



Housing Law Bulletin

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RESIDENT ADVISORY BOARD AND PUBLIC PARTICIPATION IN THE PHA PLAN ADOPTION PROCESS

Introduction

The Quality Housing and Work Responsibility Act of 1998 (QHWRA), devolved responsibility for the administration of public and Section 8 housing programs to local public housing authorities (PHAs). QHWRA did not, however, give PHAs the complete discretion to run their programs. It required that they set out their administrative plans in Annual

and Five-Year Plans that must be approved by the Department of Housing and Urban Development (HUD). Moreover, because of the concerted efforts of resident advocates, QHWRA also included some measures to ensure PHA accountability to residents and the public. Specifically, it required PHAs to create and involve Resident Advisory Boards (RABs) in the PHA Plan adoption process and provided the public with an opportunity to review and comment upon the PHA's plans through a public hearing. In this second article surveying the first-year results of the PHA Plan adoption process, NHLP examines selected PHAs' compliance with QHWRA's RAB and public participation process and the extent to which RAB's, housing advocates, and the public were successful in influencing PHAs' final plans. This article also briefly discusses the HUD review and approval process and the success advocates have had in persuading HUD to reject PHA plans that were not adopted in conformance with the requirements relating to RABs and public participation.

This article is based on information obtained through a series of telephone interviews conducted this past summer with a small group of housing advocates involved in the PHA Plan adoption process, from several newspaper articles, and from other materials forwarded or available to NHLP. This article is hardly an exhaustive look at the process by which PHAs have adopted their First Annual and Five-Year plans. Nonetheless, the information collected for this article includes sufficient information about the varying ways in which PHAs have approached the PHA Plan adoption process so as to provide insights into its weaknesses and to suggest ways in which tenants, their advocates and the public can strengthen their participation in the process and exert more influence on its outcome.¹

¹The Comptroller General will study and audit a selected number of PHAs to determine the degree of compliance by PHAs with their approved PHA plans. 42 U.S.C.A. § 1437c-1 note *Audit and Review; Report* (West Supp. 2000). But the study will not be available until two years after the first PHA plans have been submitted.

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Resident Advisory Board Framework

Regulatory Framework

PHAs are Required to Establish RABs

QHWRA and HUD regulations require PHAs to establish one or more RABs to assist with the development of the PHA's plan.² RAB membership varies depending upon whether the PHA administers public housing, Section 8 or both. If the PHA administers a public housing program, the membership of the RAB will depend upon whether there is a single, jurisdiction-wide resident council, one or more resident councils, or no resident councils. If there is a jurisdiction-wide resident council that is in compliance with HUD regulations,³ that resident council or its selected representatives serve as the RAB.⁴

If there is no jurisdiction-wide resident council but there are one or more resident councils that comply with the same HUD tenant participation regulation, the PHA is required to appoint members of the resident council(s) or their representatives to the RAB.⁵ If all the members of the resident council(s) are not appointed to the RAB, the tenant council(s) selects representatives to sit on the RAB.⁶ If the resident councils are not representative of all assisted tenants served by the PHA, the PHA may appoint additional members to the RAB so as to provide representation of residents from developments with no resident councils.⁷ If no resident council complies with the HUD tenant participation regulation, the PHA may appoint all the RAB members.

If the PHA administers a tenant-based Section 8 program and the number of families assisted under the Section 8 program is 20 percent or more of all families assisted by the PHA, there must be reasonable representation of Section 8 participants on the RAB.⁸ To achieve reasonable representation, a PHA may add Section 8 representatives to a RAB, including a RAB that is composed of a jurisdiction-wide tenant council. Alternatively, the PHA may create another RAB, composed only of Section 8 residents. The PHA must engage in a reasonable process to select Section 8 representatives to the RAB.⁹

A PHA must provide all assisted housing participants with adequate notice of its intention to form a RAB.¹⁰ For the public housing residents who are not organized, the PHA must also urge them to form resident councils that comply

with the tenant participation regulations.¹¹

Initially, the PHA may determine the method of selection and the term of the RAB members who are appointed by the PHA.¹² For RAB members selected by the jurisdiction-wide or individual development tenant councils, the term and method of selecting the RAB member(s) is determined by the appropriate resident council.¹³ In all cases, the PHA must select members who "adequately reflect and represent the interest of residents assisted."¹⁴ In order for the RAB representatives to "reflect" program participants, the RAB membership should consist of a range of individuals that reflect the diversity of the program participants. For example, there should be RAB members from families who are newly admitted as well as long term, large as well as small, elderly, disabled and working, and with different ethnic, racial and national origins.¹⁵

Duties of the RAB

The RAB is supposed to "assist and make recommendations regarding the development of the public housing agency plan. . . ."¹⁶ It must be actively involved in the development of plans. Congress anticipated that RABs will be significant and permanent players in the plan process. The *Senate Report* described the structure and functioning of the RAB as follows:

The Committee envisions that resident advisory boards will be formally organized with rules of governance and an orderly process for nomination and appointment such that the advisory board is representative of a diversity of perspectives among the residents. It is anticipated that resident advisory boards will establish processes, such as public hearing, town meetings, or other means of acquiring information, to assure that advisory board members are informed of the opinions of other residents. Resident advisory boards are not to be considered ad hoc groups convened solely for the purpose of reviewing public housing agency plans and then disbanded. Rather, they are expected to be permanent organizations that meet on a regular basis as is necessary to carry out their responsibilities.¹⁷

²42 U.S.C.A. § 1437c-1(e) (West Supp. 2000).

³24 C.F.R. § 964 (2000).

⁴*Id.* § 903.13(b)(1).

⁵*Id.*

⁶Notice PIH 2000-36 (HA) *Transmittal of Guidance on the Requirement for Appointment and Role of Resident Advisory Boards in the Development of Public Housing Agency Plans* (Aug. 21, 2000) (hereinafter referred to as HUD Notice PIH 2000-36 (HA)), Question 4.

⁷*Id.*, 24 C.F.R. § 903.13(b)(3) (2000).

⁸24 C.F.R. § 903.13(b)(2) (2000).

⁹*Id.*

¹⁰24 C.F.R. § 903.13(b)(3) (2000), HUD Notice PIH 2000-36 (HA), Question 4.

¹¹24 C.F.R. § 903.13(b)(3) (2000).

¹²HUD Notice PIH 2000-36 (HA), Questions 4 and 13. As RABs develop formal rules of governance, issues of nomination, appointment and succession should be addressed and resolved. S. Rep. No. 21, 105th Cong., 1st Sess. 13 (1997).

¹³*Id.* Question 4.

¹⁴42 U.S.C.A. § 1437c-1(e) (West Supp. 2000); 24 C.F.R. § 903.13(b)(3) (2000); HUD Notice PIH 2000-36 (HA), Question 4.

¹⁵S. Rep. No. 21, 105th Cong., 1st Sess. 11 (1997); Katherine Dahlem, *Resident Involvement in the Planning Process*, 2 Housing Strategies 5, Abt Associates (Summer 1999) (encourages PHA to make special efforts to recruit non-English speakers, working families, youth and disabled).

¹⁶42 U.S.C.A. § 1437c-1(e)(2) (West Supp. 2000); 24 C.F.R. § 903.13(a)(1) (2000).

¹⁷S. Rep. No. 21, 105th Cong., 1st Sess. 11 (1997).

On a more modest level than envisioned by Congress, HUD instructs that a RAB must "reach out" to ensure that the views of all families are represented.¹⁸ In particular, RAB members are required to communicate in writing and by telephone with assisted families and hold meetings with those families.¹⁹

Congress also expressly provided RABs with the authority to report to HUD any failure on the part of the PHA to provide the RAB or the public with adequate notice and an opportunity to comment on the plan.²⁰

Duties of the PHA with Respect to the RAB and Residents

Congress recognizes that "one of the keys to a successful housing authority is a meaningful and trusting partnership between the PHA and its residents."²¹ Thus, it "encourages PHAs to facilitate resident input and involvement to the maximum extent possible."²² Congress also set forth in its expectations that PHAs would operate in "good faith," which means providing RABs "with sufficient notice and complete information about issues . . . so that [they] . . . are able to make decisions and recommendation from an informed position."²³

Duties of Tenants and Tenant Councils

Tenants and tenant councils also have obligations in this process. Thus, HUD is urging tenants to make every effort to be informed, to volunteer for membership on the RAB and to become involved in the development of plans through the RAB.²⁴ They are further urged to form tenant organizations in accordance with the tenant participation regulations²⁵ and, as resident councils, select members to serve on the RAB.²⁶ HUD is also urging resident councils to provide input to the RAB representatives.²⁷

RAB Comments

Congress intended that PHAs must "provide [RABs] with a meaningful role in developing the plan and to consider fully the comments and issues raised by [the RAB]."²⁸ To document that consideration, PHAs must either list in the PHA Plan Template the RAB comments or attach a copy

¹⁸HUD Notice PIH 2000-36 (HA), Question 2.

¹⁹24 C.F.R. § 903.13(a)(2) (2000).

²⁰42 U.S.C.A. § 1437c-1(f)(4) (West Supp. 2000).

²¹S. Rep. No. 21, 105th Cong., 1st Sess. 13 (1997).

²²*Id.*

²³*Id.*

²⁴HUD Notice PIH 2000-36 (HA), Question 2.

²⁵24 C.F.R. § 903.13(b)(3) (2000).

²⁶*Id.* § 903.13(b)(1).

²⁷HUD Notice PIH 2000-36 (HA), Question 14.

²⁸S. Rep. No. 21, 105th Cong., 1st Sess. 13 (1997); 42 U.S.C. A. § 1437c-1(e)(2) (West Supp. 2000); 24 C.F.R. § 903.13(a)(1) (2000).

NEW NHLP WASHINGTON OFFICE STAFF AND OFFICE MOVE

Vytas V. Vergeer has joined NHLP as Director of Government Relations/Staff Attorney. Vytas is working out of NHLP's Washington D.C. office which has moved as of January 1, 2001.

Vytas comes to NHLP from Bread for the City and Zacchaeus Free Clinic in Washington, D.C., where he has worked for the past six years, the last two as its Legal Clinic Director. As the Legal Clinic Director, Vytas was responsible for coordinating all activities of the clinic, including direct representation, public advocacy and education. He has engaged in landlord-tenant, public benefits, family and employment litigation. Prior to joining the Free Clinic, Vytas clerked for Judge John M. Ferren of the District of Columbia Court of Appeals. He received his law degree from the Columbus School of Law at Catholic University of America. Vytas is active in the District of Columbia Bar as a member of the Steering Committee for the Real Estate, Housing and Land Use Section.

At NHLP, Vytas will be working with our Oakland staff on housing preservation issues and other matters. He will also be responsible for legislative and administrative representation before Congress and HUD.

NHLP's District of Columbia office, from which Vytas is working, has moved. We are now sharing offices with the National Low Income Housing Coalition. Our new address and phone numbers are:

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1012 Fourteenth Street NW, Suite 610
Washington, D.C. 20005
(202) 347-8775 (202) 347-8776 (FAX)

Vytas can also be reached by e-mail at
vvergeer@nhlp.org.

of the RAB's comments to the PHA Plan Template.²⁹ In addition, the PHA must provide a description of the manner in which the PHA addressed the RAB's recommendations.³⁰

*The regulations make it clear that
RABs must be provided with
adequate notice of the plan and an
opportunity to comment on it.*

Time Line

The HUD regulations establish some key deadlines in the plan process but leave much of the detail to the local PHAs. According to the regulations, each PHA is required to submit its final plan to HUD 75 days before the end of the PHA's fiscal year.³¹ In addition, every PHA is required to have at least one public hearing on the proposed plan and provide the public a 45-day written notice of that hearing.³²

PHAs are also required to allow time to develop the proposed plan in consultation with their respective RAB. The regulations make it clear that RABs must be provided with adequate notice of the plan and an opportunity to comment on it.³³ There is no definition in the published regulations of what is "adequate" notice. Nonetheless, the time allowed should take into account the RAB's lack of familiarity with the plan process and many of the issues that go into its development, the complexity of the issues, and the responsibility of the RAB to communicate and hold meetings with other residents so as to keep them informed and seek their input. During the first year of the process, the newness of the entire process should also have been taken into consideration. Time must also be allowed for the PHA Commission (Board) and RAB to consider and make changes to the plan based upon the comments received at the public hearing.³⁴

A HUD Notice issued in August 21, 2000, provides more guidance regarding the time line. It urges PHAs to appoint RABs "as soon as feasible" in order to provide them "sufficient time to fully participate in the process so that they can

carry out their proper role and provide representation that is meaningful and relevant to the development of the plan."³⁵ To achieve this objective, PHAs are further instructed to plan ahead by setting up a time line for RAB notification and involvement. Meetings called to formulate or discuss the plan must be announced by notice at least 48 hours before each meeting and additional time should be provided depending upon the agenda.³⁶ Due to the importance and complexity of the issues, any 48-hour notice should be just a reminder of a meeting date established well in advance, in accordance with the time line and made known to the RAB.

Advocates First Year Experiences With the RAB

Establishment of the RAB

Reports regarding the establishment of the RAB and the selection of RAB members varied dramatically. Some PHAs simply failed to establish a RAB.³⁷ By contrast, in several cities, including Chicago, Kansas City (MO), Frederick (MD), and Cleveland (OH), which recognized city-wide tenant organizations, the city-wide organization became the RAB. In several other jurisdictions, including Camden (NJ) and Hawaii, the jurisdiction-wide tenant organizations became the RAB only after asserting their right to be so named.³⁸

Advocates reported that in several jurisdictions with development-based tenant organizations but without city-wide tenant organizations—such as Oakland (CA), and Weymouth (MA)—the tenant organizations were asked to select representatives to the RAB while the PHA appointed the remainder of the RAB members. In other cases, such as Sacramento (CA), the RAB was appointed entirely by the PHA.

In several instances local housing advocates did not know how the PHA selected RAB members and had difficulty in determining or could not determine the identity of the members of the RAB. There were no reports of PHA efforts to encourage tenants to form their own resident council that could subsequently play a role in the PHA Plan process.

²⁹HUD Notice PIH 2000-36 (HA), Question 10.

³⁰*Id.*, Question 15.

³¹NHLP Web site, LALSHAC discussion board, *HUD Rejects a PHA Plan*, Posted by John Gianola, Legal Services of Northern California (July 21, 2000)(The LALSHAC discussion board is accessible to members of LALSHAC at nhlp.org/lalshac/members.htm); Letter to Board of Commissioners Housing Authority of the City of New London from Kristina I. Michelsen, Connecticut Legal Services (Mar. 27, 2000).

³²Jurisdiction-wide tenant organizations in Camden and Hawaii had to assert their right to be designated as the RAB as the PHA initially failed to designate them as such. In Erie (PA), the PHA claimed that the jurisdiction-wide tenant organization could not be the RAB because there had been no recent election of the tenant councils and also because there had been no jurisdiction-wide election. Draft Comments to John Horan, Housing Authority of the City of Erie from Pat Mickel, Chairperson Resident Advisory Committee (Nov. 29, 1999). Despite the PHA's claim, the regulations do not require a jurisdiction-wide election. 24 C.F.R. § 964.105(a) (2000).

²⁹PHA Plans Template, ¶ 18A (HUD 50078) (expires 03/31/02)(the PHA Board must certify that the RAB comments and the PHA's responses are attached). *PHA Certifications of Compliance with the PHA Plans and Related Regulations, Board Resolution to Accompany the PHA Plan* (Dec. 1999), ¶ 22 (a copy is available at hud.gov/pih/pha/plans/phaps_cert.html).(hereinafter PHA Certifications).

³⁰*Id.*

³¹24 C.F.R. § 903.3(b) (2000).

