Transcript of Oct. 9, 2007, IRS Hearing on Proposed Rules (REG-128274-03) Providing Additional Methods of Calculating Utility Allowances Related to Low-Income Housing Credit

MODERATOR: Paul Handleman, senior technician reviewer, Branch 5, IRS Office of Associate Chief Counsel (Passthroughs and Special Industries)

PANELISTS:
Donna Young, special counsel, IRS Office of Associate Chief Counsel (Passthroughs and Special Industries);
David Selig, attorney-advisor (tax), Branch 5, IRS Office of Associate Chief Counsel (Passthroughs and Special Industries);
Sharon Kay, taxation specialist, Treasury Office of Tax Policy

WITNESSES:
Michele Norris, president, National Affordable Housing Management Association;
David Cardwell, vice president, capital markets and technology, National Multi housing Council;
Ronald Nickson, vice president, building code, National Multi Housing Council;
David Rammler, director, government relations, National Housing Law Project;
Paul Emrath, assistant staff vice president, Housing Policy Research

MR. HANDLEMAN: Good morning. We're going to get started with the hearing. This is the public hearing on proposed utility allowance regulations for the long-term housing tax credit that were issued on June 19th of 2007. On that day, the IRS promulgated proposed regulations in the Federal Register and announced that a public hearing would be held today, October 9th, on those regulations.

Speakers from four organizations have requested the opportunity to speak at this hearing. The speaker or speakers from each organization will have 10 minutes to speak, and there is a lighted indicator at the top of the podium. When three minutes are left the yellow light will indicate that the speaker has three minutes left to summarize. And then, when the lights turn red, your time will be up.

Now let me introduce our panel. To my immediate left is Donna Young, who is a special counsel to the associate chief counsel, passthroughs and special industries. To her left is Sharon Kay, who is a taxation specialist at Treasury. And to her left is David Selig, who is an attorney advisor in Branch 5 of the Office of Associate Chief Counsel (Passthroughs and Special Industries).

I am Paul Handleman and I am a senior technician reviewer in Branch 5 of the Office of the Associate Chief Counsel (Passthroughs and Special Industries).

Now, our first speaker today is Michele Norris, who is the president of the National Affordable Housing Management Association.

Ms. Norris, can you come up to the podium, please?

Good morning. Are you ready?

MS. NORRIS: Good morning. My name is Michele Norris. I'm representing the National Affordable Housing Management Association, where I'm currently serving as their president.

Let me tell you a little bit about our organization. We represent the management companies. It's basically presidents and executive staff of the management companies that really are trying to be in charge of the properties on behalf of the owners.

Basically our responsibility is to oversee the physical, financial, and social well being of each of the properties, the affordable housing properties that we are in charge of. Our breadth of exposure is rural development housing, HUD housing, and, of course, the tax-credit housing program, which we are very supportive of and have found it to do a lot of great things.

Let me explain first some premises of why we think this is a very important rule change or modification. You'll hear me reference two things—long-term sustainability of the properties, and also flexibility of the program.

My real job is as senior vice president of National Church Residences, and we have a portfolio of about 250 properties in 28 states. Within that portfolio, we have about 50 tax-credit properties in about 12 states. So we are kind of exposed a lot to the need for flexibility and regional uniquenesses.

As an owner, a long-term owner of tax-credit properties, we are also concerned about long-term sustainability of these programs and these properties. It is really critical, because a lot of these properties have very thin margins. They are underwritten to have very low cash flows in a lot of cases.

So instances where utility allowances are not correctly calculated can actually create risk to the property over the long sustainability period, which is at least 15 years before you're able to refinance the property. So it's real important that you have models and ongoing financial ability to keep the property running smoothly.

It's for those reasons that I would support and our organization supports the key factors of the proposed rule, the first one being the ability to use agency estimates in order to calculate the utility allowance, the second being the HUD utility schedule model, and also the other factor that is being suggested, which is the ability to--(audio break).

