

**Federal Housing Programs 101
Public Housing Overview
October 12, 2017**

KEY COMPONENTS OF PUBLIC HOUSING

❖ **Number of Units and Characteristics of Families**

- Approximately 1.1 million units nationwide, including:
 - 3.3 million children
 - 31% of residents in public housing are seniors (>62 years)
 - 30% of public housing households include family member under age of 62 who is disabled
- 65% are considered extremely low income (<30% AMI)
 - Average national annual income of public housing residents: \$14,496
- Stark racial disparities:
 - 45% headed by African Americans
 - 25% headed by Hispanics/ Latinos
 - 41% of Black and 40% Hispanic public housing households live in high poverty neighborhoods
- Some public housing buildings may be designated specifically for families, seniors, persons experiencing disabilities (42 U.S.C. § 1437e; 24 C.F.R. Part 945)
- Other data and information:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/stems/pic/50058/rcr

❖ **Parties Involved and Their Roles**

- U.S. Department of Housing and Urban Development (HUD), Office of Public and Indian Housing:
 - Headquarters in Washington, D.C. and local offices:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/about/field_office
 - Responsible for ensuring that local PHAs properly operate the public housing program
 - Imposes extensive duties upon the PHAs through the Annual Contributions Contract (ACC), regulations, HUD handbooks, and notices
 - Evaluates PHAs in accordance with the Public Housing Assessment System (24 C.F.R. Part 902)
 - See NHLP’s “Green Book” Section 1.4
- Public Housing Authorities (PHAs):
 - Public housing properties are owned and operated by PHAs

- PHA jurisdiction: entire state, one or more cities, one or more counties, or other geographical area:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha/contacts
- Created under state enabling legislation
- Most governed by locally appointed board of commissioners
 - Generally, a public housing tenant must be on the board (42 U.S.C.A. § 1437(b); 24 C.F.R. §§ 964.400-964.430)
 - Makes policy decisions concerning the PHA, subject to federal statutes/ regulations and state law
- Responsible for the management and operation of its local public housing program:
 - Assure tenant compliance with leases;
 - Set other charges (e.g., security deposit, damages to unit);
 - Perform periodic reexaminations of the family's income at least once every 12 months;
 - Transfer families from one unit to another, in order to correct over/under crowding, repair or renovate a dwelling, or because of a resident's request to be transferred;
 - Terminate leases when necessary; and
 - Maintain the development in a decent, safe, and sanitary condition
 - Recognize, fund, and work with legitimate resident councils (development, jurisdiction-wide)
- PHA consults with a Resident Advisory Board (RAB) to develop annual and five-year plans that HUD reviews (42 U.S.C.A. § 1437c-1; 24 C.F.R. Part 903)
- See NHLP's "Green Book" Section 1.2.1
- Resident Councils:
 - HUD public housing tenants have a right to organize, and PHAs must recognize any duly elected resident councils, so long as proper procedures are followed (24 C.F.R. §§ 964.11, 964.105(a), 964.130(b), 964.135(d))
 - May be organized by development(s) and/or jurisdiction-wide
 - PHAs that receive operating subsidies are required to expend, at a minimum, \$25 per occupied unit each year for resident participation activities (24 C.F.R. § 990.190(e) (2012); 42 U.S.C.A. § 1437g(e)(1)(E); Guidance on the Use of Tenant Participation Funds, PIH 2013-21 (HA) (Aug. 23, 2013))
 - If there is a Resident Council and/or a jurisdiction-wide resident organization, the PHA is required to work in partnership with that organization to determine the activities and distribution of the resident participation funds (Guidance on the Use of Tenant Participation Funds, PIH 2013-21 (HA) (Aug. 23, 2013); 24 C.F.R. § 964.150(a) (2016))
 - If residents have not yet established a Resident Council, the PHA should fund allowable activities for residents and may use tenant participation funds to improve resident capacity in establishing and operating a Resident Council (HUD Notice PIH 2013-2 (Aug. 23, 2013))
 - NHLP's "Green Book" Section 9.2.3

❖ **How Program Works: Subsidy Mechanism**

- Congress appropriates funding to HUD, which distributes public housing operating and capital funds to PHAs
- Housing subsidies are provided from HUD to a PHA pursuant to an Annual Contributions Contract (HUD Form 53010)
- PHA then leases a unit to the resident, who is subject to the lease, house rules, and other locally developed policies (subject to 24 C.F.R. Part 966)
- Green Book Section 1.2.1 and 4.3