³²*Id.* § 903.17(b).

³³42 U.S.C. § 1437c-1(e)(4) (2000); 24 C.F.R. § 903.13(c)(2) (2000).

³⁴42 U.S.C.A. § 1437c-1(f)(3) (West Supp. 2000).

How representative was the RAB?

How well the RAB represented the interest of residents frequently depended on how RAB members were selected. Not surprisingly, the RABs whose advocates believed were the most representative often were those whose membership primarily consisted of the jurisdiction-wide tenant organizations. In those instances where the RAB members were selected by the PHA, advocates observed that the RAB often was not particularly representative of the tenants' interests. The degree to which RAB members were representative was even more complicated in those jurisdictions where the PHA appointed only a small number of residents to the RAB and one (or more) of those selected was also a PHA employee.³⁹ For example, in Sacramento the RAB consisted of five residents, of which only three regularly participated and one of whom was a PHA employee.

Many advocates reported that the RABs had very few, if any, members who were Section 8 participants.⁴⁰ In these cases, the PHAs often contended that they could not find Section 8 participants who were willing to serve on the RAB. However, this may have been attributable in some cases to the fact that the PHA's outreach was severely limited.⁴¹ In other cases, the PHA claimed to have mailed letters to all participants with no significant response.

Some PHAs were successful in selecting a reasonable number of Section 8 participants for their RAB. In Chicago, for example, the Section 8 tenants had their own RAB separate from that of the public housing tenants. This RAB, however, was not provided with similar resources as the RAB representing the public housing tenants. In Boston, each Section 8 tenant was mailed a notice encouraging that tenant to volunteer to serve on the RAB. Hundreds of Section 8 participants responded. A meeting was arranged and those who attended selected a smaller group who became the Section 8 representatives on the Boston PHA RAB. The Boston experience suggests that there is an interest among Section 8 participants to become involved in the plan process. PHAs should use a variety of mechanisms to identify Section 8 participants and recruit volunteers. For example, PHAs could identify volunteers during the annual recertification process, at the initial application stage, or could request that service

organizations identify potential volunteers. Independently, legal services attorneys should advise their tenant-based Section 8 clients to volunteer to serve on the RAB.⁴²

RAB Structure

Few advocates reported that they dealt with the issue of the structure of the RAB. However, members of the Boston RAB decided to adopt organizational bylaws, established two-year terms, and included a procedure for the filling of vacancies and a system for communicating with the greater tenant body.⁴³ In addition, the RAB successfully urged the PHA to adopt a five-year goal of establishing a workable city-wide tenant participation policy (including fostering the self-organization and participation of Section 8 tenants).⁴⁴ In Portland (OR), advocates supported an annual meeting of all Section 8 assisted tenants at which tenants who are 18 or older would have the opportunity to vote for members of the RAB. They also proposed bylaws that provided that the RAB president would represent tenants at PHA Commission (Board) meetings.⁴⁵

Independence and Outside Assistance for the RAB

Some advocates complained that the RAB did not meet; or if it did meet, the members barely discussed substantive matters. In Waterbury (CT) the RAB met three times. The first meeting was introductory. At the second meeting, the members were given copies of the plan and at the third and final

⁴²HUD Notice PIH 2000-36 (HA), Question 2. (HUD urges tenants to volunteer for membership on RAB).

⁴³NHLP Web site, LALSHAC discussion board, *Boston Housing Authority RAB/PHA plan*, Posted By: Mac McCreight, Greater Boston Legal Services (Oct. 28, 1999).

⁴⁴NHLP Web site, LALSHAC discussion board, *RAB comments to Boston Housing Authority, Pt. 1*, Posted By: Mac McCreight, Greater Boston Legal Services (Oct. 28, 1999), Memo to Board of Commissioners Housing Authority from Woonsocket Resident Advisory board (Nov. 18, 1999).

⁴⁵Letter to Howard Shapiro, Chair HAP Board of Commissioners from Steve Weiss, Board President, The Community Alliance of Tenants (Oct. 21, 2000). The Detroit RAB is also in the process of becoming incorporated.

³⁹The Oakland and Sacramento RABs had members who were PHA employees. See e.g. NHLP Web site, LALSHAC discussion board, *Sacramento, CA: good and bad news*, Posted By: Anne Pearson, Legal Services of Northern California (Nov. 1, 1999).

⁴⁰Draft Comments to John Horan, Housing Authority of the City of Erie, from Pat Mickel, Chairperson Resident Advisory Committee (Nov. 29, 1999)(No Section 8 representative on RAB), *Report of the Meetings of Public Housing Resident Leaders [City of Los Angeles] To Discuss the Housing Authority Plan* (Sept. 21, 1999) (same); NHLP Web site, LALSHAC discussion board, *Re: Post your PHA plan implementation stories here*, Posted By: Nancy Hronek, Greater Hartford Legal Aid (Nov. 17, 1999) (Enfield (CT) Housing Authority) (same).

⁴¹NHLP Web site, LALSHAC discussion board, *Re: Request for HUD Disapproval of PHA Plan*, Posted By Judith Liben (Feb. 22, 2000) (PHA sent letters to only 6 percent of the Section 8 participants informing them of the creation of the RAB and requesting that they serve).

ERRATA— SUCCESSFUL ADVOCACY IN THE PHA PLAN PROCESS

Some issues of last month's article regarding advocacy in the PHA Plan process did not include footnote 81, which should have read:

⁸¹HUD *Baseline Report* at page 16.

NHLP apologizes for the omission.

meeting RAB members were to provide comments on the plan.⁴⁶ In Hartford (CT), advocates complained that the RAB did not meet as a whole; instead there were a few meetings of tenants which were attended by some RAB members.⁴⁷ To address such problems, the RAB for the Norwalk (CT) PHA requested that the PHA include in its plan a commitment that PHA staff would meet with the RAB on a regular basis, assist it with the annual planning process and provide updates on the implementation.⁴⁸ Advocates reported that RABs that consulted with outside experts or had independent legal representation were more independent and representative. Indeed, most advocates believed that it would be virtually impossible for a RAB to function effectively and independently without outside assistance or representation.⁴⁹

The form of the outside assistance varied. Legal services attorneys represented some RABs⁵⁰ in the capacity of jurisdiction-wide tenant organizations, for which the advocates had a long-term attorney-client relationship. Legal services attorneys also represented several RABs without having a preexisting attorney-client relationship. On several occasions a legal services attorney was involved in the PHA Plan process without formally representing the RAB. In these situations, advocates represented one or two members of the RAB or simply provided technical assistance and training to the entire RAB without formally representing the RAB. Some advocates did not represent the RABs directly out of concern about conflicts of interest with other clients' interests.⁵¹ Some RABs received assistance from consultants and persons other than legal services advocates who were hired by PHAs. Those forms of assistance are discussed in the section that follows. Many advocates stressed the importance of the RAB meeting without the PHA staff to discuss the issues and set the residents' and participants' agenda.⁵² Several advocates reported that such efforts were successful, that the RAB met independently and with others who provided technical assistance and training; all of which enhanced the RAB's ability to function independently.⁵³

⁴⁶See Letter to Sonia Samuels, HUD Connecticut Office, from Diane Nealy, President, Berkeley Heights Tenant Council (Apr. 17, 2000).

⁴⁷Letter to Board of Commissioners, Hartford Housing Authority, from Nancy A. Hronek and David Pels (Nov. 3, 1999).

⁴⁸Memo from Connecticut Legal Services (no date).

⁴⁹The independence of the RAB was severely undercut in those jurisdictions which reported that the RAB members were intimidated and threatened by PHA staff.

⁵⁰A copy of a Retainer Agreement used by advocates from the Cambridge and Somerville Legal Services Program is on file at NHLP.

⁵¹For example, conflicts arose on the question of minimum rent and residency and work preferences for admission. One advocate, in the context of providing comments to the PHA, noted that the comments should not be considered a waiver of any claims that current or future clients may have concerning the process or the policy adopted. See Letter to Teresa Ham, Housing Authority of City of Frederick from Deborah Gardner (Oct. 7, 1999).

⁵²NHLP Web site, LALSHAC discussion board, Re: *Request for HUD Disapproval of PHA Plan*, Posted By Judith Liben (Feb. 22, 2000).

⁵³NHLP Web site, LALSHAC discussion board, *Boston Housing Authority RAB/PHA plan*, Posted By: Mac McCreight, Greater Boston Legal Services (Oct. 28, 1999).

Resources Allocated to the RAB

Regulatory Framework

According to HUD regulations, PHAs must allocate reasonable resources to ensure the effective functioning of the RABs.⁵⁴ The regulations state that what is reasonable depends upon the size and resources of the PHA, but do not specify dollar amounts. They further provide that the resources are to include a reasonable means for the RAB to:

- become informed about the programs covered by the plan;
- communicate—by phone and in writing—with assisted families;
- hold meetings with assisted families; and
- access information regarding covered programs on the Internet.⁵⁵

Many advocates stressed the importance of the RAB meeting without the PHA staff to discuss the issues and set the residents' and participants' agenda.

Advocates First Year Experiences Regarding Resources for RAB

Most advocates reported that minimal or no resources were allocated to RABs.⁵⁶ There were instances, however, where the support was more substantial. The Chicago PHA provided the Central Advisory Council (CAC), (the citywide public housing resident council that functioned as the RAB), with \$50,000 to hire individuals, including the Legal Aid Foundation of Chicago, to provide technical assistance with the planning process. Significantly, the RAB had control over the funds and had the ability to make decisions on how and for whom the funds would be spent. In addition, the CAC sought and received private foundation funding to assist it with the planning process. In addition, the Chicago PHA has allocated \$1.2 million for the support of tenant councils over the next several years.

⁵⁴24 C.F.R. § 903.13(a)(2) (2000).

⁵⁵*Id.* See also S. Rep. No. 21, 105th Cong., 1st Sess. 11 (1997) (RABs may hold public hearing or town meetings to obtain the opinions of other residents).

⁵⁶In several instances, PHAs provided support to the RAB including the provision of meals at RAB meetings, payments to RAB members for transportation expenses, or a stipend for their participation. PHAs may also argue that they have spent substantial staff resources on the RAB. Any such claim should distinguish between time spent on the plan in general and with or for the RAB specifically. For the future, RABs should request that they have input on how the staff supports the RAB. For example, the RAB could request that the staff provide training and provide updates of the PHA's progress toward meeting its goals.

A major reason why the Chicago RAB was so successful in garnering substantial financial support is undoubtedly the tenants' continuing involvement in the adoption of comprehensive plans for the transformation of public housing in Chicago, which were under consideration at the same time that the first-year planning process was underway. Under these transformation plans the PHA called for the demolition of more than 16,000 units of public housing.⁵⁷

It appears that many PHAs hired consultants to assist with the development of the PHAs' Plans. In some jurisdictions (Camden, Oakland, and Woonsocket (RI)), the consultants provided technical assistance to the RAB as well as to the PHA staff. In Camden, where the RAB was a city-wide tenant organization, the process began with housing advocates providing the tenants with advice and training concerning the planning process and issues. The RAB made recommendations to the PHA which agreed to incorporate the residents' concerns in the PHA Plan. In fact, the PHA drafted the first plan without the involvement of the RAB and ignored its recommendations.⁵⁸ When this happened, the RAB mobilized and pressured the PHA to scrap its first plan and begin anew. The PHA responded by hiring a consultant, a local housing advocate who was counsel for the RAB, for approximately \$30,000, who then met for two full days with the RAB and PHA staff. Together, this group went through the PHA Plan Template, discussed the pros and cons of the various discretionary issues, made recommendations and ultimately reached decisions. Because the issues had been previously addressed by the jurisdiction-wide tenant organization and by the RAB in the drafting of the initial draft plan, the RAB was prepared to address a number of the critical issues that arose in the two-day meeting. This process proved to be effective as the RAB felt that the PHA considered their comments and made some significant changes to the plan.

A similar process occurred in Woonsocket. There the RAB was constituted by the tenants and accepted by the PHA. Initially the RAB worked with the PHA and made recommendations to the PHA. When, at the end of the public hearing, the commissioners adopted the plan as proposed without considering the public comments and further RAB comments, the RAB members complained.⁵⁹ The PHA responded to the criticism by hiring an outside consultant who met with the RAB and the PHA staff. Through this process, the PHA revised the plan to address more of the RAB's concerns. Significantly, the RAB urged that the PHA include a

goal of providing resources to the RAB in subsequent years so that it could communicate with other residents, seek their views and inform them of the plan process.⁶⁰

In Oakland, the PHA also hired a consultant to work with the PHA staff and the RAB. The consultant and the PHA created a six-month time line and prepared agendas for bi-monthly three hour RAB meetings. The RAB, which was composed of a small number of elected tenant representatives and many more PHA selected tenants, never met independently of the PHA staff. Moreover, the RAB was not represented by counsel and did not consult with outside experts. Importantly, the PHA staff and consultant controlled the agenda, often not discussing or presenting options that may have been available. Those issues that were discussed were most often dictated by the outcome desired by the PHA. Generally speaking, the issues were too complex for the tenants to understand and thoroughly consider in a single meeting. Not surprisingly, the local housing advocate reported that the RAB members did not regard the consultant as under their direction and viewed the process as informative but of limited effectiveness in securing resident input that was independent of the PHA. At the other extreme, RAB members in Bridgeport (CT) requested to meet with the PHA Plan consultant and the PHA refused to allow the meeting.

Public Involvement in the Plan Process

Regulatory Framework

QHWRA provides for a public hearing on a PHA's Plan.⁶¹ At least 45 days prior to the hearing, the PHA must notify the public of the hearing date and time and that the proposed PHA Plan—including all required attachments and documents relating to the plan—are available for review.⁶² The hearing conducted by the PHA Commission (Board) must be at a location and time that is convenient to the residents.⁶³ In addition, the PHA is required to conduct reasonable outreach to "encourage broad participation in the PHA plans."⁶⁴

Congress intended that residents "should have open access to . . . [the] contents [of the PHA's Plan]."⁶⁵ HUD regulations and program documents provide that the plan with the required attachments and documents related to the plan must remain available "at all times" for review at vari-

⁶⁰*Id.*

⁶¹42 U.S.C.A. § 1427c-1(f)(1) (West Supp. 2000).

⁶²4 C.F.R. § 903.17(b) (2000). Because the PHA Plan must be submitted to HUD 75 days before the beginning of the PHA's fiscal year, PHAs must announce the public hearing at a time that is in excess of 120 days (75 plus 45 days) prior to the beginning of the PHA's fiscal year. More than 120 days are needed to allow for changes to the plan as a result of the public comment. 42 U.S.C.A. § 1437c-1(f)(3) (West Supp. 2000). Information on a PHA's fiscal year is available at NHLP's Web site nhlp.org/pubhsg/phafy.html and at the HUD Web site.

⁶³*Id.* and 24 C.F.R. § 903.17(a) (2000).

⁶⁴4 C.F.R. § 903.17(c) (2000).

⁶⁵S. Rep. No. 21, 105th Cong., 1st Sess. 11 (1997).

⁵⁷The Detroit PHA committed a budget of approximately \$100,000 for the RAB. Of that amount nearly \$40,000 is allocated to stipends for the RAB members and officers, \$10,000 is to hire an attorney and \$6,000 is allocated for training. Even with the funds, the Detroit RAB has not sought outside legal assistance and reportedly has not been very active in the PHA Plan process.

⁵⁸NHLP Web site, LALSHAC discussion board, *Camden, New Jersey Comments*, Posted By: David Podell, Legal Services of New Jersey (Jan. 13, 2000).

