HOUSING JUSTICE NETWORK

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April 8, 2011—per e-mail submission

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street, SW, Room 10276
Washington, DC 20410-0500

Re: Docket No. FR-5236-P-01, "Public Housing Capital Fund Program"—Comments on Proposed Rule published at 76 FR 6654 (2/7/11)

Dear Regulations Division, Office of General Counsel, HUD:

These comments regarding the above rule are submitted to you on behalf of the Housing Justice Network (HJN) and the National Low Income Housing Coalition (NLIHC) . If any follow-up inquiries are needed, feel free to contact Mac McCreight at (617) 603-1652 or by e-mail at mmccreight@gbls.org .

PART 903 -- PUBLIC HOUSING AGENCY PLANS

§ *903.3 What is the purpose of this subpart?*

- At 24 C.F.R. § 903.3, pertaining to the Public Housing Agency (PHA) Plan regulation, the proposed rule does not directly define the term "qualified" PHA. Instead the proposed rule only cites "section 2702(a)(3)(C) of Pub. L. 110-289", which would necessitate regulation readers such as public housing leaders on resident councils and resident advisory boards (RABs) to obtain that Public Law and locate the specific section. To make the final rule transparent and conducive to public understanding, it should simply list the three factors necessary for a small PHA to be "qualified" in order for it to avoid having an annual PHA Plan.

- In addition at 24 C.F.R. § 903.3, although the proposed rule's summary and overview declares that the proposed PHA Plan change would merely incorporate the definition of "qualified" PHA in the PHA Plan regulation at 24 C.F.R. § 903.3, the actual proposed rule text deletes the current subsection explaining that, "The purpose of the [PHA] Plan is

to provide a framework for: (1) Local accountability; and (2) An easily identifiable source by which public housing residents, participants in the tenant-based assistance program, and other members of the public may locate basic PHA policies, rules and requirements concerning the PHA's operations, programs and services." This statement of purpose should remain in the PHA Plan rule as § 903.3(c).

PART 905—THE PUBLIC HOUSING CAPITAL FUND PROGRAM

SUBPART A—GENERAL

§ 905.106 Compliance

- At § 905.106, there is reference to the term "partners" in terms of HUD's enforcement powers. There should be a definition of "partners" within § 905.108 see § 905.604(b)(5).

§ 905.108 Definitions

- At § 905.108, there should be a definition of "Declaration of Trust".

- There should be a definition of "modernization", as it could cover a wide range of behaviors and its applicability is critical, especially considering the Total Development Cost (TDC) cap in § 905.314(g).

- There should also be a cross-reference, in the definition of "mixed-finance modernization", to the way "mixed finance method of development" is further described at § 905.200(b)(2).

See above in § 905.106 about the need to add a definition of "partners" here.

SUBPART B—ELIGIBLE ACTIVITIES

§ 905.200 Eligible Activities

- At § 905.200(b)(4), we like that here, as in the interim PHAS rule, HUD has put an emphasis on vacancy reduction programs. It would be helpful to spell out more of what is expected, either here or in other guidance.

- At § 905.200(b)(6), accessibility compliance should be explicit here, instead of just being referenced in the opening part of 905.200(b).

- At § 905.200(b)(7)(ii), there should also be a reference to the grievance/hearing procedure, since issues may arise which are beyond tenant selection and eviction (such as transfer or relocation disputes) involving grievances/hearings.

- At § 905.200(b)(7)(iii), this should be revised to explicitly include the development of Limited English Proficiency (LEP), Reasonable Accommodation (RA), and Violence Against Women Act (VAWA) policies and their implementation as part of the equal opportunity activities to be conducted by a PHA.

- We commend HUD for § 905.200(b)(8)(ii) on resident participation. However, it would be helpful for HUD to take some additional action, both within the rule and in other implementation efforts:

    - Tenants should be able to access technical assistance (TA) to help them understand either the budget or structural issues (for example, how a mixed finance proposal will affect their developments and what the benefits and drawbacks of alternative approaches may be). There should be support for TA to come out of the capital operating account for a particular PHA. There could be a specific set-aside for this, similar to what exists for tenant participation funding under the Operating Fund rule.

    - In addition, HUD should offer TA on a regional or national level, including the provision of trainings or workshops on how the Capital Fund works, how best to understand/interpret documents (such as PNAs, 5-Year Plans, and Performance and Evaluation reports), and how tenants can effectively use these materials.

