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July 28, 2000

Ms. Phyllis A. Smelkinson
Acting Program Center Coordinator
Office of Public Housing
Department of Housing and Urban Development
One Corporate Center, 19th Floor
Hartford, CT 06103-3220

RE: Complaint regarding Bridgeport Housing Authority's Proposed Annual and Five Year PHA Plan

Dear Ms. Smelkinson:

Connecticut Legal Services, Inc.(CLS) is a private non-profit law firm which offers legal services to low income individuals, families, and organizations in Bridgeport. We regularly represent families who live in housing operated by the Bridgeport Housing Authority (BHA), who receive Section 8 tenant-based assistance or who are on the waiting lists for public housing and Section 8 assistance in Bridgeport.

We are writing to complain about several procedural and substantive deficiencies in the Bridgeport Housing Authority's Annual and Five Year PHA Plan (PHA Plan or Plan) dated May 10, 2000, as it was presented to the public at a meeting held on June 27, 2000. It is not the purpose of this letter to complain to HUD about policy choices made by the BHA which we may feel to be unwise but which do not violate federal statutes or regulations. Although many of these choices may have survived in the Plan, due to a lack of serious input by public housing residents and tenant-based program participants, we are complaining here about aspects of the Plan and its development which we believe violate HUD regulations

We believe the Plan, as submitted to the public, should be disapproved by HUD. Pursuant to 24 C.F.R. § 903.23, HUD may disapprove a PHA plan, in its entirety or with respect to any part, if the plan or one of its components or elements does not provide all the information that is required to be included in the plan or it is not consistent with information and data available to HUD or with the applicable Consolidated Plan, Federal law or regulation for the jurisdiction in which the PHA is located. It should also be disapproved if the PHA has failed to comply with resident and public participation requirements.



Violations in the Plan Process

Under the Public Housing Reform Act, local Public Housing Agencies (PHAs) must develop Annual and Five Year Plans detailing their operational policies, procedures, and goals. See generally, 24 C.F.R. Part 903. The purpose of the PHA planning process is to provide a framework for local accountability and an easily identifiable source of PHA information for residents, Section 8 participants and members of the public. See 24 C.F.R. § 903.1(b).

1. Inappropriately constituted Resident Advisory Board - No tenant-based assistance participants

24 C.F.R. §903.13 (b)(2) provides that the PHA must assure that a reasonable number of participants in the Section 8 tenant-based program be represented on the Resident Advisory Board (RAB.) It is our belief that there are no Section 8 participants on the Bridgeport RAB. The Bridgeport Housing Authority simply designated the city-wide Resident Affairs Board as its RAB without adding any other members. We are unaware of any attempt to recruit Section 8 participants, nor was any explanation provided for the failure to include such individuals.

There are several provisions of the PHA Plan regarding administration of the tenant-based program which we believe to violate HUD rules and which will have the tendency to inhibit full utilization of vouchers. Perhaps these deficiencies would have been avoided, had the BHA given section 8 participants input into Plan development.

2. Ineffective Resident Advisory Board input and resident participation

The BHA's Resident Advisory Board had two meetings with the BHA's Plan consultant to discuss management issues generally. However, the RAB was given no resources, with which to function, as is required by 24 C.F.R. § 903(a)(2), and was not even provided with copies of the Housing Authority's May 10, 2000 proposed One and Five Year Plan. We have been told by members of the RAB that they learned of the scheduling of the public hearing to receive comment on the proposed Plan only by publication of the advertisement and by staff from our office. Several RAB members received their copies of the proposed plan from our office.

We have enclosed as part of our complaint, the comment submitted at the Bridgeport Housing Authority's public hearing on the Plan by the Connecticut Housing Coalition's Public Housing Resident Network. The Resident Network charged that the BHA had discouraged resident participation and that many residents felt intimidated by the BHA's actions.

