln Nebraska**

In support of

**H.R. 3186**  
**“Build Houses for Our Military’s Enlisted Service Members Act”**

Before the

**Subcommittee on Housing and Community Opportunity**

2128 Rayburn House Office Building

February 8, 2006

Mr. Chairman and members, thank you for the opportunity to testify before the subcommittee today. My name is Timothy R. Kenny. I am the Executive Director of the Nebraska Investment Finance Authority (known by the acronym "NIFA"). NIFA's main office is located in Lincoln Nebraska. It is the quasi-governmental, statewide authority that administers the Section 42 Low Income Housing Tax Credit Program for Nebraska. I have had the honor of serving in that position for the last twelve years. Previously, in similar positions, I have administered the LIHTC programs for the States of Texas and Utah. In addition, I serve on the Board of Directors of the National Council of State Housing Agencies ("NCSHA").

I have been asked to testify in support of H.R. 3186 as a result of my recent experiences with the regulatory conflicts the bill seeks to correct. I became familiar with those conflicts, quite by accident, during a conversation on the quadrangle at Fort Sam Houston Texas, where, in 2002, I was part of a civilian support group visiting National Guard and Reserve units. Fort Sam Houston is the headquarters of a medical services training group where many very highly skilled enlisted personnel serve to support the military's medical units.

I was talking with our tour escort, a young sergeant (E-4), and I asked him what life was like in the Army. I was curious because my two boys, who were in high school at the time, were considering military service. I was surprised when the young soldier told me he loved the military and his job, but he that was going to have to quit. When I asked why, he said "because I can't find a safe place around here for my wife and kids where I can afford to live."

His problem struck me as quite strange because I knew there had to be Sec. 42 developments in San Antonio. I made a mental note at the time to do some research on the matter.

Not much later, that research opportunity came rushing into my Nebraska office. My tax credit program administrator informed me that two important multi-family rehabilitation projects, in Bellevue Nebraska, near our own Offutt AFB, were having a hard time achieving tax credit eligible occupancy. Also, a multifamily project approximately 10 miles south of the gates of Offutt was showing high vacancies.

This was quite surprising given the demonstrated housing shortage at Offutt. The two older multifamily projects, undergoing a comprehensive "rehab," had a 33% military occupancy before the rehabilitation efforts were started. They were ideally suited for enlisted military personnel and their families.

When researching these problems I learned that a low income soldier, airman or sailor (and we have them all at Offutt) who had a housing voucher from the Department of Defense (called the "basic allowance for housing" or BAH) was not treated in the same way as the client of our local Housing Authority who had a Section 8 voucher.

I believed this conflict was simply regulatory, and one can understand how the conflict arose. Specifically, “income” for purposes of the Sec 42 program is measured by the HUD Sec. 8 voucher rules. The theory was that if a person is to be considered for Section 8 assistance, and they have BAH assistance from Defense, they should not receive voucher assistance from HUD. This makes good sense.

Unfortunately, in practice, when the rule is applied to determine if a low income service person is eligible to live in a tax credit project, the “test” penalizes the service member. The rules for testing for occupancy require the BAH to be treated differently from the HUD housing voucher.

**What happens in practice? The HUD voucher is not included in “income” but the BAH amount, from the Department of Defense, is included in “income” for tax credit unit occupancy qualification. The result is the low income serviceman or woman, and their family, is often denied occupancy.**

This unfortunate result does not seem equitable or appropriate. Furthermore, the designation of the BAH as “income” for purposes of testing occupancy eligibility under Section 42 is inconsistent with the treatment of the BAH for Federal Income Tax purposes. The BAH is not includable as an item of “taxable” income for military personnel.

It is no wonder that the sergeant in San Antonio could not find an affordable and safe place for his family to live.

I am very proud of the Sec. 42 tax credit program and the resulting projects developed across the United States. They are well planned and maintained. They are closely supervised and inspected by investors and state agencies. They are evidence of a successful and effective way of leveraging federal resources with private sector dollars for the benefit of low income citizens, no matter if the citizens are agricultural, industrial or service workers. But apparently, these units are not readily available for those who serve in the defense of our country.

This exclusion is not, I believe, willful but simply the unintended consequence of conflicting regulatory provisions. It is frustrating, however, when we see unmet housing needs around our military bases, and yet some of the developments proximate to the bases have high vacancies.

