

HUD-VASH Notice Guides PHAs in Project-Basing Vouchers*

In the 2008 Consolidated Appropriations Act, Congress appropriated \$75 million to assist approximately 10,000 homeless veteran families.¹ On March 16, 2009, the Department of Housing and Urban Development (HUD) issued a Federal Register notice further implementing the program by providing guidance on project-basing HUD-Veterans Affairs Supportive Housing Vouchers.²

HUD will consider, on a case-by-case basis, requests from a public housing agency (PHA) to project-base HUD-VASH vouchers in accordance with project-based voucher (PBV) regulations.³ The request must be jointly signed by a PHA and a Veterans Affairs Medical Center official. It must contain an explanation of why the PHA is proposing to project-base the vouchers rather than providing tenant-based assistance, the particular challenges faced by HUD-VASH voucher holders in the rental market, for newly constructed units the length of time the VASH vouchers will not be in use while awaiting construction of the units⁴ and a detailed description of the proposed project. No more than 50% of the PHA's allocation of HUD-VASH vouchers may be project-based.⁵ All types of project-based proposals—existing units, newly constructed units, substantially rehabilitated units—will be considered.

It is important to note that, while under most PBV programs no more than 25% of the units (assisted or unassisted) in any one building may receive PBV assistance, this requirement does not apply to HUD-VASH project-based vouchers. HUD-VASH recipients qualify as “families receiving supportive services” and those vouchers are not counted towards the 25% cap.⁶

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¹Pub. L. 110-161, tit. II, 121 Stat. 1844, 2414 (2007); Section 8 Housing Choice Vouchers: Implementation of the HUD-VA Supportive Housing Program, 73 Fed. Reg. 25,026 (May 6, 2008), corrected by 73 Fed. Reg. 28,863 (May 19, 2008) (providing additional information regarding portability). See also NHLP, *HUD-VASH: Long-Neglected Program Brought Back to Life*, 38 HOUS. L. BULL. 135 (2008), NHLP, *HUD-VASH Notice Reaffirms PHAs' Obligation Regarding Issuance of Vouchers*, 39 HOUS. L. BULL. 58 (2009).

²Project-Basing HUD-Veterans Affairs Supportive Housing Vouchers, PIH 2009-11 (HA) (Mar. 16, 2009).

³See 24 CFR part 983.

⁴For advocates the amount of time that the units will be held off the market is an important consideration which must be weighed against the benefits of project-basing the units.

⁵Because the VASH units are subject to the overall cap, which provides that no more than 20% of a PHA's vouchers may be project-based, the 50% authorization may not be fully available to some PHAs. 24 CFR § 983.6 (Westlaw, Current through March 27, 2009; 74 FR 13993) (Maximum amount of PBV assistance).

⁶*Id.* at § 983.56 (to qualify, a family must have at least one member

Project-basing may be particularly advantageous for the population that the HUD-VASH vouchers serve. It may be particularly difficult for these hard-to-house families to find landlords who are willing to accept their vouchers. Additionally, living in a fixed location may make it easier for these veterans to receive vital services and sustain a sense of community. ■

receiving at least one qualifying supportive service, but it is not necessary that the services be provided at or by the project, if they are approved supportive services).

Recent Cases

The following are brief summaries of recently reported federal and state cases that should be of interest to housing advocates. Copies of the opinions can be obtained from a number of sources including the cited reporter, Westlaw,¹ Lexis,² or, in some instances, the court's website.³ Copies of the cases are *not* available from NHLP.

Fair Housing Act: Policy of Assessing Applicants' Disabilities Constitutes Discrimination

Laflamme v. New Horizons, Inc., __ F. Supp. 2d __, 2009 WL 840758 (D. Conn. Mar. 31, 2009). A detailed review of this decision appears on page 105 of this *Housing Law Bulletin*.

Public Housing: Resident Adequately Pleaded Claim for Rent Overcharges

O'Neill v. Hernandez, 2009 WL 860647 (S.D.N.Y. Mar. 31, 2009). The court found that a public housing resident adequately pleaded a violation of the Brooke Amendment where he alleged that the New York City Housing Authority (NYCHA) deducted non-rent charges from his rent payments, effectively requiring him to pay more than 30% of his monthly income toward rent. The resident also adequately pleaded a Section 1983 claim where he alleged that because of improper training or supervision, NYCHA did not respond to his requests for audits. The court dismissed the resident's Americans with Disabilities

¹<http://www.westlaw.com>.

²<http://www.lexis.com>.

³For a list of courts that are accessible online, see <http://www.uscourts.gov/links.html> (federal courts) and <http://www.ncsc.dni.us/COURT/SITES/courts.htm#state> (for state courts). See also <http://www.courts.net>.