



GREATER BOSTON  
LEGAL SERVICES  
*...and justice for all*

July 3, 2002—Per mail and e-mail

Patricia Arnaudo  
Office of Public & Indian Housing  
U.S. Department of Housing & Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

Re: Problem with manner in which “minimum rent” calculations are done for  
Section 8 tenant-based voucher program

Dear Ms. Arnaudo:

I am writing to you on behalf of our clients, as well as the National Housing Law Project and the Housing Justice Network (formerly known as the “Loose Association of Legal Services Housing Advocates and Clients”, or LALSHAC), concerning an issue about minimum rents and the Section 8 Housing Choice Voucher Program. It appears that the HUD Form 50058 does not properly set minimum rents in accordance with past HUD guidance for Section 8 Voucher tenants whose gross rent is greater than the PHA’s payment standard, and that 24 CFR 5.630 may not provide clear guidance to PHAs about how to set such minimum rents for such Voucher tenants.<sup>1</sup> We are seeking HUD clarification on this, in terms of: (a) changes to the HUD Form 50058 and (b) written guidance to field offices and PHAs as to the proper interpretation and implementation of the statute in these cases.

### **Background**

As you know, minimum rents were first implemented in January, 1996 as part of the Balanced Budget Downpayment Act, Section 402(a) of Pub. Law No. 104-99. On February 13, 1996, HUD issued Notice PIH 96-7 (HA), clarifying how the statute would be implemented for the Section 8 certificate, Section 8 voucher, and Section 8 moderate rehabilitation programs. Part D of this Notice discussed how minimum rents would be implemented for Voucher tenants, and said the following:

“For the voucher program, the minimum amount of the family contribution must be at least \$25. The HA may set this minimum amount anywhere from \$25 to \$50. Voucher families will pay the owner the difference between the monthly rent to owner and the housing assistance payment. Voucher families will also pay the cost of tenant-

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<sup>1</sup>As you know, I previously wrote to you on February 26, 2001 regarding certain revisions to the HUD Form 50058 and the Instruction Booklet, and certain revisions were made in HUD’s practices based on these comments. Unfortunately I did not notice this issue at that time.

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furnished utilities under the lease. A worksheet for calculating voucher housing assistance payments and tenant rent is attached."

The text of the notice for Voucher tenants was somewhat different than for the Section 8 certificate and moderate rehabilitation tenants, where HUD stated that as a result of the minimum rent provisions, the TTP must be at least \$25. For the voucher program, if the tenant did not have to pay any amount on gross rent (contract rent and tenant-furnished utilities) in excess of the PHA's payment standard, the effect of the minimum rent would be the SAME as for Section 8 certificate and moderate rehabilitation tenants. If, on the other hand, the tenant had to pay for gross rent in excess of the payment standard, and this amount exceeded the minimum rent, the statutory obligation would be fulfilled.

A review of the Voucher worksheet included with PIH Notice 96-7 (HA) makes this clear. Line (i) is the Gross Rent minus the Maximum Subsidy. Line (j)(2) of the worksheet is the minimum rent provision, and the minimum family contribution is listed on (j)(3) (either 10% of monthly income or the minimum rent). The total family contribution is listed as the higher of line (i) or (j)(3). **Thus in those cases where the difference between the gross rent and the maximum subsidy is equal to or greater than the minimum rent payment, the minimum rent contribution is satisfied by this.**

It does not appear that the provisions of the worksheet in PIH Notice 96-7 (HA) were incorporated into HUD Form 50058, or into any guidance provided by HUD in 24 CFR Part 982 or 24 C.F.R. 5.630 on minimum rents for Section 8 voucher tenants. **Under the HUD Form 50058 worksheets, Voucher tenants have to pay the PHA's minimum rent on top of paying the difference between the maximum subsidy and the gross rent, rather than the greater of the two.**

Please get back with me after you've had an opportunity to review this, letting me know what action HUD is willing to take in response to these comments. Please let me know if you have any questions regarding this letter.

Sincerely yours,

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cc. Catherine M. Bishop, National Housing Law Project  
Rod Solomon, HUD