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Submitted via E-mail

Ken Cole, Director
Department of Housing
County of San Mateo
264 Harbor Blvd—Building A
Belmont, CA 94002-4017
fairhousing@smchousing.org

Re: The Draft Assessment of Fair Housing

Dear Director Cole:

These comments are submitted on behalf of the National Housing Law Project (NHLP). NHLP is a legal advocacy center focused on increasing, preserving, and improving affordable housing; expanding and enforcing rights of low-income tenants and homeowners; and increasing housing opportunities for racial and ethnic minorities. Our organization provides technical assistance and policy support on a range of housing issues to legal services and other advocates nationwide. Since 1968, NHLP has been dedicated to advancing housing justice for low-income individuals and families.

We wish to sincerely thank San Mateo County, its staff, and the County's participating partners for the work they have done on the Assessment of Fair Housing (AFH) thus far. We offer the following comments and recommendations for the final AFH. This letter mainly focuses upon the publicly supported housing aspects of the AFH, specifically the analysis for the Housing Authority of the County of San Mateo (HACSM) and the South San Francisco Housing Authority.

We look forward to the implementation of a finalized AFH that reflects the ultimate objective of a fair and inclusive County for all residents.

Community Participation

While the draft does outline the outreach completed by the County, including a helpful breakdown on the number of survey takers from jurisdictions throughout the County, the draft AFH does not detail any outreach completed by the South San Francisco Housing Authority. It is the only participating partner that did not list its individual community participation activities. The final AFH should include a description of how both participating housing authorities met the individual public

participation requirements outlined in 24 C.F.R. part 903.¹ Furthermore, the final AFH should describe involvement by any Resident Advisory Board or other resident organization members.

Fair Housing Analysis

The final AFH should more closely examine possible contributing factors of disproportionate housing needs in publicly supported housing, specifically concerning the Section 8 Housing Choice Voucher program administered by HACSM. For example, survey responses received during the community participation process indicate survey participants encounter considerable difficulties in using their vouchers. According to the draft AFH, 77 percent of survey respondents who are Section 8 voucher holders reported experiencing landlords with policies of not renting to voucher holders.² Furthermore, “[n]early three in four resident survey respondents who have Section 8 vouchers found it ‘very difficult’ to find a landlord that accepts Section 8 and 15 percent found it ‘somewhat difficult.’”³ A large number of voucher holders also reported difficulty finding out information about landlords that will accept Section 8 (61 percent); not having enough time to locate a unit before the voucher expired (45 percent); and an insufficient payment standard (43 percent). Furthermore, 57 percent of survey respondents with Section 8 vouchers who had searched for housing in San Mateo County within the last five years experienced a denial.⁴ Additionally, participants in the focus group for persons experiencing disabilities reported that source of income discrimination is a “huge issue” in the region.⁵ Forty-three percent of survey takers reported that the voucher payment standard was insufficient to cover the rent, compared with 77 percent of respondents who reported encountering landlords that do not accept vouchers; thus, there seem to be additional reasons why voucher holders cannot lease up beyond simply the payment standard being insufficient. This should be further explored in the final AFH. Furthermore, the differences between how the source of income protections in East Palo Alto versus Foster City function, and why there are different degrees of voucher usage in the two cities, should also be explored to get a better understanding of the barriers faced by voucher holders.

In spite of the local data and knowledge that indicate barriers to fair housing choice for voucher holders, the possible contributing factor of “source of income discrimination” is not identified as a contributing factor within the publicly supported housing section, nor is it identified as a contributing factor by HACSM. The only place source of income discrimination is identified as a contributing factor is in the disability and access section. And even though source of income discrimination is identified in the disability and access section, only one jurisdiction (Daly City) mentions source of income discrimination in its goals’ metrics and milestones. This seems to indicate that the final AFH would benefit from a more detailed examination of source of income discrimination and its implications for fair housing choice (specifically, the protected groups who rely on Section 8 vouchers, including but not limited to persons with disabilities), and possible ways to address it.

