Committee Meeting

of

ASSEMBLY HOUSING COMMITTEE

"Testimony from the Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency regarding the efforts made to date to implement Legislative enactments"

LOCATION: Committee Room 13
State House Annex
Trenton, New Jersey

DATE: February 10, 1997
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman John V. Kelly, Chairman
Assemblywoman Joann H. Smith, Vice-Chairman
Assemblyman Joseph Azzolina
Assemblyman Guy R. Gregg
Assemblyman Joel Weingarten
Assemblywoman Nilsa Cruz-Perez
Assemblyman Jerry Green

ALSO PRESENT:

Joyce W. Murray
Office of Legislative Services
Aide, Assembly Housing Committee

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JOHN V. KELLY (Chairman): We have a quorum.

Mr. Connolly, come on up.

WILLIAM M. CONNOLLY: I brought a couple copies of the current grant and the rehabilitation code.

ASSEMBLYMAN KELLY: You expect me to read this?

MR. CONNOLLY: No. I just wanted you to know that it exists.

ASSEMBLYMAN KELLY: Do you expect a miracle? (laughter)

Okay. You have the floor. What's the status on the rehab code?

MR. CONNOLLY: Let me start at the back end, and then I'll talk about sort of how we got here.

Do one of these work? (referring to microphone) Do I need to turn one of these things on?

ASSEMBLYMAN KELLY: I think you have to push a button.

MR. CONNOLLY: Okay. Am I on now?

ASSEMBLYMAN KELLY: You're on now.

MR. CONNOLLY: What I gave you, there, is a copy of the next to final draft of the rehabilitation code, which is the result of almost two years worth of work. We expect to have a final draft by early March and complete work with that final draft by April and then begin the rule-making process towards the actual adoption of the rehabilitation code. Because of the requirements of law that we have to go through, it will probably take six or seven months before the code is actually adopted. We're very pleased with it thus far. We're going, I think as they say in *Star Wars* or one of those space movies, where no one has gone before.

This will be the first construction code in America that's comprehensive and designed for application to existing buildings. That sort of thing doesn't exist anywhere in America. That's part of the reason that it has taken us almost two years to do it. Everywhere else in the country and in New Jersey up until now, what we've always attempted to do is apply the new building code in some fashion by some rule or some way to work in existing buildings. What that does -- and the Legislature certainly heard about that, that's why the law was passed -- is it frequently results in sort of unintended consequences, because the people who wrote the new building code, as they developed its provisions, simply were not thinking about existing buildings.

In any building code, the fundamental issue, the fundamental work is reconciling cost and benefit obviously. The cost of something in new construction can be dramatically different from the cost of something in an existing building even though the benefit may be the same. What we have had to do is-- And we have undertaken a line-by-line, page-by-page review of all of the construction codes that the State uses -- all of the broker codes, the building codes, the mechanical codes, the national electrical code, the national standard plumbing code, the energy code, and really several thousand pages worth of codes -- looking at all the requirements and evaluating them in terms of do they make sense when you try to apply them to an existing building. Frequently, they don't.

We've reached a point where we have a code -- and I'd just like to describe to you the six, sort of, basic principles that the draft that I've given you rests on, which we think are going to make a tremendous difference in the ease and the cost-effectiveness of rehabilitation of New Jersey's buildings. Also, something equally important, the adaptive reuse of our older buildings -- changing the use of them without imposing a whole range of unnecessary costs. The principles themselves are pretty simple.

The first is that actual work practices used in existing buildings should be sound, how you nail, what you nail, the flammability of insulation, and things like that. All those basic construction material and basic construction technique, they should be sound. We've been able to borrow most of those from new building standards.

The second is that the requirements of the code -- and this one is very important -- should not extend the scope of the work or the area of the work within the existing building. In other words, just because someone has decided to make some improvements in their building, the code shouldn't say to them, "Now, you're going to do even more," because we've got some sort of a trigger requirement. All of the codes of all the states at the current time do that. Someone decides to undertake an improvement in a particular area or of a particular kind in their building, and they bring their plans in, and the code official says, "Well, that's very nice now that you've decided to do that, but I've got some more things in mind that now you have to do because you've done that." The rehabilitation code, basically, will not do that. It will make sure that the work you've decided to undertake is done properly, but it will not have what we call trigger requirements or, in less kind terminology, catch-22-type requirements that, okay, now you have to do this, and now that makes you do this other thing as well.

The third important principle is that the results of the code -- what the code requires -- should be predictable to someone. One of the biggest faults we have found in the current system, even where it works well, is that when someone is looking at an existing building and trying to decide whether they can make use of that building -- to buy it or to rent it -- either for at the same use with some upgrades or to change the use, some other kind of use for the building, they can't tell exactly what they're going to have to do. They have to basically prepare some preliminary sketches and go in and have some conferences with the code officials, because the current code relies altogether too heavily on the judgments of individual code officials as they're applied to an existing building situation. We've heard over and over again from people the story of, first, the inspector asked me to do this, and then he asked me to do that, and then he asked me to do the other thing. That's a code that is not predictable. You ought to be able to know before you have your first conversation with your first inspector just what it is the code requires of you.

