

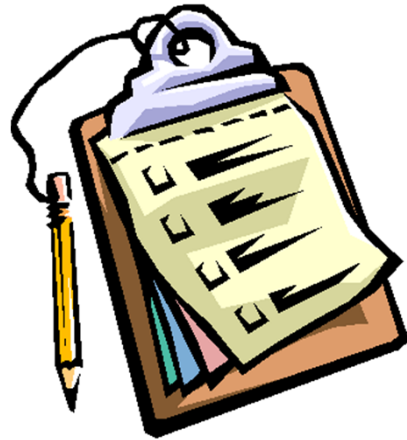


Understanding Project-Based Rental Assistance

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National Housing Law Project
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Agenda

- What is project-based rental assistance (PBRA)?
- How does PBRA differ from other HUD housing programs?
- How are PBRA owners restricted and overseen by HUD?



What is project-based rental assistance (PBRA)?

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PBRA is a type of HUD housing program where HUD *directly contracts with private landlords* to provide affordable homes to low-income tenants *at certain properties*



Types of HUD “Multifamily” Housing Programs

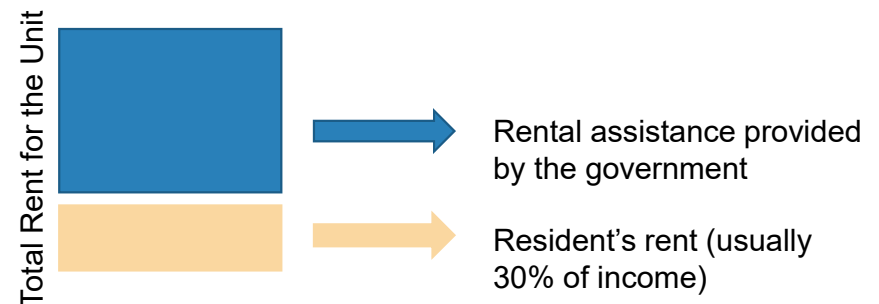
Mortgage Programs

- *Loans and mortgage insurance* (with low interest rates) from HUD to private owners *to build and manage affordable housing*
 - Loans include rent and use restrictions for a certain number of years (~40-50 years)
 - Ex: Section 236 program, Section 202 program



Rental Assistance Contracts

- *Contract* between HUD/public housing authority and private owner to provide *rental assistance* for low-income residents
 - Rental assistance supplements what the resident pays for rent
 - Ex: Project-based section 8, project-based vouchers, Moderate Rehabilitation program, Rent Supplement program, Rental Assistance Payment program



Terminology

HUD multifamily housing

Project-based rental assistance (PBRA)

Project-based
Section 8

Project-Based
Vouchers
(PBVs)

Moderate
Rehabilitation
(Mod Rehab)

Rent Supplement
(Rent Supp)

Rental
Assistance
Payment (RAP)

Who lives in PBRA homes?

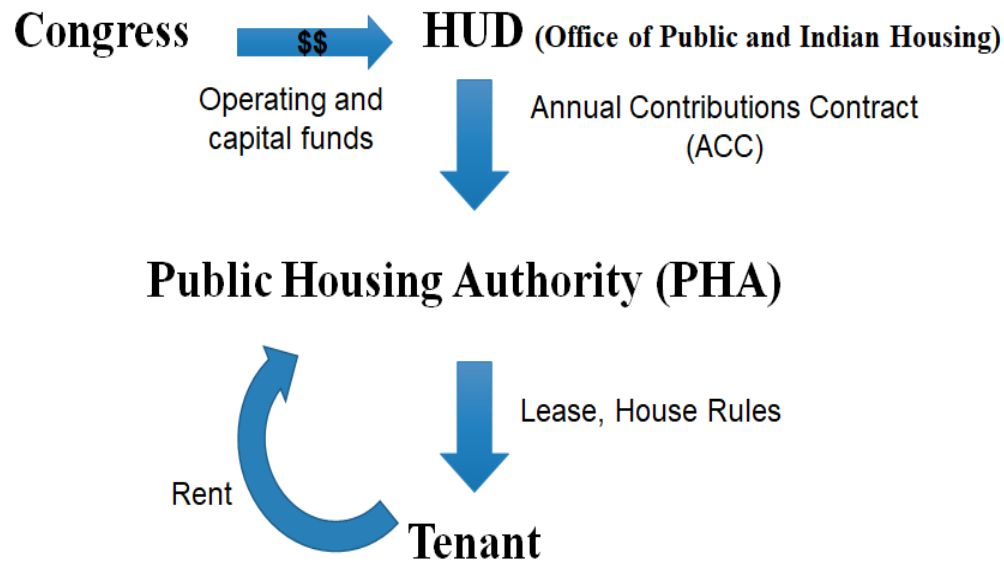
- 1.2 million units house over 2 million low-income residents
- Residents must be “low-income” (< 80% of AMI)
 - Average annual household income = \$12,505
 - 96% of tenants are considered “very low income” (<50% of AMI)
 - Average resident rent: ~\$280/month
- Demographics:
 - 75% have a female head of household
 - 49% elderly head of household (>62 years old)
 - 17% have family member who experiences a disability
 - 55% residents of color (34% Black, 15% Hispanic, 5% Asian/Pacific Islander, 1% Native American)
- Average stay: 7.5 years