    - In Massachusetts, where there is a state-funded public housing program, the Department of Housing and Community Development (DHCD) has recently created a new formula funding process, and Mass. Law Reform Institute and the Mass. Union of Public Housing Tenants have been in discussions with them regarding the resident participation process. Under guidelines, a PHA must meet with tenants and recognized resident councils to discuss the property needs and priorities before a draft plan is developed and incorporate tenant feedback in the draft plan. Tenant priorities are to be incorporated that are consistent with sound management. The draft plan is then provided to the resident council; if there is no residence council, the PHA advises tenants where they can review the draft. The resident council is then asked to provide a letter that either endorses the plan or identifies where it may have different

assessments of need; the resident council's letter is to be included with the plan when it is sent to DHCD. DHCD has also incorporated a checklist for resident participation in state modernization projects, and it would be useful to have a similar checklist for the federal capital planning process.

- At § 905.200(b)(10), the final rule should include payments necessary to eliminate access barriers, such as payment of: security deposits (which are equal to the full contract rent, and not just the tenant share) for relocation of public housing residents with Section 8 vouchers; utility hook-up fees; and, temporary storage/security for household belongings (for example, when the household is only being moved for a very short period of time while work is done and is then returned to the apartment).

- At § 905.200(b)(13), there is a typo, "Declaration on Trust" should be "Declaration of Trust".

§ 905.204 Emergencies and natural disasters

- At § 905.204, requests for emergency/natural disaster funds should include a requirement for notice and consultation and opportunity for comment with the affected resident council(s) and the Resident Advisory Board (RAB).

SUBPART C—GENERAL PROGRAM REQUIREMENTS

§ 905.300 Capital fund submission requirements

- At § 905.300(a), the first time a PHA prepares a Physical Needs Assessment, as well as whenever a PHA significantly amends a PNA, there should be a requirement for written notice of the draft PNA to affected resident councils and the RAB and consultation and an opportunity for comment.

- At § 905.300(b)(2), as noted below in our comments on § 905.308(b)(9), it would be helpful to include, within the certification requirements, that the PHA is complying with the Uniform Relocation Act (URA), similar to what is currently in 24 C.F.R. § 941.207(g).

- At § 905.300(b)(2)(v), the certification of compliance with public hearing requirements should include certification of compliance with resident council or RAB notice and consultation requirements

- At § 905.300(b)(3), the final rule should also include notice and consultation with any affected resident councils, and methods of consultation with residents where

resident councils may not exist. This is particularly true where the PHA is large and the RAB may not include representatives from all sites, and therefore may not be as familiar with the details of capital work as resident councils or residents at those sites.

- At § 905.300(b)(4) the proposed rule requires "qualified" PHAs to comply with section 2702 of the Housing and Economic Recovery Act (HERA) Pub. L.110-289. This unduly necessitates regulation readers such as public housing leaders on resident councils and RABs to obtain that Public Law and locate that specific section. In addition, §905.300(b)(4) defines a qualified PHA by reference to 24 C.F.R. § 903.3, and further instructs non-qualified PHAs to comply with 24 C.F.R. Part 903. In order to make the final rule transparent and conducive to public understanding it should give the reader a clue that 24 C.F.R. Part 903 refers to the PHA Plan; a simple "(PHA Plan)" would help. Also, rather than only citing section 2702 of HERA, the final rule should list the four requirements that apply to small, "qualified" PHAs: publish a notice informing the public that information is available regarding changes to the qualified PHA's goals, objectives, and policies, and that there will be a public hearing; make all relevant information publicly available 45 days prior to that public hearing; consult with and consider RAB recommendations at the annual public hearing; and, certify that the PHA complies with civil rights laws.

- At § 905.300(b)(5), the final rule should be revised to say that, as provided by statute at 42 U.S.C. § 1437c-1(f)(4), if a RAB advises HUD that there have not been adequate opportunities for resident participation and HUD's review shows there is a basis for concern, HUD may direct the PHA to engage in further consultation with the RAB to insure adequate participation.

- Since the time frame for submission of Capital Fund materials to HUD may be decoupled from the Annual Plan timeframes (see § 905.300(b)(6)), PHAs should be required to provide notice and opportunity for consultation/comment to affected resident councils and RABs of materials that are being prepared for the CF ACC Amendment that were not available at the time of the Annual Plan.