The fourth is that the requirement should be stated in a very user-friendly way. The people who are planning to undertake a project -- people who are not highly technical -- can open the book and find out what would be required of them in the context of that project. And that's one of the reasons that the book that I handed you has so many pages. You might look at that and you say, "Oh well, this must be very complicated." In fact, it has so many pages because there's a fair amount of repetition into it. But if you're undertaking a project, say a reconstruction project, and you want to change a warehouse to a residence, you're going to find all the requirements that apply to your project in that book on just four pages. So everything is organized around what the user wants to do instead of for our governments' ease of reference.

So all of the requirements for a particular kind of a use are all stated together in a very succinct form. There's not a lot of elaborate cross-referencing or going back and forth to this book and that book. So that businesspeople who are looking at a building and considering buying it and using it for a certain kind of use will be able to find very readily just what it is that they need to do at that time so that they can make a sensible business decision up front rather than buy the building or lease the building or place it under option and five or six or seven months later find out that this project doesn't work because of all the code requirements that it took them so long to discover.

The fifth and particularly important in New Jersey, where so much of our -- where we rely so much on our existing building environment, is that the change of use provisions in the code should encourage adaptive reuse. Currently, what our code and almost everyone else's code says, if you change the use of a building, it needs to comply with all of the requirements for a new building in that use. That doesn't make a great deal of sense. We've all seen small changes, for example, in a strip shopping center, where you change from a retail use to an office use and an office use back to a retail use -- things whose hazard is very much the same. It doesn't make a great deal of sense, and in fact, it discourages those kinds of changes, especially in our urban areas.

The only time that you would be required under this code to make improvements when you change a use is if the new use is substantially more hazardous to the old use. So that by your change, you're creating a substantial hazard. Then, obviously, you would have to do something to mitigate that hazard. But an awful lot of the changes of use we have within our existing buildings really don't increase hazard, and there isn't a logical basis to make them required or meet new building standards except that we've always done it that way. We're not going to always do it that way anymore.

MS. SMARTH (Assembly Majority Staff): What's considered substantially more hazardous? What categories would that fall under?

MR. CONNOLLY: Oh, let's say you changed an old warehouse into a nursing home. Let's say you changed an office building into a high-tech manufacturing business that uses very hazardous materials, and things like that. That's a substantial upgrade and a hazard. But if you change a hotel to residential, for example, or mercantile to business, one kind of residential to another kind of residential, you're not really having a significant impact on the hazard. That code provision actually serves to discourage people from making those changes -- to look elsewhere for buildings, usually outside of our urban or more developed areas, where it will make it easier to build and to reuse buildings.

ASSEMBLYWOMAN SMITH: The old warehouse in New Brunswick, that was converted into living space. You are familiar with that, right? If this was implemented then, how would that have affected that project? There was substantial criticism and a lot of red tape and all kinds of other things.

MR. CONNOLLY: I'm not familiar with the particular project, but I'm familiar with those kinds of projects.

ASSEMBLYWOMAN SMITH: We had put in some--

MR. CONNOLLY: Right.

ASSEMBLYWOMAN SMITH: --homes on one section, and then up the street a little ways was an old warehouse or an old factory, whatever it was, and they converted that to living space. I know there was a problem.

MR. CONNOLLY: Yes. One of the-- The first problem you encounter with a project like that is something that all the codes have called height and area limits, that say for a given kind of construction that the area has to be limited to a certain amount, the height has to be limited to a certain amount. And those kinds of conversions almost never meet the height and area limits just simply because they were built in another time when we didn't have those kinds of code requirements. Height and area limits, especially area limits, are primarily related to protection of property, not life safety. The rehab code doesn't arbitrarily impose height and area limits. Instead, it looks at the ability of people to exit, exit travel distances, and things like that.

Another example of what modern building codes contain in the existing building are very arbitrary requirements for corridor width, the door width, and things like that, ceiling-to-ceiling height, things that you really can't change very readily in an existing building. They're very reasonable requirements from the new book, because before you built the corridor, to make it 36 instead of 34 inches is just no big deal, but in an existing building, it creates very large problems. Often the individual code officials will provide some kind of relief to people like that -- at least the ones that have some common sense -- to a variation process, but it's totally unpredictable. You don't know until you ask. From our viewpoint, a good rule is not one where you have to ask the government, "Is it okay?" Before you know whether you can do it, the rule should state out pretty clearly so you know what you can do.

Another kind of arbitrary requirement is the fire rating of exterior walls. Older buildings typically won't meet the fire rating requirements on the exterior wall that's specified for new buildings. Those ratings are intended to protect your neighbor in the case of a fire. And your example, where the warehouse would probably fail and need expensive upgrading of the exterior walls -- the building's already there. It's been next to the neighbors for 80 years. The change from the warehouse to the housing actually reduces the fire hazard within the building, in terms of whether it will spread to the neighbor's house if there is a fire. So, again, the rehab code would not require that kind of expensive upgrading. I could go on for hours sort of cataloging all the provisions of the code that we've gone through that apply to new buildings to see whether they really make any sense in the context of existing-- Those are just a few examples. We think it would make all those kinds of projects very -- substantially easier.

