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January 31, 2017

Office of Recapitalization
Department of Housing and Urban Development
The Weaver Federal Building
451 7th Street, SW, Room 6230 Washington, DC 20410

Re: HUD RAD Component 1 Factsheets

Dear Office of Recapitalization, HUD:

The following comments are submitted on behalf of the National Housing Law Project (NHLP) and the Housing Justice Network (HJN) regarding HUD's RAD Component 1 factsheets that were released on December 9, 2016.

NHLP is a legal advocacy center focused on increasing, preserving, and improving affordable housing; expanding and enforcing the rights of low-income tenants and homeowners; and increasing housing opportunities for protected classes. Our organization provides technical assistance and policy support on a range of housing issues to legal services attorneys and other advocates nationwide. In addition, NHLP hosts the national Housing Justice Network (HJN), a vast field network of over 1,000 community-level housing advocates and tenant leaders, many of whom practice in jurisdictions that have converted properties to RAD, are in the processing of converting properties to RAD, or wish to convert properties to RAD. HJN member organizations are committed to protecting affordable housing and housing rights for low-income families and individuals nationwide. Meaningful tenant involvement is fundamental to all affordable and public housing decisions, and the following comments draw upon NHLP and HJN's extensive experience working for decades with advocates, residents, and public housing authorities (PHAs).

RAD allows public housing, Mod Rehab, Rent Supp, and RAP properties the opportunity to enter into long-term Section 8 contracts in order facilitate the financing of necessary improvements. Participating PHAs and property owners are required to meet certain tenant education and participation requirements before converting to RAD. As such, tenant educational materials are a critical part of ensuring that tenants understand and can exercise their rights that are required by the RAD program. These materials also have the potential to provide the necessary transparency surrounding the terms of the RAD conversion, which is currently lacking in many RAD jurisdictions nationwide. HJN members and their tenant clients have experienced significant challenges in obtaining basic information about their local RAD conversion, and often have to resort to filing local public records act requests (which, in some cases, have still not obtained important information about the proposed conversion). We believe that this lack of transparency and collaboration undermines the requirements of the RAD program and slows down a time-sensitive conversion process.

For the RAD factsheets that HUD has drafted, our comments described below seek to make the factsheets more accessible and substantive for tenants to better understand their rights. Once final, we strongly encourage HUD to translate these factsheets in order to ensure accessibility for tenants with Limited English Proficiency. We also include a list of topics, including sample content for one topic, that HUD should create additional factsheets about. Additionally, we strongly encourage HUD to create similar resident factsheets for RAD Component II conversions. We also encourage HUD to create other types of accessible resources, such as videos with closed captioning and written translation available, that will provide other ways to educate tenants about the RAD program. Finally, we encourage HUD to cross-reference other factsheets within factsheets and revise the order of the factsheets in order to better represent the timeline of issues that residents will face throughout the RAD conversion.

I. Factsheet #1: RAD Overview

We suggest that HUD rewrite this factsheet entirely to instead read as follows:

What is RAD?

The Rental Assistance Demonstration (RAD) is a federal housing program of the U.S. Department of Housing and Urban Development (HUD) that seeks to preserve affordable housing. There are two components of the RAD program:

- Component 1 allows *public housing properties* to convert its funding to either Section 8 project-based vouchers (PBVs) or Section 8 project-based rental assistance (PBRA).
- Component 2 allows affordable housing properties funded by the federal *Rent Supplement, Rental Assistance Payment, and Moderate Rehabilitation programs* to

convert its funding to either Section 8 project-based vouchers (PBVs) or Section 8 project-based rental assistance (PBRA).

Nationwide, 185,000 public housing units can convert to project-based vouchers or project-based rental assistance under RAD Component 1. There is no limit for the number of units that can convert under RAD Component 2.

Why am I receiving this factsheet?

You are receiving this factsheet because your housing authority would like to convert your public housing property to project-based vouchers or project-based rental assistance under RAD Component 1. This factsheet provides a summary of key issues that residents have been concerned about.

This factsheet is part of a series of factsheets that will help public housing residents learn about RAD. All factsheets are posted on the HUD RAD website at www.hud.gov/rad under the ‘Residents’ tab and are provided in various languages.

Why is RAD happening?

Public housing units across the country need more than \$40 billion (and rising) in repairs. Many public housing agencies (PHAs) do not have enough money to keep their public housing units in good condition. As a result, many public housing residents nationwide have experienced deteriorating conditions at their property.

Funding for public housing properties comes exclusively from the federal government. By converting to Section 8 project-based vouchers or project-based rental assistance through the RAD program, PHAs can continue receiving some federal funding through the Section 8 program, while also receiving other types of funding other than money appropriated by Congress, such as Low Income Housing Tax Credits. RAD provides a way for PHAs to rehabilitate (or if necessary, to demolish and then rebuild) units with several different sources of funding.

Why do PHAs have the authority to convert public housing properties to RAD?