While the draft AFH mentions that HACSM does provide landlord incentives, it does not evaluate the extent to which HACSM has found this approach to be successful. However, the draft AFH does mention that the voucher lease up rate has been consistently below 50 percent over a three-year period.⁶ Providing this additional context would be helpful in evaluating the potential efficacy of

¹ See also 24 C.F.R. § 5.158(a)(2) (PHA community participation requirements).

² Draft AFH, at Section V, page 119.

³ *Id.*

⁴ Draft AFH, Appendix A, at 12.

⁵ Draft AFH, Appendix A, at 28.

⁶ Draft AFH, Section V, at 119.

one of HACSM’s stated proposed goals, which is to allocate funds for the Lease Success Program to support “housing locator services and landlord incentives.”⁷

Furthermore, the publicly supported housing section, while discussing the Moving to Work (MTW) vouchers, identified a concern by advocates that the hardship exemptions were “not working to exempt persons with disabilities and seniors from the MTW work requirement.”⁸ However, while the fair housing analysis discusses the MTW program, there is no further discussion as to the extent the MTW program is impacting members of protected classes in addition to persons who experience disabilities. Such an assessment seems important particularly because the housing authority, as an MTW agency, maintains considerable discretion in its program administration. Furthermore, such an assessment is key because it may help identify additional contributing factors concerning publicly supported housing, such as the placement of time limitations on vouchers in an exceedingly tight rental market where even participants with a voucher have difficulties locating affordable housing—and the impact such time limitations have on members of protected groups. It would also be helpful to know if those residents who ported out of San Mateo County did so because they wanted to move to another jurisdiction, or because they would not otherwise be able to afford to remain in San Mateo County. This is unclear from the current analysis.

Additionally, some participants within the focus group of Section 8 voucher holders reported “reluctance to report condition issues out of fear of being displaced,” and needing to contact inspectors to “motivate landlords to make necessary repairs.”⁹ However, HACSM does not name either of these problems in identifying contributing factors, those it does identify displacement of residents more generally as a contributing factor. Failure to identify these problems when identifying contributing factors results in a lack of goals by HACSM in the draft AFH to address these important issues that create, perpetuate, contribute to, or increase the severity of disproportionate housing needs in publicly supported housing (specifically, the Section 8 voucher program).

Finally, the publicly supported housing analysis says very little about the public housing units administrated by the South San Francisco Housing Authority. The final AFH should include additional discussion about the fair housing issues faced by residents served by the South San Francisco Housing Authority.

Goals

Housing Authority of the County of San Mateo

Overall, the goals for HACSM need to be more specific and need to more directly address the contributing factors identified. For example, it is unclear how the metrics and milestones mentioned in Goal #2 (“working with program partners to provide resource assistance and guidance for customers”) specifically address the contributing factors of a lack of affordable housing, displacement, or the growing importance of publicly-supported housing. Perhaps expanding on what assistance and guidance is contemplated would help clarify how such guidance and assistance would address the lack of affordable housing. For example -- does such guidance include mobility counseling? Furthermore, again, it is unclear how providing more “efficient” services would address resident displacement.

⁷ Draft AFH, Section VI (Goals), at 6.

⁸ Draft AFH, Section V, at 120.

⁹ Draft AFH, Appendix A, at 23.

Additional elaboration on how the goals relate back to the contributing factors would provide helpful context, and allow stakeholders to evaluate success down the road.

Goal #1 regarding addressing HACSM's voucher utilization rate needs to be more specific. Several of the metrics and milestones, for example, need to specify what is actually trying to be achieved through each item. For instance, HACSM states that it will allocate \$250,000 for the Leasing Success Program to provide incentives and housing locator services. While the identification of funds to conduct these tasks is a very positive step, it would be helpful if the goal estimated what the division would be between the landlord incentives and the housing locator services. Given HACSM's experiences with its current incentive program, does it plan to increase the amount of individual landlord incentives? What would housing locator services entail? How many estimated voucher families does HACSM aim to help through the Leasing Success Program? While NHLP would certainly defer to local housing advocates on how these funds should be allocated and how the Leasing Success Program should be administered, providing more detail in the AFH itself would improve subsequent evaluation of this goal.