ASSEMBLYMAN KELLY: Would I be wrong in saying you're going to apply common sense to these regulations?

MR. CONNOLLY: That's what we're trying to do, yes, and I think we are. I think it's not so much that new building codes aren't commonsensical, it's just that trying to apply them to old buildings often leads to nonsense.

The last sort of general principle that lies behind it is the code divides the work the people would do into -- in an existing building, on four different levels. They are repair, renovation, alterations, and reconstruction. Then the requirements-- You can use a repair as a relatively modest activity; renovation is kind of like sprucing up but still kind of modest; alteration is rearranging the building a little bit; and reconstruction, as the name implies, is a pretty thorough-going rehabilitation. As the work is stepped, so the requirements are stepped. So that when you're doing a little bit, the code only requires a little bit. As you do a little more, the code requires a little more. That's another one of our efforts to sort of get a reasonable relationship between the cost and the benefit of what the code requires, so you're not going in there with a $10,000 job and having the code tell you, well, that's nice, but we want you to do $30,000 more in work, because the code says you're not going to do the $10,000 job. That's just not enough in our interest.

The last thing that I want to mention, because we're kind of pleased with it, the legislation calls for us to -- or actually says in its findings that extensive research has been conducted all over the country, and we can base what we are going to do on this. I was taught years ago that Legislature never makes a mistake. As you interpret a law, you have to assume Legislature's been all knowing and never makes a mistake.

What we found is that there is not a lot of research on this subject. These are not problems that have been solved in a lot of other places. One of the things we are particularly pleased about is this. This is the nationally applicable, recommended rehabilitation provision's first draft by the U.S. Department of Housing and Urban Development. It steals all of the concepts and almost all of the words from our grant.

ASSEMBLYMAN KELLY: They copied us.

ASSEMBLYWOMAN SMITH: They've been copying everything we've done in the last year and a half.

MR. CONNOLLY: Other legislatures will be able to say that extensive research and work has been done on this subject in other places, and they'll be correct.

MS. SMARTH: I think they meant it more in a generic sense, that rehabilitation should be treated differently than newly constructed. I think it was meant in the generic sense.

MR. CONNOLLY: Why don't I stop now -- I've already used up about 20 minutes -- and see if anybody has any questions.

ASSEMBLYMAN KELLY: Any questions?

Mr. Gregg.

ASSEMBLYMAN GREGG: I think it's great. I'll read it. I think it's a very positive step forward.

MR. CONNOLLY: Thank you very much.

One thing I want to mention--

ASSEMBLYWOMAN SMITH: When are these going to be available?

ASSEMBLYMAN KELLY: They're not available yet.

ASSEMBLYWOMAN SMITH: I know that.

MR. CONNOLLY: I mean, that's available now -- anybody who wants it -- but as I-- There will be another draft by the end of March that will be the final draft.

ASSEMBLYMAN KELLY: And then it takes another six months before--

MR. CONNOLLY: Six or eight months to go through the whole rule-making process. We have an advisory board where we're required to go through and then look four-to-five months of the administrative procedures angle.

ASSEMBLYMAN KELLY: Can I ask you one-- Who is going to determine these hazards?

MR. CONNOLLY: That will all be spelled out very specifically in the code and the tables--

ASSEMBLYMAN KELLY: Okay.

MR. CONNOLLY: --which buildings are on the same hazard level and which ones are higher.

MS. SMARTH: Is that going to be used within -- like a fire portion, or is this stuff that you are going to be dealing with DEP on? I mean--

MR. CONNOLLY: We have a deal with DEP. They have to stay outside.

ASSEMBLYMAN KELLY: That's good.

MR. CONNOLLY: They don't have the authority within buildings, and this covers--

MS. SMARTH: So how are you defining hazard--

MR. CONNOLLY: --within buildings.

MS. SMARTH: But how are you defining hazard?

MR. CONNOLLY: It's primarily fire, but it also affects things like whether you need more electrical fixtures and whether you need more plumbing fixtures, and things like that. In all of that, we've tried to take a realistic view and not require unnecessary upgrades.

ASSEMBLYMAN GREGG: This does encompass more than just housing?

MR. CONNOLLY: Yes, it covers--

ASSEMBLYMAN GREGG: Any building that is an existing structure--

MR. CONNOLLY: That's correct.

ASSEMBLYMAN GREGG: --that is going to be renovated would fall under this new building code. That's your goal?

MR. CONNOLLY: Yes. Every building and every aspect of the codes.

ASSEMBLYMAN GREGG: Great.

ASSEMBLYMAN KELLY: Would you say that it's going to make it easier for the nonprofits to rehab buildings now?

MR. CONNOLLY: Yes. Absolutely no question about it. It's going to make it easier. One, because the requirements themselves-- I hate to use the word less stringent because we're still maintaining a level of fire safety, but there won't be as many unreasonable or unintended requirements that are applied. And then, the other thing that's going to make it a lot easier for them is the way we formatted it. So it's going to be very easy to look at a building and decide whether that one's a good candidate for rehabilitation.

ASSEMBLYMAN KELLY: Do you have any questions, Mr. Green?