3. Insufficient notice of the public hearing

The BHA failed to give 45 day notice of the public hearing, required by 24 C.F.R. § 903.17(b). On May 15, 2000, an advertisement appeared in the classified section of the local *Connecticut Post* newspaper. The advertisement noticed a hearing on the One and Five Year Plan for June 27, 2000, 43 days later. A copy of the advertisement is enclosed. We believe that notice was never given to BHA residents and Section 8 participants.

4. Insufficient availability of the Plan and outreach to the public

The advertisement correctly advised that the PHA Plan was available for public inspection at the Bridgeport Housing Authority's administrative office, but it also stated that anyone requesting a copy of the Plan would be assessed a substantial financial charge. Our office was informed by a consultant for local homeless organizations that the charge would be \$300.00, payable to the BHA's Plan consultant.

Our office made an informal request for a copy of the plan, on behalf of a member of the Resident Advisory Board. Pursuant to the Connecticut Freedom of Information Act, copying fees should be waived when requested by an indigent person or it is in the public interest. Pursuant to a settlement of an earlier Freedom of Information complaint our office had filed against the BHA, we offered to duplicate the draft on our own copier, on our own paper. When we requested the copy, we were told that we would have to pay the fee, like all others. We believe that the \$300 asking price was in excess of the amount allowed by our Freedom of Information Act.

After a discussion with the Bridgeport Housing Authority's counsel, the BHA agreed to post the draft Plan and two proposed policies on its World Wide Web page. It was placed there on June 9th, less than three weeks before the scheduled hearing. Our office then downloaded the draft Plan and distributed it to clients and public agencies which had expressed interest. There was little time to review the Plan and to develop appropriate comments. We believe that the Housing Authority's conduct violated 24 C.F.R. §903.17(b) and (c).

5. Improper Public Hearing

On June 27, 2000, Connecticut Legal Services staff and community advocates attended the scheduled public hearing to discuss the Plan. The BHA executive director presided over the meeting. One other staff person was present, essentially to handle a sign-in sheet. Not one member from the Bridgeport Housing Authority's Board of Commissioners was present. When asked by our staff why the Commissioners were not present, attendees were informed by the director that the Board of Commissioners was not required to conduct the public hearing, that this is optional.

24 C.F.R. § 903.17(a) provides that the board of directors or similar governing body must conduct a public hearing to discuss the PHA plan; it was cited in public for the director. The public hearing was not adjourned nor was it continued to another date to enable Housing Authority commissioners to attend. Instead, the executive director proceeded to seek comment and said that she did not plan to schedule another public hearing, although she did state that she would schedule another hearing if she determined that the BHA did not provide 45 days' notice. The BHA staff person made little effort to take notes, while the executive director made a few notes. No mechanical recording of the hearing was made. A PHA plan cannot be ready for submission nor should a PHA submit a plan for approval until a public hearing has been conducted. See 24 CFR § 903.19. There has been no public hearing subsequent to June 27th.

6. The Bridgeport Housing Authority's PHA Plan was submitted without completing the consultation process

According to HUD's PHA Plans Web page, the BHA's Annual and Five Year PHA Plan was received by HUD on July 14, 2000. We have never been notified that there has been any revision to reflect comments received. In addition, we believe that there was no additional consultation with the Resident Advisory Board. This violates 24 C.F.R. § 903.19(b) and (c).

Substantive Deficiencies in the One and Five Year Plan

1. The BHA Plan is inconsistent with the needs and strategies stated in the City of Bridgeport's Consolidated Plan.

The "Housing and Homeless Needs Assessment" of Bridgeport's Consolidated Plan specifically states that "[t]he greatest need for housing assistance is two-bedroom units to serve small, very low income households; more than 5,620 more assisted units are needed in this category, according to the CHAS." Consolidated Plan, 1998-2003. In addition, two of the eleven strategies to meet the housing needs of the community articulated in the Consolidated Plan are to "develop rental housing for very low income households" (Strategy 2) and to "develop rental housing for all other very low and low income rental households" (Strategy 6). Consolidated Plan, 1998-2003.