KEY REGULATORY FEATURES

❖ **Federal statute, regulations, and forms**

- Statute: 42 U.S.C.A. §§ 1437 to 1437e, 1437g to 1437z, 1437z–2 to 1437z–6, 1437aaa–2 to 1437aaa–6
- Regulations: 24 C.F.R. Part 5, and 900 et seq. See particularly Parts 960 (Admissions/Continued Occupancy) and 966 (Lease & Grievance).
- Public Housing Occupancy Guidebook (June 2003), www.hud.gov/offices/pih/programs/ph/rhiip/phguidebook.cfm
- Annual Contribution Contract, HUD Form 53010 D, E, H, I, etc. (contract between HUD and PHA), www.hud.gov
- HUD notices and forms, available www.hud.gov

❖ **Locally developed rules, policies, and contracts**

- State enabling statute for PHAs
- PHA 5 Year and Annual Plans developed locally and must be available locally for public comment
 - HUD also posts the PHA Plans on the HUD website, http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha.
- Admission and Continued Occupancy Plan (ACOP), which oversees the public housing program, is developed locally and must be available locally for review
- Tenant lease and grievance procedures are developed locally, but must follow detailed federal regulations (24 C.F.R. Part 966)

MAJOR APPLICANT AND TENANT ISSUES

ADMISSIONS

- ❖ NHLP’s Green Book Sections 2.8.5, 2.4.1 and 2.5
- ❖ Admission issues are addressed in the PHA Plan (42 U.S.C.A. § 1437c–1(d)(3))
 - ACOP should set forth the PHA’s complete admission policy

❖ **Waiting Lists**

- Compiling and maintaining the public housing waiting list:
 - PHA may have site-based waiting lists, a central waiting list, or any combination (42 U.S.C.A. § 1437d(r); 24 C.F.R. § 903.7(b)(2))
 - PHAs typically advertise when the waiting list is open and adopt a process to provide that getting on the on the list is accessible
- Waiting list for public housing may be combined with Voucher waiting list
- Best Practice: Waiting list open for a period of time, applicants place on list determined by lottery “no first come first serve”; or waiting list open for those who qualify for certain priorities (homeless, domestic violence, etc.)

❖ **Eligibility**

- Income:
 - Low income (80% of Area Median Income), Very Low Income (50% of AMI), Extremely Low Income (higher of 30% of AMI or federal poverty level)
 - Targeting: at least 40% of all new admissions must be families who are “Extremely Low Income” (42 U.S.C.A. § 1437n(a))
 - The AMI for every jurisdiction is updated annually and available at <http://huduser.org/datasets/il.html>
- Assets:
 - PHAs may make applicants and current tenants or participants ineligible for public housing if they have more than \$100,000 in net assets (adjusted annually for inflation and with some exceptions) or have “a present ownership interest” in a suitable home for which they have a legal right to reside and legal authority to sell, unless the home is being purchased with a voucher or the family includes a person who is a victim of domestic violence or is offering the home for sale (Housing Opportunity Through Modernization Act, HR 3700 (HOTMA), Pub. L. 114-201 (July 29, 2016))
- Designated Housing (42 U.S.C.A. § 1437e)
 - Some housing is not general occupancy and is limited to families whose head of household is elderly and/or a household member experiences a disability
 - Formal Designated Housing Plan must be submitted and approved by HUD (separate from, but referenced in, the PHA Plan)
- Restrictions on Assistance to Non-Citizens:
 - In general, a family must have one member of the household who is a citizen or who has eligible immigration status under one of the categories set forth in 42 U.S.C.A. § 1436a(a)
 - If any members of the household are not citizens or lack eligible immigration status, the assistance (i.e., rent) for the family is prorated (24 C.F.R. §§ 5.500–5.528; HUD Guidebook 7465.7G; Streamlining Administrative Regulation for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs, 81 Fed. Reg. 12,354 (Mar. 8, 2016))

- Social Security Number requirements: 24 C.F.R. § 5.216; PIH 2012-10; Streamlining Administrative Regulation for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs, 81 Fed. Reg. 12,354 (Mar. 8, 2016)