⁵⁹Memo to Board of Commissioners, Woonsocket Housing Authority from Woonsocket Resident Advisory board (Nov. 18, 1999).

ous locations including the principal office of the PHA both during the plan process and thereafter at the principal office of the PHA.⁶⁶ The PHA may designate in the plan process the additional places and times where the plan with attachments and supporting documents may be made available.⁶⁷

Advocates' Experiences in the First Year with Public Participation Requirements

Public Access to Information

Advocates reported dramatically different experiences concerning their efforts to obtain documents relating to the PHA planning process. In most cases, securing the plan documents was not reported as a major issue as the documents were made available as required. In several cases, however, the documents were not made available in a timely fashion. In the case of one Midwest PHA, a public hearing was scheduled before the public and advocates had an opportunity to obtain a copy of the revised proposed plan. As a result, and in order to gain time to review the plan, the housing advocates managed to have the hearing postponed.

In Chicago, the PHA did not release the plan as required; at least 45 days before the public hearing. In Bridgeport, the housing advocates requested but never received a hard copy of the plan from the PHA; nor did members of the RAB. The PHA eventually made the plan available on its Web site but wanted to charge a \$300 copying fee for hard copies. Housing advocates were forced by expediency to deal with the issue by downloading a copy of the plan from the PHA's Web site and making copies for tenants and RAB members.⁶⁸ Advocates from San Francisco also reported that the proposed plan was never identified or made available prior to the hearing.⁶⁹ Several PHAs appear to have made distinctions as to availability between the draft plan and the final plan. They made their draft plans available, but made it harder and more costly to obtain a copy of the final plan.

While HUD began to post approved PHA Plans on its Web site in September 2000,⁷⁰ the posted plans are of varying degrees of completeness and, consequently, usefulness. Some of the posted plans have all attachments and all relevant boxes are checked. A few also have attached copies of the Section 8 Administrative Plan and the public housing

Admission and Continued Occupancy Plan (ACOP). Others, however, are nearly meaningless. For example, the Los Angeles County PHA Plan Template is almost entirely blank. No boxes appear checked. For some PHAs, the posted PHA Plan Template is only partially completed. In other instances, the posted documents refer to attachments such as the RAB comments which are then not posted.

Advocates reported dramatically different experiences concerning their efforts to obtain documents relating to the PHA planning process.

The purpose of posting the plans on the HUD Web site is to make information available to tenants and Section 8 participants as well as to the public. Incomplete postings frustrate that purpose and negatively impact the PHAs' obligation to provide Internet access to RAB members. Advocates should complain to HUD about incomplete or inadequate postings for their jurisdictions.

Public Hearing

Most advocates reported that their PHAs managed to fulfill the notice requirement and provided the required 45-day notice of the public hearing⁷¹. There were some notable exceptions, including the PHAs for Chicago, San Francisco, Eureka (CA) and Hartford and Bridgeport.⁷² Advocates also reported that the public hearings for most PHAs were conducted by the PHA commissioners.⁷³ The Meriden PHA was a notable exception. That PHA's commissioners failed to attend the public hearing.⁷⁴

⁷¹24 C.F.R. § 903.17(b) (2000).

⁷²In Chicago, advocates did not object to the PHA's failure to comply with the notice provisions. Whereas in Bridgeport and Hartford the notice issue was one of the multiple objections that advocates made to the PHA's plan. HUD has declined to approve the Bridgeport plan. *See e.g.* Letter to Board of Commissioners, Hartford Housing Authority, from Nancy A. Hronek and David Pels (Nov. 3, 1999). *See* NHLP Web site, LALSHAC discussion board, *Re: Post your PHA Plan Implementation Stories Here*, Posted By: John Gianola, Legal Services of Northern California (Sept. 2, 1999)(Eureka PHA provided no notice and materials were not available), *See also* NHLP Web site, LALSHAC discussion board, *Atlantic City Public Hearing Postponed*, Posted By Ken Goldman (Oct. 16, 1999) (PHA postpones hearing as proposed plan not available).

⁷³24 C.F.R. § 903.17(a) (2000).

⁷⁴*Meriden: HUD, rejects MHA's plan*, by Mary Ellen Godin, Record-Journal (Oct. 12, 2000). In Waterbury (CT) only one commissioner appeared at the public hearing. *See* Letter to Sonia Samuels, HUD Connecticut Office, from Diane Nealy, President, Berkeley Heights Tenant Council (Apr. 17, 2000).

⁶⁶PHA Certifications ¶ 22, 24 C.F.R. § 903.23(d) (2000).

⁶⁷PHA Certifications, ¶ 22.

⁶⁸The cost of providing RAB members with copies of the plan should have been borne by the PHA. *See* 24 C.F.R. § 903.13(a)(2) (2000).

⁶⁹One advocate reported that the San Francisco PHA never made available a complete set of documents either prior to the hearing or after changes were allegedly made to the plan after the hearing. When the advocate tried to obtain a copy from HUD of the submitted plan, the HUD office declined to provide a copy, claiming that it was a document under review and therefore not available. The action of the PHA and HUD response are in direct violation of the letter and spirit of the PHA Certifications, ¶ 22.

⁷⁰HUD is posting approved plans at hud.gov/pih/pha/plans/phaps-submissions-received.html.

Many advocates complained that PHAs should have done more to encourage broad public participation by tenants and the public at large. Most reported that their PHA complied with the minimum requirement by conducting one public hearing, but there were complaints that the public hearing was held at times that were not conducive to tenant or public participation.⁷⁵ The Chicago and New York PHAs were exceptions. In Chicago, a public hearing was held at each large development and four more were held in different quadrants of the city.⁷⁶

What occurred at the public hearings varied dramatically. Advocates reported that for several PHAs there were few comments from the public. The experience of others was that so many speakers appeared, the amount of time allotted to each speaker was severely restricted. Not every PHA was as accommodating as the Annapolis (MD) PHA which continued the public hearing in response to complaints that there was not enough time to review the plan and accommodate the number of tenants who wanted to speak.⁷⁷

Several advocates reported that PHA commissioners were responsive to their comments even when they were only heard for the first time at the public hearing. For example, in Long Beach (CA), the PHA Commission (Board) required the staff to change the PHA's admissions preferences for the second-year plan to include more of the former federal preferences. They also directed the staff to conduct a study on the effects of site-based waiting list policies for the second year, as a condition of the approval of the first-year plan. In contrast, the commissioners for the Woonsocket PHA approved the plan without modification at the close of the hearing despite substantial public comment. When the RAB complained that the commissioners should not have acted so quickly and had a duty to consider public comments and make changes to the plan, if appropriate after consulting with the RAB,⁷⁸ the PHA ultimately agreed. Two advocates reported that their PHAs formed a working group to review all comments submitted at the public hearing. In both cases, the advocates were included in the review committee.⁷⁹

Attending RAB Meetings

The ability of housing advocates or members of the general public to attend RAB meetings also varied. While some PHAs allowed public attendance at the RAB meetings, for

⁷⁵NHLP Web site, LALSHAC discussion board, *Frederick Plan Process*, Posted by Deb Gardner, Maryland Legal Aid Bureau (Dec. 15, 1999) (single public hearing held at noon on a weekday).

⁷⁶In NYC there were public hearings in each of the boroughs. Advocates in Los Angeles unsuccessfully urged the PHA to conduct a hearing at each of the PHA's 21 developments. See *Report of the Meetings of Public Housing Resident Leaders [City of Los Angeles] To Discuss the Housing Authority Plan* (Sept. 21, 1999).

⁷⁷*Public hearing on Public Housing Agency Plan*, Baltimore Sun (Apr. 8, 2000).

⁷⁸42 U.S.C. A. § 1437c-1(f)(3) (West Supp. 2000).

⁷⁹NHLP Web site, LALSHAC discussion board, *Sacramento: good and bad news*, Posted By: Anne Pearson, Legal Services of Northern California (Nov. 1, 1999); NHLP Web site, LALSHAC discussion board, *Frederick Plan Process*, Posted By: Deb Gardner, Maryland Legal Aid Bureau (Dec. 15, 1999).

others access was denied because advocates were not informed of the dates that the RAB met or were refused admission when they attempted to attend. HUD has issued a notice reminding PHAs that they are subject to state open meeting laws.⁸⁰ Notwithstanding, RABs should seek to hold meetings with tenants and the public as envisioned by Congress to assure that RAB members are informed of the opinions of other tenants.⁸¹

*HUD has issued a notice reminding
PHAs that they are subject to state
open meeting laws.*

Identity of RAB Members

Many housing advocates reported that they could not determine the identities of RAB members, as they were not made public.⁸² A new HUD notice that is applicable for annual plan submissions for 2001 requires that all PHAs include in their PHA Plans a list of RAB members.⁸³ This requirement should help make the RAB more responsive at the local level. Ideally, the identity of RAB members should be available early in the process to facilitate communication between residents and program participants and RAB members.⁸⁴

Broad Public Participation

PHAs have a duty to conduct reasonable outreach and to encourage broad public participation in the PHA Plan process.⁸⁵ As a result, many advocates were able meet and work with the PHA staff who were drafting the plans. Advocates with a history of working closely with PHA staff seemed to have had substantial success in establishing reasonable procedures for reviewing and commenting on the PHA Plans and obtaining substantive changes in the proposed plan. Typically, these advocates met with the PHA staff throughout the plan process. The changes that advocates obtained included in Cleveland, for example, an agreement to include a modified one-for-one demolition policy in the PHA

⁸⁰HUD Notice PIH 2000-36 (HA) Question 15 (reminds PHAs that they must comply with applicable state "open meeting" laws).

⁸¹S. Rep. No. 21, 105th Cong., 1st Sess. 13 (1997).

⁸²HUD Notice PIH 2000-43 (HA) (September 18, 2000).

⁸³*Id.*

⁸⁴24 C.F.R. § 903.13 (2000) (RAB members must communicate with other tenants by phone and through meetings).

⁸⁵24 C.F.R. § 903.17(c) (2000).

Plan. In Chicago, advocates were successful in extending the abatement period for violation of the housing quality standards in the Section 8 program from 30 to 180 days.⁸⁶

Some advocates used the plan process to build credibility with the PHA staff. This also resulted in changes to the final plan. In Sacramento, advocates secured five significant modifications to the plan through informal advocacy. The changes obtained included an exemption for people who are participating in a state drug diversion program from the "one strike" eviction policy. Second, the PHA's proposal for deconcentration, which would have limited participation in several economic incentive programs (like escrow accounts and Section 3 jobs) to higher-income tenants, was amended to make these programs equally available to all tenants. Third, the plan was modified to include a list of statutory exclusions from income for purposes of establishing tenant rent that were not previously included in the plan. Fourth, the PHA agreed to engage in a more meaningful assessment of housing needs that included an assessment of the housing needs of extremely low-income households.⁸⁷ Fifth, the agency committed to review and rewrite unclear sections of its one-strike policy.⁸⁸

HUD Review, Approval or Disapproval and Sanctions

HUD Review

Once submitted, HUD field offices review the PHA plans for:

- completeness;
- consistency with data and information available to HUD, including the Consolidated Plan (ConPlan); and
- compliance with the *United States Housing Act* or any other applicable federal law.⁸⁹

When conducting the review for consistency, HUD staff is directed to accept the local certification of consistency with the ConPlan unless the reviewer has evidence that indicates

that the certification is substantively incorrect.⁹⁰ The reviewer must also determine if the PHA Plan is consistent with several other PHA plans or applications such as those for demolition and disposition, designation, conversions, homeownership, planned expenditures of available funds, and *Multifamily Tenant Characteristics System* (MTCS) data relating to the use of site-based waiting lists.⁹¹ For compliance review, the HUD staff may rely upon "his/or her professional knowledge and experience" with respect to the housing programs and may consult with other individuals and HUD offices.⁹² If, pursuant to any of the three review standards, a deficiency is noted, the plan must be brought into compliance within the 75-day period that HUD has to review plans.⁹³

PHA Certifications of Compliance

Each PHA must submit with its plan Certifications of Compliance, a form signed by the Chairman of the PHA Commission (Board). The form document includes certifications regarding the establishment of the RAB, availability of documents, and the public hearing. With respect to the RAB, the certifications state that the:

- PHA established a RAB;
- RAB membership represents residents assisted by the PHA;
- PHA consulted with the RAB; and
- PHA considered the recommendations of the RAB.⁹⁴

In addition the certifications state that the PHA Plan includes a copy of the recommendations of the RAB and a description of how these recommendations were addressed.⁹⁵ With respect to the hearing, the certifications provide that:

- information (proposed plan and all information relevant to the public hearing) was available 45 days before the hearing;

⁸⁶Advocates in Chicago obtained many significant changes to the PHA Plan. Most of them, however, were attributable to comments and advocacy by the RAB. The plan changes address various aspects of the plan for transformation of public housing including the pace of demolition which was tied to a HUD-conducted study of the private market's ability to absorb vouchers, the relocation rights of tenants, such as the right to return and the right of every family to execute a relocation contract enumerating relocation benefits as well as the right to return, and the provision of at least \$1.2 million for technical assistance for residents to effectively participate in the transformation process. In addition, the changes included selected changes in the voucher program to make it easier for participants to find qualified units, targeting more extremely low-income families for residency in public housing, and the retention of significant lease protections for public housing residents.

⁸⁷Unfortunately, the PHA did not commit to a date by which it would undertake such an assessment.

⁸⁸NHLP Web site, LALSHAC discussion board, Sacramento: *good and bad news*, Posted By: Anne Pearson, Legal Services of Northern California (Nov. 1, 1999).

⁸⁹42 U.S.C. § 1437c-1 (West Supp. 2000); 24 C.F.R. § 903.23(a) (2000).

⁹⁰Field Office Guidelines on Review of PHA Plans from PHAs with Fiscal Years beginning 1/1/2000 and 4/1/2000, pg. 9 (Mar. 6, 2000) (hereinafter referred to as HUD Guideline) (This Guideline is for use in reviewing PHA Plans submitted in 2000. In addition to the general provisions presented above in the text, the HUD Guideline has special instructions for the processing of PHA Plans from jurisdictions that are designated by HUD as troubled, are a *Moving to Work Demonstration site*, or are on a HUD list of PHAs identified by the Office of General Counsel as a party to any litigation settlements, consent decrees, voluntary consent agreements, or court orders and hence subject to "up-front Civil Rights review and referral." *Id.* pgs. 7 and 16).

⁹¹*Id.* pgs. 9-10.

⁹²*Id.* pgs. 10. The other HUD staff may include the *Community Builders* (for information about the community) and the *Fair Housing and Equal Opportunity staff*. *Id.* pgs. 6 and 7.

⁹³With the exception of PHAs designated as troubled, a PHA's plan is automatically approved, if it is not disapproved within 75 days after submission. 24 C.F.R. § 903.(b)(3) and (4) (2000).

⁹⁴PHA Certifications, ¶ 3.

