

Subsidized Housing Programs: A Basic Overview for Tenants

○

CATHERINE BISHOP
JAMES GROW

NATIONAL HOUSING LAW PROJECT
APRIL 10, 2012

HOUSING JUSTICE

National Housing Law Project

GoToWebinar Interface

1. Viewer Window

2. Control Panel

Today We Will Cover

○

- **An overview of the Public Housing, Project-Based Section 8 and Section 8 voucher programs**
 - The three largest federally assisted housing programs that are affordable to the very lowest income families
- **Rental Assistance Demonstration (RAD)**
 - RAD is a new program, which has not been implemented
 - Most of the rules are proposed not final
- **There are many other federal housing programs**
 - Low-Income Housing Tax Credit, Rural Development, Section 8 Moderate Rehabilitation, Project-Based Voucher Program, Shelter Plus Care, Enhanced Vouchers, Sections 236, 221d3, 811 and 202, etc. that we will NOT cover today.

Why Does This Matter?

4

- It is important to know the rules of the housing program which you use
- It is important to know the rules of the other housing programs because:
 - You might use those programs in the future
 - HUD is looking to make the low-income housing programs more uniform
 - Others may seek advice from you regarding the other programs
- We wanted to be sure that everyone has a common basis of knowledge

What We'll Cover

5

- Basics of the programs, how they differ regarding eligibility, admissions, terminations/evictions and other occupancy issues
 - Rent and income determinations will be addressed in the third webinar—May 29, 2012
- Resources that provide more information about these programs.

Review of the materials

6

- Three outlines:
 - Public housing
 - Voucher Program
 - Project-Based Section 8
- Fact sheet on RAD, as proposed with comments on areas that ought to be improved

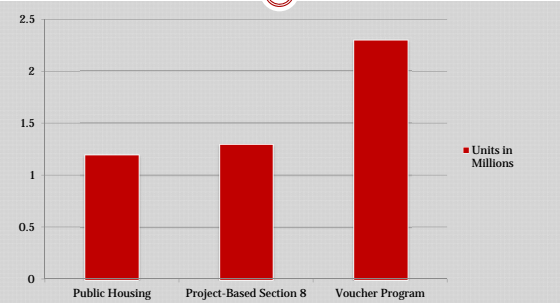
Comparison of the Three Programs

7

- **Public Housing:**
 - 1.2 million units; 36% female headed with children; 31% elderly H of H; 45% African Amer.; 24% Hispanic; 55% ELI with avg. income of \$13,379; 53% lived in the housing < 5 yrs (Data from 2011)
- **Project-Based Section 8**
 - 1.3 million units; 22% female headed with children; 53% elderly H of H; 25% African Amer.; 12% Hispanic; 74% ELI with average income \$11,400 (Data from 2008)
- **Voucher Program:**
 - 2.3 million units; 47% are female headed with children; 20% elderly H of H; 45% African Amer.; 17% Hispanic; 46% ELI with avg. income \$ 12,490; 51% used voucher < 5 years (Data from 2011)
- <https://pic.hud.gov/pic/RCRPublic/rcrmain.asp>
- <http://www.huduser.org/portal/picture2008/index.html>

Comparison of the Three Programs

8



Public Housing

9



Public Housing

10

- **How Program Works: Who Is Involved/Roles:**
 - **Congress** makes the basic laws for the public housing program and decides each year how much money to give to the public housing program.
 - **HUD** oversees, contracts with and monitors public housing agencies (PHAs) and gives PHAs their share of the funds that Congress makes available.
 - **PHA** generally owns, manages and maintains the public housing, selects and evicts the residents, establishes local rules and creates the lease.
 - Other important parties: PHA Board of Commissioners (Tenant Commissioner), Resident Advisory Board (RAB) and resident organizations/councils.

Congress

- Enacts the laws
- Appropriates the dollars

HUD

- Adds more rules and fills in the blanks
- Distributes the dollars to the PHAs
- Administers the programs and Monitors the PHAs

PHAs

- Adds more rules and details
- Spends the dollars
- Put the programs into practice

11

What Rules Apply to Public Housing?

