

VIA EMAIL AND MAIL

April 11, 2008

Sean Heron, Senior Policy Analyst
Oakland Housing Authority
1619 Harrison Street
Oakland, CA 94612



RE: Proposed Annual Plan for Fiscal Year 2009

Dear Mr. Heron:

The National Housing Law Project submits the following comments in connection with the Oakland Housing Authority's (OHA) proposed Annual Plan for Fiscal Year 2009, including comments on the Section 8 Administrative Plan and the Admissions and Continued Occupancy Policy (ACOP).

The National Housing Law Project (NHLP) is a national housing law and advocacy center that provides legal assistance, advocacy advice and housing expertise to legal services and other attorneys, low-income housing advocacy groups, and others who serve the poor. We submit these comments in the hope that they will facilitate a continued dialogue with OHA and assist the agency in administering its housing programs in a manner consistent with its mission of promoting adequate and affordable housing.

Our comments on the Annual Plan focus on the following areas: 1) number of households served; 2) occupancy and rent policies; 3) changes in housing stock; 4) reasonable accommodation policies; 5) implementation of the Violence Against Women Act. We welcome meeting with OHA to respond to any questions or concerns that the agency may have with regard to our comments.

I. Annual Plan Section I: Households Served, Page 4

We are concerned that fewer families are being served under the Section 8 voucher program than in prior years. OHA reports that it had a utilization rate of only 96.7% (page 4) and then on page 9 it states that it will maintain a 100% lease-up rate. The numbers need to be conformed.

A lease-up rate of 96.7% equates to 357 families on the waiting list that could have been served but were not. (Funded vouchers 10,958¹ less number of vouchers in use 10,601= 357) OHA has in the past achieved higher utilization rates. Our concern is increased because it is our understanding, based upon information from the Center on Budget and Policy Priorities (CBPP), copy of which is attached, that the number of authorized vouchers for OHA for calendar year 2008 is 11,033. Therefore, if OHA takes no further action, it may be that 432 families on the waiting list will not be served.

¹ Page 18 states that OHA "received funding for 10,858 vouchers." Which number is correct, and is there a typo?

Our questions are:

- What steps is OHA taking today to ensure that it is fully using all available vouchers in calendar year 2008?
- Has OHA evaluated the reasons why it is underutilizing available vouchers?

Failure to fully use all available vouchers will likely mean that in the next fiscal year, OHA will receive less funding for vouchers. It is our understanding that OHA will likely receive funding for vouchers in 2009 based upon the number of vouchers in use times the average cost. Because OHA is a Moving to Work housing authority, is our understanding of how OHA is funded for vouchers accurate, or has OHA contracted with HUD for a different funding formula for vouchers? If the latter is true, how is the amount of funding that OHA receives for vouchers calculated? Was funding for calendar year 2008 based upon the number of vouchers in use in 2007?

II. Annual Plan Section II: Occupancy and Rent Policies, Page 10

OHA states that it “will consider a number of occupancy and rent policy changes” in the coming two years. We are very concerned about what the rent policies may be and the proposed lease changes “to encourage tenant behavior that is consistent with the surrounding community’s standard.” The descriptions in the Annual Plan of what policies may be adopted are very cryptic. We urge OHA to engage in an extensive outreach effort to consult with and engage residents and housing advocates in any consideration of policy changes.

III. Annual Plan Section III: Changes in Housing Stock, Page 14

We are very concerned about OHA efforts to explore the options for the demolition *and* disposition of its *entire* stock of 1,615 scatter site public housing units. These public housing units represent a reasonable distribution of public housing units throughout Oakland. As noted in the Annual Plan for Fiscal Year 2009, “the scatter sites were developed to help the Authority deconcentrate poverty and integrate low income families into mixed income neighborhoods.” Page 15. OHA should undertake all efforts to preserve the current stock, by seeking additional federal state and local funds.

