9.2.6 Resident Management

In addition to supporting efforts to involve tenants and tenant organizations in public housing management functions, HUD has also encouraged tenants to become managers of public housing. Approximately 25 such tenant management efforts have lasted varying lengths of time.[2] These efforts have ranged from experiments to train tenants as resident managers to the creation of independent tenant management corporations (TMCs) – also referred to as resident management corporations (RMCs) – with full administrative responsibilities.[3]

Regulations. In 1986, HUD published regulations on tenant management.[4] These rules were followed almost immediately by congressional legislation,[5] which, in turn, led to modification of the HUD regulations.[6] In 1994, HUD issued new regulations on both tenant participation and resident management.[7] The regulations include a policy statement favoring tenant management.[8] They also set forth some minimum requirements for establishing a RMC by, for example, requiring the approval of the tenant organizations, if they exist.[9]

However, the regulations do not impose many mandates upon the PHAs, thereby leaving implementation of tenant management programs to a PHA's discretion. A PHA, furthermore, can decide whether to enter into a management contract with a RMC, although PHAs must support tenants' interest in management and work with tenants to determine the feasibility of tenant management.[10]

PHAs must seriously consider any RMC's request to assume management functions and negotiate in good faith with the RMC on such an offer. If the PHA rejects the request, the RMC may appeal to HUD

---

[1] Note this excerpt from the last edition of NHLP's "green book" has not been updated since the 2012 edition.

[2] Many of the original RMCs no longer exist. *See, e.g.*, HUD (prepared by ICF Incorporated), *Evaluation of Resident Management in Public Housing* (Dec. 1992) (Companion Website); John Ruch, *BHA Bromley TMC Had No Contract, No 'Heir,"* Jamaica Plain Gazette (March 2, 2012) (Companion Website). There are some exceptions such as the Kenilworth Parkside RMC, which received a Choice Neighborhood Planning Grant in 2011. HUD Press Release, HUD Awards a $300,000 Choice Neighborhoods Planning Grant to the D.C. Housing Authority (Jan. 10, 2012). In addition, new RMCs have been established, such as Guste RMC and B.W. Cooper RMC, both located in New Orleans. *See* HUD Press Release No. 12-075, Donovan Joins State and Local Leaders to Formally Open Marrero Commons on the Site of the Former B.W. Cooper (May 4, 2012); Housing Authority of New Orleans, *Creating Communities. Building Trust* (Fall 2011).

[3] HUD, *An Operations Guide for Resident Management Corporations: A Guide for Public Housing Residents* (Nov. 1990) (setting forth HUD's notion of resident management as well as tips for organizing and implementing an RMC) (Companion Website); David Caprara and Bill Alexander, *Empowering Residents of Public Housing: A Resource Guide for Resident Management* (National Center for Neighborhood Enterprise, Washington, D.C., 1989); *Public Housing Resident Initiatives*, PUB. ASSISTANCE REP. (Jan. 22, 1992), at 1; William Peterman, *The Meanings of Resident Empowerment: Why Just About Everybody Thinks It's a Good Idea and What It Has To Do with Resident Management,* 7 Housing Policy Debate 473 (1996) (Companion Website); *Evaluation of Resident Management in Public Housing*, *supra* note 2; C. Theodore Koebel and Marilyn S. Cavel, Virginia Center for Housing Research (prepared by the Virginia Housing Study Commission), *Tenant Organizations in Public Housing Projects: A Report on Senate Resolution No. 347* (Oct. 1995) (Companion Website); Tenant Management of Public Housing, Hearing before the Subcommittee on Housing and Community Development, House of Rep., 98th Cong. 2d Sess. (March 25, 1986).

[4] 51 Fed. Reg. 44,055 (Dec. 8, 1986), *codified at* 24 C.F.R. § 964 (2012). These regulations cover both public housing tenant participation and tenant management.

[5] 42 U.S.C.A. § 1437r (West 2012), added by Pub. L. No. 100-242, 122, 101 Stat. 1815, 1839 (1988).

[6] 53 Fed. Reg. 34,676, 34,680 (Sept. 7, 1988).

[7] 24 C.F.R. §§ 964.1–964.150 (2012).