⁹⁵*Id.*

- notice of the hearing was published;
- a hearing was conducted; and
- public comment was invited.⁹⁶

The final certifications relating to the process for the plan provide that the plan with all attachments and supporting documents were available and will continue to be available for public inspection.⁹⁷

HUD Disapproval

The local HUD office may disapprove a PHA Plan for incompleteness or inconsistency. Disapproval based upon a compliance deficiency requires HUD headquarters approval. The local HUD office may determine if the disapproval is either technical or substantive but must consult with HUD headquarters before making a final determination and informing the PHA.⁹⁸ Substantive grounds for disapproval include omissions or errors that materially change the information provided to the public or the RAB. Correction of such deficiencies must be developed with and reviewed by the RAB. Any comments made by the RAB must be sent to HUD along with the resubmitted plan.⁹⁹

Sanctions

HUD may impose sanctions for failure of the PHA to submit a plan 75 days before the beginning of the PHA's fiscal year. As mentioned previously, a PHA may respond to HUD's review and make corrections to the plan, but sanctions may also be imposed if the plan is not in approvable form by the beginning of the PHA's fiscal year. The available sanctions include refusal to release the PHA Capital Fund and *Public Housing Drug Elimination Program* (PHDEP) funds.¹⁰⁰ For late submissions, PHAs risk sanctions related to regulatory noncompliance, such as loss of points in HUD competitive awards or enforcement actions. In the "most egregious situations," the disapproval of a plan may result in HUD withholding of operating subsidies and Section 8 tenant-based assistance.¹⁰¹

HUD recently announced that any PHA with a January, April or July 2000 fiscal year start date that does not have an approved plan by November 30, 2000 may be subject to sanctions.¹⁰² PHAs with October fiscal year start dates may be sanctioned if they do not have an approved plan by December 30, 2000.¹⁰³ For PHAs with fiscal years beginning January

1, 2001 and forward, the sanctions will be applied if the PHA has not submitted its plan within 75 days of the due date.¹⁰⁴ For 2000, HUD stated that it would not waive the due date for PHA Plans,¹⁰⁵ but as noted it subsequently did. Presumably, HUD will not be so lenient in the second year of the plan process.

During the first year of the PHA Plan process, HUD disapproved the plans for several PHAs including Yolo County (CA) and Meriden. Advocates often played a role, sometimes a central role, in the disapproval of PHA Plans. The Yolo County plan was rejected because there was no RAB involvement and there were no quantified goals and objectives in the five-year plan.¹⁰⁶ HUD rejected the Meriden PHA Plan because the PHA did not give notice that plan materials were available for public scrutiny 45 days before the public hearing, failed to advertise the meeting as open to the public and because board members were not present at the hearing. In both cases, it was critical that local advocates submitted information regarding the hearing process and the formation of a RAB because HUD does not solicit such information and relies upon the PHA Certifications of Compliance.

The Los Angeles, Boston, and Bridgeport PHAs also had their plans rejected. The reasons for the rejection are not entirely clear for either Los Angeles or Bridgeport, but it is known that advocates in both jurisdictions strenuously objected to procedural defects in the process. The Boston Plan was rejected as incomplete. Many of the reasons were technical but some were substantive, hence the RAB was involved in rewriting the plan.¹⁰⁷

Advocates did not report that they had taken advantage of the certifications to obtain compliance with the law with respect to procedural violations. However, some advocates have contemplated seeking to enforce the certifications.¹⁰⁸

⁹⁶*Id.* ¶ 4.

⁹⁷*Id.* ¶22.

⁹⁸HUD Guideline (Mar. 6, 2000), pg. 14. HUD may only disapprove a PHA Plan for incompleteness, inconsistency and failure to comply with federal law. 42 U.S.C.A. § 1437c-1(i)(3) (West Supp. 2000).

⁹⁹HUD Guideline, pg. 15.

¹⁰⁰*Id.* pgs. 5 and 14; HUD Notice PIH 2000-43 (HA), pg. 14.

¹⁰¹HUD Guideline, pg. 14.

¹⁰²HUD Notice PIH 2000-43 (HA), pg. 15.

¹⁰³*Id.*

¹⁰⁴*Id.*

¹⁰⁵HUD Guideline, pg. 5.

¹⁰⁶NHLP Web site, LALSHAC discussion board, *HUD Rejects a PHA Plan*, Posted by John Gianola, Legal Services of Northern California (July, 21, 2000).

¹⁰⁷NHLP Web site, LALSHAC discussion board, *HUD review; rejection of Boston HA plan*, Posted by: Mac McCreight, Greater Boston Legal Services (June 16, 2000) and letter to Ms Sandra B. Henriquez, Administrator Boston Housing Authority, from Donna J. Ayala, HUD Director Office of Public Housing, New England (May 15, 2000). The substantive reasons for the plan rejection included items such as the failure to explicitly include Section 504 modifications in modernization plans, failure to identify specific modernization work to be carried out in family developments, and insuring that the site-based waiting list systems for the HOPE VI developments (Orchard Gardens, Orchard Commons, and Mission Main) are in compliance with the specific requirements of the PHA Plan rule, as well as the failure to include explicitly in the Template the Section 8 search time extension policies.

¹⁰⁸NHLP Web site, LALSHAC discussion board, *Re: Post your PHA plan implementation stories here*, Posted By: Annette Duke, Greater Boston Legal Services (Sept. 8, 1999).

Conclusion

No advocates were happy with the results of the first year of the PHA planning process. Nevertheless, many reported success in obtaining PHA compliance with the procedural requirements and in achieving substantive changes to PHA plans. The substantive successes are significant because of the impact upon a broad group of tenants and the fact that the improved policies should benefit many tenants who have never sought the assistance of a housing advocate. The procedural successes may result in stronger RABs and tenant organizations.

It is clear that the planning cycle with all its shortcomings will repeat itself until the statute is changed. It is also clear that the process can be effective if the tenants are represented by advocates, partner with other organizations and have an active and representative RAB.

Advocates need to act promptly to influence the annual plans that will be developed in 2001. It is particularly important to secure resources for RABs so that they may function effectively, represent the program participants and communicate with them. The process should be easier in the second year. The fact that the first year plan documents for most jurisdictions should be available for review should substantially aid advocacy. PHAs' new obligation to reveal the names of RAB members should also aid local advocacy and communication. Also, housing advocates are in a better position to evaluate what was successful and what failed during the first year and how to repeat the success and avoid the failures in the second year. Nevertheless, some advocates may encounter more resistance from some PHAs that believe that the issues in question were resolved in the prior year and view RAB and public input as something to ignore or not fully consider.¹⁰⁹

For the future, advocates should seek to increase training opportunities for the RABs' tenants and tenant councils. The training could be provided by PHA and HUD staff as well as legal services attorneys. Consideration should also be given to designing the training on a PHA-wide and regional or statewide basis.¹¹⁰ ■

¹⁰⁹The RAB as well as the public may comment on any aspect of the plan including aspects that are not addressed in any update of the annual plan or change in the current plan. HUD Notice PIH 2000-43, ¶ III.A.4 (HA) (Sept. 18, 2000) (the reference to the comments is directed to small PHAs, but there is no reason that its application should be so limited).

¹¹⁰HUD has informally discussed the possibility of another national training on QHWRA, including the PHA Plan process, for tenants, RAB members, and tenant commissioners, and tentatively set the date for that training for February 2001. If this training is similar to the prior training, 85 percent of the out-of-pocket cost for the tenant participants will be subsidized. Tenant participants will have to raise the remainder locally from sources that may include the PHA. HUD is supposed to post more information on this training on its Web site in the near future.

HUD stated its intention to post materials from training it conducted for tenants, RAB members and tenant commissioners on QHWRA, including the PHA Plan process, in the summer of 2000. In the interim, materials from this training are available at gulphny.org/Web%20Templates/welcome_page.htm, scroll down to HUD's QHWRA (*Public Housing Reform Act*) Training Materials including Admissions and Occupancy Materials or Rent and Income Training Materials.

CONGRESS PASSES MODEST FISCAL YEAR 2001 HUD BUDGET

On October 27, 2000, the President signed into law the *FY 2001 Appropriations Bill* (H.R. 4635) for the Department of Housing and Urban Development (HUD), providing a final budget authority level of \$30.56 billion for the fiscal year that began October 1.¹ The House bill, which passed back on June 21, provided for about \$30 billion and rejected most of the new items in the Administration's earlier budget request of \$32 billion.² The Senate version, passed on October 12, more closely resembled the final bill signed by the President. While this year's final funding level appears to be almost \$5 billion over last year's, FY 2000, appropriations level, most of the increase is for renewing more expiring Section 8 contracts. Thus, although a definite improvement over the House bill, the FY 2001 bill provides little real spending increases from FY 2000 for much of Section 8 and public housing programs and is probably not even enough to maintain current services for some of these programs, where needs for capital spending and operating subsidy increases usually outpace inflation. The following is a brief summary of the final FY 2001 funding levels for the major HUD programs.

Section 8 Funding ("Housing Certificate Fund")

The final bill, when combined with expected recaptures, apparently provides full funding for the renewal of all expiring Section 8 contracts at a level of \$12.97 billion, within a total overall level of \$13.94 billion for the *Housing Certificate Fund*. Renewals include both project-based units and tenant-based vouchers, *McKinney Moderate Rehabilitation Single Room Occupancy* units, as well as one-year renewals for expiring Section 8 contracts provided under the preservation programs. Much of the balance of the Fund consists of \$453 million for 79,000 new vouchers. These new vouchers will be distributed on a "fair share" basis,³ without favoring those PHAs with a high utilization rate, as had been proposed by the House for its few new vouchers that would have been funded only from recaptures. The rest of the Fund also provides \$266 million to cover relocation and protection for

¹The bill became Public Law No. 106-377, the *Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001* and is available through the Library of Congress' THOMAS / Web site, at thomas.loc.gov. The Conference Report is No. 106-988. "Budget authority" refers to permission to make outlays (actual expenditures) in the future, but not necessarily just in the year in which the budget authority is made available.

²For a summary of the House bill, see *House Passes Disappointing Fiscal Year 2001 HUD Budget*, 30 HOUS. L. BULL.104 (July 2000). For more details on the President's request, see *HUD Submits Promising FY 2000 HUD Budget Request to Congress*, 30 HOUS. L. BULL. 19 (Feb. 2000).

³This figure assumes a rescission of \$275 million.

tenants threatened with displacement by prepayments, termination or opt-out of Section 8 contracts (including "enhanced vouchers"), public housing demolition and/or reconstruction, and other specified uses, along with \$192 million for HUD's hiring of new administrators for project-based Section 8 contracts. *Shelter Plus Care* renewals are not funded out of Section 8, but through a separate appropriation of \$100 million for FYs 2001 and 2002, in addition to the homeless assistance funding. Similar to last year's FY 2000 law and the President's budget request, the final bill alleviates the Section 8 contract renewal budget burden by making a \$4.2 billion advance appropriation, which pushes that amount of the appropriation's cost into FY 2002 for budget accounting purposes.

*The final FY 2001 law does not
allocate funds for numerous
initiatives in the
Administration's request*

The final FY 2001 law does not allocate funds for numerous initiatives in the Administration's request, including a "voucher success fund" (to promote voucher use in areas of program weakness, at a cost of \$50 million), and incentives to make affordable Low Income Tax Credit (LIHTC) or other new units targeted to specific needs (\$8 million). Nor does the final bill include the proposal in the House and Senate bills allowing PHAs in "difficult utilization areas" to raise their payment standards to up to 150 percent of current payment standards and to use existing funds for services to help families find housing. However, the Senate report requires HUD to report on utilization rates by January 15, 2001.⁴

Public and Indian Housing Funding

While the Administration had requested \$3.19 billion for the Public Housing Operating Fund, which pays for the difference between operating costs and tenant rent contributions, and \$2.95 billion for the Public Housing Capital Fund, which pays for project rehabilitation, these amounts were only modest (and insufficient) increases over prior funding levels. The final bill provides more than either the Administration's request or the House approved amount for both accounts: \$3.24 billion for the Operating Fund and \$3.0 billion for the Capital Fund. For HOPE VI, the federal grant program for demolishing and revitalizing severely distressed public housing, the final bill provides \$575 million, last year's funding level, and Indian Housing block grants receive \$650 million.

⁴S. Rep. 106-410.

Homeless Assistance Programs

While the Administration had requested \$1.2 billion for homeless assistance programs (including Emergency Shelter Grants, Supportive Housing, Section 8 Single Room Occupancy units, and *Shelter Plus Care*), the final bill allocates just \$1.025 billion, virtually the same level as FY 2000. At least 30 percent of funds must be used for permanent housing, and renewals of expiring contracts under *Shelter Plus Care* are funded separately at a total of \$100 million for FYs 2001 and 2002.

The Community Development Block Grant Program (CDBG) and HOME funding

While the President requested \$4.9 billion for CDBG, the final bill provides almost \$5.06 billion, a 5 percent increase above the FY 2000 level of approximately \$200 million. Of this amount, \$4.4 billion is for actual CDBG block grants to state and local governments. The total CDBG level also includes \$55 million moved to the CDBG account from the Public Housing Capital Fund and set aside for public housing tenants under the *Resident Opportunities for Self-Sufficiency* (ROSS) program. The HOME program is funded at \$1.8 billion, an increase of \$200 million over the FY 2000 level.

Funding for Other Housing Programs

The final bill provides \$258 million for the *Housing Opportunities for People with AIDS* (HOPWA) program, an increase from last year's \$232 million. This funding level should support almost 48,000 units. Funding for Section 202 elderly housing programs will rise to \$779 million, an increase of \$69 million, including \$50 million for conversion of Section 202 housing to assisted living facilities and \$50 million for service coordinators. Similarly, funding for Section 811 disabled housing programs will increase to \$217 million, an increase of \$16 million from FY 2000.

Administrative Provisions and Miscellaneous Issues

New Housing Production

Late in the budget process, in response to growing needs and the inadequacy of additional vouchers as the sole vehicle for new assistance, the Senate had included in its FY 2001 funding bill a new proposal intended to produce new affordable housing units. Earlier in the year, Senator Kerry (D-MA) had introduced a *Housing Trust Fund* proposal (S. 2997) to use excess Federal Housing Administration (FHA) revenues for affordable housing production and preservation. Senator Bond (R-MO), Chair of the HUD Appropriations Subcommittee, then proposed a housing block grant to states for production and preservation (S. 3033), which was then folded into the Senate Committee version of the FY 2001 bill.⁵

⁵For background on these two bills, see *New Housing Production Proposals Introduced in Senate*, 30 HOUS. L. BULL. 142 (Sept. 2000).

Reportedly, while these Senators and the Administration were close to an agreement on the key elements of a compromise proposal for housing production, including deep targeting to extremely low-income families, the opposition of authorizing committee members (Senator Gramm and others) prevented inclusion of any such compromise on this issue in the final Senate bill. However, in their joint explanatory statement, the conferees "encourage the authorizing committees to consider the need for additional homes for extremely low-income families, and to draft legislation that will meet these increasing needs."⁶

Enhanced Vouchers

The bill contains two provisions affecting so-called enhanced vouchers issued to protect current tenants facing possible displacement from the termination of project-based Section 8 contracts. Section 228 of the bill extends eligibility for enhanced vouchers to tenants who experienced conversion during the period between October 1, 1996 and October 27, 1999. This provision, if implemented promptly, permits other tenants, many of whom are paying more than 30 percent of their income to stay in their homes under the regular voucher program, to afford to keep their homes. Section 205 allows HUD to establish a "reasonable limit" on the rent level supported by an enhanced voucher, thus creating the risk that arbitrary HUD decisions could restrict a tenant's ability to afford to remain in his/her home.

Property Disposition

Section 204 of the bill extends indefinitely the current authorization for HUD to provide up-front grants for rehabilitation of certain multifamily properties sold from the HUD inventory, which had been set to expire at the end of FY 2001. Subject to a feasibility exception, Section 233 generally requires HUD to preserve project-based Section 8 contracts for HUD-held or HUD-owned multifamily properties facing disposition at foreclosure or by sale from the HUD inventory, if the property is occupied primarily by elderly or disabled families.