❖ Preferences

- PHAs may adopt local preferences for applicants. The preferences may include preferences for families whose head of households are working (which must also include families whose heads are elderly or disabled), residency preferences, and preferences for victims of domestic violence and families who are homeless or threatened with homelessness (42 U.S.C.A. § 1437d(c)(4); 24 C.F.R. § 960.206)
- Determination of preferences is made in the PHA Plan process and should be included in the ACOP

❖ Screening

- Standards:
 - The information considered for each applicant and the standards adopted by the PHA must be reasonably related to individual attributes of an applicant
 - When adverse information is received, the PHA must consider the time, nature, extent and seriousness of the offense.
 - PHA may also consider rehabilitation of an applicant (24 C.F.R. §§ 960.203(a) & (d))
- Criminal activity:
 - PHAs must screen and reject applicants for certain criminal behavior, including: if any household member has been evicted from federally assisted housing within past 3 years for drug-related criminal activity (except that applicant may demonstrate changed circumstances), if an applicant is currently engaged in illegal use of drugs, if any household member has ever been convicted of methamphetamine production on federally assisted housing premises, and if any member is a registered lifetime sex offender (24 C.F.R. § 960.204)
 - Note that federal law preempts state medical marijuana laws for admission decisions, but PHAs have discretion on subsequent /eviction for such use and may but are not required to evict (*see* Memo from Sandra Henriquez, Medical Marijuana Use in Public Housing and Housing Choice Voucher Programs (Feb. 10, 2011))
 - *See also* PIH Notice 2015-19 (discussing balancing of screening for criminal history and second chances, ensuring proper due process protections, and recommending certain best practices, including limited “lookback” periods)
 - PHA may also screen for a history of criminal activity involving acts of physical violence to persons or property and for abuse of alcohol which may threaten the health and safety of others (24 C.F.R. §§ 960.203(c)(3), 960.204(b))

- HUD Notice PIH 2015-19 states that:
 - arrest records alone may not be the basis for denying, terminating, or evicting someone,
 - PHAs are not required to adopt “one-strike’ policies, and
 - applicants and tenants have due process rights.
- As stated in [recent guidance from the HUD Office of General Counsel](#), “where a policy or practice that restricts access to housing on the basis of criminal history has a disparate impact on individuals of a particular race, national origin, or other protected class, such policy or practice is unlawful under the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the housing provider, or if such interest could be served by another practice that has a less discriminatory effect.”
- Poor tenant history (evictions or termination from housing programs and poor credit history)
 - Information about past debt to a PHA is accessible to PHAs and may be a basis for denial

❖ Notification and Opportunity to Contest

- Applicants must be notified of ineligibility and provided an opportunity to contest the determination in an informal hearing (42 U.S.C.A. § 1437d(c)(3); 24 C.F.R. § 960.208)

RENTS

❖ Generally

- Public housing residents usually pay rent based upon a percentage of their adjusted income or occasionally gross income, usually 30% of a family’s adjusted income
 - Tenants must pay at least the minimum rent and may opt to pay a flat rent (42 U.S.C.A. § 1437a)
- HUD has developed an Enterprise Income Verification (EIV) program which uses computer matching with a number of federal agencies to get government income as well as wage income and new-hire data, which helps to minimize errors in tenant income but can also create problems for tenants (PIH Notice 2010-19, extended by PIH Notice 2015-2)
- Grievance procedures can be used to challenge rent levels
- Green Book Section 4.3

❖ Income-based rents

- Rents are generally set at 30% of a family’s adjusted income:
 - Step 1: Calculate annual income= anticipated total income from all sources received by the family’s head and by each household member

(including wages and tips, welfare assistance, child support payments, etc.)

- Step 2: Exclude specific kinds of payments, per HUD regulations and federal statutes (i.e. income of minors, students, live-in aides, medical expenses, certain kinds of income) (See National Housing Law Project, HUD HOUSING PROGRAMS: TENANTS' RIGHTS, Figure 4C (2016))
- Step 3: Residents who pay their own utilities are entitled to an allowance for the consumption of a reasonable level of utilities by an energy-conservative household (24 C.F.R. § 5.603)
- Step 4: 30% of (Step 1 + Step 2 – Step 3) divided by 12 = tenant monthly rent

❖ **Annual income and exclusions**

- Annual income includes all income that the family anticipates that it will receive in the coming year.
- There are many exclusions, deductions and disallowances from anticipated income, including:
 - income from full-time students who are not head of household, income for foster care, income of live-in aides, deferred lump sum additions to family income due to the delayed start of SSI or social security payments, etc. (24 C.F.R. § 5.609; 42 U.S.C.A. § 1437a(d); Streamlining Administrative Regulation for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs, 81 Fed. Reg. 12,354 (Mar. 8, 2016); Housing Opportunity Through Modernization Act, HR 3700 (HOTMA), Pub. L. 114-201 (July 29, 2016))