ASSEMBLYMAN GREEN: No.

MS. SMARTH: What kind of--

MR. CONNOLLY: Pardon me.

MS. SMARTH: --cut down on time -- reduction of time in terms of applications by nonprofit housing sponsors, smaller-type developers?

MR. CONNOLLY: Where we really cut down on time is eliminating the need for variations for buildings to be looked at on a case-by-case basis. Since the review itself-- If no variation is required, it's not allowed to take more than 20 days anyway, and most municipalities don't take more than 20 days. But where time is really lost is when the plans that are submitted don't actually comply with the code, and somebody has to make a decision whether that's okay. That's what we call a variation process. That's what really adds time.

MS. SMARTH: Is that like plan reviews?

MR. CONNOLLY: Yes. It should also prevent the loss of time that results from an inspector discovering in the field this, that, and the other thing isn't wrong and sending it back to plan review. Just by having-- Just simply trying to apply something as complicated as a new building code to an existing building situation sets you up for just a million conflicts and problems and confusions. We hope to eliminate all that.

ASSEMBLYMAN KELLY: Anybody else have any questions?

ASSEMBLYMAN GREGG: Just when is your target date to have this in place?

MR. CONNOLLY: It should be in place by the end of the year.

ASSEMBLYMAN GREGG: Great.

ASSEMBLYMAN AZZOLINA: What happens if you want to do something in between?

ASSEMBLYMAN KELLY: You still have the old codes.

MR. CONNOLLY: We have-- Actually, we sent a letter to all the local code officials suggesting that since we know the existing provisions are unreasonably burdensome that they should be very flexible in terms of dealing with variation requests.

ASSEMBLYWOMAN SMITH: Did you call Old Bridge?

MR. CONNOLLY: Yes. They haven't been flexible?

ASSEMBLYWOMAN SMITH: They've never been flexible.

MR. CONNOLLY: The problem is, even when you're being flexible, it's unpredictable, and that's the problem we can solve.

ASSEMBLYWOMAN SMITH: I've got the power.

ASSEMBLYMAN KELLY: Anyone else have any questions?

Mr. Connolly, I think you should--

MR. CONNOLLY: Thank you very much.

ASSEMBLYMAN KELLY: --congratulate DCA for the work they've done, and I think you're doing a good job.

MR. CONNOLLY: Thank you very much. We're really excited about it.

ASSEMBLYMAN KELLY: We've got to let the public know that you're doing a good job. We better tell the Governor, too, all right?

MR. CONNOLLY: We will.

ASSEMBLYMAN KELLY: Okay. Where to--

Mr. Touhey.

TIMOTHY J. TOUHEY: Good morning, Chairman Kelly.

ASSEMBLYMAN KELLY: How are you doing?

MR. TOUHEY: Okay.

ASSEMBLYMAN KELLY: You know you shouldn't be here really.

MR. TOUHEY: I know, I hope my wife's doing okay. We'll talk about that later.

Good morning, everyone.

I'm here to update the Committee regarding, I guess, UHORP and Sweat Equity and the Rental Housing Incentive Fund. But I'd rather, Chairman Kelly, if I could, talk about really the whole H-Easy 2000 housing policy since I'm here, because it really incorporates the type of time line that we're talking about regarding Rental Housing Incentive Fund and Sweat Equity.

ASSEMBLYMAN KELLY: Well, if I don't want to hear you, I'll just hit the gavel, all right?

MR. TOUHEY: Okay. I'm used to that, Chairman.

I'll start with the first major announcement regarding the Governor's $100 million at her State of the State regarding UHORP and Too Good But It's True. The UHORP policy, as you know, Chairman Kelly, was part of the H-Easy 2000 announcement that you were obviously involved in with us, and it was an initiative that was initially at $300 million to provide construction financing and permanent loans in urban communities particularly for, and only for, home ownership purposes.

When I took over as Executive Director a year and a half ago, UHORP was at that point just a policy. It had not be implemented. I'm pleased to say that not only has it been implemented, we have underway financed 904 units scattered through 22 municipalities -- 22 urban centers -- with half of those projects under construction as we speak.

I look around the room, and I know, Assemblyman Green, one of the projects that has been financed is in Plainfield under the UHORP initiative. The financial structure of the UHORP initiative is basically this: We will sell taxable bonds to generate proceeds to provide the construction lending. What's unique and different about this is that we have partnered with 12 banks and -- actually 13 banks, but one bank at this point, at which I think Assemblywoman Smith knows about, Amboy, was involved in the UHORP Lakewood initiative, which is also under construction and moving along rather nicely -- is that we have partnered with those banks to do 50-50 split on the construction financing.

Now, Assemblyman Kelly, I'm quite proud of that, in that the UHORP initiative was initially going to be designed where HMFA would do all of the construction lending. And it was a policy decision that I had made internally with meeting with the banks and determining that it would be better to do a private-public partnership, and in that type of strategy, we would share the risk. We would work with banks who have, if you will, relationships in those communities. So we were very pleased to get 12 banks on board and doing one project with Amboy National in Lakewood.