Project-Based Voucher Revisions

Section 232 of the law makes substantial changes to the current law permitting PHAs to "project-base" some of their Section 8 voucher funds, which has rarely worked effectively.⁷ These revisions are discussed in a separate article in this issue of the *Bulletin*.⁸

Conclusion

On the whole, thanks in large part to action by the Senate and continued pressure from the Administration, the final FY 2001 bill provides most of the funds requested by the

Administration, along with some important program revisions. However, it still falls far short of providing needed funds to maintain current services, much less what is needed to begin to address the affordable housing crisis. With a new Administration likely to develop its own budget request for FY 2002 for submission early next year, Congress soon will get yet another chance to make cuts in the HUD budget, maintain current inadequate funding, or begin to address still-growing needs with higher funding levels or new programs. ■

CONGRESS PASSES MAJOR REVISIONS TO THE PROJECT-BASED VOUCHER STATUTE¹

The *Fiscal Year 2001 VA-HUD Appropriations Bill* signed by the President on October 27, 2000, substantially revises the statutory authority for public housing agencies (PHAs) to project-base vouchers.² This article briefly describes the key features of the new Section 8 PHA project-based assistance program, comparing them with the superceded statutory and regulatory provisions.³

Background

For about 10 years, PHAs that administer the Section 8 tenant-based rental assistance program have had the option to contract with private owners to use up to 15 percent of their subsidy funds in particular buildings. This is known as "project-basing" what are otherwise tenant-based vouchers. Few PHAs have used this option, because it could only be used if an owner used other funds to rehabilitate the property, the procedures were cumbersome, and there were no incentives for owners to commit units to the program. When Congress revamped the low-income housing programs in 1998, no significant changes were made in this provision. The conference report accompanying this year's appropriations act⁴ acknowledges that the project-based option has

¹This article was written by Barbara Sard, Director of Housing Policy, Center on Budget and Policy Priorities, Washington, D.C. and is reprinted here with permission.

²Section 232 of Pub. L. No. 106-377, amending Section 8(o)(13) of the *U.S. Housing Act*, 42 U.S.C. §1437f(o)(13).

³The relevant regulations concern the project-based certificate program, 24 C.F.R. Part 983. This program was superceded by the certificate/voucher merger enacted by the *Quality Housing and Work Responsibility Act of 1998*, but HUD has instructed PHAs to continue to use the Part 983 regulations until new ones are issued.

⁴H. Rep. 106-988.

⁶H.Rep. No. 106-988, Pg. 105 (Oct. 18, 2000).

⁷The revisions are made to Section 8(o)(13) of the *United States Housing Act*.

⁸See *Congress Passes Major Revisions to the Project-Based Voucher Statute* on pg. 186 of this issue the *Bulletin*.

never worked effectively. By addressing many of the former legal and practical barriers, these new revisions are intended to facilitate PHA use of the project-based option.

Key Provisions

- *Limits on project-based funding*—The maximum percent of funds that a PHA may project-base is increased to 20 percent of its total tenant-based Section 8 funds. The prior limit was 15 percent.
- *Purposes*—A PHA may project-base voucher assistance without any requirement that the owner invest other funds in the property. This change allows PHAs to decide whether to link project-basing to new construction or rehabilitation or simply to use project-basing as a tool to promote voucher utilization and expand housing opportunities. Previously, construction or rehabilitation costs of at least \$1,000 per unit were required before a unit could receive a project-based voucher.
- *Income mix*—No more than 25 percent of the units in a “building” may receive project-based voucher assistance unless the assisted units are made available to elderly or disabled families or families receiving supportive services. (The statute does not define what it means to receive supportive services.) Under prior law there was no limitation on the percent of units in a development that could receive project-based assistance. Note that the limitation applies only to units assisted with project-based vouchers; there is no provision regarding the income of other tenants or whether families in other units receive tenant-based rental assistance.
- *Resident choice and continued assistance*—In a paradigm shift from previous federal housing policy, families occupying units with project-based voucher assistance have the right to move after one year with a tenant-based voucher or its equivalent. A PHA may fulfill this requirement by providing the family with the next available “turnover” or new voucher from the PHA’s portfolio.⁵ As described in more detail below, families that move from a unit with project-based voucher assistance are replaced by families referred from the PHA’s waiting list, ensuring that the specified number of subsidies continue to be utilized at the development throughout the term of the PHA’s contract with the owner.
- *Contract Term and Extension*—PHAs have the discretion to determine the initial contract term up to a maximum of 10 years, subject to the availability of adequate annual appropriations. The initial contract may be extended for the period the PHA considers appropriate to achieve long-term affordability or to expand housing opportunities. At the PHA’s option, the initial contract may bind the owner to accept extensions offered by the PHA. These provisions substantially change prior law, which in effect prevented a contract longer than one year but required owners to agree to any offered extension. In addition, the amendment eliminates the previous statutory requirement that HUD must approve a PHA decision to extend a contract with an owner.
- *Inspections*—Project-based voucher contracts are subject to the same annual inspection requirements as regular vouchers, except that a PHA is permitted to develop a streamlined inspection system for the development rather than inspecting each unit each year.
- *Rent*—The PHA’s contract with the owner sets the rent for each unit with project-based assistance, subject to the same “rent reasonableness” test that applies in the regular voucher program. The maximum rent is the same as the maximum voucher payment standard: 110 percent of the HUD-determined fair market rent (FMR), or any higher exception payment standard approved by HUD. Up to this maximum, rents for units with project-based vouchers may exceed the payment standard[s] established by the PHA for the area.
- *Special Low Income Housing Tax Credits rules*—To ensure that vouchers can be used in units financed with Low Income Housing Tax Credits (LIHTC), special rules apply. If a tax credit development is located outside of a qualified census tract (i.e., outside of areas where more than half of the households have incomes below 60 percent of the area median income), the rent may be as high as the rent charged for comparable units in the development with tax credit subsidies but without additional rental assistance. The impact of this provision could be substantial. Based on a comparison of FY 2000 FMRs and maximum LIHTC rents (which vary with area median income), the Center on Budget and Policy Priorities calculates that in 243 metropolitan areas, containing nearly 60 percent of the nation’s metropolitan population, maximum LIHTC rents exceed 110 percent of the FMR.
- *Annual rent increases*—Annual rent increases may be approved by the PHA so long as the increased rents do not exceed these maximums and are reasonable. Previously, rents were limited to the FMR and could only be increased by HUD’s annual adjustment factors.
- *Family share of the rent*—The previous statutory requirement that families with project-based vouchers pay 30 percent of their adjusted income for rent (subject to certain exceptions) is unchanged.

⁵HUD estimates that about 11 percent of existing housing vouchers become available for reissuance each year as families leave the program, making the provision of continued assistance feasible for all but the smallest PHAs regardless of whether a PHA receives funding from HUD for new vouchers. HUD may determine by regulation what type of subsidy is “equivalent” to a Section 8 voucher. In order for a time-limited, tenant-based subsidy funded under HOME or with TANF funds to qualify, regular voucher assistance would have to be available when the time-limited assistance ends.

- *Waiting list*—The PHA maintains the waiting list for project-based voucher assistance. A PHA may either use its single waiting list for the voucher program, or it may use a separate waiting list for project-based voucher units if all applicants on the tenant-based list are given the opportunity to place their names on the separate list. (In this way, applicants who have already been waiting on the agency's tenant-based waiting list are given the option to pursue a project-based opening before a project-based unit is made available to new applicants.) PHAs are authorized to use special preferences or criteria for selecting applicants to receive project-based assistance (e.g., to be consistent with a supportive housing program). Owners are responsible for selecting tenants for units assisted with project-based vouchers from among the families referred by the PHA from its waiting list. (An owner may refer families that apply directly to the development to the PHA to be placed on the waiting list. Owners may be able to make such referrals to PHAs electronically.) No family would be required to accept project-based assistance; families that reject an offer of project-based assistance or are rejected by the owner and are on the tenant-based list retain their place on that list. Under HUD's rules that are now superceded, PHAs could maintain the waiting list for units with project-based assistance (separately or as part of the tenant-based list), or they could authorize owners to maintain their own waiting list. The owner option is now foreclosed.
- *Targeting*—Tenant-based voucher eligibility and targeting rules apply. This means that the income of families selected for project-based voucher units is considered in determining whether the PHA has complied with the requirement that at least 75 percent of new admissions to the voucher program each year must have incomes at or below 30 percent of area median. Prior to the amendment the statute was ambiguous regarding whether the 75 percent targeting for the tenant-based program or the 40 percent targeting requirement for the project-based Section 8 program applied to project-based vouchers. The amendment resolves the ambiguity.⁶
- *Vacancy payments*—As an incentive for owners to enter into project-based contracts, PHAs have discretion to decide whether to offer vacancy payments to owners. No vacancy payments were permitted under prior law. Now vacancy payments are limited to 60 days. However, PHAs and owners must seek to reduce the need

for vacancy payments and such payments may not be made if the vacancy is the fault of the owner (e.g., the unit does not pass reinspection or a PHA refers a reasonable number of families to the owner, but the owner refuses to select any of them). Any such vacancy payments are made out of regular voucher funding (rather than administrative fees). A PHA has the discretion to reduce the number of units under a project-based voucher contract if no family accepts a unit within 120 days of the owner's notice to the PHA of the vacancy. The PHA may then reissue the subsidy as a tenant-based voucher. To help ensure that the number of units with project-based assistance is not reduced under this provision when applicants on the waiting list do want the units, applicants are granted the legal right to seek enforcement of the contractual obligations of PHAs and owners under this provision.

- *Location*—A PHA may project-base vouchers only if the contract is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The meaning given to this statutory standard may depend on regulations. There is no statutory provision concerning compliance with site and neighborhood standards, as HUD's regulations currently require.
- *Consistency with PHA Plan*—Such consistency is required as a condition of a PHA entering into a contract to project-base vouchers, but the statute provides no further guidance concerning the meaning of this provision. A PHA may have to amend its plan to specify that vouchers will be project-based before it could do so. Through its review of the plan, HUD may determine whether the proposed location of project-based units complies with the goal of deconcentrating poverty and expanding housing and economic opportunities.
- *Competitive bidding*—The statute is silent regarding this common objection of PHAs to the current regulations. The report language, however, is critical of HUD's "burdensome" regulations.
- *Financial incentives*—Financial incentives for owners to enter into a project-based voucher contract include the increased rent levels, vacancy payments, and the security of long-term contracts (as well as any incentive a PHA may offer through competitive advantage for other funds). Whether and how a PHA uses these tools is up to the PHA.
- *Effective date*—The substitution of the new statutory language for the prior Section 8(o)(13) of the *U.S. Housing Act* was effective when the bill was signed into law, October 27, 2000. Many of the provisions of HUD's Part 983 regulations for the project-based certificate program directly conflict with the new statute. It is expected that HUD will publish a notice shortly in the Federal Regis-

⁶By terming the granting of a tenant-based voucher to a family in a project-based assisted unit that wishes to move "continued" assistance, the statute implies that such issuance of a tenant-based voucher to a previously assisted family does not count for targeting purposes. This means that if an extremely low-income family increases its income during its year or more in the project-based voucher unit (but is still eligible for a voucher subsidy), it can be issued a tenant-based voucher as continued assistance without regard to its income.

ter informing PHAs that the amendments were effective upon enactment and can be implemented by PHAs prior to the promulgation of regulations. The notice is also likely, however, to instruct PHAs that they must continue to comply with the Part 983 regulations that are not directly contradicted by the new statute until new regulations are issued.

These new statutory changes should permit more communities to use project-based vouchers as an important part of a local housing strategy, especially where voucher utilization is proving difficult or where meeting other housing needs requires use of the project-based format. ■

CONGRESS ALSO PASSES H.R. 5640 AFFECTING HOMEOWNERSHIP AND ELDERLY HOUSING

In its lame-duck session, the 106th Congress passed a lengthy, dormant housing bill. H.R. 5640, the *American Homeownership and Economic Opportunity Act*,¹ passed the House by voice vote on December 5 and proceeded under unanimous consent by the Senate on December 6, once the objections of some Senators to certain targeted homeownership provisions in the bill were satisfied by the removal of those provisions from the House version. H.R. 5640 includes numerous provisions that were initially part of other bills (H.R. 1776, S.1452, H.R. 202, and S. 2733)² that had earlier passed the House or the Senate. Most notably, H.R. 5640 contains important revisions to some of the financing rules for HUD's Section 202 and 811 housing programs for the elderly and handicapped. Finally, the bill also revises some of the enhanced voucher provisions contained in the *Fiscal Year 2001 VA-HUD-Independent Agencies Appropriations Bill*.³ It is expected that the President will sign the bill prior to the end of the year. Following is a summary of the key provisions of this bill.

Section 8 Homeownership Program

The bill makes two changes to the recently implemented Section 8 homeownership program:⁴

¹A copy of the bill may be obtained from the Library of Congress' THOMAS Web site at thomas.loc.gov.

²H.R. 1776 had concentrated on provisions intended to increase homeownership opportunities for low- and moderate-income households and reduce regulatory barriers to affordable housing.

³See *Congress Passes Modest Fiscal Year 2001 HUD Budget*, pg. 184.

⁴See *HUD Issues Final Rule Implementing the Section 8 Homeownership Program*, 30 HOUS. L. BULL 127 (Sept. 2000).

- it grants authority to PHAs to make a grant, equal to 12 months of voucher payments, to participants in the homeownership program for use as a contribution towards the downpayment on the purchase of a home under the program, in lieu of monthly assistance; and
- it creates a three-year pilot homeownership program for persons with disabilities that is comparable to the Section 8 homeownership program, except that it permits participation by families with incomes up to 99 percent of area median income and requires that voucher payments on behalf of the participating households be made directly to the mortgagee.

Rural Housing Programs

The bill makes a number of changes to the housing programs of the Rural Housing Service (RHS). These include:

- authorizing refinancing of existing balances of guaranteed RHS home loans at the same or lower interest rate;
- authorizing RHS to make Section 504 home repair loans of up to \$7,500 without securing the promissory note for the loan;
- expanding eligibility for the Section 514 farm labor housing program to limited partnerships;
- extending to 2010 the rural area classification for any area or community that was classified rural prior to the 1990 census, provided its population does not exceed 25,000;
- extending eligibility for the rural rental guarantee program to Indian tribes; and
- adopting both civil and criminal sanctions for equity-skimming by rental housing owners.

HUD's Elderly and Disabled Housing Programs

- Requires HUD to approve prepayment or refinancing of Section 202 mortgages on a sponsor's request if the sponsor commits to continued low-income use for the remaining term of the loan or the rental assistance contract;
- Requires that at least 50 percent of annual savings on refinancing (primarily reduced rental assistance) be used in a manner that is advantageous to tenants (e.g., project rehabilitation or service coordinators);
- Reauthorizes the Section 202/811 programs as well as grants for service coordinators for three years;
- Allows 202 sponsors to form limited partnerships with for-profits in which the nonprofits are the controlling partner, to enable sponsors to utilize Low Income Housing Tax Credits (LIHTC) and build larger developments, apparently with separate rules for the different kinds of financing;
- Allows private nonprofit housing providers to utilize mixed funding sources and acquire properties other than those of the former Resolution Trust Corporation;

- Allows the use of project reserves to reduce the number of dwelling units in a 202 or 811 project;
- Allows service coordinators to assist low-income elderly or disabled families not only on-site, but also in the vicinity of an eligible property; and
- Permits tenant-based assistance under Section 811 to be provided by a private nonprofit organization as well as by a housing authority, and caps the amount of tenant-based assistance under Section 811 at 25 percent of the annual appropriation.

Other HUD Multifamily Housing Programs

- Allows owners of uninsured Section 236 projects to retain excess income, the same as FHA-insured projects;
- Authorizes HUD to return excess income revenues remitted by owners since the effective date of the law allowing retention.