❖ **Adjusted income after deductions**

- The standard mandatory annual deductions include:
 - \$480 for each dependent (to be adjusted for inflation in future years) (42 U.S.C. §§ 1437a(b)(5)(A) & (B); Housing Opportunity Through Modernization Act, HR 3700 (HOTMA), Pub. L. 114-201, (July 29, 2016))
 - \$525 for each elderly or disabled family (42 U.S.C. §§ 1437a(b)(5)(A) & (B); Housing Opportunity Through Modernization Act, HR 3700 (HOTMA), Pub. L. 114-201, (July 29, 2016))
 - For each elderly or disabled family, unreimbursed medical and reasonable attendant care or auxiliary apparatus costs that exceed 10% of annual income (42 U.S.C. § 1437a(b)(5)(D); Housing Opportunity Through Modernization Act, HR 3700 (HOTMA), Pub. L. 114-201, (July 29, 2016))
 - Families are allowed to deduct reasonable child care expenses necessary to enable employment or education (42 U.S.C. § 1437a(b)(5)(C))
 - “Any expenses related to aid and attendance under section 1521 of title 38, United States Code, to veterans who are in need of regular aid and

attendance.” (Housing Opportunity Through Modernization Act, HR 3700 (HOTMA), Pub. L. 114-201, (July 29, 2016))

❖ **Utility allowance**

- Residents who pay their own utilities are entitled to an allowance for the consumption of a reasonable level of utilities by an energy conservative household. This allowance is deducted from the tenant portion of the rent (24 C.F.R. § 5.603)
- If tenant income is so low that the allowance exceeds the tenant portion of the rent, the family is entitled to a utility reimbursement, or the PHA may pay the reimbursement directly to the utility company. Residents are only entitled to the utility reimbursement if their rent is income-based (24 C.F.R. §§ 5.632, 960.253(c)(3); Streamlining Administrative Regulation for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs, 81 Fed. Reg. 12,354 (Mar. 8, 2016))
- Green book Sections 5.2 and 5.3

❖ **Minimum rent and hardship exemption**

- Each PHA can establish its own minimum rent, ranging from \$0 to \$50 per month
- PHAs must establish policies recognizing hardships and waivers to prevent zero-income tenants from being evicted because they cannot pay the minimum rent
- If the minimum rent exceeds 30% of the tenant’s adjusted income, the tenant’s rent is set at the minimum rent (unless a hardship provision applies) (42 U.S.C.A. § 1437a(a)(3); 24 C.F.R. § 5.630)

❖ **Flat rents**

- Flat rent: every PHA is required to adopt a flat rent based upon the market rent for the unit, taking into account its location, quality and size. The flat rent should be designed to encourage self-sufficiency.
- A family paying a flat rent may request a financial hardship to switch to an income-based rent (42 U.S.C.A. § 1437a(2); 24 C.F.R. § 960.253(f))
- In 2014 and 2015, Congress mandated that flat rents must usually be no less than 80% of Section 8 Fair Market Rent (FMR), and provided for phase-in of increases where PHAs had charged lower flat rents (PIH Notice 2014-12 and 2015-13)
- Greenbook Section 4.4.3

❖ **Recertification**

- Generally, annual recertification required
 - PHA can have a policy that people on a fixed income (not necessarily 100% of income) can recertify every 3 years (Streamlining Administrative Regulation for Public Housing, Housing Choice Voucher, Multifamily

Housing, and Community Planning and Development Programs, 81 Fed. Reg. 12,354 (Mar. 8, 2016))

- PHAs and owners can rely on determinations of income conducted for other federal means-tested public assistance programs (Housing Opportunity Through Modernization Act, HR 3700 (HOTMA), Pub. L. 114-201 (July 29, 2016))
- In the interim, a PHA or owner must apply a COLA to the fixed income calculation for the prior year
- PHA may decide when and how to require interim rent recertification when tenant income increases (information in PHA's ACOP)
 - No interim rent increases based on earnings are permitted unless the family has received an interim reduction during the year (Housing Opportunity Through Modernization Act, HR 3700 (HOTMA), Pub. L. 114-201 (July 29, 2016))
 - A PHA or owner may choose not to conduct an interim recertification for an increase in income that occurs in the last 3 months of a certification period (Housing Opportunity Through Modernization Act, HR 3700 (HOTMA), Pub. L. 114-201 (July 29, 2016))
- Interim recertification required if family reports decrease in income, except for loss of certain welfare income (24 C.F.R. § 960.257)
- Green book Sections 4.2 and 4.5