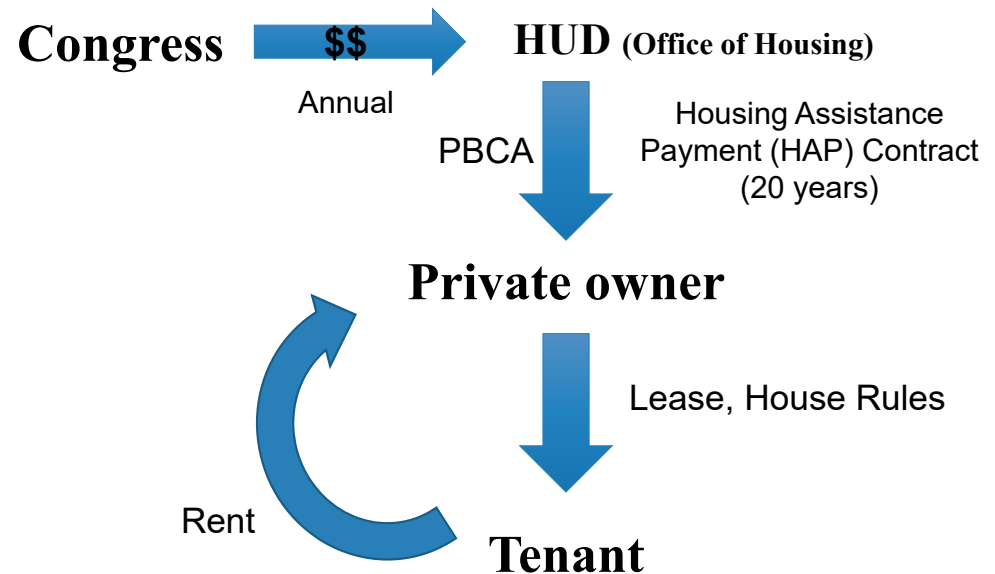
How does PBRA differ from other HUD housing programs?

Public Housing v. PBRA

Public Housing



Project-Based Rental Assistance



How are PBRA owners restricted and overseen by HUD?

Housing Assistance Payment (HAP) Contract

- Duty to provide decent, safe and sanitary housing
- Must lease assisted units to income-eligible families (<80% AMI)
- Duty to comply w/ applicable nondiscrimination requirements
- Restricted tenant rents
 - Greatest of:
 - 30% of the household's monthly adjusted income;
 - 10% of the household's family monthly gross income; or
 - Portion of welfare assistance adjusted for household's actual housing costs
 - Adjusted by utility allowance for tenant-paid utilities
- HUD PBRA Lease (HUD Form 90105a)
- Right to organize (24 CFR part 245)
- HUD Handbook 4350.3



HUD PBRA Lease

- HUD PRBA Lease (HUD Form 90105a)
 - Automatically renewed (unless good cause to evict)
 - Rent and income recertifications
 - Late charges
 - Condition of unit and unit size
 - Utilities
 - Security deposits
 - Maintenance
 - Damages
 - House rules
 - Lease termination
 - Landlord access

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MODEL LEASE FOR SUBSIDIZED PROGRAMS

1. Parties and Dwelling Unit: The parties to this Agreement are ^(A) _____, referred to as the Landlord, and _____, referred to as the Tenant. The Landlord leases to the Tenant(S) unit number ^(C) _____, located at _____ ^(B) _____ in the project known as ^(B) _____.

2. Length of Time (Term): The initial term of this Agreement shall begin on ^(F) _____ and end on ^(G) _____. After the initial term ends, the Agreement will continue for successive terms of one ^(H) _____ each unless automatically terminated as permitted by paragraph 23 of this Agreement.

3. Rent: The Tenant agrees to pay \$^(I) _____ for the partial month ending on ^(J) _____. After that, Tenant agrees to pay a rent of \$^(K) _____ per month. This amount is due on the ^(L) _____ day of the month at _____ ^(M) _____.

<https://www.hud.gov/sites/dfiles/OCHCO/documents/90105a.pdf>

PBRA Resident Right to Organize

“The purpose of this part is to recognize the importance and benefits of cooperation and participation of tenants in creating a suitable living environment in multifamily housing projects and in contributing to the successful operation of such projects, including their good physical condition, proper maintenance, security, energy efficiency, and control of operating costs.”