- At § 905.300(b)(7)(ii), if a PHA chooses to update its 5-Year Action Plan every year (i.e., treat it as a rolling plan), any such updates should include notice and an opportunity for affected resident council and RAB consultation/comment. Similarly, although fungibility requirements mean that HUD approval is not needed for shifts as long as a work item is covered somewhere in the 5-Year Plan, PHAs should give reasonable notice to the RAB and resident councils on a periodic basis of any significant departures from proposed work items, time frames and amounts/scope of work from what was originally proposed, and the PHA should be available to meet if residents wish to discuss the rationale for the changes and how this may affect long-term modernization at particular sites.

- At § 905.300(b)(7)(iii), in addition to what's outlined in 24 CFR § 903.21, significant amendments should also require written notice and an opportunity for consultation/ comment with affected resident councils, and an analogous process should be required for sites that may not have resident councils.

- At § 905.300(b)(8), the Performance and Evaluation Reports should also be shared with affected resident councils and RABs, and they should be given an opportunity to comment on them. HUD should develop a "user-friendly" format in which PHAs can provide, on a site-by-site basis to residents and resident councils, a summary of all the funding that has been made available or is proposed for the coming five years, including a summary that's sufficiently specific to promote good discussions and understanding about what work has been done or is projected for the future (for example, not just saying "building exterior" or "site improvements", but detailing which buildings will be completed and what specifically was done or will be done). The existing reports do not promote this level of transparency and understanding. This should include funding from all possible sources—ARRA, CFFP, regular Capital Fund. (To promote trust and understanding, it may also be helpful to resident councils to know the distinction between work that a PHA completed through "extraordinary maintenance" under the Operating Fund and work that is Capital Fund related.)

§ 905.302 Timely submission of the CF ACC amendment by the PHA

There may be circumstances in which a PHA must resubmit data for non-substantive, technical reasons and final execution of the amendment is delayed. In such circumstances, the PHA should have leeway to have the full period of time to obligate and expend the funds from the final CF ACC amendment date.

§ 905.304 CF ACC term and covenant to operate

- At § 905.302(a)(3), there is reference to HUD permitting an exception to a PHA to have less than a 10-year use restriction after receipt of the fiscal year for which Operating Funds were received. Under what circumstances would HUD do this, and is there statutory authorization?

§ 905.306 Obligation and expenditure of Capital Fund grants

- At § 905.306(e)(2), a PHA is penalized after it has cured a failure to obligate funds within 12 months by withholding 1/12th of the Capital Fund grant for each month of noncompliance. This could have the unintended impact of hurting the residents by reducing the amount of funds available to address deferred capital

needs. A better penalty, which does not have such an adverse impact on the residents and the long-term preservation of the stock, would be a reduction in the amount of the Capital Fund that can be used for administration.

§ 905.308 Federal requirements applicable to all capital fund activities

- At § 905.308(b)(1), non-discrimination and equal opportunity requirements should explicitly include compliance with LEP, RA, and VAWA. In addition, since § 903.7(o) does not require any action except the execution of a certification, this section should also say that the PHA shall comply with all of the statutes referenced in § 903.7(o) and that failure to do so may result in sanctions under § 905.804.

- At § 905.308(b)(3)(iv), there is reference to volunteers. There may be circumstances in which residents are being provided stipends to assist with management improvements (for example, a tenant member of a grievance panel). This should be permitted as provided in 24 C.F.R. § 964.150(b),. While that regulation refers to stipends being made available through the Operating Fund, it should be possible in appropriate circumstances for stipends to be available from the Capital Fund. Such stipends should not be counted as "income" for the purpose of rent determination as long as it is within the $200/month limitation.

- At § 905.308(b)(9), the current 24 C.F.R. § 941.207 and its two-and-a-half pages of text are replaced with a mere two sentences. In short, this says to follow the Uniform Relocation Act (URA) requirements at 49 C.F.R. Part 24. While the streamlined proposed text covers much of what is in § 941.207, there are a few important features that are missing which should be retained in the final rule:

    - § 941.207(a) says to minimize displacement, and URA is silent on this.

    - § 941.207(b) discusses temporary relocation, and there appears to not be a provision in 49 C.F.R. Part 24 that covers this. 49 C.F.R. § 24.1 defines "Displaced Person" at (9); "persons not displaced" are at (9)(ii), and subparagraph (D) says that a person who is not required to relocate permanently is not a displaced person. Since temporary relocation is quite common under the Capital Fund, this needs to be explicitly addressed.

