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SENT VIA FAX

October 19, 2010

Shaun Donovan, Secretary
U.S. Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Dear Secretary Donovan,

We write in support of National People's Action's (NPA) September 2010 letter urging the Department of Housing and Urban Development (HUD) to issue guidance that would improve access to HUD-assisted housing for individuals with a criminal record and curtail unfair termination policies. As a coalition of housing and civil rights advocates, we want to emphasize the need for HUD to address over-reaching admission policies that exclude individuals with a criminal record.

Across the country, individuals with a criminal record face enormous barriers to obtaining stable, affordable housing. Ten percent of parolees are homeless nationwide. In major urban areas such as Los Angeles and San Francisco, the figure soars to between 30 and 50 percent.¹ In addition, an untold number of individuals with a criminal record end up shuttling between relatives and friends, unable to find permanent housing arrangements.

The startling statistics are due, at least in part, to restrictive admission policies adopted by public housing authorities (PHAs) and HUD-assisted owners. PHAs and owners often reject applicants on the basis of arrests that did not result in convictions, old convictions, convictions for crimes that would not pose a threat to other residents, or parole or probation status. Few PHAs or owners give proper consideration to mitigating circumstances or evidence of rehabilitation before sending a notice of denial. As NPA pointed out, such policies prevent family reunification. Participants in HUD programs are often eager to welcome a family member with a criminal record into the unit. When a PHA or an owner does not approve the addition to the household, the family must make an unimaginable choice – risk termination by letting the family member live in the unit without permission or allow the family member to remain homeless or in substandard housing.

The applicant stories below illustrate the unreasonable tenant screening policies and practices adopted by PHAs and owners and the impact that such policies have on individuals and families. It is important

¹ Little Hoover Commission, *BACK TO THE COMMUNITY: SAFE & SOUND PAROLE POLICIES* 39 (2003).

to note that the stories are about individuals with legal representation. Advocates see a small fraction of the applicants denied admission on the basis of a criminal record, and without legal representation, it is difficult for individuals to challenge a denial.

Ms. X applied for public housing as a disabled, single adult. The PHA denied her application on the basis of a misdemeanor ticket she received 17 years earlier for solicitation of prostitution. Ms. X asked for an informal hearing, and the hearing panel refused to admit Ms. X to the program. Instead, the panel directed Ms. X to reapply. Because it would take 12 to 18 months for the PHA to process a second application, Ms. X filed an appeal for certiorari review by the state court of appeals. Although the PHA ultimately settled and admitted Ms. X, Ms. X was homeless while the appeal was pending.

While living in a shelter, Ms. Y applied for a Section 8 voucher for herself and her three children. Three years later, Ms. Y reached the top of the waitlist. At her update interview, she disclosed that she pled guilty to shoplifting while on the waitlist. The court placed her in a Diversionary Program, and if she completed the Program, the charge would be dismissed. With two months left in the Program, Ms. Y submitted a letter from the Program showing her successful progress and compliance with all requirements. Nevertheless, the PHA denied Ms. Y and sent her to the bottom of the waitlist. The PHA did not understand the Diversionary Program and told Ms. Y that she could not participate in the voucher program because she was on parole. Ms. Y asked for an informal review. Although the hearing officer ordered the PHA to issue Ms. Y a voucher, Ms. Y lived in an abandoned, foreclosed property while the appeal was pending.

Similar applicant stories can be avoided if PHAs and HUD-assisted owners follow reasonable, flexible admission policies. PHAs and owners often refuse to admit individuals with a criminal record in the name of public safety. In fact, restrictive admission policies are counterproductive. Studies show that individuals returning to the community from prison or jail who manage to secure stable housing face a lower risk of recidivism.² Forcing vulnerable individuals into homelessness or unstable housing arrangements does nothing to enhance public safety.

HUD is in a position to improve community safety by increasing access to housing for individuals with a criminal record. We urge HUD to issue guidance to PHAs and HUD-assisted owners that incorporates NPA's specific recommendations. Thank you for your consideration of these critical issues. Please feel free to contact Catherine McKee at (510) 251-9400 ext. 3109 or cmckee@nhlp.org for further information.

Sincerely,

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² See, e.g., Christy A. Visher & Shannon M.E. Courtney, The Urban Institute, ONE YEAR OUT: EXPERIENCES OF PRISONERS RETURNING TO CLEVELAND (2007), available at http://www.urban.org/UploadedPDF/311445_One_Year.pdf.

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Cc: Bryan Greene, General Deputy Assistant Secretary