12

- **Layers of legal authorities:**
 - Federal statute and HUD regulations
 - Other administrative guidance, such as HUD Notices and Public Housing Occupancy Guidebook, available at <http://www.hud.gov/offices/pih/programs/ph/rhiip/phguidebook.cfm>
 - Detailed rules regarding lease and grievance procedure (24 C.F.R. 966)
 - Local policies in Admission and Continued Occupancy Plan (ACOP)
 - ✦ Should be available at PHA office or on PHA website
 - PHA Annual Plan
 - ✦ Should be available at PHA office and on HUD website

Take away point

13

- There are many rules for public housing
- The resident lease and the ACOP are generally the most important documents for residents
 - Because those are the documents that the PHA staff use and are most familiar with
 - But local rules and leases must follow the federal laws

Where is the Public Housing located?

14

- To find the PHA in your area, go to <https://pic.hud.gov/pic/haprofiles/haprofilelist.asp> (Google PHA Contact Information or PHA Profiles)
- To find particular units or developments of public housing, ask the PHA

Public Housing: Eligibility & Admission Basics

15

- Income eligibility:
 - Family is eligible if income is 80% or less of area median income (AMI) <http://www.huduser.org/portal/datasets/il.html>
 - 40% of all new admissions must be extremely low income (30% of AMI)
- Most PHAs have a waiting list
- Is the applicant eligible for the available units?
 - Some PHAs have units of only certain bedroom sizes
 - Some units are for elderly and/or disabled *only*, other units are available to all applicants
- PHA may establish preferences, such as for homeless, residents of the jurisdiction, working families and/or survivors of domestic and sexual violence or date and time of application

Examples of AMI for 3 Person Family

16

	Cook County, Illinois	Davidson County, Tennessee	Seminole County, Florida
Extremely Low Income 30% of AMI	\$20,500	\$18,150	\$15,750
Very Low Income 50% of AMI	\$34,150	\$30,200	\$26,200
Low Income 80% of AMI	\$54,600	\$48,350	\$41,900

Public Housing: Eligibility & Admission (cont'd)

17

- **Screening:**
 - PHA *must* screen and reject applicants for certain criminal activity
 - PHA *may* reject current drug users or those who abuse alcohol
 - A family is eligible if at least one member has qualifying immigration status
 - Most PHAs consider prior rent-paying and eviction history
- PHA *must* consider mitigating circumstances (i.e., an explanation of any problems that arise in application), notify applicant of reason for rejection and right to an informal hearing

Public Housing: Eviction

18

- Tenant may be evicted only for serious or repeated lease violation or other good cause
- Tenant entitled to notice of reasons
 - 14-day notice for non payment of rent
 - Length of notice for other reasons generally dependent on State law
- Tenant entitled to grievance hearing before eviction
 - Exceptions for illegal drug activity, criminal activity that threatens health and safety and quiet enjoyment of other residents, and felony conviction

Public Housing Grievance Hearing

19

- A grievance: any dispute re: PHA action or failure to act in accordance with the lease or PHA regulations, which adversely affects the tenant's rights
 - Includes challenges to rent or income determination, housing conditions, evictions and other reasons
- Process includes informal review and settlement before a grievance hearing
- Grievance hearing

Lou

20

- Lou, your public housing neighbor, complains to you that when the upstairs neighbor uses the shower, water leaks into Lou's tub below. Lou has talked to the manager and called the maintenance department but nothing has happened.
- What would you suggest that Lou do next?

Project-Based Section 8 Program

21



Project-Based Section 8 Program

22

- **How Program Works: Who Is Involved/Roles**
 - In most cases, private owners entered into contracts with HUD to provide affordable housing.
 - Under these contracts, owners agree to keep rents affordable to low-income households for a certain period.
 - Tenant enters into lease with owner and pays rent to owner, typically 30% of adjusted income.
 - HUD pays the owner a rental subsidy to cover the difference between the contract rent and the tenant's share of the rent.
 - The rental subsidy is attached to a specific building, and the tenant cannot move with the subsidy.

What Rules Apply to Project-Based Section 8?

23

- **Layers of legal authorities:**
 - Federal statute, HUD regulations, HUD Handbook 4350.3, HUD Notices (www.hud.gov/hudclips)
 - Owner develops its own tenant selection policy and house rules
 - Owners must use HUD's model lease (Form HUD-90105a, available at www.hud.gov/hudclips)

Where is Project Based Section 8 housing located?