This is a point where one should ask “who” does this problem affect and how widespread is it?

I’ve attached some graphics that show the impact in Omaha, the location of Nebraska’s only large military base. Offutt is located in the area with the highest median income in Nebraska.

The first graph shows for single enlisted personnel (E-1 to E-5), there is a problem at the E-4 and E5 level in Nebraska. The second graph shows for married personnel, with no outside income, E-5's are excluded. The third graph (for married personnel and assuming the spouse has a part time job at minimum wage for 1,000 hours per year) shows the problem begins with the family at the E-1 level (the basic "recruit").

Essentially, enlisted and NCO personnel (with dependents) E-1 through E-5, the lowest paid but the trained, technical, working "heart" of our military services, are excluded from this excellent housing resource simply because their "voucher" comes from the Dept. of Defense rather than HUD.

How widespread is the issue? As I've visited with my colleagues across the United States, it depends on the concentration of branch, mission and the availability of on-site housing. It definitely is an issue for other states, particularly those with lower Area Median Incomes.

Is it a temporary problem? As you know, a massive nationwide improvement program of "on base" military housing is underway. Nevertheless, based upon my telephone interviews with the Pentagon's privatization managers, the Department of Defense on average is still counting on the local communities to provide up to 60% of the necessary housing for military personnel. This relatively high percentage requirement will be the average local community's "off base" responsibility AFTER the completion of all the current improvement and privatization efforts.

Will H.R. 3186 cure this problem immediately? I think not, but it can "quick start" solutions as each state reviews its housing situation and inventory and then uses its discretion to adjust the state's Qualified Allocation Plan ("QAP's) accordingly.

Will the proposed change make military personnel with BAH allowances eligible for Sec. 8 Vouchers? It is my understanding that this is not the intent of H.R. 3186 and I am sure the HUD regulators can insert the appropriate language to avoid that circumstance. However, including such language in the bill would certainly clarify the issue and reduce the chances of that occurrence.

Will the provisions of H.R. 3186 fix the problem in Omaha? In my opinion, yes! It will not only allow us to better serve the housing needs of our military personnel, but also enable us to fill vacancies that might exist in Sec. 42 properties. By stimulating "rehabilitation" efforts, it will help us fulfill our goal of keeping Omaha a very "military friendly" city.

Most importantly, the provisions in H.R. 3186 will help improve the quality of life for that sergeant and his family (if he is still in the service) and thousands more like them around the United States. The current military realignment process contemplates moving large new contingents of enlisted personnel to communities in 25 states:

Alabama, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Nevada, New Jersey, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, and Virginia.

The provisions of H.R. 3186 will help the communities in these states more quickly address the inevitable housing stresses that will come with these personnel realignments.

All of these communities could, like we did in Nebraska, consider using the very effective, shallow, 4% tax credit and tax exempt bonds (under Section 142 of the Internal Code) to produce new housing or to rehabilitate existing housing stock. The net effect of approval of passage of provisions like those enumerated in H.R. 3186, could result not only in the stimulation of the production of new housing for these communities but also in the preservation and rehabilitation of very solid, older, existing housing stock. In short, this would be a "win-win" result because we would be using resources already allocated and appropriated.

In the end, quality affordable housing will help the U.S. retain these highly trained, motivated and courageous volunteers in the military. It just makes good sense to make better use of our human, structural and financial resources.

Let me note, at this time, that we have touched base with many of your colleagues and the housing community on this issue. Many members of the House are currently co-sponsors of this bill. Members from both houses have worked with us to urge HUD to change these provisions. I have attached copies of those communications as exhibits.

The National Association of Homebuilders agrees with the changes proposed by H.R. 3186. The National Mortgage Bankers Association has also been contacted and I believe that they agree that the issue of off-base military housing needs to be addressed.

The National Council of State Housing Agencies favors improvements to the tax credit program and they support the concept proposed in H.R. 3186 with the understanding that state HFA's will be able to use their discretion, just as they do currently through their Qualified Allocation Plans, to introduce the opportunity into their states in a manner that is consistent with their state's housing needs and existing inventories.

This change needs legislative action, however, because HUD, by conversation and by letter dated February 10, 2004 (attached) has told us that they cannot make this regulatory change without evidence of Congressional intent.

