

The Rental Assistance Demonstration: Securing Tenants' Rights

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NATIONAL HOUSING LAW PROJECT

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National Meeting of the Housing Justice Network
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HOUSING JUSTICE

National Housing Law Project

RAD Workshop Agenda

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- **Learning About RAD: The Basics**
 - Why was RAD enacted?
 - What is RAD?
 - Where is RAD?
 - When is RAD?
 - How do we ensure RAD tenant protections?
 - ✦ Baseline Tenant Protections
 - ✦ Emerging Issues
 - ✦ Key Advocacy Next Steps
- **HUD RAD Perspective and Directions**
- **Learning From RAD**

Tenant Advocate Poll

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- How many advocates in this room have:
 - *Not yet worked* on RAD conversion issues in your local jurisdiction?
 - *Are currently working* on RAD conversion issues in your local jurisdiction?
 - *Previously worked* on RAD conversion issues in your local jurisdiction?



Learning About RAD: The Basics

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Jessie Cassella- Ralph Abascal Fellow, NHLP

Why was RAD enacted?

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- 1.2 million public housing units have a documented capital needs backlog of nearly \$26 billion
 - ~10,000 public housing units per year are lost through demolitions and dispositions
- To establish a more stable funding platform and attract additional funding sources
 - Congress has not appropriated federal funds to build additional public housing units since mid-1990s



What is RAD?

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- Voluntary, permanent conversion of public housing to Section 8 funding
 - Project-Based Vouchers (PBV) or Project-Based Rental Assistance (PBRA)
 - No new federal funds, but conversion allows for use of other financing mechanisms (i.e. tax credits)
- Two components:
 - Component 1: Public Housing
 - ✦ Capped at 185,000 units nationwide, competitive selection
 - Component 2: Section 8 Moderate Rehab, Rent Supplement, Rental Assistance Payments
 - ✦ No cap and no competitive selection, but subject to availability of Tenant Protection Vouchers

What is RAD?

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Public Housing

- Long-term affordability
- Significant tenant protections (i.e. grievance procedure)
- Public ownership
- Funded by federal government



Section 8

- Financing flexibility, including private sources and tax credits
- Allows for public-private partnership
- Property management