24

- You can find Project Based Section 8 housing, by going to <http://www.hud.gov/apps/section8/index.cfm>
- Also, Google "Find Affordable Housing" or "Find HUD Section 8 Housing"

Project-Based Section 8: Admissions

25

- **Admissions process:**
 - Eligibility criteria are essentially the same as eligibility requirements for public housing.
 - Generally applicants must be “very low-income”—income cannot exceed 50% of area median income (AMI).
 - Owners must target some units to “extremely low-income” households—30% of AMI or below.
 - Owner maintains waitlist of applicants.
 - Owner responsible for selecting tenants from waitlist. Must develop tenant selection procedures, may create preferences; must screen for certain criminal activity, immigration status
 - Owners must notify applicants of reasons for denial and offer applicants an opportunity to meet with the owner if denied.

Project-Based Section 8: Evictions

26

- **Requirements:**
 - Owner may not terminate a tenancy except for:
 - Material noncompliance with lease
 - Material failure to carry out obligations under state landlord-tenant law
 - Criminal activity
 - Alcohol abuse
 - Other good cause
 - Owner must give notice of the reason for the proposed termination and notify the tenant that she has 10 days to discuss the termination with the owner

Ellen

27

- **The manager found out that Ellen’s teen-age son was arrested for marijuana possession. Ellen received a notice from her landlord terminating her tenancy for “violating her lease.”**
- **What steps should she take?**
 - Many important issues, including:
 - Son a household member or guest; location of activity; state law
 - Specificity of notice
 - Seek legal help
 - Request a meeting with the owner/manager within 10 days

Section 8 Housing Choice Voucher Program (HCVP)

28

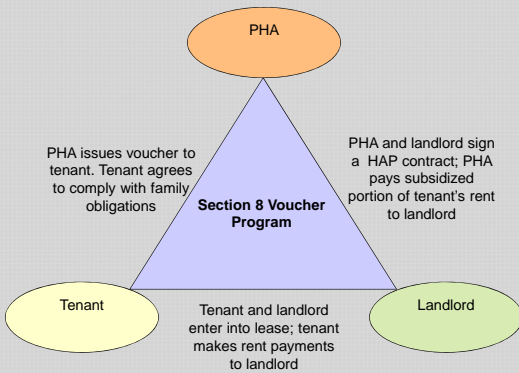


Section 8 Voucher Program

29

• How Program Works: Who is Involved/Roles

- Congress created the program and provides the funding
- HUD provides funds to public housing agency (PHA)
- PHA administers the voucher program locally
- Tenant finds a private landlord
- PHA and landlord enter into Housing Assistance Payments (HAP) contract
- Private landlord and tenant sign a lease



30

What Rules Apply to the Voucher Program?

31

- **Layers of legal authorities:**
 - Federal statute, HUD regulations, Housing Choice Voucher Program Guidebook, 7420.10G, HUD Notices (www.hud.gov/hudclips)
 - Section 8 Administrative Plan: contains the PHA's locally developed rules
 - Required Form HUD Lease Addendum (HUD-52641-A)
 - Landlord may in addition use its own lease

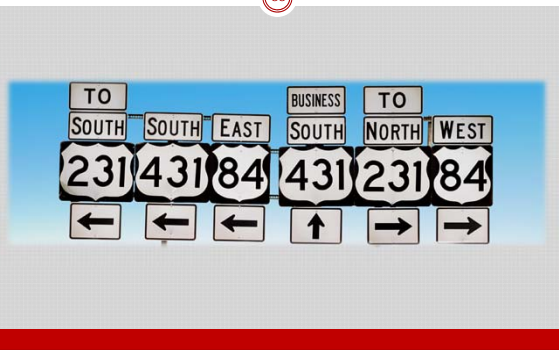
Voucher Program Admissions: Two Steps

32

- **Step 1: PHA determines who will receive a voucher.**
 - Most applicants are "very low-income" (VLI)—income cannot exceed 50% of area median income (AMI); in very limited circumstances may be low-income.
 - PHAs must target 75% of vouchers to "extremely low-income" households—30% of AMI or below.
 - PHAs must deny applicants with certain criminal history or immigration status.
 - PHA may establish additional reasonable screening factors.
 - PHA must notify applicants of reasons for rejection and that they can request an informal review.
- **Step 2: Private landlord may screen applicant.**
 - Often includes review of tenancy, credit, and criminal history.