Members of the committee, I close by asking you to consider this low cost opportunity to improve the lot of all the committed "housers", communities and deserving military personnel and their families.... Please favorably consider the provisions of H.R. 3186 in this committee.

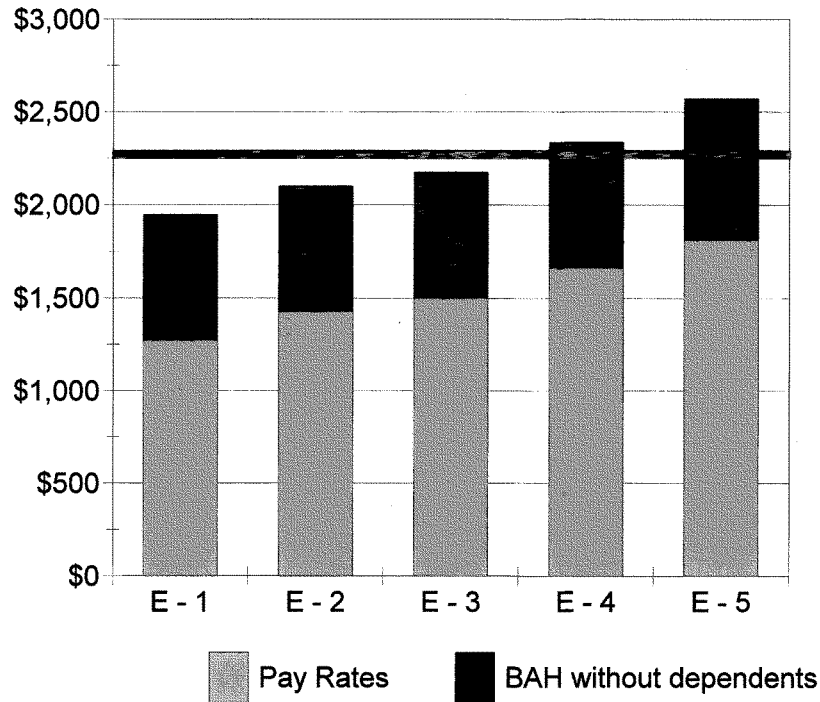
2006 Monthly Basic Enlisted Pay Rates  
+  
BAH Rates without dependents

compared to

Omaha Nebraska  
LIHTC Maximum Income Limits (1 person)



1 Person - Income Limit verses  
Pay Rate + BAH without dependents



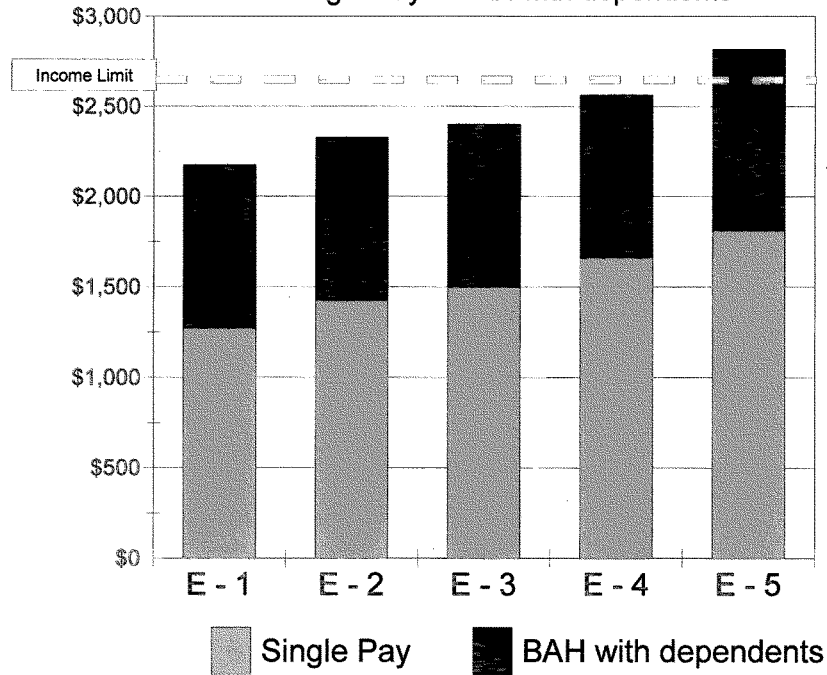
2006

	E-1	E-2	E-3	E-4	E-5
Pay Rates	\$1,273	\$1,427	\$1,501	\$1,663	\$1,814
BAH without dependents	\$673	\$673	\$673	\$673	\$756
Total	\$1,946	\$2,100	\$2,174	\$2,336	\$2,570