Despite these stated needs and strategies, some of the strategic goals and action objectives proposed in the BHA's Plan are inconsistent with the needs identified in the Consolidated Plan for the following reasons:

- The BHA's intends, as stated in Strategic Goal #1, Action Objective #2, to purge the public housing waiting list, thereby making the list shorter but in no way improving or increasing the supply of existing housing. It is likely that purging will be accomplished

to the detriment of the same class of families described in the Consolidated Plan as having the greatest housing need. These families, who are currently on the waiting list, are in need of housing assistance. They are likely staying in shelters or are homeless, making them hard to reach, or living in worst case housing conditions. Many are persons with disabilities.

- The table in the needs assessment section on page 32 of the One and Five Year Plan narrative states that there are almost 18,000 families facing hardship and in need of affordable housing in Bridgeport. Of those families, 13,636 are currently at income levels below 50% of MFI. Although the needs assessment also indicates a much lower population of elderly families in need of housing assistance (2,502), Strategic Goal #2, Action Objective #1 indicates an intent to explore the conversion of existing housing stock into assisted living facilities for the elderly. While we cannot minimize the needs of the elderly community, in light of the needs assessment provided in the PHA Plan, it is counterintuitive to remove housing stock from the most needy segment of the community (families) in order to create housing opportunities for another segment of the community that has been identified as much less needy, particularly with affordability, supply and quantity all having been identified as having serious impact on low income and poorer families, generally.
- The Plan indicates an intention, in Strategic Goal #2, Action Objective #2, to explore the conversion of family units in Building #10 at Trumbull Gardens and Charles F. Greene homes into cooperatives or condominiums. The question becomes how these proposed actions 1) would increase the available housing stock for the neediest segment of the population, as identified and 2) how these endeavors could be accomplished without **reducing** the number of units available to house those families. Currently, as proposed, this objective is inconsistent with the Consolidated Plan, because families targeted for condominium and cooperative ownership will fall within a particular income bracket, limiting the housing opportunities for those families in greatest need.
- The Housing Authority has proposed to reduce its housing stock further with its Marina Village Comprehensive Redevelopment Plan. The plan calls for the reduction of the existing 404 low rise garden style apartments to 225 mixed-income new construction and other scattered site, rental, lease-to-own and/or homeownership units throughout the city. This development project alone would reduce the BHA's housing stock by 179 affordable units.

2. The disproportionate negative impact of the PHA Plan on minority households raises concern that the Plan is inconsistent with Bridgeport's Analysis of Impediments to Fair Housing Choice.

Included as a possible impediment to fair housing choice is racial discrimination encountered in the private housing market. See Analysis of Impediments - 3rd Year Review 1999 at 4, Impediment #4 (listing racial and familial status discrimination complaints received in 1999). The Plan reduces the number of affordable housing units in Bridgeport and forces people on the waiting list for public housing to spend more time in the private market, thereby increasing the likelihood that they are subject to discriminatory treatment. By reducing the number of housing options for people on the public housing wait list, the BHA's Plan limits, rather than expands, fair housing choice.

3. The PHA Plan violates the Concerned Tenants of Father Panik Village v. Cuomo settlement agreement, which establishes that newly built scattered site housing is to be leased to BHA waiting list applicants.

The Plan proposes that scattered site rental units be filled only from within the BHA's existing public housing developments. This provision violates the latest agreement in the Concerned Tenants of Father Panik Village lawsuit. The Father Panik replacement units were supposed to be completed several years ago, but the development project is not complete. Families on the public housing waiting list have been harmed by the continuing failure to bring these units on line. The Father Panik waiting list plaintiffs and the Bridgeport Housing Authority agreed in 1998 that all scattered site replacement units must be filled by families on the waiting list. Adopting this provision will put the BHA in contempt of the Father Panik settlement. See the enclosed Memorandum of Agreement from Concerned Tenants of Father Panik Village v. Cuomo.

4. The BHA Plan perpetuates the under utilization of Section 8 vouchers and fails to affirmatively further fair housing by failing to extend housing search time and choosing to retain unreasonably low payment standards.