[8] *Id.* § 964.15.

[9] *Id.* § 964.120.

[10] *Id.* § 964.225. Some PHAs have included the fostering of resident management in their PHA plans. *See, e.g.*, Chicago Housing Authority Annual Plan (FY 2000), Helena (MT) Annual Plan and Norfolk (VA) Annual Plan, *at* http://www.hud.gov/offices / pih/pha/approved/index.cfm.

and HUD must require the PHA and the RMC to resume negotiating.[11]

What the RMC can do. The RMC may contract with the PHA to assume all or part of the management functions for which the PHA is responsible under the Annual Contributions Contract (ACC) with HUD, if the PHA finds that the corporation is capable of performing such functions.[12] If the RMC receives funding directly from HUD pursuant to an ACC, the PHA is not responsible for the actions of the RMC.[13] In all other cases, the PHA may not contract away its underlying responsibilities to HUD under the ACC. The PHA is responsible for monitoring the corporation's performance at least on an annual basis.[14]

One of the most highly publicized experiences of tenant management is the management of the Kenilworth-Parkside public housing project in Washington, D.C., where the first RMC sought ownership of a public housing project under Section 123 of the Housing and Community Development Act of 1987.[15] Two RMCs—Kenilworth-Parkside and Carr Square Village in St. Louis, Missouri—initially sought HUD approval to purchase their properties as the first step in the process that would ultimately end with the sale of the units to individual tenants. The Kenilworth-Parkside Resident Management Corporation had managed the property for seven years. A plan was submitted to HUD for the transfer of ownership of the property to the RMC.[16]

Overall, however, the RMC experience has been mixed. Selling public housing units or an entire project to residents has been problematic, if not infeasible, primarily, due to two factors. First, many public housing residents simply lack the financial resources to sustain ownership. Second, the renovations necessary to bring such public housing up to decent standards are expensive. For example, at Kenilworth-Parkside, the costs ranged up to $130,000 per apartment, as compared to an average modernization cost nationwide at that time of $12,008 per unit.[17] Such issues led the General Accounting Office to issue recommendations regarding the RMC's general process. One recommendation indicated the need for a more detailed assessment of resident families' feasibility to own public housing before the property's sale to an RMC.[18] Another recommendation reflected the need for the PHA to be given the first right to repurchase the property by satisfying any lien, if the RMC is unable to meet its financial obligations.[19] Advocates considering the RMC model should carefully review the GAO's recommendations.

---

[11]24 C.F.R. § 964.225(c) (2012).

[12]*Id.* § 964.225(d).

[13]24 C.F.R. § 964.255(h) (2012); 42 U.S.C.A. § 1437r(e)(3) (West 2012).

[14]24 C.F.R. § 964.225(k) (2012).

[15]42 U.S.C.A. § 1437s (West 2012), added by Pub. L. No. 100-242, tit. I, 123, 101 Stat. 1815, 1842 (Feb. 5, 1988). The 1987 Act encouraged increased resident management and authorized the sale to public housing residents of their own units.

[16]Before the transfer, the property underwent extensive modernization financed by HUD.

[17]Laventhol & Horwath, *Economic and Financial Analysis of Kenilworth-Parkside Home Ownership* (Washington, D.C., Sept. 1, 1989) (prepared for National Center for Neighborhood Enterprise) (Companion Website). The major problem with the program was that the best public housing units (those needing least renovation) were targeted to residents with the least need (individuals with high incomes), leaving very low-income residents in the developments with units that needed major reconstruction. *See* R. and C. Guskind, *Sales Resistance,* NAT'L J. (Apr. 6, 1991).

[18]General Accounting Office, *Public Housing: Planned Kenilworth-Parkside Sale Raises Issues for Future Transactions, Report to the Chairman, Subcommittee on Housing and Urban Affairs, Senate Committee on Banking, Housing and Urban Affairs* (GAO/RCED-90-26) (Dec. 1989) (hereinafter "GAO Report") (Companion Website). *See also Economic and Financial Analysis of Kenilworth-Parkside Home Ownership, supra* note 17.

[19]GAO Report, *supra* note 18.