Regarding phase two of UHORP, we've already got the applications out. We're expecting them back on February 28, which will finance another 600 units of urban housing. The demand has been tremendous. And I think there's a message that we should understand here, is that by creating the subsidy that we built into the UHORP initiative from HMFA, which writes down the construction cost of both the low and moderate units -- the low units by 45,000 per unit and the moderate units by 25,000 per unit -- I would probably beg the question that it created an incentive for the private sector to partner with us and also create a kind of confidence that we could rebuild our urban communities. We're going to well exceed under the February 28 deadline for UHORP phase two, the demand.

So, in working closely with Commissioner Kenny and the Governor's Office and looking at the Agency's administrative funds, we thought it was critical to do another phase three of UHORP due to the demand. We are using $15 million of a refunding in our admin account to provide the subsidy for phase three. And we'll be selling bonds, with the private sector partnering with us, which will total up to $90 million worth of construction financing in the phase three announcement. The 10 million came from the Too Good But It's True program, which is the 5 percent, 30-year fixed mortgage, zero point, 100 percent financing in the Governor's targeted urban UCC cities. This program, when we initially announced it under H-Easy 2000, was going to reach us a $15 million investment. We have sold $25 million worth of tax-exempt bonds under this program. This has been also another demonstration that if you provide the right product in urban communities, people will purchase.

We're very proud of the program, and with that Wall Street has also told us that the risk is limited. So we issued another set of bonds which will generate another $10 million in revenues for Too Good But It's True and all of the new targeted UCC cities that the Governor announced at her State of the State. So that we're providing the same type of incentive that we did in the initial UCC cities, understanding that they've utilized $17 million worth of end loans already, that these new cities could take advantage of the same product to promote urban home ownership. So that's the UHORP piece.

Regarding Sweat Equity, Chairman Kelly, we sold the bonds for the Sweat Equity to generate $10 million for this program in July. It wasn't until September that the Governor signed this bill into law. We have worked with 76 participating lenders across the State in trying to market this Sweat Equity program. We are scheduling meetings with community-based organizations and the nonprofit associations, because obviously, that's the critical piece of the Sweat Equity is that you have to bring nonprofits to the table to provide this type of financing. But we've taken a very aggressive marketing stand. At this point, we have not yet received one application under the Sweat Equity program.

What I'm hearing from the industry -- meaning the nonprofits and the local community-based organizations -- is that the Sweat Equity model is a good model; however, they want us to consider looking at a lease-purchase tied to a Sweat Equity. That there may be families who can't initially because of possibly credit risk and/or prior credit problems or coming up with some of the capital even though the Sweat Equity writes down some of that for them -- can we get them into a rental situation before they move into a home ownership? We are seriously considering this, but we are not going to walk away yet from the marketing strategy. We've only been doing it since September, and I think, particularly in the spring and summer is when you will see an activity. I mean, the fall season was very short.

ASSEMBLYWOMAN SMITH: The lease-purchase, could you explain that for some people?

MR. TOUHEY: Sure. Basically, what we would do, as it relates to our lease-purchase program, is that we would probably look at the nonprofit taking and ownership position of the property and/or the consumer depending on how we would create this strategy, Chairman Kelly. And we would allow them in a rental position over a 24-month period of time. The rent structure would be established in a way where the rent would equal a mortgage payment and escrow account payments so you wouldn't shock the eventual home owner after 24 months. They wouldn't be, if you will, mortgage shocked. And after the 24-month period, we would turn over the note to this new home owner.

So we are implementing a lease-purchase program statewide for $7.5 million within the next 30 days. So we thought maybe we could tie the lease-purchase opportunity with the Sweat Equity program. But once again, the bill was signed in September.

ASSEMBLYMAN KELLY: It's not much time.

MR. TOUHEY: October, November we met with a variety of lenders and with churches. So we think we're going to give it the spring, as it relates to an activity. The dollars are there. We're committed to it. We've sold the bonds already, and we think this program will eventually work.

Regarding the Rental Housing Incentive Fund, again, this is a program that we work very closely with Chairman Kelly on and with a variety of private lenders. We were very successful in putting together a program. We have set aside the $10 million, and for those who want to understand the Rental Housing Incentive program, it's a loan-guaranty program. The Agency is taking a 30 percent position on a construction loan. The private lenders are really taking a lead. We're using their underwriting. We're using their standard. We're allowing them to provide the construction along with the HMFA's, if you will, a guaranty or providing new credit enhancement.

At this point, there is only one project in our pipeline. I'd like the Committee to understand this-- The 25 units, I think, Chairman Kelly, when you drafted this and we talked about this, are really projects, if you will, that the private lenders weren't really looking at. This is going to be a difficult financing vehicle, but, however, that HMFA's guaranty would put the incentive to push them over the top. We're not seeing a really large demand of 25 rental units at this point. But I believe in time, particularly-- We have a loan guaranty program on a single-family product, and in the first year, we didn't get a pipeline. Now we're talking about doing $12.7 million worth of that guaranty on the home ownership side.