HACSM also states the metric/milestone of securing additional project-based units, which would establish longer-term affordable units within the County. It would be helpful to know the location of where HACSM is considering project-basing vouchers. And, if HACSM is in the process of identifying such locations, if it has not done so already, it should ensure advocate and resident input on identifying these locations to ensure that the vouchers are project-based in accordance with resident needs.

Furthermore, the goals for HACSM do not explicitly address the issue raised by advocates concerning whether the hardship exemption is sufficient to adequately serve the needs of persons experiencing disabilities with time-limited vouchers. While the goal concerning customer service includes metrics of evaluating internal processes to provide "more efficient services to voucher holders experiencing difficulty," this does not directly address how time-limitations on vouchers are impacting persons with disabilities. The goals do not address the "revolving door effect" experienced by persons with disabilities who do not receive an exception (i.e., losing vouchers and going back on the waitlist), described in the Disability and Access Section.¹⁰

If HACSM seeks to meaningfully evaluate its "internal processes,"¹¹ it should denote in the goals specifically how it will do so, and which processes will be evaluated. We propose that this evaluation should be extended to include HACSM policy documents (e.g., Administrative Plan), and that internal policies and practices should be evaluated in response to concerns raised in the resident survey (and, to the extent applicable to the housing authority, concerns raised in the broader AFH). Evaluation of the time-limited MTW vouchers should be included within this evaluation of policies and practices. Any such review should not only focus on improving customer service (which has been identified by residents as an issue)¹², but also needs to focus on removing fair housing barriers for members of protected classes in San Mateo County (e.g., racial and ethnic minorities, families with children, and persons with disabilities).

¹⁰ Draft AFH, Section V, at 136.

¹¹ Draft AFH, Section VI (Goals), at 6.

¹² Draft AFH, Appendix, at 13.

Finally, to the extent goals (such as Goal #6 and #20 for San Mateo County, #6 for Daly City, and #9 for City of San Mateo) involve HACSM, those should be reflected in the matrix with HACSM's goals as well, as HACSM will presumably play a key role in implementation. This allows for readers of the AFH to see the entire picture, and how these proposed goals interact with the identified fair housing problems.

South San Francisco Housing Authority

There do not appear to be any goals listed on the goal tables for the South San Francisco Housing Authority. While we understand that this housing authority is relatively small, there are no size cutoffs for compliance with the AFFH Rule for PHAs.¹³ Identification of goals is a requirement for all individual participants in an AFH,¹⁴ even a regional AFH.¹⁵ While the City of South Francisco mentions the housing authority in its goals, the Housing Authority itself does not appear to have submitted goals that it is responsible for. Therefore, the final version of the AFH should include one or more goals for the South San Francisco Housing Authority.

Conclusion

Thank you again for all of your work in drafting the AFH, and for your efforts to affirmatively further fair housing in San Mateo County. We look forward to the final AFH.

Sincerely,

Renee Williams, National Housing Law Project

cc: Mr. Jeff Jackson, HUD Office of Fair Housing and Equal Opportunity, Region IX (via e-mail)

¹³ 24 C.F.R. § 5.154(b)(2); AFFH Rule, Preamble, 80 Fed. Reg. 42,272, 42,308 (July 16, 2015) (“The duty to affirmatively further fair housing and the requirement to conduct an AFH applies to all PHAs, regardless of the HUD program or initiative in which they are participating.”)

¹⁴ 24 C.F.R. § 5.154(d)(4) (identification of priorities and goals).

¹⁵ 24 C.F.R. § 5.156(e) (“A joint or regional AFH must include the elements required under § 5.154(d). A joint or regional AFH *does not relieve each collaborating program participant from its obligation to analyze and address local and regional fair housing issues and contributing factors that affect housing choice, and to set priorities and goals for its geographic area to overcome the effects of contributing factors and related fair housing issues.*”) (emphasis added).