24 CFR 245.5



“Legitimate Tenant Organizations”

- A tenant organization is “legitimate” if:
 - it has been established by the tenants of a multifamily housing project covered under § 245.10 for the purpose described in § 245.100,
 - meets regularly,
 - operates democratically,
 - is representative of all residents in the development, and
 - is completely independent of owners, management, and their representatives (24 CFR 245.110)
- The definition of legitimate tenant organization includes “organizing committees” and does not require specific structures, written by-laws, elections, or resident petitions (HUD Notice 2016-05)

Protected Organizing Activities

- Convening regularly scheduled tenant organization meetings in a space on site and accessible to tenants, in a manner that is fully independent of management representatives;
 - In order to preserve the independence of tenant organizations, management representatives may not attend such meetings unless invited by the tenant organization to specific meetings to discuss a specific issue or issues.
- Distributing leaflets in lobby areas and common areas;
- Placing leaflets at or under tenants' doors;
- Initiating contact with tenants;
- Conducting door-to-door surveys of tenants to ascertain interest in establishing a tenant organization and to offer information about tenant organizations;
- Posting information on bulletin boards;
- Assisting tenants to participate in tenant organization activities;

Protected Organizing Activities

- Formulating responses to owner's requests for:
 - Rent increases;
 - Partial payment of claims;
 - The conversion from project-based paid utilities to tenant-paid utilities;
 - A reduction in tenant utility allowances;
 - Converting residential units to non-residential use, cooperative housing, or condominiums;
 - Major capital additions; and
 - Prepayment of loans.
- Other reasonable activities related to the establishment or operation of a tenant organization
- Owners of multifamily housing projects and their agents cannot require tenants and tenant organizers to obtain prior permission before engaging in these activities

Tenant Organizers

- **Tenant organizer:**

- “A tenant or non-tenant who assists tenants in establishing and operating a tenant organization, and who is not an employee or representative of current or prospective owners, managers, or their agents.”

- **Non-tenant tenant organizers:**

- If a PBRA property has a consistently enforced, written policy against canvassing, then a non-tenant tenant organizer must be accompanied by a tenant while on the property of the multifamily housing project
- If a PBRA property has a written policy favoring canvassing, any non-tenant tenant organizer must be afforded the same privileges and rights of access as other uninvited outside parties in the normal course of operations
- If a PBRA property does not have a consistently enforced, written policy against canvassing, the project shall be treated as if it has a policy favoring canvassing

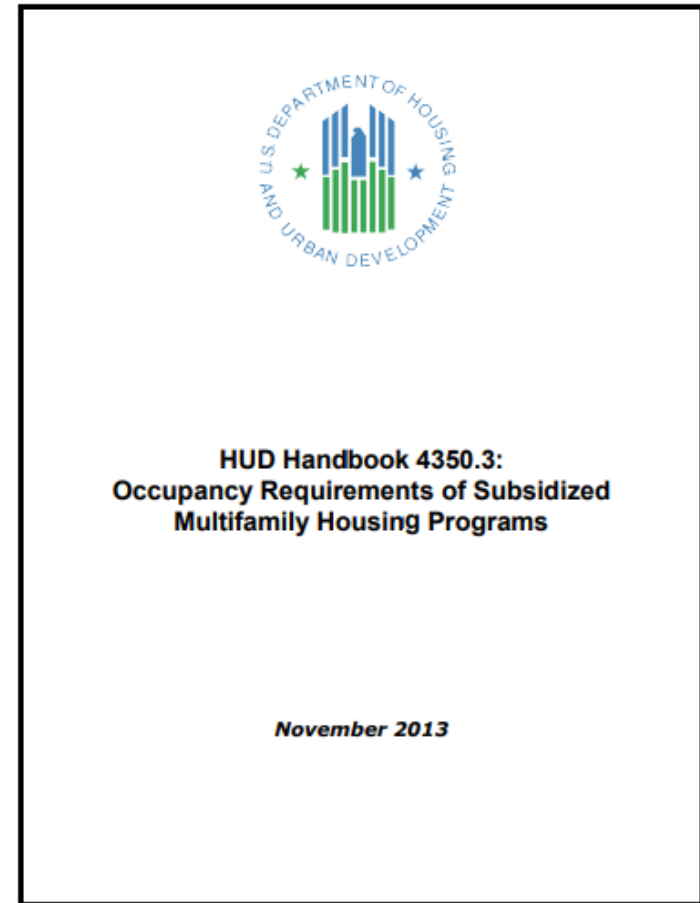
Enforcement of Organizing Rights

- **Impediments to tenant organizing:**
 - Unreasonable denial of accessible meeting space to residents;
 - Repeatedly sending management representatives to resident meetings when residents have requested management not to attend;
 - Evicting, threatening to evict, withholding entitlements, or otherwise penalizing residents for organizing or asserting their rights;
 - Attempting to adversely influence resident leaders by offering individual inducements such as employment, preferential transfers, rent abatements, favored repairs, or other benefits not available to all residents in the project;
 - Attempting to form a competing resident organization under the control of the management company or the owner; and
 - Running for office or otherwise serving as a member of the resident organization
- Owners and their agents who interfere with these rights may be liable for **sanctions** under 2 CFR part 2424

Additional Resources and Legal Authorities

Important PBRA Resources

- HUD PBRA Lease ([HUD Form 90105a](#))
- [HUD Handbook 4350.3](#)
- [24 CFR part 245](#)
- [HUD Notice 2016-05](#)
- [HUD Handbook 4381.5, rev-2](#)
- [2 CFR part 2424](#)
- [National Housing Preservation Database](#)



Questions?



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