    - § 941.207(g) states that a PHA must certify that it is complying with URA. It would be helpful to add this to § 905.300(b)(2).
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§ 905.314 Cost and other limitations

- At § 905.314(c), there is a discretionary exception to the TDC cap for energy conservation and efficiency; HUD will apply a cost-effectiveness test to the granting of such exceptions. At § 905.314(g), which forbits modernization for projects that exceed the 90 percent TDC cap, sets out three specific exceptions, none of which is for energy conservation or efficiency. This might be interpreted to exclude modernization from the § 905.314(c) exception option. To avoid this, § 905.314(g) should include an additional exception, "(4) Any project which meets the cost-effectiveness test for energy conservation and efficiency set out in (c) of this section", or similar language allowing the project to proceed as long as it meets the test. Department discretion to deny an exception should be removed if the 90 percent TDC limitation is exceeded purely for costs associated with energy conversation or efficiency.

- At § 905.314(g), HUD has requested comment on TDC. We wish to express our support for the TDC standard in the current regulation which, as written, states that a "PHA is prohibited from modernizing an existing public housing development that cannot be modernized for 90 percent of TDC." We understand that Section 18 incorporates a different standard which permits demolition when the costs of new construction are within 62.5 percent of TDC for elevator structures or 57.14 percent of TDC for all other types of structures—see 24 C.F.R. § 970.15(a)(2). We believe that the Section 18 standard, which was lowered in 2006 from the 90 percent standard incorporated here, has effectively rendered any test for obsolescence meaningless. Any reasonable program of modernization for forty-year-old buildings will often exceed the new lower standard—while still being less than the prior 90 percent standard. Given the Secretary's commitment to preserving the existing public housing stock, as well as a new emphasis on green preservation principles, we believe this 90 percent standard provides a reasonable standard for comparing the cost of new construction with the cost of modernization. In fact, rather than lowering the standard here, we believe that the standard in the Section 18 regulation, 24 C.F.R. § 970.15(a)(2), should be returned to its previous level, i.e., the 90 percent standard incorporated in the current regulation. See the joint letter of February 17, 2011 from NLIHC and HJN to Assistant Secretary Henriquez, which is included with this submission.

  Our members' experience in trying to stem the loss of units in the demolition and disposition context tells us that lowering the standard there has significantly encouraged PHAs to pursue demolition or disposition rather than preservation. Lowering the standard in the modernization regulation would effectively prevent PHAs from pursuing a preservation strategy, would prohibit

modernization strategies in all but the least costly units, and would go against HUD's current emphasis on green preservation. On the other hand, maintaining the 90 percent standard allows PHAs to meaningfully consider the feasibility of modernization as an alternative to demolition with an overall result in cost savings.

- At § 905.314(i), HUD proposed to phase the percentage of the Capital Fund that can be used for management improvements from 20% to 10% by FFY 2013. We agree that this is needed to help insure that the majority of the Capital Fund is utilized for modernization, building/systems repair, tackling deferred maintenance needs. Until recently, PHAs were seriously underfunded with pro-rated Operating Fund subsidies, and Capital Fund resources have often been critical to meeting development needs. We understand that public housing may again be faced with some difficult federal budget decisions, but we hope that HUD adheres to its commitment to fully fund the Operating Fund to avoid the need to borrow against the future with serious impacts on long-term preservation.

  One concern, though, is that PHAs maintain their commitment to adequately support a robust resident participation process even as they reduce management improvement allocations. HUD indicates, in the Supplementary Information (at 76 FR 6658), that other programs such as ROSS and the Supportive Services component of HOPE VI have been established to help residents become self-sufficient and to improve the quality of their life. ROSS funds, however, are not broadly available to resident councils and RABs, and HOPE VI funds by definition are not part of the Capital Fund process. HUD should be careful to monitor that PHAs do not jettison adequate funding/support for resident participation because of a need to reduce the management improvements item. PHAs should identify, within the portion of the Capital Fund that they have allocated for Operations in the 5-Year Plan, what is being used to help with PHA-wide RAB support. (At present, there is nothing in the HUD budget that tracks this—unlike the $25/unit set aside from the Operating Fund for resident participation activities at particular developments.)

- At § 905.314(l), see above comment on § 905.314(i) regarding tracking how Capital Funds shifted to operating costs are used to support resident participation, particularly if there is a reduction in any management improvements funds used for this purpose. Moreover, if a small PHA is proposing to shift all of its Capital Fund to operating costs because it claims there are no significant capital or emergency needs that must be met, it should share this information in advance with any affected resident councils or RAB (or in

some process with residents if there are no resident councils) and give an opportunity for consultation/comment.