Enhanced Vouchers

There are two improvements concerning enhanced vouchers:

- the eligibility date for enhanced vouchers is extended back to October 1, 1994 (this year's appropriations law had already extended the eligibility date back to October 1, 1996); and
- a "no harm to tenants" limitation is imposed on HUD's use of its authority to put "other reasonable limits" on the value of enhanced vouchers (which was also contained in this year's appropriations bill). ■

COMPUTER MATCHING INCOME VERIFICATION PROGRAM UPDATE

The Department of Housing and Urban Development (HUD) continues to implement the *Computer Matching Income Verification Program* (CMIV), a program designed to identify individuals with discrepancies between the income reported to HUD and that reported to the Internal Revenue Service (IRS) and Social Security Administration (SSA).¹ In August, HUD posted on the Real Estate Assessment Center Web site a *Guide* to the CMIV for Calendar Year 1998 (*Guide*).²

Advocates, in particular the National Alliance of HUD Tenants (NAHT) and the Public Housing Residents National

¹For background on this program, see *HUD Proposes to Implement Income Verification Program for Tenants in Assisted and Public Housing*, 30 HOUS. L. BULL. 43 (Mar./Apr. 2000) and *HUD Tenant Income Verification Program Temporarily Suspended Pending Improvements*, 30 HOUS. L. BULL. 93 (July 2000).

²Calendar Year 1998 Baseline Income Discrepancy Resolution Guide, Version 1.0, Release 1.8, August 3, 2000 at hud.gov/react/products/tass/tass_guide_poa.html.

Organizing Campaign (PHRNOC) and LALSHAC have been seeking to clarify and improve a number of aspects of the program. On a national level, the issues involve the CMIV program for income identified for Calendar Year 1998 and Calendar Year 1999, a proposed program to provide relief for tenants identified as having overpaid rent and a notice to be sent to all residents of public and assisted housing informing them of the applicable income exclusions and deductions. Locally, advocates have also worked to inform tenants of their rights and to intervene where possible to avoid harsh results.³

For the Calendar Year 1998 CMIV program, advocates consistently sought a policy of no retroactive rent collection, due process protections for tenants with disputes regarding the claim of an income discrepancy, and clear guidance on the applicability of the pertinent earned income disregard for public housing residents. On the first issue of no retroactive rent adjustments, HUD's position is that it:

will not require or encourage [public housing authorities] owners/agents [POAs] to make rental adjustments for prior years for income under reported in 1998 that is identified during the [CMIV] process for that year. . . [and] will not require or encourage POAs to seek repayment. However, [POAs] may choose to recover excess rental assistance where the underreporting of the income was egregious.⁴

When advocates questioned whether the no retroactive rent collection policy conflicted with other HUD directives, HUD issued two letters, one each from the Assistant Secretary of Housing and the Assistant Secretary of Public and Indian Housing, stating that the policy contained in the Calendar Year 1998 *Income Discrepancy Resolution Guide* prevailed over any other guidance.⁵ In accordance with the commitment not to encourage or require retroactive payments, HUD also agreed that it will remove any reference to termination of benefits in the case of the tenant's refusal to repay excessive rents from a sample letter included in Appendix G to the *Guide* for use by POAs when a tenant is failing to cooperate in the CMIV program.⁶

³Advocates created a flier to distribute to tenants informing them of their rights.

⁴Letter from William C. Apgar, HUD Assistant Secretary for Housing/FH Commissioner, to Owners and Agents (Oct. 6, 2000). The first page of this letter is available at hud.gov/react/products/tass/tass_doc.html. To date, HUD has not defined the term egregious.

⁵*Id.* and Letter from Harold Lucas, Assistant Secretary for Public and Indian Housing, to Public Housing Agencies (Nov. 21, 2000), hud.gov/react/pdf/nov21_ph_itr.pdf. Significantly, however, HUD refused to repeal or modify HUD Notice H 2000-18 (Sept. 7, 2000) which states that "where there are discrepancies, owners must recertify tenants at the appropriate rent and require, where necessary, the applicable reimbursement."

⁶Enclosure to letter from Saul N. Ramirez, Jr., HUD Deputy Secretary, to Catherine Bishop, NHLP (Nov. 13, 2000) (as of December 15, 2000, the *Guide* had not been amended).

Advocates also urged HUD to set forth, for subsidized tenants in particular,⁷ a process whereby tenants could contest a determination by the POA that there was an income discrepancy. In the letters that were sent to each subsidized tenant who had an identified income discrepancy, HUD included a statement that “[i]f you believe that you have been treated unfairly, you may call your local HUD Office of Housing for further clarification of your rights and responsibilities, and, if you desire, HUD will review the process and your manager’s decision before any final action is taken.”⁸ To date HUD has declined to go beyond that wording but did agree to conform the *Guide* to the above statement.⁹ HUD also made available a list of HUD staff who are the designated individuals at the local HUD field offices to deal with issues as they arise in the CMIV program and who will answer tenant questions.¹⁰

HUD agreed that the earned income disregard which was in effect for public housing tenants for the 1998 Calendar Year would be referenced in Appendix H of the *Guide*. In the interim, the HUD Web page for the CMIV provides a link to the two key HUD notices on the earned income deduction which was in effect for 1998.¹¹

HUD appears to be waffling on the critical issue of retroactive adjustments for income discrepancies identified for Calendar Year 1999. Initially, HUD officials stated that retroactive adjustments would not be required or encouraged for Calendar Year 1999. But now the same officials are stating that the decision on the collection of retroactive rent for discrepancies identified for Calendar Year 1999 will be made in the first quarter of 2001.¹²

With respect to implementing a program to identify and notify tenants for whom a discrepancy appears to indicate that the tenant may have paid excessive rents, HUD is reportedly conducting a pilot program to evaluate two methods of identifying such tenants.¹³ In the interim, HUD postponed the implementation date and now appears to be advocating that the match begin with income reported in 1999 and forward, not 1998 and forward as previously discussed. Finally, with respect to the letter to all tenants explaining the exclusions and deductions from income, HUD is moving slowly on this issue. HUD has not committed to a timetable for the release of such a letter. ■

⁷Public housing and tenant-based Section 8 tenants may contest any rent determination through the public housing grievance procedure (24 C.F.R. § 966.50-.57 (2000) or the Section 8 informal hearing (24 C.F.R. § 982.555 (2000)).

⁸The language is slightly different for public housing residents.

⁹Enclosure to letter from Saul N. Ramirez, Jr., HUD Deputy Secretary, to Catherine Bishop, NHLP (Nov. 13, 2000) (as of December 15, 2000, the *Guide* has not yet been amended).

¹⁰The list of HUD personnel is available from NHLP.

¹¹See HUD Notice PIH 98-2 (HA) -Treatment of Income Received from Training Programs (Jan. 12, 1998); HUD Notice PIH 98-56 (HA)—*Treatment of Income Received from Training Programs—Housing Authority Responsibilities* (Nov. 20, 1998). To date, however, Appendix H of the *Guide* has not been amended.

¹²HUD Response to the National Alliance of HUD Tenants October 10th Letter.

¹³*Id.*

UNIVERSITY OF CALIFORNIA PUBLISHES CASE STUDY REPORT ON RESIDENT PARTICIPATION IN MULTIFAMILY PRESERVATION

In September of this year, the University of California Center for Cooperatives published a case study of resident participation in nonprofit buy-outs of Section 8 multifamily projects. The report, *Resident Participation In HUD Affordable Housing Preservation Projects: What Works?*¹ by Deb Goldberg Grey, examined six California projects² that each went through the buy-out process between 1992 and 1996 through HUD’s Title 2 or Title 6 programs.

The Benefits of and Challenges to Resident Participation

The report emphasizes the important benefits afforded by resident control and participation: more effective project management, the protection of residents’ interests, the strengthening of community and social ties within project sites, and the personal development and empowerment of residents. Along with these benefits, the report explains that an analysis of the six buy-outs identified three principal challenges to resident participation. These challenges include: “[c]omplying with HUD regulations; o]perating in a multi-lingual, multi-cultural environment[; and t]he need for capacity-building for low-skilled groups.”³

Recommendations

To address these challenges and to realize the benefits of resident participation more fully, the report makes three general recommendations: maintenance of a system of checks and balances; the institutionalization of resident training and outreach; and greater recognition by HUD of resident organizations as legitimate partners in the preservation process.⁴

¹Available at cooperatives.ucdavis.edu/publications/housing.html. Funding of the research for the report was provided by the California Department of Housing and Community Development.

²The six projects are: Foothill Plaza, Sacramento; Glen Ridge Apartments, San Francisco; Astoria Gardens, Sylmar; Su Casa Por Cortez, Encinitas; Turnagain Arms, Fallbrook; Cedar Gardens, Fresno. See *Id.* at 1.

³*Id.* at 2.

⁴See *Id.* at 2. The three recommendations made in the report do not precisely correspond to the three challenges the report identifies. While recommendations for checks and balances and training and outreach address concerns about regulatory compliance and the need for resident capacity building, issues relating to linguistic and cultural diversity are not as squarely addressed. In addition, it is not immediately obvious how the report’s call for greater recognition of resident organizations by HUD, while valuable, will allow the challenges to be met.

Checks and Balances

Because of the regulatory and logistical complexity of managing a project, the report recommends the institution of a system of checks and balances. While the exact features of this system are not specified, the report recommends an "annual social audit," ideally to be performed by an outside tenant education group.⁵

Institutionalization of Resident Training and Outreach

The report notes that the assistance and support provided to residents tends to diminish after the conversion of a project to resident control. It recommends on-going organizing and education of residents through structured resident orientation programs, mandatory trainings for board members, and greater opportunities for residents to learn from and with their peers in other properties.⁶ The report also calls for the development of sustainable funding for assistance to resident-controlled properties.

Recognition by HUD of Residents as Legitimate Partners

In a plainly worded discussion, the report states that "HUD's LIHPRHA and ELIHPA programs allowed and encouraged resident groups to take control of their own housing. However, in practice, residents were not only discouraged, but also opposed by [HUD] field office personnel. Ongoing relationships with resident-controlled properties are inconsistent, depending on the asset manager involved."⁷ It recommends greater oversight of asset managers in local field offices and suggests that *HUD Community Builders* could serve this role.

Best Practices and Future Needs

The report concludes with a survey of best practices and a description of future needs in supporting resident participation. Four California-based initiatives and one Massachusetts effort are identified as best practices that promote both resident participation and long-term sustainability of projects.⁸ In its discussion of future needs, the report acknowledges the difficulties of resident control in LIHTC properties, calls for greater recognition of the value of resident participation in HUD policy, and recommends HUD funding to support resident participation.⁹ ■

⁵*Id.* at 28-9.

⁶*Id.* at 30.

⁷*Id.* at 30-1. This situation of asset manager opposition to resident control, described as "untenable," is not listed among the principal challenges identified in the opening pages of the report. *Id.* at 31.

⁸*See Id.* at 32-7. (Sacramento Mutual Housing Association; Anti-Displacement Project, Springfield, MA; Los Angeles Countywide Alliance of HUD Tenants; San Diego Countywide Alliance of Tenants; and San Francisco Redevelopment Agency, Housing Preservation Program).

⁹*See Id.* at 38-40.

NEW FAIR HOUSING LEGISLATION IN CALIFORNIA PROMOTES NEEDS OF SENIORS AND ERADICATION OF EXISTING DISCRIMINATORY RESTRICTIVE COVENANTS

Two recent changes to fair housing statutes in California further reasonable accommodations for senior residents and strengthen anti-discrimination homeownership laws. Senate Bill (SB) 2011 (Escutia) provides increased occupancy rights for health providers and disabled children and grandchildren of residents in senior housing. The second legislative action, Assembly Bill (AB) 1493 (Nakano), implements new procedural requirements that should eradicate discriminatory restrictive covenants in documents governing real property ownership. Low-income housing advocates may want to consider these new laws when promoting similar fair housing legislation in their communities.

Protecting Family and Caregiver Needs in Senior Housing

Many residents of senior housing are threatened with eviction because of the residency of unqualified non-senior family members or caregivers in their units. Currently, residency in California senior developments is limited to seniors only; all other residents of the units must be "qualified permanent residents." Under the current definition, "qualified permanent resident" includes an adult dependent child with a permanent physical or mental impairment. In addition, under current law, a non-senior cohabitant must be married to the senior resident to become a qualified permanent resident. Health care providers are allowed only if the provider is hired to provide live-in, long-term, or terminal health care to a senior resident.

SB 2011, which was signed into law on September 29, 2000, provides broader definitions to permit non-senior occupants in senior units. Effective January 1, 2001, the definition of "qualified permanent resident" will be expanded to include "a disabled person or person with a disabling illness or injury who is a child or grandchild of the senior citizen or qualified permanent resident . . . who needs to live with the senior citizen or qualified permanent resident because of a disabling condition, illness, or injury."¹ The non-senior resident may remain in the unit for up to one year after such time as the disabling condition ends. In addition, the definition of "cohabitant" was also expanded to include domestic partners as well as married couples.

¹Cal. Civil Code § 51.3(b)(3) [emphasis added].

Upon the death or dissolution of marriage, or upon hospitalization or other prolonged absence of the senior resident, any qualified permanent resident is entitled to continue occupancy, residency or use of the dwelling unit as a permitted resident.²

The statutory residency requirements were also clarified to provide an express right to occupancy and to incorporate occupancy protections for permitted health care providers. Although health care providers are still not considered "qualified permanent residents," the statute expands the definition of health care provider beyond hired care and now includes family members who provide substantial live-in, long-term or terminal health care by either assisting the resident with necessary daily activities and/or providing medical treatment.³ Family members who provide home health services may be compensated for such services with room and board.⁴ Furthermore, under existing law, health care providers were only permitted to occupy the unit when they were actually providing care for the resident—even if the resident was hospitalized for a short period of time. Under the amended statute, the health care provider may continue living in the unit for 90 days if the senior is absent due to hospitalization or necessary medical treatment as long as the senior expects to return to the unit within 90 days. Thereafter, and upon written request and approval by the owner, board of directors or governing board, the health care resident may remain in the premises for longer than 90 days if it appears that the senior will return within an additional 90-day period.⁵

Other changes to senior housing law include a permanent exemption from design requirements for housing accommodations built prior to February 8, 1982, and a presumption that senior housing built after January 1, 2001, which includes statutorily specified design elements, meets the physical and social needs of senior citizens.⁶ In addition, a senior citizen housing development in California is now defined to mean "a residential development developed, substantially rehabilitated, or substantially renovated for, senior citizens that has at least 35 dwelling units."⁷

Eliminating Discriminatory Restrictive Real Property Covenants

With the increase of homeownership opportunities for lower-income families, including the Section 8 Homeownership Program, housing advocates may become increasingly aware of existing or potential discriminatory practices which may have a chilling effect on new home buyers. One such

practice is the existence of race restrictive covenants that are often recorded against older homes—which typically constitute the available housing stock for first-time, low-income homeowners. Another practice which occurs in newer developments, such as condominiums, includes covenants restricting ownership to "traditional" family units or to residents without children.

After its creation by the National Housing Act of 1934 and continuing until 1947, FHA underwriting rules required racial segregation and racially restrictive covenants

Ironically, the federal government's own homeownership programs reinforced discrimination and segregation in the nation's housing stock. The early Federal Housing Administration (FHA) mortgage insurance programs encouraged middle-class white families to obtain financing for new housing in suburban subdivisions which promoted racial segregation.⁸ As a result, beginning in the 1930s and continuing for nearly two decades, housing developers recorded race-restrictive covenants and deed restrictions against the property which thereafter governed future residency. In fact, after its creation by the *National Housing Act of 1934* and continuing until 1947, FHA underwriting rules required racial segregation and racially restrictive covenants. These declarations typically prohibited the purchase and occupancy of homes in the subdivision by persons with specified ancestry or of a certain race (except for servants).⁹ The covenants, however, were not restricted solely to subdivision developments; racial deed restrictions were also recorded by individual property owners to further racial exclusion in certain communities.