So this is really privately driven. We work very close with the banks, and like I said, we have one project in the pipeline. We have the $10 million guaranty. When I took over the office of HMFA and why I wanted to talk all about H-Easy 2000, there were 16 programs that I had to implement. They are a variety of rental and home ownership component. As I sit in front of this Committee today, we have committed over $300 million worth of financing under H-Easy 2000. We have also picked up the activity in our multifamily rentals, which the Rental Housing Incentive Fund wanted to do. We sold $45 million worth of bonds in the fall, which generated 1200 units of new rental housing across the State. That was compared to a year and a half ago at 25 units that the Agency financed. We are looking at a pipeline this spring of another 1200 units. So, in one year, we would have created 2500 new units of rental housing in this State.

We are currently, right now, out in the market with a $60 million senior initiative rental housing up in Bergen County. So we've been very aggressive in a very diverse portfolio, really under Governor Whitman and now Commissioner Kenny from HMFA's perspective, and offering a variety of portfolio options for the State as it relates to housing.

Okay, Chairman Kelly.

ASSEMBLYMAN KELLY: Do you have any trouble with the banks-- They don't want to get involved with these units of 25, is that what you're telling me?

MR. TOUHEY: Yes. I don't want to really criticize the banks--

ASSEMBLYMAN KELLY: Well, I will. You won't, but I will. Don't worry about it.

MR. TOUHEY: I don't think you're pushing a product, Chairman Kelly, that much. We have a follow-up meeting with them, which will be coming next month, regarding the product, because we want to pick up the activity. But it might be-- I would offer the chance of maybe we could sit down with you and the banks, once again, to say how can we work some of these issues out to push this product.

ASSEMBLYMAN KELLY: Maybe we'll push the deposits out of those bonds. That will wake them up.

MS. SMARTH: Tim, didn't you have, like, a multifamily dwelling kind of workshop--

MR. TOUHEY: Right.

MS. SMARTH: --to put together subsequent to the negotiations with the banks?

MR. TOUHEY: Correct.

MS. SMARTH: The Bank of New York, from my recollection, was one of banks that sat at the table. They were all concerned about how the regulations and the rules were going to be proposed and promulgated.

MR. TOUHEY: Right.

MS. SMARTH: I don't know if you put the multifamily dwelling workshop together to basically do the labor for the regulations part of it.

MR. TOUHEY: Right.

MS. SMARTH: But, I mean, do these banks just walk away after they came to a press conference, supported the legislation, and said we want to participate?

MR. TOUHEY: Yes. Some of the banks did. Some of the banks did-- The Bank of New York was, I think-- They were critical of the program from the beginning, I believe. The other banks have not. We have really-- The regulations that we have to adopt are not stopping this program. We've already developed a criteria-- The underwriting the banks have accepted, and there are actually banks, for the most part, wrote to us, because obviously they are providing the construction loan. We're only providing the guaranty.

Again, Chairman Kelly, these are very difficult projects to finance. They truly are. The 25 units and less, typically, become a very hard thing financially to manage long term because of the revenues that are generated from those types of units. I am a very big component, and I'll make it clear here that a market low-mod mix, particularly moving forward with subsidies drying up, looks probably the best way to provide rental housing going forward. Because the market rents carry the low-mod rents, and that's what we're looking at here. But I would, Chairman Kelly, through your leadership, will work with you to see if we can get the banks.

ASSEMBLYMAN GREGG: Mr. Chairman.

ASSEMBLYMAN KELLY: Go right ahead.

ASSEMBLYMAN GREGG: Just so I understand the issue here, that the program isn't moving as fast as you'd like, and I only see three components, that there's someone who wants to build, someone who wants to finance, and someone who wants to live. So it's either the renters, the buyers/builders who want to build, lenders.

MR. TOUHEY: Right.

ASSEMBLYMAN GREGG: Of those three components, where is the problem?

MR. TOUHEY: I would say it's the lenders.

ASSEMBLYMAN KELLY: The lenders.

ASSEMBLYMAN GREGG: Well, I just want to be clear on that, because there are some questions about whether we're driving a program for program sake, and I think that's one of the reasons that we have hearings. There is a large bureaucracy in this country and a large bureaucracy in this State. Some people think that housing might be better off left to the free market than sometimes when you build a giant bureaucracy you're trying to put round pegs in square holes. And I think that's also part of our Committee, here, is to determine whether we are emphasizing too much energy in the system and not enough energy in listening to what the market says, which may be: we are building in the wrong place; our financing is in the wrong place; the program is the wrong program; the size of housing we're trying to build is the wrong size; we're trying to do to much new and not enough renovation.

One of my other questions is, of all those houses and units you just talked about, you sounded like a cumulative of around 10,000 units, how much was new and how much was rehabilitation?

MR. TOUHEY: The majority of the UHORP projects have all been new construction. Some of the projects, obviously, have been rehab. Under the rental, it's all new. It's been all new construction, Assemblyman.

MS. SMARTH: But the definition in the laws, we passed it, did not preclude any kind of alteration or rehabilitation to my recollection unless-- I'm pretty sure.

ASSEMBLYWOMAN SMITH: Do you have your own priorities or which would you--

MR. TOUHEY: Yes. I would-- Let me answer Assemblyman Gregg, through the Chair.

ASSEMBLYMAN KELLY: One question at a time, otherwise he'll go crazy.