NOTE: \$2,285 = LIHTC Maximum Income Limit (1 person monthly)

2006 Monthly Basic Enlisted Pay Rates  
+  
BAH Rates with dependents  
  
compared to  
  
Omaha Nebraska  
LIHTC Maximum Income Limits (2 persons)

Income Limits - 2 persons verses  
Single Pay + BAH with dependents



**2006**

	E - 1	E - 2	E - 3	E - 4	E - 5
Single Pay	\$1,273	\$1,427	\$1,501	\$1,663	\$1,814
BAH with dependents	<u>\$900</u>	<u>\$900</u>	<u>\$900</u>	<u>\$900</u>	<u>\$1,002</u>
<b>Total</b>	<b>\$2,173</b>	<b>\$2,327</b>	<b>\$2,401</b>	<b>\$2,563</b>	<b>\$2,816</b>

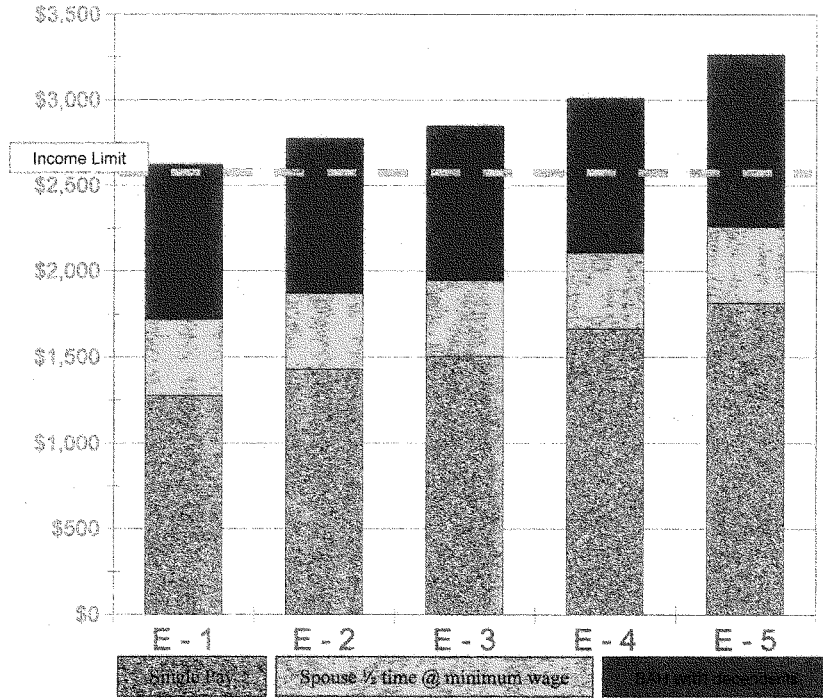
NOTE: \$2,610 = LIHTC Maximum Income Limit (2 persons monthly)

2006 Monthly Basic Enlisted Pay Rates  
+  
BAH Rates with dependents  
+  
**Spouse ½ time @ Minimum Wage**

compared to

Omaha Nebraska  
LIHTC Maximum Income Limits (2 persons)

Income Limits - 2 persons verses  
Single Pay + Spouse 1/2 + BAH w/dep



2006

	E-1	E-2	E-3	E-4	E-5
Single Pay	\$1,273	\$1,427	\$1,501	\$1,663	\$1,814
Spouse 1/2 time @ minimum wage	\$446	\$446	\$446	\$446	\$446
BAH with dependents	\$900	\$900	\$900	\$900	\$1,002
<b>Total</b>	<b>\$2,619</b>	<b>\$2,773</b>	<b>\$2,847</b>	<b>\$3,009</b>	<b>\$3,262</b>

NOTE: \$2,610 = LIHTC Maximum Income Limit (2 persons monthly)

Basic Enlisted Monthly Pay Rates Effective January 2006			
Pay Grade	Less than 2 years of service.	More than 2 years of service.	
E-5	\$1,814	\$1,935	
E-4	\$1,663	\$1,748	
E-3	\$1,501	\$1,596	
E-2	\$1,427	\$1,427	
E-1	\$1,273	\$1,273	
E-1 with less than 4 months of service	\$1,178		

