Testimony of Julie Gould
Senior Vice President, Community Impact and Investment
Mercy Housing, Inc.

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Community Reinvestment Act Regulation Hearing
Arlington, VA
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Mercy Housing applauds the federal bank and thrift Community Reinvestment Act (CRA) regulatory agencies for taking the initiative to hold four hearings nationally to consider public comments on reforming CRA regulations. The CRA in the past 33 years has fostered important partnerships that have resulted in significantly increased lending, investment and services in low income communities. Going forward, it is incredibly important in the context of the current financial and economic crises that a strong, vibrant and relevant CRA be part of the reform solutions to ensure the building and re-building of vibrant, healthy communities across America. As regulators, you have an enormous opportunity before you.

We are commenting on two aspects in need of reform: Community Development and Geographic Coverage.

In developing our recommendations, we have worked closely with affordable housing industry partners including the CDFI Coalition, Enterprise Community Partners, The Housing Partnership Network, Stewards of Affordable Housing for the Future, and their members. We strongly believe that a collaborative approach to national public policy on CRA is essential as the regulatory agencies work through the public hearings and rulemaking processes.

Background on Mercy Housing

Mercy Housing, Inc. is a national not-for-profit organization founded in 1981 whose mission is to create stable, vibrant and healthy communities by developing, financing and operating affordable, program-enriched housing for families, seniors and people with special needs who lack the economic resources to access quality, safe housing opportunities. Through affordable housing and supportive programs we help people improve their economic status, transform neighborhoods and stabilize lives.

Today, Mercy Housing is active in 41 states through development, lending and property management operations. We have developed nearly 37,200 affordable homes, touching the lives of more than 128,000 people on any given day. Mercy Housing serves families, seniors, and people with special needs at or below 50 percent of the area median income, with the current median annual income for resident families at $18,995. Our development activity has a core focus in 12 states with business centers in Atlanta, Chicago, Denver, San Francisco and Seattle.

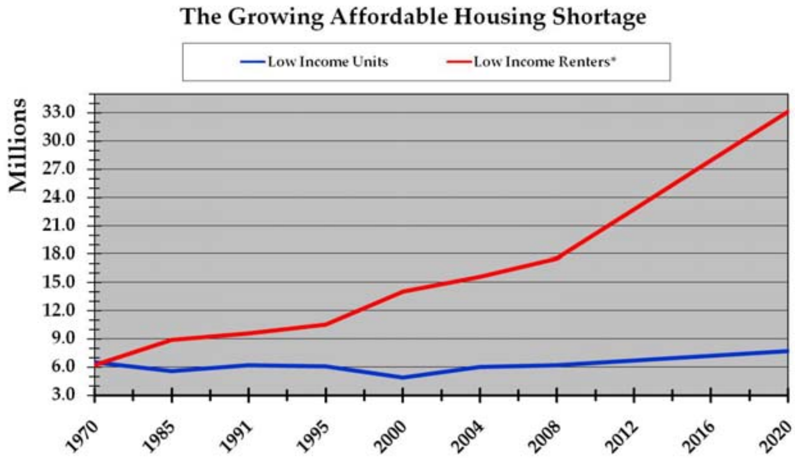
Mercy Housing is one of the largest supportive housing providers, and one of only a few national organizations that provides affordable housing for all low- and moderate-income populations. In 2009 Mercy Housing was ranked fifth among affordable housing owners in Affordable Housing Finance Magazine's Top 50 list and twenty-third among the nation's top 50 developers.

Mercy Loan Fund (MLF), founded in 1983, is a subsidiary of Mercy Housing. MLF is a 501(c) (3) non-profit corporation, certified by the U.S. Treasury Department as a Community Development Financial Institution (CDFI). MLF is a national affordable housing lender, funding real estate secured loans that enable local non-profit organizations to develop or preserve affordable housing in their communities. Throughout its history, MLF has made more than 400 loans, lending over $180 million to date. These loans have leveraged roughly $1.4 billion in housing in 33 states, and facilitated the development of over 16,000 units of low income housing.