Despite the fact that 24 C.F.R. § 982.303 now permits unlimited search time at the discretion of the Housing Authority, the BHA in its Plan has chosen not to extend the time a family with a Section 8 voucher is permitted to search for housing before losing the voucher. The Housing Authority appears to be unaware of the new regulation. Search time of 60 days with extension of up to 60 days is too short to enable families to locate housing meeting HQS standards in neighborhoods without high concentration of racial minorities and low income families. In Bridgeport, families face discrimination because of race, color, creed, national origin, familial status and simply because they are attempting to use Section 8 assistance. They often require more than 120 days to locate decent suitable housing. The BHA's policy should be

revised to provide this. The executive director of the BHA publicly stated at the September 1999 public hearing on the BHA's Interim PHA Plan and on other occasions that Section 8's are being returned and that Section 8 has been unworkable in this community.

A more appropriate strategy to address the voucher utilization problem would be to increase the housing search time and, where necessary, to better enable mobility to low poverty areas, to also increase the payment standards. It is in the BHA's discretion to extend a housing search period beyond a 120 day period, and that should be acknowledged in both the Annual and Five Year Plans. In addition, the regulation also provides that the BHA **must** extend the search time required by a person with disabilities to whatever time is reasonably required, as a reasonable accommodation. The language in the Plan narrative, at p. 55, states that permission for extension of search time to accommodate a disability will be requested form the HUD field office. This demonstrates a misunderstanding of 24 C.F.R. § 982.303.

24 C.F.R. § 903.7(d) requires that the BHA Plan articulate the Section 8 payment standard. The Five Year Plan narrative does not state what payment standard the BHA has chosen, rather it simply describes the range permitted within BHA discretion. In the Plan template, which was not available to the public on the BHA website, the BHA indicates, on page 30, that its payment standard is above 90% but below 100% of the Fair Market Rents.

The reasons stated therein for choosing rent standards which are lower than allowed by law are a choice to serve additional families, the reflection of the market, and the desire to increase housing options for families. The factors ought to include success in placing families in areas of low minority and poverty concentration. We are unable to comprehend the choice that has been made by the BHA, as each of the justifications given are impeded, rather than furthered, by the failure to utilize as high a payment standard as permitted. It appears to us that the Bridgeport Housing Authority may be unaware that 24 C.F.R. § 982.102 provides that there is no reduction in the number of vouchers, if the PHA uses a higher payment standard to make the program work better. Our staff informed them of this fact in our comments to the draft Plan, but we have not been informed as to whether or not a change was made before the Plan was submitted to HUD.

Families moving into Section 8 housing may not pay more than 40% of their adjusted income for rent and utilities. Rather than increasing housing options, as the Plan asserts, the lower payment standard has the opposite effect. It keeps the lowest income families out of the lowest poverty neighborhoods and forces them to accept the worst housing capable of meeting Housing Quality Standards (HQS) in the most impacted neighborhoods, if they are fortunate enough to locate any housing within the allotted search time that meets HQS.

The third justification for the low payment standard is that it reflects the City of Bridgeport's rental market. Again, this assertion is inconsistent with statements made by the

executive director of the BHA that the Section 8 program is not working for many families and that they are unable to find suitable housing. In particular, this statement was made at the September 1999 public hearing on the Interim PHA Plan, which included the proposed disposition of 256 affordable housing units at Pequonnock Apartments, to justify the Bridgeport Housing Authority's decision not to apply to HUD for Section 8 vouchers to be used in relocation of displaced Pequonnock residents. Increasing the Section 8 payment standards can only have the effect of making the program more workable for families.

Clearly, forcing voucher holders seeking housing to accept housing in impacted neighborhoods or risk losing their subsidies, works directly counter to the BHA's obligation to affirmatively further fair housing. Despite the fact that comments to the PHA Plan submitted by this office pointed out these issues to the BHA, there has been no indication that the Plan has been revised.