BAH Rates						
2006	Nebraska					
Pay Grade	E-1	E-2	E-3	E-4	E-6	
<b>Basic Allowance for Housing (BAH Rates) for Enlisted Members with Dependents</b>						
OMAHA/OFFUTT AFB, NE	\$900	\$900	\$900	\$900	\$1,002	
<b>Basic Allowance for Housing (BAH Rates) for Enlisted Members without Dependents</b>						
OMAHA/OFFUTT AFB, NE	\$673	\$673	\$673	\$673	\$756	

Limits for the LIHTC program					
2005	Omaha MSA Maximum Rent Limits (includes utilities)				
Efficiencies	1 - bedroom	2 - bedroom	3 - bedroom	4 - bedroom	
685	\$734	\$880	\$1,018	\$1,135	

2005	Omaha MSA Maximum LIHTC Family Income Limits - 60% of Median (annual and monthly)				
Family Size	1 person	2 persons	3 persons	4 persons	
Per Year	\$27,420	\$31,320	\$35,220	\$39,180	
Per Month	\$2,285	\$2,610	\$2,935	\$3,265	



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-  
FEDERAL HOUSING COMMISSIONER

FEB 10 2004

Mr. Timothy R. Kenny  
Executive Director  
Nebraska Investment Finance Authority  
200 Commerce Court  
1230 O Street  
Lincoln, NE 68508-1420

Dear Mr. Kenny:

Thank you for your letter of January 23, 2004, requesting my assistance in changing Department of Housing and Urban Development (HUD) regulations to enable military personnel to qualify for Section 42 low-income housing tax credit projects in Nebraska. The Internal Revenue Service provides that income limits for tenants of set aside units in low-income tax credit projects must be based on the income limits for very-low income families that are published by HUD for the Section 8 program. Section 8 program rules are used to determine the applicant's annual income that is compared to income limits to determine eligibility. HUD's regulations are based on the laws that are enacted by Congress, and regulatory changes are based on Congressional actions. The requested change in regulation is to add the military basic allowance for housing as one of the exclusions from income.

As you know, HUD regulations for Section 8 assisted properties require that annual income include all amounts monetary or not that go to the benefit of the family or are anticipated to be received from a source outside the family during the 12-month period following admission, unless specifically excluded by regulation. Your letter expressed concern that many military families in rural areas do not qualify for Section 42 projects because their incomes exceed the very-low income limit for the locality when the basic allowance for housing is included in the annual income amount.

Congress has determined that the Section 42 low-income housing tax credit program will serve very-low income families based on the income limits for a geographical area as set by HUD. Military families are excluded from Section 42 housing in certain rural localities because their income is more than 50 percent of median income for that area. HUD income limits are used to maintain the limited amount of assisted housing for those with the least amount of resources to obtain housing. The Congressional intent for the Section 42 program does not support a change in regulation.

I hope the information provided is helpful. If I can be of further assistance, please let me know.

Sincerely,



Stillman D. Knight, Jr.  
Deputy Assistant Secretary  
for Multifamily Housing Programs





*Dedicated solely to ending America's  
affordable housing crisis*

**Testimony of the  
National Low Income Housing Coalition  
for the  
House Financial Services Subcommittee on Housing and Community Opportunity  
on  
H.R. 3186, the Build Homes for Our Military's Enlisted Service Members Act**

**February 8, 2007**

The National Low Income Housing Coalition is a membership organization whose members include non-profit housing providers, homeless service providers, fair housing organizations, state and local housing coalitions, public housing agencies, private developers and property owners, housing researchers, local and state government agencies, faith-based organizations, residents of public and assisted housing and their organizations, and concerned citizens. While our members include the wide spectrum of housing interests, we do not represent any segment of the housing industry. Rather, we focus exclusively on what is in the best interests of people who receive and those who are in need of federal housing assistance.

The bill under consideration today, H.R. 3186, would exclude from the income of an Armed Services member the member's basic allowance for housing for the purposes of determining eligibility of the member for any Department of Housing and Urban Development or any other federal government housing assistance program. NLIHC opposes this bill for several reasons.