GRIEVANCE PROCEDURES

- ❖ Public housing residents may request a grievance hearing to dispute PHA action or inaction involving tenant lease or PHA policies. This might, for example, include rent adjustments, transfers, additions to household failure to grant a reasonable accommodation, failure to repair, or rights of a remaining adult household member to take over the lease.
 - Eviction actions involving certain criminal activity may be exempt from the grievance process (42 U.S.C.A. § 1437d(k); 24 C.F.R. §§ 966.51–966.57; Streamlining Administrative Regulation for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs, 81 Fed. Reg. 12,354 (Mar. 8, 2016))
- ❖ State and local law may provide greater protections and HUD generally holds that such procedural protections are not pre-empted
- ❖ Each PHA must develop and implement eviction procedures with basic due process protections, including:
 - Written notice of termination stating the reasons for termination
 - Opportunity, in most cases, to resolve problem at an informal conference w/ PHA officials
 - Opportunity, in most cases, for formal grievance hearing before an impartial decision-maker that provides basic due process protections (i.e. right to counsel, examine relevant records and regulations, cross-examine adverse witnesses)

- Written notice informing the tenant of her rights to the informal conference and formal grievance proceeding

❖ Green book Section 10.2

EVICCTIONS

❖ **Notice to tenants: length and content**

- 14 days for nonpayment of rent.
- 30 days or a shorter state law period for all other situations.
- Notice must specify the grounds, inform resident of the right to examine PHA documents, of the right to a grievance hearing or an explanation of why it is not available, etc. (42 U.S.C.A. § 1437d(1); 24 C.F.R. § 966.4(1)(3))
- Green book section 10.2

❖ **Good cause**

- Required for any termination, both at end of term and midterm.
- Good cause defined as:
 - Serious or repeated violation of material terms of the lease, including nonpayment of rent and failure to comply with household obligations.
 - Drug-related criminal activity that occurs on or off the premises.
 - Criminal activity that threatens health, safety or right to peaceful enjoyment of other residents or staff.
 - Other good cause as provided for in lease
 - Cause requirements found in 42 U.S.C.A. § 1437d(1); 24 C.F.R. § 966.4(1)

❖ Green book section 11.2.1.1

COMMUNITY SERVICE

- ❖ Community service (includes self-sufficiency activity) is required for adult family members who are not exempt (96 hours of service per year or 8 hours/month) (42 U.S.C.A. § 1437j(c); 24 C.F.R. 960, subpart F)
 - Those who are working, elderly and disabled, etc. are exempt
 - Tenants can self-certify that they have fulfilled the Community Service requirements, but a PHA must notify tenants that they may be subject to a random check and the PHA must verify a random sample of self-certifications and verify via third-party verification annually (HUD Notice 2016-6; 24 C.F.R. 960.604; 24 C.F.R. 960.607; Streamlining Administrative Regulation for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs, 81 Fed. Reg. 12,354 (Mar. 8, 2016))

OTHER CURRENT AND IMPORTANT ISSUES

❖ **PHA Plan process**

- PHA has discretion over many program features, which can be influenced through the Plan process, RAB, or PHA Board
- Note that Capital Fund submissions and evaluation are decoupled from PHA Plan process, and so may not be available for review/comment at the same time as the rest of the plan (24 C.F.R. Part 905)

❖ **Loss of public housing units**

- Lack of sufficient federal funding for public housing:
 - 1.2 million public housing units have a documented capital needs backlog of nearly \$40 billion
 - 10,000 public housing units per year are lost through demolitions and dispositions
 - Congress has not appropriated federal funds to build additional public housing units since mid-1990s
- Demolition and disposition:
 - 42 U.S.C.A. § 1437p; 24 C.F.R. Part 970
- Lack of funding from Congress:
 - There is a large back log of unfunded deferred maintenance for the public housing program. It is estimated at more than \$26 billion or on average \$23,365 per unit. Congress has not appropriated sufficient funds to keep up with the need. Some PHAs took advantage of Capital Fund Financing Program (CFFP) to obtain bond funding for major capital work beyond normal annual appropriation, but must then set aside sufficient funds each year from Capital Fund each year to pay back the bond over many years.
 - Sequestration: The Budget Control Act of 2011 (Pub.L. 112-25) (specifies \$917 billion of cuts over 10 years. Public housing operating subsidy and the capital fund were cut by approximately 5% in 2013