I'm fortunate enough to not have to actually be the person on the site that is doing all the paperwork, but it is a very frustrating thing for the sites to have to have so much--(audio break)--the property and taking care of doing the social good that is necessary for them to do as property managers.

We do have one concern or one suggestion regarding the proposed rule. That is the requirement to obtain cost estimates from each utility provider in a place where there are multiple utility providers. We did provide an example within our written statements about a property in Atlanta that has up to eight providers. And trying to get those utility estimates can be very cumbersome. So we would welcome the opportunity to work with you on some other suggestions or options to make that a little bit less restrictive.

We also have some suggested additions that we would like to encourage you to consider in the future. One is the utility consumption model estimates that will be provided by a state-certified engineer or other qualified professional. I know that this has been floated for the last couple of years. And as an owner that does sub-rehabs as well as new construction, I can tell you that it is very helpful if we were able to put something like that in place, especially for states that may not be equipped to actually start their own programs up yet.

The second suggestion we would have is to specify that owners can use different calculation options for different utilities; for instance, the difference between water versus gas versus electric.

And the third suggestion we have would be to make utility allowance changes effective at the time of other rent adjustments. As I mentioned earlier, the site staff has a tremendous amount of paperwork that they must do on behalf of their residents. And the residents, as well as the site managers, get a little annoyed sometimes with all the times that they have to come into the office and fill out more paperwork. Essentially we're asking that this be considered so that it would marry against their annual rent certification so that they could come in once a year to do that work and not have to be bothered with paperwork twice in the same year.

That would actually conclude my remarks. And I will wrap up by saying again that our concern really is about greater flexibility and efficiency that really adds up to making sure that these properties can stay with long-term sustainability for the length of the time of the program, as is required.

So thank you very much for your time.

MR. HANDLEMAN: Are there any questions from the panel?

MR. SELIG: Yeah, I have one question.

You said that you would be willing to provide examples on the multiple utility estimates. Do you have anything you can say, you know, examples you can give us right now? I was curious when we read the comments, and I thought that would be a good comment to include.

MS. NORRIS: This is about the utility--the various providers when you have a deregulated environment?

MR. SELIG: Yes.

MS. NORRIS: Well, that was actually one of our other members that provided that. My properties are not yet experienced in those particular environments yet. I emphasize "yet." And so I don't have anything specifically other than the one that we already put into the written materials. But we would be glad to gather additional examples if you would like that.

MR. HANDLEMAN: I do have a question about the option for state-certified engineers. I mean, we had received that comment before we issued the proposed regulations.

MS. NORRIS: Correct.

MR. HANDLEMAN: And we did not provide that as an option in the proposed regulations.

MS. NORRIS: Right.

MR. HANDLEMAN: And one of the reasons we didn't is we didn't think it was totally necessary because we basically thought that, under the state agency estimate, the housing credit agency can contract with an engineer or whoever they think is appropriate to develop or determine the utility allowances amount. It's just the idea that the housing credit agency would be supervising that. And we also do state in the regulations that the cost of that would be borne by the owner requesting that.

So asking for this additional option, it basically is that you simply don't think it's necessary to have any state involvement with the state housing credit agency in determining those utility allowance amounts?

MS. NORRIS: OK, I guess my--as I read through some of the comments that came back from the state, a couple of the state agencies we work with, I think they have said they would like to have owner-certified as opposed to state-certified as kind of one of the options so that, again, if they decide to not have as many staff resources to do the hiring of certified engineers and everything, that the owner does it, it's less administrative burden to them. And from the owner's perspective, we're going to pay for it either way. So if we have the control of that certification process and all they're doing is overseeing what we submit, I think the issue is: would that be more efficient and less costly to the owners?

MR. HANDLEMAN: Thank you.

Any more questions?

Well, thank you very much.

MS. NORRIS: Thank you for your time.