Authorizing RAD

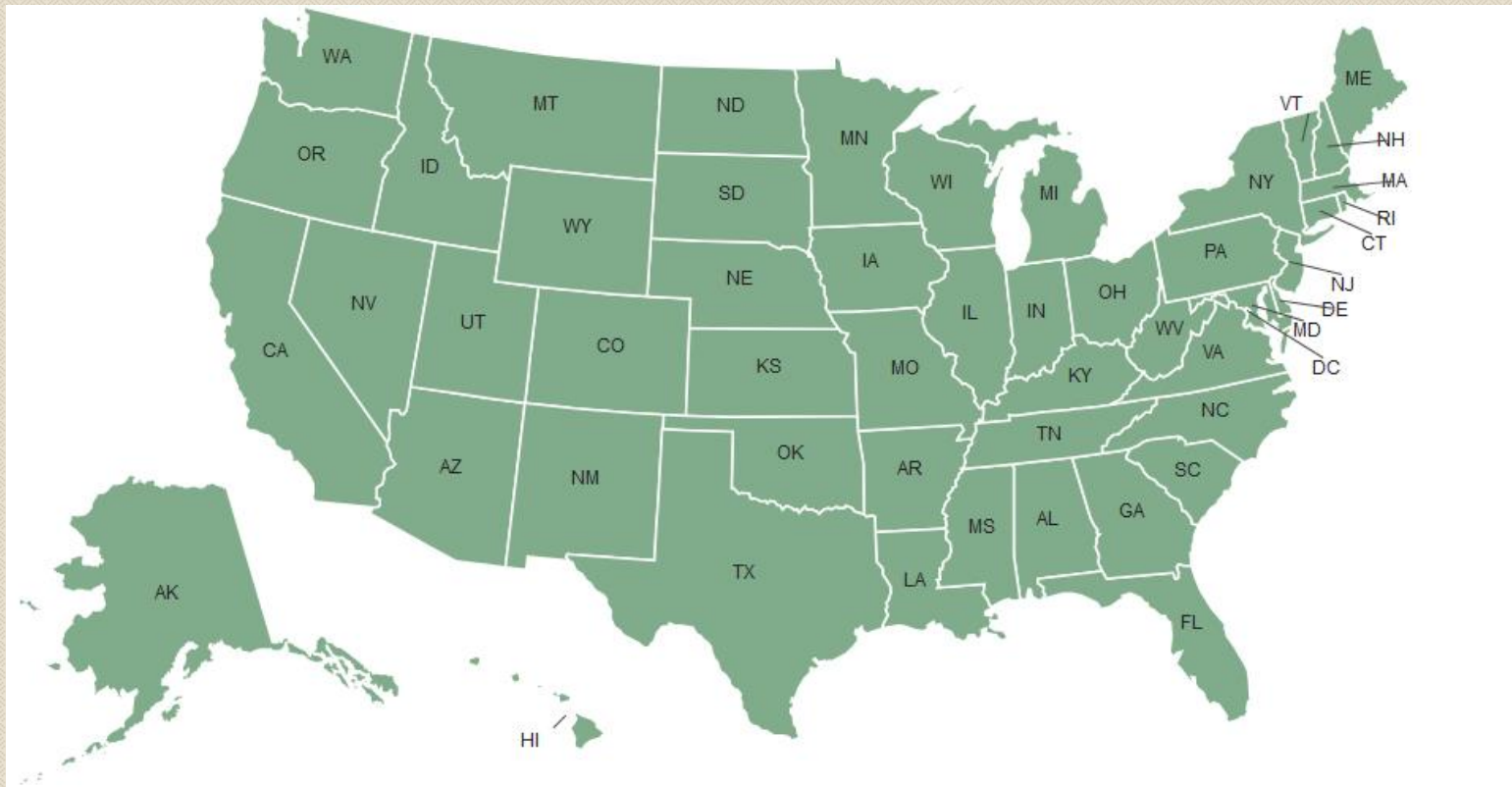
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- RAD authorization statute:
 - Consolidated and Further Continuing Appropriations Act of 2012
 - ✦ Amended by Section 234 of the FY 15 Appropriations Act
- RAD implementation details:
 - HUD Notice 2012-32, REV-2
- Strong tenant-friendly legislative history:
 - Congress intended to “ensure that the demonstration does not adversely impact tenants, and stipulates that all residents living in converted properties will maintain their existing rights”

Where is RAD?

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- HUD publishes monthly List of Unit Reservations on the [HUD RAD portal](#)



RAD Conversion Timeline: Key Dates

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1. PHA evaluates RAD feasibility and must:
 - Notify residents of projects proposed for conversion and resident organizations of the PHA's intent to pursue RAD conversion
 - Conduct at least 2 meetings w/ residents to discuss conversion plans, provide opportunity for comment, and prepare comprehensive written responses
2. PHA submits RAD application
3. If application approved, HUD issues Commitment to enter into a Housing Assistance Payment (CHAP)

RAD Conversion Timeline: Key Dates

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4. PHA, developers draft documents and policies for RAD conversions

- Significant amendment to Annual/Five Year Plan (w/in 60 days)
- Decide whether project will convert assistance to PBV or PBRA (w/in 60 days)
- Financing plan submitted (w/in 180 days)
- RAD Conversion Commitment issued by HUD (indicates 30-90 days until RAD closing)

5. RAD closing

6. Rehabilitation of RAD units completed (w/in 12-18 months)

7. Ongoing monitoring of converted properties

Baseline Tenant Protections

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- **Tenant rescreening:**

- “...the conversion of assistance under the demonstration **shall not be a basis for re-screening or termination of assistance or eviction** of any tenant family in a property participating in the demonstration” (RAD authorization statute)

- **Tenant displacement:**

- “Any resident that may need to temporarily be relocated to facilitate rehabilitation or construction has a **right to return** to an assisted unit at the Covered Project once rehabilitation or construction is completed.” (HUD Notice 2012-32 (REV-2))