In 1948, the U.S. Supreme Court held that racially restrictive covenants were not enforceable.¹⁰ However, even

⁸See Stephen M. Dane, *Eliminating the Labyrinth: Proposal to Simplify Federal Mortgage Lending Laws*, 26 U. Mich. J. L. Ref. 527, 533-535 (1993), Roberta Achtenberg, *Symposium: Shaping American Communities: Segregation, Housing and the Urban Poor [Keynote Address]*, 143 U. Pa. L. Rev. 1191, 1993 (1995), Kenneth Jackson, *Crabgrass Frontier: The Suburbanization of the United States*, 190-218 (1985), Douglas S. Massey and Nancy A. Denson, *American Apartheid: Segregation and the Making of the Underclass* (1993).

⁹For example, one California subdivision employed a provision in its recorded subdivision documents which stated: "No person of African, Japanese, Chinese, or of any Mongolian descent shall be allowed to purchase, own, or lease said real property, or any part thereof, or to occupy, except as servants. . . ." Conversely, other clauses declare that "No person other than one of the White Caucasian Race shall rent, lease, use or occupy any building on any lot in said Tract, except [for nonwhite, domestic servants employed by either an owner or tenant]."

¹⁰*Shelley v. Kraemer*, 334 U.S. 1 (1948).

²*Id.* § 51.3(e).

³*Id.* § 51.3(b)(7).

⁴*Id.* § 51.3(i).

⁵*Id.* § 51.3(b)(7)(B).

⁶*Id.* § 51.2(a) and (d).

⁷*Id.* § 51.3(b)(4).

though declared to be unenforceable, no law expressly prohibited, or sought to correct, the existence of discriminatory restrictive covenants. Furthermore, since these covenants are recorded against the property, the restrictions “run with the land” and remain in the chain of title for that particular property. As a result, declarations containing offensive provisions are regularly disseminated to the public by title and escrow companies, county recorders, homeowners’ associations and real estate practitioners. When a new buyer purchases a home and is provided a copy of the covenants governing the property, the buyer is often confronted with a document containing the offensive language. Even more disturbing, homeowners are often met with resistance when they attempt to remove these declarations governing their property—even though race-restrictive covenants are no longer legally enforceable.

New California law seeks to correct these problems. After passing through the California Legislature by unanimous vote, the first corrective bill, SB 1148 (Burton), became effective January 1, 2000. Subsequent legislation, AB 1493, was signed by the Governor in September 2000, and because it became effective immediately, it provides a procedure for the homeowner to eliminate such clauses in property documents. The two bills reach beyond race restrictions by expressly prohibiting the existence of any restrictive covenant that discriminates against any person protected under both the California and federal fair housing acts.¹¹ It clarifies that the existence of any such restrictive covenant in itself constitutes prohibited discrimination. Thus, homeowners’ associations are required to amend their current governing documents to delete such covenants and are subject to legal action if they fail to do so in a timely manner. Moreover, any person who files a document for the express purpose of adding a racially restrictive covenant is guilty of a misdemeanor with prosecution being permitted up to three years after the discovery of the recording of the document.

In addition, the law now requires all persons and entities who regularly disseminate declarations to provide notice on the front page of the document of the possible existence of restrictions that violate fair housing law.¹² The notice, which is to be provided in 14-point boldface type, must state the following: “If this document contains any restriction based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void and may be removed pursuant to Section 12956.1 of the Government Code. . .”

The notice provides an exemption for occupants residing in lawfully designated senior and older-person housing.

Under AB 1493, homeowners themselves have the opportunity to remove discriminatory covenants from their property title. Under this procedure, the homeowner may

file an application with the state Department of Fair Employment and Housing requesting a determination of whether the restrictive covenant violates the fair housing laws and is therefore void.¹³ The department must process the application within 90 days. If it finds that the covenant violates fair housing law, the department must issue a statement of its finding which will enable the homeowner to strike out the offensive language and re-record the modified document with the county recorder. Other states should be urged to follow California’s lead to eliminate any discriminatory restrictions that currently exist in recorded documents throughout the nation. ■

NHLP HOSTS SUCCESSFUL LALSHAC MEETING

On November 19th and 20th, NHLP hosted the national meeting of the Loose Association of Legal Services Housing Advocates and Clients (LALSHAC) at the Washington Plaza Hotel in Washington, D.C. The meeting was preceded by a one-day Federal Housing Law Training at the same location. Both these gatherings, the largest in LALSHAC’s 23-year history, went extremely well and participants left equipped with new knowledge, connections, information and, perhaps most importantly, energy and enthusiasm to tackle the pressing issues facing all of us working in the affordable housing field today. Participants in the training and in the meeting came from as far away as Florida, Arizona, Minnesota and California. They included legal services attorneys, housing advocates and tenant organizers, with both the National Alliance of HUD Tenants and the Public Housing Tenants’ Organizing Campaign playing a significant role in working groups and plenaries.

The training, attended by more than 140 individuals, provided an information-packed day that covered issues including the Public Housing and Voucher Program, the new Section 8 Homeownership Program, Preservation of Project-Based Section 8 properties as well as Fair Housing litigation. Presenters included NHLP staff attorneys Jim Grow, Catherine Bishop and Lynn Martinez, Jack Daniel and Melissa Barrios of California Rural Legal Assistance, and Ellen Johnson of Legal Aid Services of Oregon.

More than 150 people attended the LALSHAC meeting the next two days. Working group sessions covered a wide variety of current housing issues, including the Public Housing Annual Plan Process, Increased Utilization of Vouchers, the Low-Income Housing Tax Credit Program, the Domestic Violence Impact of Housing, Public Housing Demolition, Fair Housing Issues and Section 8 Preservation.

There also were several interesting plenary sessions. The Sunday Plenary provided an informative insider’s view of

¹¹See Cal. Civil Code § 1352.5; Cal. Gov’t Code §§ 12955(l), 12956.1.

¹²Cal. Government Code § 12956.1(b)(1).

¹³*Id.* § 12956.1(c).

the Department of Housing and Urban Development from several former legal services and other attorneys who worked at HUD for one or more years and who offered their personal perspectives on how the agency functions. They also shared valuable insights on how to effectively communicate with HUD officials and influence local, regional and national HUD policy. On Monday, a panel on the intersection of welfare and housing issues provided a stimulating array of speakers including Barbara Sard and Edward Lazere from the Center on Budget and Policy Priorities and Deepak Bhargava of the Center for Community Change. Speakers looked at the impact of welfare reform on poverty rates, employment rates and public policy. They also examined the ways in which housing and welfare policies are inextricably linked and how access to decent, affordable housing located near employment and services is essential if families moving from welfare are to gain and retain living-wage employment. Other plenaries focused on Fair Housing issues and the workings of LALSHAC.

The meeting provided an opportunity for participating legal services attorneys, advocates and tenants to meet with representatives from HUD. In a meeting with Elinor Bacon, Deputy Assistant Director of HUD, participants discussed their concerns about the HOPE VI program and its impact on tenants and communities. The Multi-Family working group met with Shaun Donovan, HUD Deputy Assistant Secretary for Multifamily Housing, Gerald Benoit, HUD's Director of Real Estate and Housing Performance Division, and his assistant Mike Dennis, a senior housing program specialist. Participants in this forum discussed with HUD representatives what policies could be introduced to preserve housing stock and what can be done to ensure better protections for the residents, including notices, access to information and enhanced vouchers to prevent displacement. The Voucher Working Group also met with Gerald Benoit, who is responsible for the administration of the Section 8 program. In all the working groups, the HUD officials seemed responsive and overall the discussions were quite fruitful.

At the same time that these working groups were meeting with representatives from HUD, the Fair Housing working group met with civil rights groups. Out of this session came a further commitment to increase fair housing in the LIHTC program.

Luncheon speakers addressed all the attendees on both Sunday and Monday. Myrna Iton, a community organizer from the AFL-CIO Organizing Project in Stamford, Connecticut, made a Power Point presentation on the Organizing Project's successful campaign to block the demolition of public housing for the construction of a HOPE VI development as well as their efforts to increase affordable housing in the community. Dushaw Hawkins of the National Public Housing Tenants' Organizing Campaign spoke about the organization's work and collaboration with legal services attorneys. Lastly, Jonathan Miller, the Democratic Staff Person on the Senate Committee on Banking, Housing and Urban Affairs spoke about housing legislation in the next Congress.

One highlight of the conference was the lunchtime presentation of the first David B. Bryson Award to Bill Wilen of the National Center on Poverty Law. NHLP decided to establish the award following the death in 1999 of David Bryson, our esteemed colleague and nationally renowned housing legal advocate. The award is designed to recognize the achievements of advocates like David who have shown a long-term commitment and a record of exemplary achievements in furthering housing justice for the poor. With a long career in legal services and an exceptional commitment to serving poor people both in Chicago and nationally, Bill Wilen personifies these qualities and is certainly one of those individuals who will ensure that David's legacy will continue. The award, which had not previously been made public, was presented to Bill by Florence Wagman Roisman. Completely surprised and obviously moved by the presentation of the award, Bill, who considered David a mentor and hero, nevertheless gave a very powerful speech recalling, among other things, his last meeting with David. Bill received a prolonged standing ovation from the delighted audience.

THANKS TO OUR LALSHAC SUPPORTERS

The National Housing Law Project acknowledges and thanks the following firms, individuals and corporations for their very generous contributions that helped underwrite the Year 2000 LALSHAC Meeting.

**ARENT FOX KINTNER
PLOTKIN & KAHN, PLLC
Washington, D.C.**

**NEIGHBORHOOD
REINVESTMENT CORPORATION
Washington, D.C.**

**TELESIS CORPORATION,
Washington, D.C.**

**WILMER, CUTLER, & PICKERING
Washington, D.C.**

**HELEN DUNLAP
Chicago, IL**

**SHOREBANK ADVISORY SERVICES
Chicago, IL**

Despite a rather temperamental heating system in the hotel conference rooms that left attendees alternately sweating profusely or searching for gloves and mufflers, the conference was a huge success. The quality of participation and contributions from everyone in attendance was outstanding and it was particularly gratifying to see a broad mix of legal services "old-timers" along with numerous new faces. Indeed, this mix seemed to work well both in creating an atmosphere where mentorship of newcomers could take place while at the same time, enormous enthusiasm for considering new strategies was displayed. Given the rather bleak political landscape we now face, this enthusiasm was particularly gratifying. Here at NHLP, we look forward to working with all those advocates and tenant organizers who attended in continuing to strengthen the national network dedicated to advancing housing justice for all. We also wish to thank everyone who took part in the meeting: all the presenters who did such a wonderful job, the speakers who brought such a diverse array of knowledge and expertise, and everyone who participated in creating such a positive conference. We hope to see you all at our next LALSHAC meeting.

More detailed information about the LALSHAC meeting, particularly information about the activities that the various working groups agreed to undertake in the next year, as well as working group contacts, will be posted on NHLP's Web site in January. ■

RECENT HOUSING-RELATED REGULATIONS AND NOTICES

The following are significant affordable housing-related regulations and notices that the Department of Housing and Urban Development (HUD), and the Department of Agriculture's (USDA) Rural Housing Service (RHS) issued in October and November of 2000. For the most part, the summaries are taken directly from the summary of the regulation in the *Federal Register* or each notice's introductory paragraphs.

Copies of the cited documents may be secured from various sources, including (1) the Government Printing Office's Web site on the World Wide Web,¹ (2) bound volumes of the Federal Register, (3) HUD Clips,² (4) HUD,³ and (5) USDA's/Rural Development Web page.⁴ Citations are included with each document to help you secure copies.

¹At access.gpo.gov/su_docs.

²At hudclips.org/cgi/index.cgi.

³To order notices and handbooks from HUD, call (800) 767-7468 or fax (202) 708-2313.

⁴At rdinit.usda.gov/regs/.

HUD Regulations

Fair Market Rents: Increased Fair Market Rents and Higher Payment Standards for Certain Areas; Interim rule 65 Fed. Reg. 58,870 (Oct. 2, 2000)

Summary: This interim rule implements HUD's new fair market rent (FMR) policy. The new FMR policy targets relief to areas where higher FMRs are needed to help families, assisted under HUD's Housing Choice Voucher Program as well as other HUD programs, find and lease decent and affordable housing. With respect to the Housing Choice Voucher Program, the policy provides that where necessary to ensure the effective operation of this program, PHAs will be allowed to set their payment standards based on the 50th percentile rent rather than the published 40th percentile FMR. This aspect of the policy is designed to ensure that families with housing vouchers have access to at least half of all available units in those areas. In addition, the new FMR policy increases FMRs to the 50th percentile in those metropolitan areas where an FMR increase is most needed to promote residential choice, help families move closer to areas of job growth, and deconcentrate poverty. Where it is determined that an FMR increase is needed in a metropolitan area, the increased FMR applies to all the HUD programs that use FMRs in that metropolitan area.

Effective Date: December 1, 2000.

Comment Due Date: November 16, 2000.

Disposition of HUD-Acquired Single Family Property; Officer Next Door Sales Program; Final rule 65 Fed. Reg. 60,324 (Oct. 10, 2000)

Summary: This rule on the Officer Next Door Sales program (OND Sales program) makes HUD-acquired single family homes available, with certain restrictions, to law enforcement officers for purchase at a discount from list prices. This final rule addresses the comments received on the interim rule and expands eligibility for the OND Sales program to include campus police officers employed by private colleges and universities.

Effective Date: November 9, 2000.

Increased Distributions to Owners of Certain HUD-Assisted Multifamily Rental Projects; Final rule 65 Fed. Reg. 61,072 (Oct. 13, 2000)

Summary: This final rule adds an exception to current limits on distributions to owners for HUD-assisted multifamily rental projects. HUD may now permit increased distributions for owners of projects with Section 8 project-based assistance and below-market rents, if such increases are necessary to ensure continued participation of the owners in the Section 8 program.

Effective Date: November 13, 2000.

Prohibition on Use of Community Development Block Grant Assistance for Job-Pirating Activities; Proposed rule 65 Fed. Reg. 63,756 (Oct. 24, 2000)

Summary: This proposed rule implements section 588 of the *Quality Housing and Work Responsibility Act of 1998* (QHWRA) by revising HUD's regulations for the Community Development Block Grant (CDBG) program. Section 588 prohibits state and local governments from using CDBG funds for "job pirating" activities that are likely to result in significant job loss. Job-pirating, in this context, refers to the use of CDBG funds to lure or attract a business and its jobs from one community to another community.

Comment Due Date: December 26, 2000.

Equal Employment Opportunity; Updating of EEO Policies and Procedures; Proposed rule 65 Fed. Reg. 64,319 (Oct. 26, 2000)

Summary: This proposed rule amends HUD's regulations governing the Department's equal employment opportunity policies, procedures and programs and makes them consistent with recently issued regulations of the Equal Employment Opportunity Commission (EEOC).

Comment Due Date: November 27, 2000.

HUD's Regulation of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac); Final rule 65 Fed. Reg. 65,044 (Oct. 31, 2000)

Summary: This final rule establishes new housing goal levels for the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the "Government Sponsored Enterprises," or the "GSEs") for the years 2001 through 2003. The new housing goal levels are established in accordance with the *Federal Housing Enterprises Financial Safety and Soundness Act of 1992* (FHEFSSA), and govern the purchase by Fannie Mae and Freddie Mac of mortgages financing low- and moderate-income housing, special affordable housing, and housing in central cities, rural areas and other underserved areas. Specifically, the final rule increases the Low- and Moderate-Income Housing Goal to 50 percent, the Geographically Targeted Goal to 31 percent, and the Special Affordable Housing Goal to 20 percent of units backing each GSE's annual eligible mortgage transactions.