§ 905.326 Records

- At § 905.326(a), Section 3 employment and contracting records should be specifically listed as required records production from the PHA since they are perhaps outside of normal contract compliance records.

SUBPART D – CAPITAL FUND FORMULA

§ 905.400 Capital Fund formula (CF formula)

- At § 905.400(j)(1), the proposed regulation would implement a phased transition from a 10-year-long Replacement Housing Factor (RHF) program to a 5-year RHF program for PHAs that remove units from the inventory based on demolition or disposition, effective in FFY 2011. The stated rationale for the change is that HUD has already funded more than 10 years of RHF to assist PHAs that demolished over 100,000 severely distressed units, thus "the need for RHF has significantly decreased." See 76 FR 6660 (Findings and Certifications under Regulatory Planning and Review). We could not disagree more that the need for RHF has decreased or that a reduction to 5 years of RHF is warranted. HUD has provided RHF (and other) funding to replace only a fraction of the 100,000 units that have been demolished. Even at ten-years, RHF is sufficient to replace only 15-25% of demolished units. As a result, many PHAs, , have large backlogs of units that have been demolished and not yet replaced. A reduction in future RHF funding for replacement housing would only make this already bad situation worse, especially for the PHAs and their residents that had the largest inventories of distressed public housing and the largest backlogs.

- Currently, RHF funds must be used specifically to replace demolished or disposed of ACC rental units with other rental units. HUD has specifically requested comment on a substantial change that would expand the eligible uses of RHF to allow PHAs to use RHF grants to fund development of homeownership units deemed to be "replacement homeownership." See 76 FR 6659. Given the shortfall described above, and a tough budget environment, we simply can not afford this unwarranted dilution of RHF to include homeownership. Based on our members' experience, we have no doubt that developers, and many PHAs, would prefer to build homeownership units that serve a higher income clientele. (Generally purchasers of HOPE VI "replacement homeownership units" have incomes in the range of 60-80% of AMI, and up to 115% of AMI pre-1998.) We have no doubt that already limited RHF funds will

be diverted to that use. As a direct result, displaced residents, the extremely low income households who comprise PHA waiting lists, and the population of households with worst case housing needs, would suffer a further shrinkage of deeply affordable housing. This proposed change is fundamentally at odds with the call of Secretary Shaun Donovan (and other housing experts) to restore balance to our national housing policy by increasing the focus on development of affordable rental options. [1]

SUBPART F—DEVELOPMENT REQUIREMENTS

§ 905.600 General

- At § 905.600(c)(1), there is reference to inclusion of Capital Fund Financing development through the 5-Year Action Plan. In many cases, a PHA may not have included CFFP in its initial 5-year PHA Plan, and so this is an amendment. Moreover, as provided in the rest of this Subpart, development may happen through a variety of sources, and often is done in conjunction with the mixed finance model.

  There is a major problem with the lack of sufficient process/transparency for resident councils and RABs with mixed finance development. In many cases, a PHA will merely identify in its PHA Plan an intent to dispose of all or a portion of the site as part of mixed finance. This is often done at an early stage before all the details are fleshed out—how many units will remain public housing and what bedroom sizes? What will be provided for other residents—what is the nature of the housing assistance they will be given, and what protections/terms may be different? How will the site be managed and what public accountability will there be? These are details which are submitted to the Special Application Center (SAC) prior to closing, but **there is no process for RAB/resident council notice and review, consultation, or opportunity to comment on these details, beyond the relatively non-specific "placeholder" process in the PHA Plan. This needs to be changed.**

[1] Aside from accommodating the preferences of developers and some PHAs, it is not clear what housing need HUD seeks to meet with this change to allow RHF to be used to develop homeownership units in lieu of replacement rental units. In the nation as a whole, as well as in the cities and metro areas most likely to have distressed public housing, the incidence of housing needs in the 60-80% of AMI range is dwarfed by the number of households at or below 30% of AMI with housing needs. Moreover, in many parts of the nation, buyers with incomes in the 60-80% of AMI range can afford existing homes for sale on the resale market, especially at the current depressed prices. Finally, this proposed change seems to be contrary to comments of Secretary Donovan and housing experts regarding the need to restore balance to our housing policy by developing more affordable rental units.