To stabilize home values further and create affordable neighborhood housing, Mercy Portfolio Services (MPS), a subsidiary of Mercy Housing, was formed in 2008. MPS operates primarily in Chicago where it manages the city's $153 million of Neighborhood Stabilization Program (NSP) funds. MPS also assists communities across the U.S. in addressing economic and housing crises through solutions such as asset management software; foreclosure purchase; energy-efficient redevelopment; lease purchase options; asset management; land banking; home buyer education; and resale at affordable prices. We partner with state and local jurisdictions receiving NSP funds. With Mercy Portfolio Services' expert real estate development and asset management staff, we help communities, businesses and homeowners turn foreclosed, vacant properties into viable homes again.

Beyond providing safe, quality housing, we offer resident programs at our rental properties to address residents' needs in education, health and wellness, economic development, and community development.

As part of our vision to create a more humane world where poverty is alleviated, communities are healthy and all people can develop their full potential, Mercy Housing has embarked on a new five-year strategic plan. The driving force behind our strategic plan is to close the growing affordable housing gap between what low income renters can afford and units available. Mercy Housing estimates that there are about 12 million renters in need of affordable housing but only six million affordable homes available. Within the next five years, Mercy Housing plans to participate in the development, preservation and/or financing of 60,000 units of affordable housing.



**Low Income (LI), Very Low Income (VLI) and Extremely Low Income included in "Low Income Renters" category.*
Includes Section 8, 202, 811, 236, Public Housing and Indian Housing. Does not include Low Income Housing Tax Credits and Rural Housing Services.

Source: **American Housing Survey 1977-2003 (*http://www.census.gov/hhes/www/housing/ahs/ahs.html*)**
Projections by Mercy Housing based on information from the following sources:
The Housing Landscape for America's Working Families 2007, *Center for Housing Policy*; **National Low Income Housing Coalition**; **National Housing Trust The State of the Nation's Housing 2008**, *Joint Center for Housing Studies of Harvard University;* **American Community Survey, February 2007,** *U.S. Census Bureau*

Towards a 21st Century Definition of Community Development: Creating Positive Community Impact

Mercy Housing's mission embraces the entire fabric of low- and moderate-income community building. Far and away the biggest challenge in closing the affordable housing gap for non-profit developers and lenders like Mercy Housing, Mercy Loan Fund and Mercy Portfolio Services is raising capital at costs that support our work serving low income people in low income communities. The CRA regulations have lost the power of positive community impact without regulatory reform changes that encourage, incent and reward capital investment in local community partners that, with boots and knowledge on the ground locally, can serve low income people and communities in whatever Community Development activities they do best.

The current examination test structure and reporting requirements should be revised to highlight and incent bank Community Development activities regardless of the type of activity: lending, investment or services.

Mercy Housing recommends an approach that increases the focus and importance of Community Development activities within the CRA examination and reporting framework:

1. Building and re-building healthy communities should be an integral, separate and measurable part of the CRA Examination and Reporting structure: Community Development activities should be considered separately in the CRA examination process and not merged into the totality of the current three Test results. In the current examination and reporting format, Community Development Lending and Investments generally are too small for serious consideration in assessing an institution's community performance. Moreover, the current

examination process fails to distinguish between innovative and complex community projects that demonstrably have a positive community impact. Nor does the current system recognize the quality of community building activities that a high-impact organization provides. Regardless of track record, capacity and financial strength, all developers and loan funds/CDFIs are treated the same.

We recommend adding a new qualitative category of "community impact" to "innovative and complex", described in #3 below, to incent banks and recognize today's reality that with shrinking capital sources, it is not important for a project to be "complex" as much as it is to get the project built and providing positive community impact to low income people and communities in a timely fashion.

To illustrate the need for a separate Community Development activities category, Mercy Housing is working across multiple community development fronts in both the single-family and multifamily affordable housing arenas to:

i. stem and reverse the single-family and multifamily foreclosure tide as evidenced by our management of $153 million NSP dollars for the city of Chicago through Mercy Portfolio Services;

ii. provide linkages between new health care reform programs and affordable housing as delivery centers, including renting to community health clinics, as we are in San Francisco and Sacramento affordable housing projects;

iii. provide short-term financing through Mercy Loan Fund to preserve affordable housing stock; and

iv. provide structured, measurable service-enriched housing to affordable rental housing residents in four program areas: families, seniors, special needs and supportive housing.

Under the current CRA examination process, financial institutions lending or investing in any of the above receive Lending or Investment Test credit as measured by the amount of dollars lent or invested. A separate Community Development category would begin to capture the added value of Community Development activities provided by high-impact, community-based non-profit organizations, including CDFIs, that lead to the catalytic purpose of CRA since its inception: reinvestment in communities.