Effective Date: January 1, 2001.

Revision to the Application Process for the Indian Community Development Block Grants Program for Indian Tribes and Alaska Native Villages; Proposed rule 65 Fed. Reg. 66,592 (Nov. 6, 2000)

Summary: This proposed rule amends HUD's regulations for the Indian Community Development Block Grants program for Indian Tribes and Alaska Native Villages (the "ICDBG" program). These amendments will permit the incorporation of the ICDBG grant application and selection procedures into HUD's SuperNOFA process.

Comment Due Date: December 6, 2000.

Fair Housing Act Regulations Amendments Standards Governing Sexual Harassment Cases; Proposed rule 65 Fed. Reg. 67,666 (Nov. 13, 2000)

Summary: This proposed rule would amend HUD's Fair Housing regulations to establish the standards the Department will use in sexual harassment cases.

Comment Due Date: January 12, 2001.

Increased Distributions to Owners of Certain HUD-Assisted Multifamily Rental Projects; Final rule—Technical Correction 65 Fed. Reg. 68,891 (Nov. 15, 2000)

Summary: This document makes a technical amendment to the final rule that was published October 13, 2000 (65 Fed. Reg. 61,072), which adds an exception to current limits on distributions to owners for HUD-assisted multifamily rental projects.

Effective Date: November 13, 2000.

CDBG Program Regulations on Pre-Award Costs and New Housing Construction; Final rule 65 Fed. Reg. 70,214 (Nov. 21, 2000)

Summary: This rule changes the Community Development Block Grant (CDBG) program to permit a new CDBG grantee without a consolidated plan to be reimbursed for costs for activities related to the development and preparation of its first consolidated plan, and to permit homeownership activities, to the extent authorized by statute, to be funded in connection with new construction.

Effective Date: December 21, 2000.

Consortia of Public Housing Agencies and Joint Ventures; Final Rule 65 Fed. Reg. 71,204 (Nov. 29, 2000)

Summary: This final rule implements a 1998 law that authorizes public housing agencies (PHAs) to administer any or all of their housing programs through a consortium of PHAs. The law also authorizes PHAs to use subsidiaries, joint ventures, partnerships or other business arrangements to administer their housing programs or to provide supportive or social services. This final rule specifies minimum requirements relating to formation and operation of consortia and minimum contents of consortium agreements.

Effective Date: December 29, 2000.

HUD Federal Register Notices

Fair Market Rents for Fiscal Year 2001 for Certain Areas; Notice 65 Fed. Reg. 60,084 (Oct. 6, 2000)

Summary: This notice proposes revised FMRs that reflect the 50th percentile rent levels for 39 areas, as determined by applying the criteria of HUD's interim rule amending its FMR regulations published on October 2, 2000, and trended to April 1, 2001.

Comment Due Date: November 6, 2000.

Funding for Fiscal Year (FY) 2000: Capacity Building for Community Development and Affordable Housing; Notice 65 Fed. Reg. 63,746 (Oct. 24, 2000)

Summary: The Fiscal Year 2000 HUD Appropriations Act provided \$26,250,000 in FY 2000 funds for activities authorized in section 4 of the HUD Demonstration Act of 1993. Of these funds, \$20 million are appropriated to the Enterprise Foundation (Enterprise) and the Local Initiatives Support Corporation (LISC) for activities as authorized by section 4, as in effect immediately before June 12, 1997. The funds are to be used for capacity building for community development and affordable housing, provided that at least \$4 million of the funding is used in rural areas, including tribal areas. This notice, which takes effect upon issuance, indicates that HUD will equally divide \$20 million appropriated for this capacity-building initiative between Enterprise and LISC. In addition, \$3.75 million is appropriated to Habitat for Humanity and \$2.5 million to Youthbuild USA for section 4 activities. This notice also provides details regarding administrative and other requirements which shall apply to this program.

Public Housing Assessment System (PHAS); Notice of PHAS Transition Assistance for Certain PHAs Concerning PHA Inspection of Occupied Units; Notice 65 Fed. Reg. 63,605 (Oct. 24, 2000)

Summary: This document notifies public housing agencies (PHAs) with fiscal years ending September 30, 2000, December 31, 2000, March 31, 2001, and June 30, 2001, that they may conduct annual physical inspections of their units in accordance with HUD's Housing Quality Standards.

Uniform Physical Condition Standards and Physical Inspection Requirements; Notice of Availability of Physical Inspection Software and Guidebook and Notice of Compliance Date with Physical Inspection Procedures; Notice 65 Fed. Reg. 63,606 (Oct. 24, 2000)

Summary: On September 1, 1998, HUD published its final rule on Uniform Physical Conditions Standards and Uniform Physical Inspection Requirements for Certain HUD Housing. In that rule, HUD stated that when HUD issued the physical inspection software and guidebook, the availability would be announced by Federal Register notice. The rule also provided that the availability notice would provide the covered entities with 30 days notice to prepare to conduct physical inspections in accordance with the requirements of 24 C.F.R. part 5, subpart G. This notice announces the availability of the software and guidebook, and provides the 30-day notice required by the rule.

Section 8 Housing Assistance Payments Program; Contract Rent Annual Adjustment Factors, Fiscal Year 2001; Notice

Summary: This notice announces revised Annual Adjustment Factors (AAFs) for adjustment of Section 8 contract rents on housing assistance payment contract anniversaries from October 1, 2000.

Effective Date: October 1, 2000.

Public Housing Assessment System (PHAS); Notice of Extended Submission Period for PHAS Management Operations Certification and Audited Financial Statement for Certain PHAs; Notice 65 Fed. Reg. 69,952 (Nov. 21, 2000)

Summary: This document follows HUD's announcement on August 9, 2000, that provided to those PHAs that have fiscal year ends of September 30, 1999, and December 31, 1999, and which did not fully meet the submission requirements for their PHAS management operations certification additional time to submit or resubmit the certification. The August 9, 2000, notice also provided PHAs that have a fiscal year ended September 30, 1999, with additional time to submit audited financial statements. The majority of PHAs covered by the August 9, 2000, notice successfully completed submission or resubmission of the management operations certification or audited financial statement. However, several PHAs continued to experience submission difficulties. This document provides notice that HUD is providing PHAs that have fiscal years ended September 30, 1999, December 31, 1999, and March 31, 2000, with additional time to make their PHAS management operations certification submissions. This document also provides notice that HUD is providing PHAs that have fiscal years ended September 30, 1999, and December 31, 1999, with additional time to make their audited financial statement submissions.

Notice of Funding Availability (NOFA): Resident Opportunities and Self Sufficiency (ROSS) Grants to Support Public Housing Apprenticeship Activities in the Construction Trades and Public Housing Operations 65 Fed. Reg. 71,028 (Nov. 28, 2000)

Summary: The Resident Opportunities and Self Sufficiency (ROSS) Program links services to public housing residents by providing grants for supportive services, resident empowerment activities and activities to assist residents in becoming economically self-sufficient. This NOFA announces HUD's intention to award to eligible housing authorities grants to support employment and training opportunities for residents living in public housing through Apprenticeship activities and programs. As part of the ROSS program, the Public Housing apprenticeship related grants will provide job training and ensure bona fide apprenticeship and employment opportunities in the construction trades and public housing operations that will lead to self-sufficiency for public housing residents. Approximately \$3 million is being made available for the Public Housing Apprenticeship Program under this NOFA.

Privacy Act of 1974; Notice of Matching Program: Matching Tenant Data in Assisted Housing Programs; Notice of a Computer Matching Program between the Department of Housing and Urban Development (HUD) and the Social Security Administration (SSA) and the Internal Revenue Service (IRS)
65 Fed. Reg. 71,112 (Nov. 29, 2000)

Summary: Pursuant to the *Computer Matching and Privacy Protection Act of 1988*, as amended, and the Office of Management and Budget's (OMB) Guidance on the statute, HUD is updating its notice of a matching program involving comparisons between income data provided by applicants or participants in HUD's assisted housing programs and independent sources of income information. The matching program will be carried out to detect inappropriate (excessive or insufficient) housing assistance under the *National Housing Act*, the *United States Housing Act of 1937*, section 101 of the *Housing and Community Development Act of 1965*, the *Native American Housing Assistance and Self-Determination Act of 1996*, and QHRWA. The program provides for the verification of the matching results and the initiation of appropriate administrative or legal actions, primarily through public housing agencies (HAs) and owners and agents (all collectively referred to as POAs). Indian tribes and tribally designated housing entities (TDHEs) are not a mandatory component of the computer matching program. Participation by Indian tribes and TDHEs is discretionary; however, they may receive and use Social Security and Supplemental Security Income matching information provided by HUD. During 1999 the responsibilities for the computer matching program were transferred from the Office of Public and Indian Housing (PIH) to the Real Estate Assessment Center (REAC). This notice provides an overview of computer matching for HUD's assisted housing programs. Specifically, the notice describes HUD's program for computer matching of its tenant data to:

- (a) The Social Security Administration's (SSA) earned income and the Internal Revenue Service's (IRS) unearned income data;
- (b) SSA's wage, social security, supplemental security income and special veterans benefits data;
- (c) State Wage Information Collection Agencies' (SWICAs') wage and unemployment benefit claim information; and
- (d) the Office of Personnel Management's (OPM) personnel data.

Effective Date: Computer matching is expected to begin 30 days after publication of this notice unless comments are received which will result in a contrary determination, or 40 days from the date a computer matching agreement is signed, whichever is later.

Comment Due Date: December 29, 2000.

HUD Notices

Housing Choice Voucher Program—Area Exception Payment Standard Review and Reporting Instructions
Notice PIH 2000-46 (HA) (Sept. 28, 2000)

Summary: This notice explains how area exception payment standard amounts are determined and reviewed, and provides an overview of changes specified in the housing choice voucher program. Also included are reporting instructions for approved area exceptions.

Housing Choice Voucher Program and Rental Certificate Program: PHA Administrative Fees for Lead-Based Paint Hazard Clearance Tests and Risk Assessments
Notice PIH 2000-49 (HA) (Oct. 27, 2000)

Summary: This notice provides instructions to PHAs and HUD field staff regarding funding for extraordinary administrative fees that the Department will approve to reimburse PHAs administering the housing choice voucher program. These fees will reimburse the PHAs for the costs to conduct risk assessments and lead-based paint hazard clearance tests undertaken for initial occupancy and subsequent annual inspections and special inspections associated with approval and continued assisted tenancy. The PHA may contract directly for clearance testing or reimburse the owner where the PHA chooses to require the owners to contract for this service. The owner shall be responsible for subsequent clearance tests where the initial clearance test failed the unit.

Reinstatement and Extension of Notice H 96-78 (HUD), Single Family Property Disposition Program—New Lead-Based Paint Disclosure Procedures; Revised Sales Contract, Form HUD-9548 (previously extended by Notices H 97-58 and H 98-33)
Notice H 00-20 (HUD) (Oct. 12, 2000)

Summary: Notice H 96-78 (HUD), issued September 11, 1996, which was previously extended by Notices H 97-58 and H 98-33, is being reinstated and extended to October 31, 2001.

Guidelines for Mark-Up-To-Market Nonprofit Transfers and Budget-Based Rent Increase for Capital Repairs by Nonprofit Owners
Notice H-00-21 (Oct. 12, 2000)

Summary: This notice gives additional guidance to owners, management agents, contract administrators and HUD staff on two important initiatives: the Mark-Up-To-Market Nonprofit Transfers and the Budget-Based Rent Increase for Capital Repairs by Nonprofit Owners. One of the objectives of these notices is for the Department to obtain practical case-by-case experience in processing these types of transactions before promulgating, by regulation, requirements that are not applicable to all transactions.

Disciplinary Actions Against HUD-Qualified Real Estate Brokers.

H 00-22 (HUD) (Oct. 18, 2000)

Summary: The Department recently announced a series of new initiatives to address predatory lending practices targeted at FHA borrowers. These initiatives include actions to prevent property "flipping," inflated appraisals, falsified gift letters and fraudulent underwriting. The Department will use existing enforcement tools in 24 C.F.R. Part 24 to discipline any program participants, including real estate brokers, involved in any aspect of predatory lending. This notice provides guidance on disciplinary actions to be taken against real estate brokers on HUD's qualified selling broker list maintained in the Single Family Acquired Asset Management System (SAMS) as well as guidance on the procedure for deactivation of the real estate broker's Name/Address Identifier (NAID) in SAMS.

RHS Regulations

Operating Assistance for Off-Farm Migrant Farmworker Projects; Proposed rule

65 Fed. Reg. 65,790 (Nov. 2, 2000)

Summary: The Rural Housing Service (RHS) proposes to amend its regulations for the Farm Labor Housing (LH) program for off-farm migrant housing projects. This action is taken to implement section 599C(e) of Pub. L. 105-276, enacted October 21, 1998, which amends the Housing Act of 1949 to permit section 521 rental assistance funds to be used as operating assistance in migrant farmworker projects financed under sections 514 or 516. The intended result is to reduce operating costs so that rents may be set at rates that are affordable to low-income migrant farmworkers.

Comment Due Date: Comments must be received on or before January 2, 2001.

Notice of Funding Availability (NOFA) for Section 515 Rural Rental Housing Funds and Section 521 Rental Assistance for Needs Resulting From Hurricanes Dennis, Floyd and Irene; Notice of Extension of Application Deadline

65 Fed. Reg. 70,691 (Nov. 27, 2000)

Summary: The Rural Housing Service (RHS) extends the deadline for submitting applications for section 515 funds and section 521 rental assistance for needs resulting from hurricanes Dennis, Floyd and Irene announced in a notice of funding availability (NOFA) published August 18, 2000 (65 Fed. Reg. 50,497).

Dates: The deadline for submitting applications is extended to 5:00 p.m. local time for each Rural Development State office on December 11, 2000. Acceptance by a post office or private mailer does not constitute delivery.

RHS Notices

Guaranteed Rural Housing (GRH) Single Family Housing Guaranteed Loan Program (SFHGLP) Debt Ratios Waivers

AN No. 3582 (1980-D) (Nov. 1, 2000)

Summary: The purpose of this Administrative Notice (AN) is to elaborate upon the use of debt ratio waivers when approving loan guarantees under the SFHGLP and RD Instruction 1980-D, §1980.345. This AN also provides information on potential compensating factors, including credit scores, to be used by the Agency when evaluating a lender's request for a debt ratio waiver.

Guaranteed Rural Housing (GRH) Single Family Housing Guaranteed Loan Program (SFHGLP) GRH Approved Lender Underwriting Guidelines

AN No. 3583 (1980-D) (Oct. 30, 2000)

Summary: The purpose of this AN is to renew Agency methodology for evaluating "payment shock." The intended outcome of this AN is to provide underwriting guidance to SFHGLP lenders. It is the Agency's expectation that lenders will act responsibly when originating and underwriting loans under RD Instruction 1980-D.

Single Family Housing Guaranteed Loan Program (SFHGLP) Applicant Credit History Verification

AN No. 3587 (1980-D) (Nov. 15, 2000)

Summary: The purpose of this Administrative Notice (AN) is to elaborate upon what forms of credit history and current debt verifications are acceptable for loans guaranteed under the SFHGLP. The intended outcome of this AN is to establish that the Rural Housing Service (RHS) will accept similar verification methodologies currently acceptable to the residential mortgage industry, secondary markets, and other Federal agencies.

Request for Fiscal Year (FY) 2001 Rental Assistance—(RA) Data for Renewal Needs for Multi-Family Housing

AN No. 3588 (1930-C) (Oct. 18, 2000)

Summary: The purpose of this Administrative Notice (AN) is to obtain verified data concerning the need for renewal RA during FY 2001. This data will be used to allocate renewal RA and must be accurate. ■


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