5. The BHA Plan fails to fully examine its deconcentration policy and violates HUD's deconcentration rule, as proposed.

Pursuant to 24 CFR § 903.7(c)(2), the BHA must state its admissions policy with respect to deconcentration of very low-income families and income-mixing. There is no evidence in the proposed BHA Plan that the BHA has even developed such a policy. Rather, the Plan narrative states that there is no problem. The Plan states that the BHA's review of tenant income indicates no need for a formal measure to promote deconcentration of poverty. Support for that assertion is provided by a series of pie charts showing that the various large developments have similar rent schemes, but the Plan is silent as to the rents or incomes of the BHA's scattered site units and small developments. This does not convey the complete picture, required by the Public Housing Reform Act. HUD's proposed deconcentration rule, at 65 Fed. Reg. 20685 states that the provisions of the anticipated final rule will control the BHA's PHA Plan, 24 C.F.R. § 903.5(b), but the final rule has not yet been issued.

That proposed rule requires analysis and comparison of public housing income profiles, not by large development only, but of all buildings in the PHA's inventory, including scattered site units, see proposed 24 C.F.R. § 903.2(a). The Plan fails to do this, and in addition, it omits any analysis of the incomes of BHA residents living in its scattered site developments. From information obtained through the HUD Community 2020 software, we believe that residents of these developments have a significantly higher average income than the residents of the older developments, putting these units out of compliance with the proposed rule, as it was issued for comment and the Public Housing Reform Act. Even if the proposed rule is not yet effective, the Bridgeport Housing Authority may not violate the deconcentration mandate found in the PHRA. At a minimum, the PHA Plan must disclose incomes in scattered site developments and buildings, and, if incomes are, in fact, higher, it must describe how the Housing Authority will address the issue.

6. The BHA Plan fails to describe its policies for community service and self-sufficiency programs.

The Plan narrative states that the community service requirement is not applicable. This is incorrect. 24 C.F.R. § 960.600 states that the community service requirement becomes effective with October 1 fiscal year plans, which includes the Bridgeport Housing Authority. 24 C.F.R. § 903.71 provides that this Plan must describe community service and self-sufficiency programs and how they will be delivered, including Section 3 activities and any initiatives undertaken in partnership with other entities. Given the requirement that all non-exempt residents must provide 8 hours a month community service or participate in an economic self-sufficiency program, or face non-renewal of the lease, and given that the BHA has not described to the residents and the community the manner in which it will administer this requirement, disclosure of this information for resident and public discussion is critical.

This community has several agencies with experience in economic self-sufficiency law and administration. CLS has attorneys familiar with public assistance and employment law. Collaboration with residents and these resources would undoubtedly benefit public housing residents and the BHA's administration of the new requirements. Once again, despite the fact that comments to the PHA Plan submitted by this office pointed out these issues to the BHA, there has been no indication that this section of the Plan has been revised. If it has been revised, the RAB and the public have been deprived of the opportunity to comment on the BHA's new policies.

Conclusion

CLS requests that HUD inform the BHA of the One and Five Year Plan's numerous deficiencies and require that they be corrected before HUD gives its final approval of the Plan. The draft Plan, dated May 10, 2000, failed to meet the substantive or procedural requirements for a PHA Plan imposed by 24 C.F.R. Part 903. Before the proposed Plan can be approved by HUD, the BHA must modify the Plan so that it is consistent with the PHRA, HUD rules, the City of Bridgeport's Consolidated Plan and with the Fair Housing Act. In addition, the BHA must adhere to the procedural requirements for a One and Five Year Plan, including proper notice of public hearings to be held by the governing body of the BHA, and meaningful consultation with affected residents and Section 8 participants. If revisions to the Plan were drafted after comments were received, no one was informed, and the Plan should be returned to the Resident Advisory Board for consultation

If you have any questions, or would like more information about anything referenced in this letter, please do not hesitate to write or call.

Phyllis A. Smelkinson
July 28, 2000
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Sincerely,

Richard L. Tenenbaum

Catharine H. Freeman

enc.

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