2. <u>The regulators should expand the term "Community Development" to include loans, investments, and services by financial institutions inside and outside of their assessment areas using a new category of "National Needs</u>." This could include and be measured by <u>all federal, state and local "stimulus" programs aimed at jump starting the nation's economy</u>. The model in the June 2010 Notice of Proposed Rulemaking that provides CRA credit to financial institutions engaged in NSP activities to stem the foreclosure crisis is an excellent national need as are activities to rebuild the Gulf Coast after the devastating hurricanes of 2005. Examples of eligible activities should include but not be limited to:

- Debt and equity investments in financial intermediaries, such as CDFI loan funds, that are certified by the US Treasury's CDFI Fund, especially at below-market rates, to enable catalytic Community Development activities;

- Credit enhancement of debt and equity funds targeted at housing, community and economic development for low- and moderate-income people and communities;

- Multifamily rental projects otherwise eligible for Low Income Housing Tax Credits (LIHTC) but not awarded credits solely due to lack of supply for credits; and

- Multifamily rental projects that have been awarded LIHTC credits but are unable to find investors.

To illustrate, Mercy Housing California has partnered with The Related Companies of California, the City and County of San Francisco, San Francisco Housing Authority, numerous community based organizations, and neighborhood residents to transform San Francisco's largest public housing community—Sunnydale—into a healthy, vibrant community. The 1941 community will be transformed into a new, mixed income community of 1,700 units of housing that will include a mix of public housing replacement, tax credit affordable rental, and affordable and market rate homeownership units. The new community will have new streets, utilities, public transit, neighborhood parks, educational and recreational facilities and neighborhood retail.

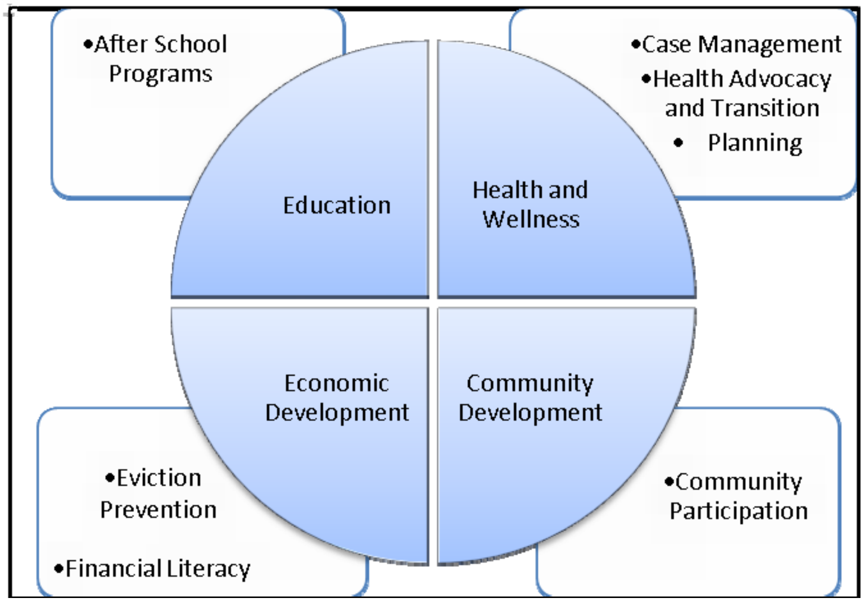
The public and private investment to enable this transformation will exceed $750 million over the next 10 years. An additional $5 to $10 million will be needed to provide residents with services to lift them out of poverty. Financial institutions lending, investing and providing services in this joint venture should receive CRA credit (1) in a variety of ways (2) lasting over the entire build-out of the projects and (3) include credit for the variety of stimulus and other housing and economic development public sector funds that are needed to complete a neighborhood re-building of this size, complexity and community impact.

3. <u>Add "Community Impact" as a category for qualitative "extra credit" to financial institutions who lend to, invest in or provide service to non-profit developers, CDFI lenders and others</u>. Develop a simple, quantifiable measurement table as part of the CRA exam that captures the "community impact" of the Community Development activity. Presently, qualitative differences among types of loans, investments and services are all but impossible for a CRA examiner to discern in their examination tables.