**Department of Defense Should Provide Adequate Salary or Housing Allowance**

On February 6, 2006, the President requested a 6.9% increase for the Department of Defense and a 1.8% decrease for the Department of Housing and Urban Development for fiscal year 2007. NLIHC maintains that the Department of Defense's budget should be sufficient to provide its Armed Services members with either adequate salaries to meet their housing costs or an adequate housing allowance to do so. This Subcommittee may wish to investigate the value of the Armed Service's housing allowance for its members. Is it tied at least to HUD's fair market rent? Is the military's transitioning reliance to private market housing stock unrealistic? The answers to these questions might allow the Department of Defense to better provide its Armed Services members with a basic allowance for housing that is valuable enough to meet actual housing costs. There is clearly something amiss if the members of U.S. Armed Services must rely on federal social safety net programs for the poor in order to provide for their families' basic needs.

**Production of New Affordable Units is the Solution**

NLIHC's data show a clear mismatch between affordable, available units in the private sector and the numbers of extremely low income households in need of such units. Our data show the unit deficit for extremely low income housing units at 1.6 million (*Losing Ground in the Best of Times, NLIHC, 2004*).

Nationally, there are only 43 affordable and available units per 100 extremely low income renter households, leaving the majority without access to affordable housing (*Losing Ground in the Best of Times*, NLIHC, 2004). We commend the full House Financial Services Committee for including an Affordable Housing Fund in H.R. 1461 last May and hope that Congress enacts such a plan to produce and preserve needed units quickly. With such an acute shortage of affordable housing for the low income civilian population, diversion of scarce housing assistance resources intended for civilians without any access to other subsidies is unfair and bad public policy.

#### **HUD's Income Targeting is Intentional and Necessary**

HUD's programs are intentionally income-targeted. That is, the programs seek to serve various identified income groups so that extremely scarce HUD resources can meet the most immediate and dire housing needs. According to HUD's recent worst case housing needs report to Congress (*Affordable Housing Needs: A Report to Congress on the Significant Need for Housing*, HUD, 2005), currently more than 5.2 million very low income American households pay more than 50% of their incomes toward housing costs or live in substantially substandard housing. If any of these 5.2 million households are Armed Services households, this is an embarrassment of the Department of Defense.

Expanding the income groups of households eligible for housing programs, when Congress only several years ago established HUD's income targeting guidelines and all data show the greatest need for housing assistance is at the very lowest income levels, does not make good use of federal funds. Ultimately, such a policy would take resources away from extremely low income people when HUD's housing production and preservation programs are barely surviving annual budget battles.

Across the nation, hundreds of thousands of families are on waiting lists for public and assisted housing programs. These households must report their full incomes to local housing authorities, who then determine if their incomes make them eligible for the programs available. Today, only one in every four households eligible for HUD housing assistance receives it. This bill would allow Armed Services members to gain access to safe, decent and affordable housing before much lower income households have that ability.

In an effort to keep HUD's housing resources targeted to those most in need, Congress enacted as part of the FY07 HUD appropriations bill language explicitly requiring that any housing allowance portion of student scholarship income must be counted as income when determining students' eligibility for HUD housing. To make a directly oppositional policy for members of the Armed Forces sends a skewed message to young adults in high school and others contemplating one career path versus another.

#### **Setting the Record Straight**

We would like to dispel two arguments made in support of this bill. The first argument says that Section 8 vouchers are not considered income for purposes of eligibility and, therefore, the military basic allowance for housing should not be counted as income either. The bill, in this argument's line of reasoning, would equalize this disparate treatment. However, this argument is based on a false assumption. Section 8 vouchers are not income to households. They are a subsidy whose value covers the difference between what a household can afford to pay for housing (using the federal standard of 30% of income) and what a modest rent is in a particular housing market (using HUD's fair market rent). Tenants do not receive a cash allowance. This subsidy is provided directly to landlords by the local voucher administrator, usually the housing authority. Comparing the Section 8 voucher rental subsidy and the military basic housing allowance is comparing apples to oranges.