If OHA is considering the demolition and disposition of more than one half of the entire stock of public housing units, the following ground rules should apply:

1. There shall be one-for-one replacement of every unit that is demolished or disposed of and the rents charged in the replacement units shall be set at 30% of family income. In other words, the replacement units shall be affordable to the families that currently live in public housing in Oakland.
2. Replacement units should be built before units are demolished or disposed of.
3. Any replacement units should be built in areas that are not more impacted either racially or economically than the areas in which the units that are being replaced are currently located.

4. There shall be no displacement of residents prior to the adoption of a relocation plan, which complies with State and Federal law.
5. Any tenant displaced because of demolition or disposition shall have a priority to occupy any replacement unit and shall not be subject to any additional screening.

Please let us know if OHA will agree to commit to these policies.

Tassaforanga Village, Page 15

The Annual Plan for Fiscal Year 2009 states that OHA received 75 vouchers to use as a relocation resource for the households at Tassaforanga Village. It appears that there were 87 units at Tassaforanga Village. (Attachment A). We believe that OHA should be entitled to vouchers for the full 87 units. In 2001, HUD adopted a policy for replacing demolished and disposed units² by providing public housing authorities (PHAs) replacement vouchers for each unit that the PHA did not receive replacement funding to rebuild. This policy, which was reaffirmed in 2002, 2004, and 2005,³ sought to ensure that demolition and disposition did not result in the overall loss of assisted housing in the community.

In 2006, HUD issued PIH Notice 2006-05, which contained a deeply buried provision announcing that Housing Assistance Payment and administrative fees for replacement vouchers would only be provided for units *occupied* at the time of a PHA's application for replacement vouchers.⁴ On April 30, 2007, HUD issued PIH Notice 2007-10, more clearly illuminating the 2006 policy with respect to demolition and disposition, completing the dramatic departure from the pre-2006 policy. Under this current policy, vouchers will no longer replace all the housing that is disposed or demolished and not replaced. Instead, HUD announced that it would only provide vouchers for occupied units.

The Bush Administration sought to obtain legislative authorization for this policy change in its HUD Fiscal Year 2007 and 2008 budgets by getting Congress to provide replacement funding

²Submission and Processing of Public Housing Agency (PHA) Applications in Fiscal Year (FY) 2001 for Housing Choice Vouchers for Relocation or Replacement Housing Related to Demolition or Disposition (Including HOPE VI), and Plans for Removal (Mandatory Conversion) of Public Housing Units Under Section 33 of the U.S. Housing Act of 1937, as Amended, PIH 2001-20 (Jun. 21, 2001).

³Submission and Processing of Public Housing Agency (PHA) Applications in Fiscal Year (FY) 2001 for Housing Choice Vouchers for Relocation or Replacement Housing Related to Demolition or Disposition (Including HOPE VI), and Plans for Removal (Mandatory Conversion) of Public Housing Units Under Section 33 of the U.S. Housing Act of 1937, As Amended, PIH 2002-21 (Oct. 2, 2002); Submission and Processing of Public Housing Agency (PHA) Applications for Housing Choice Vouchers for Relocation or Replacement Housing Related to Demolition or Disposition (Including HOPE VI), and Plans for Removal (Required/Voluntary Conversion Under Section 33 of the U.S. Housing Act of 1937, As Amended, and Mandatory Conversion Under Section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996) of Public Housing Units, PIH 2004-4 (Mar. 29, 2004); Submission and Processing of Public Housing Agency (PHA) Applications for Housing Choice Vouchers for Relocation or Replacement Housing Related to Demolition or Disposition (Including HOPE VI), and Plans for Removal (Required/Voluntary Conversion Under Section 33 of the U.S. Housing Act of 1937, As Amended, and Mandatory Conversion Under Section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996) of Public Housing Units, PIH 2005-15 (Apr. 26, 2005). See note 9, *infra*.

⁴Implementation of the 2006 HUD Appropriations Act (Public Law 109-15) Funding Provisions for the Housing Choice Voucher Program, PIH 2006-5 (Jan. 13, 2006).