❖ **Moving to Work**

- Over the next seven years, 100 PHAs will be participating in the Moving to Work (MTW) demonstration, which is intended to “simplify the administration of PHA programs, learn from policy interventions, and apply lessons learned to PHAs nationwide.”
- MTW PHAs will be able to waive many existing public housing rules and will have greater flexibility in using their federal funds
- For more information about the MTW program, and to see a list of MTW PHAs, visit http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/mtw.

❖ **Family Self-Sufficiency**

- There are programs relating to public housing that promote self-sufficiency and jobs, such as the Family Self-Sufficiency program (24 C.F.R. Part 984) and Section 3 (12 U.S.C.A. § 1701u; 24 C.F.R. Part 135)

❖ **VAWA**

- Implementation of Violence Against Women Act 2005 and 2013, which precludes denying admission, terminating subsidy, or evicting a survivor of domestic violence
- New protections were added in 2013 (42 U.S.C.A. § 14043e-11)
 - Some new provisions (adding victims of sexual assault) self-executing, others require regulations
 - VAWA 2005 regulations adopted in 2010, 24 C.F.R. Part 5, Subpart L, and proposed regulations for 2013 revisions not yet finalized

❖ **Rental Assistance Demonstration (RAD)**

- Pursuant to the Rental Assistance Demonstration (RAD), PHAs may apply to convert 185,000 units of public housing nationwide to project-based Section 8 or project-based vouchers
 - Converting to Section 8 can attract other types of funding (i.e. LIHTC)
 - Requires that tenants, at a minimum, maintain the same rights that they possessed under the public housing program
 - After a certain period of time after the RAD conversion, tenants may exercise choice mobility rights to obtain a tenant-based voucher and move elsewhere
- Funding is capped at the level of the PHA's existing Capital Fund and Operating Fund, so is not the same level of funding as would be available for a straight conversion of public housing to Section 8 subsidy (Notice PIH 2012-32, REV-2; PIH 2014-17)
- Authorizing and guiding documents:
 - RAD authorization statute:
 - Consolidated and Further Continuing Appropriations Act of 2012 (amended by Section 234 of the FY 15 Appropriations Act)
 - RAD implementation details:
 - RAD Notice: HUD Notice 2012-32 (REV-2)
 - RAD Relocation Notice: HUD PIH Notice 2014-17
 - Strong tenant-friendly legislative history:
 - Congress intended to “ensure that the demonstration does not adversely impact tenants, and stipulates that all residents living in converted properties will maintain their existing rights”
- Is RAD happening in your community? www.RAD-watch.org

❖ **Mixed Finance**

- Increasingly public housing may be “mixed finance,” in which the PHA may no longer be the direct owner but has an oversight role, and where not all units necessarily are public housing, but may be market or have other project-based or tenant-based subsidy funding streams
- Note that the rules (tenant participation, grievance, admissions and rent policies) may be different and have to be obtained directly from and for the site (42 U.S.C.A. § 1437z-7; 24 C.F.R. § 905.604)

❖ **Tenancy for Over-Income Families**

- If an income review finds that a family in public housing has had income above 120% of area median income for two consecutive years, the PHA must either terminate the family’s tenancy within six months or charge the family a monthly rent equal to the higher of the HUD-determined Fair Market Rent for the units and the operating and capital subsidies provided for the unit (Housing Opportunity Through Modernization Act, HR 3700 (HOTMA), Pub. L. 114-201 (July 29, 2016))
 - HUD may adjust the 120% of area median income limit based on local construction costs or unusually high or low incomes, vacancy rates, or rents
 - Each year, PHAs must submit to HUD and make public a report listing the number of families in public housing with incomes above the 120% of area median income limit and the number of families on public housing waiting lists

❖ **Anticipated new public housing rules and other related rules:**

- Final regulation on Public Housing Demolition and Disposition
- Final regulation on the Public Housing Assessment System
- Updated Public Housing Occupancy Guidebook
- New VAWA regulations pursuant to VAWA 2013