MR. HANDLEMAN: OK, our next speakers are David Cardwell, who is the vice president of Capital Markets and Technology, and Ronald Nickson, who is the vice president of Building Codes at the National Multi Housing Council.

Welcome, gentlemen.

MR. CARDWELL: Good morning. My name is Dave Cardwell and I'm vice president of Capital Markets and Technology for the National Multi Housing Council. I'm part of the joint legislative staff for the members of the National Multi Housing Council and those of the National Apartment Association. I'm here today representing the membership of both organizations that, in total, account for over 50,000 professionals and over 6 million apartment units.

I'm joined by my colleague, Ron Nickson, vice president of Building Codes, who, over the past several years, has been evaluating and working closely with energy consumption models with a focus on apartment properties. Mr. Nickson and I will be sharing our allotted time this morning.

The notice of proposed rulemaking is long overdue, but we have been pleased to work with the service the past four years to update the regulations. We urge continued and swift action to address the matter.

As we presented at the outset, we seek accuracy in the methodology. The cost of operating a property today is far greater, and the current methods to adjust rents have been determined in some cases to overestimate tenant utility costs by over 100 percent or more.

I'd first like to address the implementation of the annual utility adjustment. As the previous speaker mentioned, currently rents are adjusted to reflect changes in area median income and when local utility adjustments are released by the housing authorities.

We would highly recommend the proposed rule call for the two adjustments to be implemented concurrently. This would reduce the need for two separate rent adjustments and would make the annual rent adjustment process more efficient for both the resident and for the property owner.

Another area of the proposed regulation that could prove problematic to property owners is Section 1.42-10, subpart 4(2)(b). This is the provision that requires cost estimates to be obtained for each utility provider in cases where there are multiple providers to a single property. This option is likely to present an unworkable administrative burden in deregulated jurisdictions.

The work required to produce utility allowances analysis under these circumstances is overly complex and very time-consuming. It's further complicated for smaller properties with multiple providers due to lack of dominance of any single provider due at a property. Because there are many smaller properties, those with 100 units or less, this option will not be viable for many owners.

The area we're most concerned with, and which is the primary focus of our comments, pertains to the provision that would allow developers and property owners to use energy consumption models to estimate utility costs. While the notice excluded this option, input of method was specifically requested.

In response to this request, and before I turn it over to my colleague, I would like to note the reasons why we urge the service to include this option. One, the energy use consumption model has become an accepted means in the building and real estate industry and can accurately identify energy use and consumption specific to buildings, as well as incorporate energy usage based on unit occupancy. Additionally, the models are routinely calibrated for local weather conditions and historical data.

Two, property-specific energy consumption models would be consistent with the proposed use of the HUD model contained in the proposed regulation. And we believe that the use of energy consumption models more specific to a property would be a more accurate means to identify tenant energy costs.

Three, energy consumption models applied at the property level are more accurate than general estimating techniques because they account for specific characteristics of buildings and their locations. Energy consumption models take into consideration specific factors including, but not limited to, occupancy, building orientation, building design and materials, mechanical systems, appliances, and characteristics of the building site and its elevation.

Four, the use of energy consumption model data would not require changes by the allocation and compliance agencies and should provide seamless means for adjusting rents. We do not believe this would add to the administrative process by state allocation or oversight agencies.

Fifth, and last, the use of energy consumption models will encourage owners and investors to make energy savings improvements as the model can identify where energy improvements can be made. The cost of improvements can be then justified based on the potential energy savings. This would provide incentives for property owners to invest in their properties and capture the savings on a real cost basis, as homeowners do when they invest in their own properties.

If appropriate, I'd like to turn things over to my colleague to further address the use of energy models by certified engineers as an effective means to establish adjustments.

Ron?

MR. NICKSON: Yes, my name is Ron Nickson with the National Multi Housing Council.

I've had considerable experience in using these various different models and find them to be very sophisticated. In fact, over the years they've even become more sophisticated, with the engineers being able to use these models to project not only the overall energy use of a building, but then go down to individual--an apartment building that we're talking about and look at the individual apartments.