   At Mercy Housing we are developing a Community Impact scorecard that captures the social, environmental and economic impacts of our projects that have a positive effect on the people, planet and profits of our projects and the surrounding communities. This is hard work and many have attempted or are in the process of developing such measurement systems. Our view is that Version 1.0 starts with improved measurement of a few elements that can be standardized in terms of project and program models resulting in quantifiable outcomes.

   With respect to measuring Social Impact, we have selected six priority programs within our four core program areas as shown in the diagram below.

Mercy Housing Priority Programs



For example, in the Financial Literacy program category, Mercy Housing resident service coordinators provide Earned Income Tax Credit (EITC) classes to residents to educate them about the benefits of the tax credit for low income people and refer them to free tax preparation services offered either on site through community partnerships or in the greater community. In 2009, 488 residents received EITC outreach, 313 claimed the EITC and over $660,000 was returned to these residents. This represents a substantial qualitative positive difference for lending or investing in a Mercy Housing property.

CRA Geographic Coverage: Recognizing that Assessment Areas Are No Longer Reflective Solely of Geographic Boundaries

Bank assessment areas have become increasingly obsolete as the delivery of financial services by financial institutions and their affiliates has broadened exponentially. Banks are able to cross-market dozens of services to consumers even outside of their CRA assessment areas. Non-profit community development organizations facing real capital constraints are forced to move forward with projects that banks will lend to and/or invest in that dominate their major urban assessment areas, leaving other projects to flounder. Mercy Housing makes these recommendations to the Geographic Coverage Areas of CRA:

1. Give full CRA credit to financial institutions to lend to and invest directly in Community Development mission driven enterprises such as CDFIs and non-profit housing organizations that benefit broader regions that are within but also outside their assessment areas. This same recommendation should apply to state and multi-state syndicators and fund aggregators of community development capital. The increasing bifurcation of lending and investment by specific geography has resulted is less efficiency and higher costs for the provider. A regional approach promotes economies of scale, diversification of risk and a larger pooling of scarce capital resources. As a corollary to our National Need recommendation in Community Development #1 above, loans or investments in any mission driven enterprise, fund or pool of capital dedicated to a National Need should receive CRA credit regardless of location.

At Mercy Housing, we see a large concentration of Low Income Housing Tax Credit (LIHTC) bank investors in large urban areas of California – Los Angeles, San Francisco – either directly or through LIHTC syndicated funds, yet other areas within California such as Sacramento and surrounding areas receive substantially less investment as well as lower prices for the credits. In Arizona, Colorado and Nebraska where Mercy Housing Mountain Plains does affordable housing development, there is a stark deficit of investment dollars. The current CRA approach combined with the continuing economic crisis has created "lending and investment deserts" in many areas outside large urban cities.

With respect to Mercy Loan Fund, our bank investors have been generous with their investment capital but require lending only in their assessment areas. This recommendation would explicitly provide CRA credit for all financial support to CDFIs since CDFIs specifically serve low income people and communities, a basic function of CRA.

2. <u>Incent Financial Institutions without a retail presence to invest in and lend to national and regional Community Development enterprises, including CDFIs and non-profit housing organizations, that benefit from the national customer base these institutions have.</u>

   These institutions' bank retail presence is generally narrow in scope. Yet their potential to invest in, for example, community development tax-advantaged vehicles like LIHTC and New Markets Tax Credits (NMTC) and provide incredibly positive community impact nationally is enormous. While many such regulated non-depositories have invested outside their assessment areas, providing a structured process for them to do so would greatly benefit the flow of capital to underserved people and communities.

<u>Mercy Housing Summary Recommendations</u>

Community Development Test

1. Building and re-building healthy communities should be an integral, separate and measurable part of the CRA Examination and Reporting structure.

2. The regulators should expand the term "Community Development" to include loans, investments, and services by financial institutions inside and outside of their assessment areas to include a new category of National Needs.

3. Add "Community Impact" as a category for qualitative "extra credit" to financial institutions who lend to, invest in or provide service to non-profit developers, CDFI lenders and others.

Geographic Coverage

1. Give full CRA credit to financial institutions to lend to and invest directly in Community Development mission driven enterprises such as CDFIs and non-profit housing organizations that benefit broader regions that are within but also outside their assessment areas.

2. Incent Financial Institutions without a retail presence to invest in and lend to national and regional Community Development enterprises, including CDFIs and non-profit housing organizations, that benefit from the national customer base these institutions have.