A second argument states that H.R. 3186 will indirectly provide an incentive to build more housing around military bases. The argument continues, stating that developers can claim the Low Income Housing Tax Credit when they build housing for qualified Armed Service families and that this bill

gives them incentives to do so. It must be stated that the Low Income Housing Tax Credit program, which is administered by states, is fully subscribed to and highly competitive. All available Low Income Housing Tax Credits are in use. Passing this bill cannot incentivize the development of additional Low Income Housing Tax Credit units because the production of these units is already maximized. Whether the placement of these units could be closer to military bases is something that could be considered at the state level, when states determine preferences within their respective Low Income Housing Tax Credit allocation plans to meet the specific needs of their state. Enacting H.R. 3186 does not support the development of new Low Income Housing Tax Credit units.

**Work to Meet Housing Needs Instead of Reduce Affordable Options**

There is a tremendous need for new housing resources in the United States. Legislation such as H.R. 3186, which decreases the already diminishing supply of low income housing for extremely low income people, will further slow our nation's progress toward ending the affordable housing crisis. Across the nation, the greatest housing cost burdens are faced by those households with incomes below 30% of median area income. In fact, 61% of the households in this group spend more than half of their income on housing costs (*Who's Bearing the Burden?*, NLIHC, 2004).

Thank you for considering our views on H.R. 3186.



**LEGISLATIVE AND POLITICAL RELATIONS**

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*Joseph M. Stanton*  
 Chief Lobbyist

September 6, 2005

The Honorable Jim Ryun  
 United States House of Representatives  
 1110 Longworth House Office Building  
 Washington, DC 20515

Dear Representative Ryun:

On behalf of the 220,000 members of the National Association of Home Builders (NAHB), I want to thank you for introducing H.R. 3186, the *Building Homes Act of 2005*. NAHB supports this important legislation, which will expand opportunities for enlisted military personnel to have safe, decent and affordable housing.

As you know, enlisted military personnel and their families face a shortage of quality, affordable housing in duty stations around the country. This lack of supply is likely to be compounded by the transfer of military units as part of the ongoing Base Realignment and Closure (BRAC) process. While housing shortages for servicemen and women could be addressed effectively through the Low Income Housing Tax Credit (LIHTC) program, enlisted military personnel are ineligible for such housing because of a technicality in housing regulations.

Currently, the Department of Housing and Urban Development (HUD) includes the Basic Allowance for Housing (BAH) as income in its calculation for determining if a family meets the income qualifications for LIHTC housing. HUD does not, however, include Section 8 housing assistance as income in the same income qualification process. This incongruence in the regulations is unfairly penalizing military families and limiting their access to affordable housing.

H.R. 3186 will aid America's servicemen and women by directing HUD to exclude the BAH in its calculation of income for the purposes of the LIHTC program. This will enable more enlisted personnel to secure quality, affordable housing for their families. At the same time, this legislation would result in no additional cost to the taxpayers since credit allocations to the states would not increase.

Again, NAHB appreciates your leadership in introducing legislation to expand housing assistance to America's enlisted men and women and their families. I look forward to working with you on this important issue.

Sincerely,

 A handwritten signature in dark ink, appearing to read "JMS", written over a horizontal line.
 

Joseph M. Stanton

JMS:gb



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-1000

ASSISTANT SECRETARY FOR CONGRESSIONAL  
AND INTERGOVERNMENTAL RELATIONS

The Honorable Jim Ryun  
U.S. House of Representatives  
Washington, DC 20515-0001

JUL 25 2005

Dear Representative Ryun:

Thank you for your letter of June 17, 2005, inquiring whether it would take report language in the Department of Housing and Urban Development appropriations bill or whether legislative text is needed to add the military basic allowance for housing as one of the exclusions from income to determine eligibility for HUD's housing assistance programs.

Your request is based on the concern of your constituent, Mr. Timothy Kenny, that military personnel do not qualify for Section 42 low-income housing tax credit projects in Nebraska because their incomes are too high. As Deputy Assistant Secretary Stillman D. Knight, Jr. indicated in his February 10, 2004, letter to Mr. Kenny, HUD income limits are used to maintain the limited amount of assisted housing for those with the least amount of resources to obtain housing and that Congressional intent for the Section 42 program does not support adding the military basic allowance for housing as one of the exclusions from income. However, if Congress now wants to make the military basic allowance for housing a federally mandated exclusion from income, it would take a legislative amendment to require HUD to make it an exclusion.

I hope the information provided is helpful. If I can be of further assistance, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven B. Nesmith".

Steven B. Nesmith  
Assistant Secretary for Congressional  
and Intergovernmental Relations