§ 905.602 Program requirements

- At § 906.602(b)(2), under cost limitations for new construction, PHAs have the ability to obtain a waiver if the cost overrun results from the inclusion of energy efficiencies which will be cost effective to recover the overrun within a 10 year period or the life of the building. This exception is not expressed here, and should be.

- At § 906.602(d)(9), this should retain the existing qualifying language at 24 C.F.R. § 941.202(h), "Travel time and cost via public transportation or private automobile." As proposed, the site and neighborhood standard merely calls for the existence of public transportation "accessible" to jobs and other needs. However, in many situations "accessible" means that residents must wait for and take several infrequently scheduled buses, consuming considerable time, in order to get to workplaces, grocery stores, and other facilities and services.

§ 905.604 Mixed finance development

- In general, there should be a discussion in this section regarding resident participation in the review of any mixed finance proposal, as well as the ongoing role of residents and any resident council in participation in major decisions affecting the development. This should include recognition of resident councils and provision of tenant participation funding similar to that in 24 CFR Part 964, even if not all of the units may be receiving public housing Capital Fund or Operating Fund dollars after redevelopment. (For example, it may be that some of the units are funded through the use of Section 8 Project-Based Vouchers under 24 C.F.R. Part 983.) The tenant participation process should be as seamless as possible so that residents have equivalent rights regardless of the source of their funding. The resident role may vary a great deal—at some sites, there may be a strong resident organization who may in fact become co-owners (as has happened in a HOPE VI). At other sites, there may be no pre-existing resident council, and so the PHA and its proposed partners may need to explore how best to engage residents. As with the Capital Fund generally, certification requirements for mixed finance should include certification of compliance with resident participation, including both the RAB and resident councils or interested residents.

- At § 905.604(c)(2), there is a discussion of the structure of the mixed finance development. Both tests proposed here—bearing approximately the same proportion to the total number of units as the value of the total financial commitment provided by the PHA bears to the total financial commitment to the project proportional value **and** the number of units shall not be less than the

number of units that could have been developed under the conventional public housing program--should be met. HUD's ability to "otherwise approve" should not be exercised where these two tests aren't met.

- At § 905.604(n), there is a provision for deviation from HUD requirements as provided in 42 U.S.C. § 1437z-7(h) where there is a reduction in appropriations or any other change in law preventing the PHA from providing Operating Funds as provided in the mixed finance contract. This would allow increases in tenant rents or the renting of vacant units to persons who earn above public housing eligibility limits or pay more than 30% of income of rent. In such instances, if the tenant would end up paying more than 40% of income for rent, the PHA must provide the resident with relocation housing, and pending relocation, the owner may not evict the tenant for nonpayment of rent if this stems from the resident's inability to pay the increase. It also provides for an alternative management plan. **However, there is nothing in this section which provides for advance resident notice and opportunity to consult/comment on the proposal; it only calls for notice if rents are changed or if households are relocated to alternative housing. Obviously this is a critical decision affecting residents and they have a major stake in insuring that these dire remedies are only invoked where there are no other alternatives. There should be explicit resident participation requirements for this, and HUD's review of the owner's plan should include review of any resident consultation; if there has been inadequate consultation, HUD should delay action until this has been remedied.**

§ 905.606 Development proposal

The proposal should be made available for review and comment by any resident council that exists on the site, as well as the RAB.

§ 905.608 Site or property acquisition

To the extent that there are already residents at a public housing site who will be relocated to new property that is being acquired under this Subpart, such residents or any resident council should be given notice and an opportunity to review and comment upon this information. If there will not been existing PHA residents who will be displaced and relocated, the information can just be provided to the RAB for review and comment.

§ 905.610 Technical processing

HUD's review should also include review of any resident, resident council, or RAB participation and comment on the development proposal, including not just initial comments but more detailed comments as more detailed information is forthcoming from the PHA to residents. HUD should not approve a proposal if the PHA cannot demonstrate an adequate resident participation process. Similar resident participation opportunities should be provided if there are material changes proposed requiring HUD review and approval.

SUBPART G—OTHER SECURITY INTERESTS

§ 905.700 Other security interests

In addition to requiring written HUD approval for any transaction that provides recourse to public housing assets or otherwise grants a security interest in any public housing project, portion thereof, or other property of the PHA, the regulation should require that the PHA give written notice of such intent and its proposal to any affected resident council and the RAB and opportunity for consultation and comment (if there is no resident council, the PHA should provide for meaningful participation by affected residents).

Sincerely yours,

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