MR. TOUHEY: Yes. The interesting and, Assemblyman, you make a very good point is that -- I think, Chairman Kelly, if I remember the conversations that we had -- this is really a private market-driven program and Rental Housing Incentive Fund. This isn't an HFMA. HFMA came to the table financially to back a construction loan, where possibly the private lender would have not provided the lending unless we provided that credit enhancement. I think they made the case to Chairman Kelly was that there was a pipeline of these projects that were out there, but they needed some sort of credit enhancement or guaranty to provide this type of construction lending. And that's what we offered them.

Again, I think it may be wise to sit back at the table again to look at possibly another way of doing this. But I want to say this development, as we know around this table, it doesn't happen overnight. This is a relatively new vehicle, and I guess I would look at Assemblywoman Smith to know that the private lenders at times will take some time to get used to a new product line and decide whether they want to provide this type of lending.

ASSEMBLYWOMAN SMITH: It takes a lot of change in the mind-set.

MR. TOUHEY: Right. Exactly. So it doesn't happen overnight is what I'm trying to get at here, Assemblyman. It's not the major push of the H-Easy 2000. It's-- You're talking about a 10 million guaranty. When you look at H-Easy 2000, the UHORP initiative, obviously, is the financial initiative. We're talking about $300 million and now an additional 90 million. So you're up close to 420 of urban, single-family construction financing going on.

ASSEMBLYMAN GREGG: I'm just going to finish my point quickly, Assemblyman. We just heard what I thought was excellent testimony on our new rehabilitation code, and I would think at some points we -- not to be critical -- the government moves in five different directions. No one is talking to the other direction. I would think that we have a huge amount of buildings that could be renovated, and now we have a new construction code much more effective and efficient. And I think at some point, everybody wants to look at new, everybody wants to look at the perfect model. If the goal is to rehabilitate our cities, which I think is a very good and viable goal, then looking at renovating is certainly a more effective way of winning two times by taking a community that needs to be rebuilt, giving them a new effective, efficient code, and then we have money that's already been bonded to do that. So I would hope that we start interrelating all of these initiatives so that we can get the best bang for the dollar for the taxpayers who are funding these bonds.

Thank you very much.

ASSEMBLYMAN KELLY: You had a question--

MR. TOUHEY: Chairman, for Assemblyman Gregg, for the UHORP initiative so he understands particularly regarding the phase one. I think what you'll be pleased with, Assemblyman Gregg, is that our urban communities in most cases, particularly on this UHORP, were finding our parcels of land that either have been burned down or deteriorated, and we're building on those types of facilities or structures that have been public health hazards for years that are now being turned around into new housing. Clearly, the infrastructure is in place in the urban communities for this type of housing design. And understand, too, that under Commissioner Kenny, clearly, and at onetime Commissioner Derman, one thing we have done is DCA, HFMA, and COAH have clearly sat together to talk about these strategies together.

ASSEMBLYMAN KELLY: You had a question, Assemblyman Green.

ASSEMBLYMAN GREEN: Yes. You mentioned that in a light way, but I really think that the problem is with the lenders. I think that at a certain point the State of New Jersey is going to have to use the leverage. So like you said, they would need to take some--

ASSEMBLYWOMAN SMITH: Not all of them.

ASSEMBLYMAN GREEN: I'm not saying all of them.

ASSEMBLYMAN GREGG: You've got two bankers up here.

ASSEMBLYMAN GREEN: I'm sincere in what you just said. I mean, when you go back to the table, John-- I mean, anytime you have banks out in California who have done this type of project in the cities, and it had proved to be very, very successful-- In the State of New Jersey, they're lax when it comes to really looking at it in terms of making that commitment.

ASSEMBLYMAN KELLY: But we have the ability--

ASSEMBLYMAN GREEN: Unless that commitment is made, John, people are going to have these problems.

MS. SMARTH: Assemblyman--

ASSEMBLYMAN KELLY: We have the ability--

MS. SMARTH: --we were at the tables for like two months. It went on for two months. All the key people, Tim Touhey was there, at that point Chris Foglio was there, I was there, Joyce was there at certain points, Assemblyman Kelly came to a few -- two of them, and in no uncertain terms there were a lot of specifics put out on the table. They basically had agreed that this sort of guaranty could very well push the borderline-type projects oriented toward the smaller projects and towards the smaller developer, but it's more of a need for this kind of financing could very well put that over the top. I mean, there was no guaranty at that point, but that was all done at the table. Now, whether or not they've taken a look at this or there is just not that kind of need or maybe there needs to be certain changes made--

MR. TOUHEY: Well, again, Chairman Kelly, there's two things I want to say. I don't want people to leave the room today feeling this way. I think that banks -- and again, under H-Easy 2000 -- have come to the table as it relates to the UHORP initiative very clearly and very soundly. They put a tremendous amount of resources on the street, as it relates to construction lending, that typically wasn't done historically in urban communities in New Jersey. What were the incentives? I mean, banks look at loans, so you worry about credit risk. Let's get to the facts. The reality of it is, Chairman Kelly, that under the UHORP initiative with the subsidy that we provided to write down construction cost, we're sharing the construction risk. They're willing to provide those types of loans.