And it's not uncommon to use certified engineers, professional engineers, to do this type of analysis. In fact, it's part of the basic design of a new building on a program called Manual J where they actually have to use that type of analysis to determine the energy use of that particular apartment so that they can size the equipment.

Newer programs that are on the market today actually do this analysis on an hourly basis, based on the energy of that particular location, which makes it site-specific for doing the actual design of that building. I think this is really--the new tools on the market really allow this to be a way to determine the energy use of the building and I think would be of benefit to not only the owners but also to the residents that are using the apartment to make the actual projections more in line with what that particular apartment uses on that particular location. Thank you.

MR. HANDLEMAN: Are there any questions from the panel?

MR. SELIG: Yeah. Don't you think that the software models are already included in the agency estimate option that, you know, we already drafted in the proposed regs? Can't the models be used to present to the agencies as, you know, to the evidence of the factors we recommended and even go beyond that so --

MR. NICKSON: Well, the agencies can use them but I think there's a benefit to allowing the individual property owner to use the models because they can go beyond just looking for the energy type information. David alluded to it as did the previous speaker. You can use these models to start looking at some of the problems that the building has, and by having the owner do that on his own he can have that engineer's part of the analysis--take these additional steps to see where I can make improvements in that building and make it perform better. So I think it gives a lot of control by allowing the owner to do it versus the agency to do it.

MR. CARDWELL: One other comment on that question is that part of the beauty of the program is its consistency across the country, and the varying capacity and resources that the states have could be problematic and we think that this would be a more effective means in those states that don't have the resources, don't have the capacity, or don't care to provide that level of oversight. Also, another issue has to do with just the development process itself and so what you're talking about here is having an evaluation done after the

fact when building plans and designs and everything are already done as opposed to engaging the engineer early on in the process.

So there's a lot--there are some efficiencies that can be brought to bear in the actual design and development of the buildings if you do allow the owner to contract directly with the engineer. Also, it's going to reduce the cost and the burden on the agencies and we think that that's important, and when we originally started down this path part of our goal was to make this as seamless a process as it is today and we think that that's the best way to do it.

MR. HANDLEMAN: Any more questions? Thank you, gentlemen. OK. Our next speaker is David Rammler, who is the director of government relations at the National Housing Law Project.

MR. RAMMLER: Good morning and thank you. The National Housing Law Project is 40 years old. We are an organization--a nonprofit charitable organization--which represents attorneys, paralegals, and nonprofit associations which work with residents of sustainable and affordable housing. We believe in a sustainability of affordable housing. We know that next year and 10 years and 50 years from now there will be people in our society who will either be living on Social Security or working at a minimum wage or marginally above a minimum wage job who need a place to live and, without affordable housing supported by this type of program, there will not be a place for those people to live.

At the same time, while none of us in this room probably would miss $5 or $10 or $25 a month, the people in my organization and the Housing Justice Network, which is another signatory to our written comments, the people we represent do miss $5, $10, or $25 a month. So to the extent that these new regulations if adopted would create more accurate determinations of utility allowances, I think that's to everyone's benefit. I take issue with virtually nothing which has been said except that we believe that these regs, if adopted, should produce a more objective, responsive, and transparent process so that a resident or a resident association or an advocacy group on behalf of residents could look at what happened to determine this utility allowance and come up with the same result that the people who produced it came up with.

Additionally, the regs--and I think intentionally so--but the regs at this stage do not provide much guidance for determining which process will be used, who will choose the process, who will make the decision, and how the prototype unit, if you will, should be chosen, which will then be used as a model for the rest of the units in that development. I am not an expert on the algorithms which underlie the sophisticated techniques and computer models that have been discussed here today.

If they stand a test of time--if they stand rigorous evaluation against actual utility costs and if they can be understood and reproduced in some fashion by the people who are one of the other interested members of this triumvirate that was identified in the comments--the residents, the owners, and the credit agencies--then all well and good, and I think the

people who've testified here today have said that the models are accurate and, if that's so, we have no objection.