- **Relocation rights:**

- Uniform Relocation Act applies to *temporary* relocation caused by RAD rehabilitation projects (maintain right to return to rehabilitated RAD unit)
- Tenants relocated for >1 year are eligible for *permanent* relocation assistance pursuant to URA (waive right to return to rehabilitated RAD unit)

Baseline Tenant Protections

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- **Demolition:**

- “A PHA must demonstrate that any reduction in units better serves residents, **will not result in the involuntary permanent displacement** of any tenant family, and will not result in discrimination based on race, color, religion, national origin, sex, disability, or familial status” (HUD Notice 2012-32 (REV-2))
- “Conversions **may not result in a reduction of the number of assisted units, except by a de minimis amount**, defined as no more than the greater of five percent of the number of project or portfolio units under ACC immediately prior to conversion or five units” (HUD Notice 2012-32 (REV-2))

- **Phase-in of tenant rent increases:**

- If a tenant’s monthly rent increases by more than the greater of 10% or \$25 purely as a result of conversion, the **rent increase must be phased in over 3 or 5 years** (HUD Notice 2012-32 (REV-2))

Baseline Tenant Protections

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- **Tenant organizations:**

- For both PBV and PBRA RAD properties, residents have the “**right to establish and operate a resident organization** for the purpose of addressing issues related to their living environment and be eligible for resident participation funding” (HUD Notice 2012-32 (REV-2))

- **Long-term public ownership:**

- “HUD may allow ownership of the project to be transferred to a tax credit entity controlled by a for-profit entity to facilitate the use of tax credits for the Covered Project, but **only if HUD determined that the PHA preserves its interest in the property.**” (HUD Notice 2012-32 (REV-2))
 - ✦ Ground lease

Baseline Tenant Protections

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- **Tenant grievance procedure:**
 - PBV conversions:
 - ✦ For issues related to tenancy and termination of assistance, PBV program rules require the Project Owner to provide opportunity for an **informal hearing** (HUD Notice 2012-32 (REV-2))
 - ✦ Current PBV program rules require that **hearing procedures must be outlined in the PHA's Section 8 Administrative Plan** (HUD Notice 2012-32 (REV-2))
 - PBRA conversions:
 - ✦ “Due to requirements in the RAD statute, HUD is incorporating resident procedural rights to comply with the requirements of section 6 of the Act” (HUD Notice 2012-32 (REV-2))
 - ✦ RAD notice includes **additional rules beyond 24 CFR Part 245**

Emerging Issues

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- Transparency for RAD conversions and access to documents in local jurisdictions
- Ongoing local and federal oversight after RAD conversion
- RAD-MTW overlap
- Emergency transfers during RAD conversions and unit rehabilitation
- Debts owed by tenants to PHAs upon conversion
- Using RAD for previously demolished units

Key Advocacy Next Steps

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1. Determine if RAD is happening in your jurisdiction
2. Find out the RAD closing date in your jurisdiction
 - Was the PHA just issued a CHAP or are they closing next month?
3. Get a seat at the table with your PHA, RAD developers
 - Are there other tenant advocates at the table?
 - Are there other layers of housing policies besides RAD (MTW, tax credits, etc.) happening at these RAD units?
 - Are the key RAD tenant protections being reinforced through RAD conversion documents/ policies?
4. Advocate for the creation of a local entity to monitor RAD conversions after closing and other long-term issues

RAD Resources and Materials

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- RAD News from HUD:
 - [HUD News](#)
 - [HUD RAD Newsletter](#)
 - [HUD RAD Case Studies](#)
- NHLP RAD Advocacy Guide and RAD webpage: <http://nhlp.org/RAD>
 - RAD Advocacy Guide 2.0 coming early 2016!
- HJN National RAD Working Group call
 - 1st Thursday of each month, 1-2pm PT

For legal services attorneys who are interested in becoming more involved in RAD conversions in their local jurisdiction, please contact the **National Housing Law Project** for technical assistance, best practices and lessons learned guidance, model templates, and more.

HUD RAD Perspectives and Directions

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Thomas Davis- Director, HUD Office of Recapitalization

Learning From RAD

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Moderated by: Stephen Knight- Deputy Director, NHLP

Thank You!

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