The Rental Housing Incentive Fund is a new product for them. It hasn't been out there that long. I don't want to take the position, today, that the banks yet have not committed to trying to make this work. There is a project in the pipeline. What I would say is give the banks and HMFA to the spring construction season to see if there really is this pipeline they talked about. Come back to this room, Chairman Kelly, and I'll report once again to see where we are in the Rental Housing Incentive Fund. But clearly -- and they've been strong partners with me, so I don't want to leave this room thinking they had haven't been. They had been at the table with us. We have 13 lenders providing close to $150 million worth of construction lending under a UHORP initiative.

Assemblyman Gregg talked about good government. Well, what better government than a public-private sector partnership with a subsidy to help rebuild our urban communities clearly driven by the private sector’s underwriting standards but public sector coming in and providing a subsidy to help this type of activity. So I don't want to be too critical of the banks today, Chairman Kelly.

ASSEMBLYMAN KELLY: We're not going to be too critical.

ASSEMBLYMAN GREEN: No. I'm not being critical of them, I'm being realistic about the point that we have enough institutions around this State of New Jersey who can make that commitment who enjoy the benefit of doing business with the State of New Jersey. But don't get me wrong. I realize that we're moving in the right direction, but I'd like to feel the ones who are benefiting from the State of New Jersey shouldn't want to take that extra risk. And if they don't, then the ones who want to make that risk, then they should be looked favorably upon with doing business in the State of New Jersey. Too often they want all the good, but they don't want any of the bad. The only way we're going to take care of the bad is that we have to have some input from the ones who are really benefiting. And again, I see a lack of communication there, in terms of laying out, "Look, fellas, we have a problem. You do well enough in the State of New Jersey that you should want to make this type of commitment." Again, I see it moving, but it's not moving at the pace it should be moving at.

ASSEMBLYMAN KELLY: Well, I'm a patient guy. We'll wait a little bit, and we'll see what happens.

ASSEMBLYWOMAN SMITH: The problem is the out-of-state banks that are not familiar with the things that have happened here--

MR. TOUHEY: Assemblywoman, you make a good point, through the Chair. I mean there were the banks that initially sat with us. Four or five of them merged. And some of the staffs that we were dealing with are no longer there.

ASSEMBLYMAN KELLY: They're gone. They're gone, we know that.

MR. TOUHEY: And we're back to almost square one on a learning curve. And again, we have one in the pipeline now, Chairman Kelly; hopefully we'll have more.

ASSEMBLYMAN KELLY: We'll have a few more meetings with the banks and encourage them.

Mr. Green, you can come to the meetings.

ASSEMBLYMAN GREEN: I'd be happy to.

ASSEMBLYMAN KELLY: Okay.

Any other questions?

MS. SMARTH: How much leveraging-- I noticed that -- I think in the Easy 2000 -- there was one of the components that was in one of our bills that put into the package. It kind of encourages mixed-use projects where you got -- I don't know if it is upstairs, downstairs -- but--

MR. TOUHEY: Commercial use.

MS. SMARTH: Commercial and then rental or affordable housing?

MR. TOUHEY: Right.

MS. SMARTH: Okay. How many transactions have you maybe entered into agreements with EDA? They do the commercial side with the loan guaranties and/or other pooling of funds, then you enter into -- for the residential side. I'm wondering if there are a lot of transactions like that.

MR. TOUHEY: It's at two levels, Chairman Kelly, through the Chair, is that Upstairs/Downtown we've committed $3.7 million worth of financing over the $10 million program. Where HFMA has done both the commercial and the residential financing of that structure, we have, historically-- There's some projects across the State where we've done this partnership with the EDA. The EDA always been a friendly partner. But again, under the Rental Housing Incentive, I'm not yet-- There hasn't been a project that has come to the table that has given us that opportunity to do both commercial and a rental mix. But, again, under Upstairs/Downtown, we have been able to do a conversion of, if you will, a storefront. A commercial storefront, an upstairs no more than four units we've rehabed and have created a rental component, or an income component, upstairs and a commercial component downstairs.

MS. SMARTH: Under the urban redevelopment law by LaRossa and, I guess, Steve Corodemus, do you see a viable channeling of funds from that to leverage with this--

MR. TOUHEY: With Upstairs/Downtown. The new authority does have the capacity to raise revenue through bonds. I clearly-- I mean, there could be guaranties and partnerships through that. Yes, there could be. There could be a clear use.

ASSEMBLYMAN KELLY: Anyone else have any questions? (no response)

MR. TOUHEY: Chairman Kelly, thank you.

ASSEMBLYMAN KELLY: You've given us a very interesting morning.

MR. TOUHEY: Thank you.

ASSEMBLYMAN KELLY: I think you're doing a pretty good job.

MR. TOUHEY: Thank you. That's the first in a year and a half from Chairman Kelly.

ASSEMBLYWOMAN SMITH: They'll never tell you that you did good.

MR. TOUHEY: Yes. Thank you.

ASSEMBLYMAN KELLY: This meeting is adjourned.

(MEETING CONCLUDED)