But we think that the regs should incorporate requirements of specificity and clarity in the criteria which are used so that in one section of the regs it requires that the owners make their calculations available to the residents. But calculations, according to Webster, are just the arithmetic at the end. They don't include the underlying assumptions and the underlying factual database and other methodologies.

The regs also in the current proposed form say that certain considerations should be taken into account. We believe that that language should be stronger. We believe that taken into account is fairly subjective and we think that in order for this process to be objective there needs to be stronger language and clarification on what criteria are used--what considerations are included in these calculations. We've heard that new computer models can tell you that the end unit uses more heat than the middle unit, and that's wonderful and if that's an accurate representation of the actual usage, then I think we should do that.

But one of the things that the models will not take into consideration probably are the special needs of some residents. There are people who, because of medical conditions, must use machinery to maintain their health, and there are people who must use air conditioning in the summer so--and there are people with, you know, different family structures. So there are reasons why individuals should be taken into consideration in this calculation, as well as the location and configuration of the construction unit itself.

So underlying this and to make this happen, in part we believe that the regulation should include some mechanism whereby any party of the three who are identified as the parties of interest should have a way to contest or object to or in some way bring to an objective third party heir belief—underlied and supported by facts of course, not just speculation--but their belief that there is some inaccuracy in the utility allowance.

I think both the owners and the developers both know that there have been lawsuits in the past few years, mostly against housing authorities, I suggest, and there was a comment that utility regulations or utility allowances were in one point found to be 100 percent inflated. We believe they should be accurate and we believe that the existing mechanisms don't do that. So we believe that it's important that this--that these regulations are adopted in the modified form.

Finally, I think there's the issue that was raised initially by Ms. Norris and that is the effective date of the utility allowance. I've read the regulation and discussed it with a number of my colleagues and we are unable to determine how the utility allowance under these regs would be assessed under the lease-up period. Ms. Norris said it's--there's a lot of things going on. You know, we'd be changing it all the time.

I don't exactly understand the implication of her remarks because I don't manage the property, but I do believe that, if I am a tenant or I represent a tenant and that person is about to sign a lease committing their family resources where they're going to balance

medicine versus heat, that they have a right to have some objective mechanism incorporated into the regulations whereby they can say this is a fair utility allowance, and if they believe it's not fair, as I said earlier, a mechanism for contesting that and for raising that first with management and ultimately, of course, they would have a right under the federal law to take it to court. But nobody wants to go to court and that wastes all of our resources and I'm not trying to threaten anybody--it's just the reality. You know, it's happened, it'll happen in the future, but we are hoping that the regulations could incorporate some structured mechanism which acknowledges that the parties--the three parties in this situation--have different interests.

The owners want to maintain the property and make a little money. They got into it presumably to make a little money. They agreed when they negotiated with the state or local credit agency that they would abide by the 50 percent AMI or the 60 percent AMI rule, and that the utility allowance was part of that calculation. So that's a business decision that they made. And while we respect that and we, as I've said, encourage the management of these properties for long-term sustainability, it's critical that that not be carried on the shoulders of the residents.

We also suggest that there should be some trigger for interim reviews. No one in this room or the folks we represent control the utility company's rates. If utility charges rise let us say 5 percent in any one year, that matters to my clients. Five percent is a lot of money to some of these people and--well, you know, I won't belabor that issue. So there should be some mechanism whereby, if there is a significant change in a family's circumstances which alters beyond their control the use of utilities within that family or if there is a rate change by a utility company as I've said--just for a ballpark let's say in excess of 5 percent and that's our suggestion in our written comments--that there be some mechanism whereby the resident or the owners could raise that and could do an interim modification.

I appreciate the paperwork that the managers go through and I thought the--bringing the readjustment of the utility allowance and the rent certification into--you know, I haven't thought that through clearly but it's a creative idea and I think that we're all looking for ways to encourage owners and developers to get into and stay in this business.