What is the Defining Feature of the Voucher Program?

33



Moving with the Voucher

34

- Subject to certain limitations, tenants can take their vouchers and move anywhere.
- For this reason, Section 8 vouchers are often referred to as “tenant-based” assistance.
- Many tenants move to another place within the jurisdiction of the PHA.
- Others move to the jurisdiction of another PHA.
 - This move is called portability: Special rules apply because more than one PHA is involved and they must coordinate.
 - Tenant requests to move from the PHA that issued her voucher, which then contacts the PHA in the jurisdiction where tenant wants to move.

Kenisha

35

- Kenisha is renting an apartment from a private landlord using a Section 8 voucher.
- Kenisha wants to move to another part of the state, where she has family and she thinks it will be easier to find a job
- Can Kenisha relocate and keep her Section 8 voucher?

Evictions and Voucher Terminations

36

- Evictions and Voucher Terminations are two separate but related processes:
 - **Evictions:** Landlord uses judicial procedure to evict voucher tenant
 - During initial lease term, landlord may only evict for grounds set forth in lease
 - At the end of the lease term, landlord may terminate the tenancy without cause (for no reason) (*subject to* local & state eviction control protections)
 - If tenant is evicted for a serious lease violation, it's also grounds for terminating the voucher

Voucher Terminations

37

- PHA may seek to terminate a tenant's voucher
- PHA must give notice of the reason for the proposed termination and of an opportunity for an informal hearing.
- Good cause required: PHA is limited to terminating assistance on the grounds listed in HUD's regulations.
- These grounds include a violation(s) of the family obligations

Takeaway Points

38

- A client's rights in subsidized housing will be affected by the type of housing she's in or is applying for.
- Some of the rules for the programs are the same for all programs, but there are important differences

Rental Assistance Program (RAD)



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Public and Indian Housing
Office of Housing
Special Attention of:

Notice PIH-2012-18 (HA)
Issued: March 8, 2012
Expires: This Notice remains in effect until amended, superseded, or rescinded.
SUBJECT: Rental Assistance Demonstration – Partial Implementation and Request for Comments

Rental Assistance Demonstration (RAD) “Conversion”

40

- **Two parts**
 - First: Public Housing and Section 8 Moderate Rehabilitation developments may *convert* to Project Based Voucher program or to Project Based Section 8
 - Competitive no more than 60,000 units
 - Second: Rental Supplement, Rental Assistance Payment and Mod. Rehab may *convert* to Project Based Vouchers
 - (For contracts expiring Oct. 1, 2006–Sept. 30, 2013) subject to availability of Tenant Protection Vouchers.
- **Only the second part is in effect now. Both parts are in comment period (comments due April 23) and HUD says will the rule will be final by June 2012**

Resident protections, as proposed

41

- **Current tenants: No rescreening due to conversion; right to return, if displaced during conversion.**
- **Future eligibility: Same as Project-Based Section 8 or Voucher program and must honor current Public Housing waiting list for the development**
- **Owner must recognize resident organizations**
- **Rents at 30% of adjusted income; if rents increase due to conversion, phased in.**
- **Grievance hearing: Adverse actions by PHA or owner**
- **Evict only for good cause**

Wrap-up: Shasha

42

- **Shasha tells you that she wants to find housing that she can afford. She asks you for advice.**
- **What would you tell her about how and where to apply?**
- **What are some of the differences that you might tell her about the programs?**

Follow Up Discussion

43

Thursday, April 12, 2012 at 6:00 PM ET
(5:00 PM CT; 4:00 PM MT; 3:00 PM PT)

If you have brief follow questions for the Thursday question and answer discussion

Please send them now as part of this webinar or email ResidentAcademy@nhlp.org

Please be advised that this is a training. We do not represent you and we are not your lawyers.

This project was supported by a generous grant from The Herb Block Foundation

Thank you

44

- Please fill out the evaluation form.