So I think that's it. I'll take questions and I'm certainly available at any time to discuss any of these issues and I would welcome that conversation.

MR. HANDLEMAN: Questions from the panel?

I had a question--really I think it was your last point. I'll call it the effective date of the new utility allowances. How do you react to the other speaker's suggestion that the new utility allowance should only come into effect when there's the annual tenant certification or the--a change in AMGI that would determine the rent?

MR. RAMMLER: Well, I think that, under normal circumstances, you could adjust it annually. If it raises beyond a certain point, then people will be dropped out of the system

in that you could have 11 months where you're paying $30 a month more or $50 a month more for utilities than you bargained for. Managers want stable resident populations. That's a benefit to them too. I don't think--turnover is not good for any business unless you're moving inventory and we're not moving inventory, you know, so I think that if there were a mechanism for interim changes if the change were sufficiently great that it would threaten the stability of the residential population.

MR. HANDLEMAN: And this was your 5 percent?

MR. RAMMLER: Yes, that's --

MR. HANDLEMAN: Right--change--rates.

MR. RAMMLER: Right--right. And likewise I think the proposed regs call for a 90-day delay in the implementation of, for instance, a reduction. I also suggested that's--that threatens the stability of the resident population. I mean, people get evicted for not having their utilities on. They get, you know, or they pay utilities and can't pay the rent.

I mean, it's--when my clients, the people that our organization represents and the people that all the 500-plus lawyers of the National Housing Justice Network represent--when they enter into a lease they like everyone else believed that they're making a commitment and they hope that that commitment will be honored, and they know what the rent is supposed to be. It's--we all know it's set by statute against a fluctuating AMI, and that should be honored, and if necessary should be honored in a lease provision that would allow--that would make this a clause in the lease--a compact between the lessors and the lessees which could be enforceable as such. Thank you.

MR. HANDLEMAN: Thank you.

OK. Our final speaker is Paul Emrath, who is the assistant staff vice president of Housing Policy Research at the National Association of Homebuilders.

MR. EMRATH: OK. Thank you.

The National Association of Homebuilders is an association of 235,000 members who are engaged in homebuilding and related activities, including our housing credit group which owns, manages, and develops tax-rated properties. So we have a stake in this.

We'd like to thank the IRS and the Treasury for undertaking this task. The all-encompassing tax credit program is quite complicated, as most of us know, and the effort it takes to refine the regulations will be very helpful, but probably appreciated only by a few selected insiders, but nevertheless is important in making the program function more effectively.

Now, these proposed regulations are dealing with a problem that arises because gross rents are capped in the tax credit program and the utility allowance is subtracted. And if

that utility allowance--in the cases where tenants pay their own utilities, which is typical--and if that's inaccurate it causes problems. If they're too low it places a burden on the long-term tenants, which is not good. If it's too high, it shifts the burden to the property owner or developer, if it's a new owner, and as it's going onto the businessman rather than the tenant, some of that will be OK. But if you get to the point where the problem is chronic and too extreme, it threatens the viability of the projects and that's what we're trying to avoid. And we have a system right now which we think is not accurate and I think most of us understand the reason for that. It's because the tax credit program adopted the system of utility allowances managed by local public housing authorities for other programs, particularly Section VIII. And so that was just--and those public housing authorities don't have any particular stake or vested interest in the tax credit program. Plus, they're very often dealing with older properties and using utility allowances based on those where tax credit properties tend to be newer.

So to a certain extent we've already recognized that by allowing building owners to go and obtain utility company estimates. And we have members who tell us that works very well in some places, not so well in others. And it's becoming less and less an option in some places because deregulation has taken those resources away from utility companies. So because of that, we appreciate the proposed regulation. We like the flexibility and the new options it offers and we generally endorse all of the new options--including the one that says you can add together bills from more than one utility company. And we had some comments that I should mention. We had in mind a very specific case down in Texas where we had property owners who said that, you know, they have generation and they have distribution for electricity. Those come as two separate bills. They have to be added together to get an estimate of the utility payment. And the fact that the current regulation doesn't say that has caused so much confusion that it prevented that option from being available. So that's the situation that we were addressing and why we think that, you know, recognition of that is a good idea.

We also like the part of the regulation that says the building owner can obtain an estimate from the state housing finance agency. We know that there are states where they're working on developing methods and again, this will eliminate confusion. If a state has developed a good method and it works well and they've tested it and the developers and property owners think it works, you know, it should be a good method. And again, spelling it out in the regs will be good because it eliminates confusion. And that will be a particularly--oh, the other thing about that is we like the fact that it mentions the option specifically of using actual usage data from the utilities. I think that's good and important. That will be particularly good for energy efficient properties which the other methods may not be able to account for.

We also endorse the use of the HUD model, which was developed by HUD in particular to improve the process of setting those public housing agency estimates for Section VIII. And because of that, we think it's very appropriate for the tax credit properties. You know, HUD was in the position of being able to look at all these estimates across the country and see that they were inconsistent. HUD does not like to instruct public housing authorities regarding what they should do, so they provided this tool. And the tool, you

know, was vetted by several engineering companies. And it's also good because it allows for different utility allowances for properties of different vintages. So it recognizes, you know, new properties can be different from old and that will be beneficial in producing more accurate utility allowance in many cases--especially for newer properties.

But we think that's still--that still does not fill all the gaps that need to be filled. If you look at the option of using actual usage data from the utility, that's good for energy efficient properties that already exist. If you look at the HUD utility model, that's good for getting you to reasonable utility estimates for an average new property. That still leaves a gap for a new property being developed which is particularly energy efficient. And there's public--you know, that's consistent with public policy. Climate change is a current issue of much debate. There's a lot of pressure and a lot of concern from a lot of different sources to improve the energy efficiency of properties. And if you're developing a new property and you're looking at making it more energy efficient, in the case where the tenant is paying the utilities, all you're doing really is increasing the upfront cost and without an accurate utility allowance, you get no benefit in the ongoing revenue. You know, you don't get to recognize the reduced cost. And so that makes underwriting the property difficult, because in a typical case the tax credit doesn't provide all the funds you need. You have to get funds from another source. Typically it's a loan. The loan needs to be underwritten and they look at the cost and they look at the projected revenue and the projected cost. And so if you're going to make that property more energy efficient you increase the upfront cost and there's no recognition without an accurate utility allowance for the ongoing, you know, costs and revenues.

So as I think you know, from our written comments, the method we favor for plugging that gap is the software model run by state certified engineer. Yes, you can argue that that's incorporated to a certain extent in allowing the state HFA to do what they want, but we agree with the other presenters here that not all state housing finance agencies will be willing or able to do it. Resources are a problem. And so in addition to the option that allows them--them being the state housing finance agencies--to use a software model, we think the builder or the developer of a new property should be able to do it.

In addition to tax credit developers, the National Association of Homebuilders also has an energy subcommittee. So we have discussed this with our energy subcommittee. We also have a research center with energy engineers. We've discussed it with them. They all say that the software models are adequate. They can be used for this purpose. And of course, the technology is improving. Computer software and hardware is improving and it's improving in this particular area--the area of estimating energy consumption, because there's so much public interest in that. So finally, we think that we don't want to burden the housing finance agencies with additional paperwork and we think requiring a state certified engineer will do that. We think that the stamp on the paperwork of a state certified engineer is a very easy, simple way to see that that process works correctly.

Thank you.

MR. HANDLEMAN: Any questions from the panel?

MR. EMRATH: Well, thank you very much.

MR. HANDLEMAN: Those were the speakers we had scheduled for today. Would anyone else from the audience care to provide comments?

If not, I want to thank everyone for coming to the hearing and that will conclude our hearing today.

Thank you very much.