In 2011, Congress passed a federal law authorizing RAD. HUD has implemented the RAD authorization statute through federal notices, including:

- Rental Assistance Demonstration – Final Implementation, **HUD Notice PIH 2012-32 (REV-3)**
- Rental Assistance Demonstration (RAD) Fair Housing, Civil Rights, and Relocation **Notice PIH 2016-17**

Among many other details in the HUD Notice 2012-32, HUD stated that “important for the success of RAD are meaningful resident participation, procedural rights, and mobility, which are addressed in detail in various sections of the [RAD] Notice.”

What will RAD mean for me and my family?

The other factsheets in this series discuss these details in more depth, but here is a summary of some common concerns:

1. **No Permanent Displacement.** There cannot be any involuntary displacement of residents living in public housing at the time their public housing development converts to Section 8 rental assistance under RAD. If a household does not want to transition to PBV or PBRA, they may move to other public housing owned by the PHA if an appropriate unit is available. (For more information, see Fact Sheet #X.)
2. **Right to Remain/Return.** Because most RAD activity will require substantial rehabilitation or the demolition of existing public housing and new construction of replacement housing, residents may be asked to temporarily relocate with the assistance of the housing authority.

Once the property has been repaired or rebuilt, residents who lived at the property before the RAD conversion have the right to return to the rehabilitated property or the newly built replacement property. Tenants may not be able to return to their original unit, but will have the right to return to the property and move into a “right-sized” unit that meets the PHA’s definitions for the number of bedrooms that the family qualifies for.

If tenants are not asked to temporarily relocate, they have the right to remain in an assisted unit at their current property. (For more information, see Fact Sheet #X.)

3. **No Rescreening.** Residents cannot be rescreened with new and more restrictive provisions when they return to their rehabilitated property or to newly constructed property or at the time of the RAD conversion. Residents who lived at the property when it was public housing will be grandfathered in for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for any actions that occur after conversion. For example, a household that was over-income at the time of the RAD conversion has the right to remain at the property after the RAD conversion. (For more information, see Fact Sheet #X.)
4. **Only Good Cause Evictions.** Owners of RAD-converted properties must renew a resident’s lease, unless there is “good cause” not to, such as if you seriously or repeatedly break the rules in your lease. (For more information, see Fact Sheet #8.)

5. **Rent.** Because RAD converts public housing to Section 8 PBVs or PBRA, most residents will continue to pay 30% of their income for rent and utilities. However, for some residents who pay flat rents, you may see a rent increase – but if that rent increases by more than the greater of 10% or \$25 just because of the RAD conversion, the increase must be phased in over three or five years. (For more information, see Fact Sheet #3.)
6. **Resident Participation Funding.** All properties that convert under RAD, whether converting to PBV or PBRA, will continue to receive \$25 per occupied unit for resident participation activities. Just like in public housing, at least \$15 of the \$25 must be provided to resident councils. (For more information, see Fact Sheet #6.)
7. **Resident Participation Rights.** To support resident participation after a RAD conversion, residents will still have the right to establish and operate a resident organization for the purpose of addressing issues related to your living environment, which includes the terms and conditions of your tenancy as well as activities related to housing and community development. (For more information, see Fact Sheet #6.)
8. **Grievance and Termination Provisions.** RAD requires that residents must continue to have the protections provided under Section 6 of the U.S. Housing Act of 1937, which include the grievance procedures and termination protections that tenants had under the public housing program. (For more information, see Fact Sheet #5.)
9. **One-for-One Replacement.** When public housing developments undergo demolition followed by new construction (or substantial rehabilitation), the property owner cannot reduce the number of units at the property (“one-for-one unit replacement”) – with some exceptions. (For more information, see Fact Sheet #X.)
10. **Long-Term Affordability.** When public housing developments convert to PBV or PBRA, HUD and the owner must sign Housing Assistance Payment (HAP) contract that run for 15 years (PBV) or 20 years (PBRA) and that must always be renewed so that units will always be affordable.
11. **Change in Ownership.** If the PHA plans to use tax credits to repair the property, they may select a new private landlord to manage the property, with some significant protections to ensure that the property remains affordable in the long-term. (For more information, see Fact Sheet #X.)

II. Factsheet #2: Steps in a RAD Conversion

We suggest revising this factsheet as follows:

- Delete the “What is RAD?” section and instead including one sentence that references factsheet #1.
- Move the “Basic Steps in a RAD Conversion” infographic to the front of the factsheet.
- Add information about how residents can get involved at each step of the RAD conversion process.
- Provide examples of what types of information to add about how residents can get involved.
- Fix typos, including on page 5 and 9 (“include” not “including”).
- Revise the “What are the Steps in a RAD conversion?” section to read as follows:

There are several key steps before a PHA can convert a property to PBVs or PBRA under RAD:

1. **PHA Applies to HUD**
2. **HUD Issues a Commitment to enter into a Housing Assistance Payment (CHAP)**
3. **PHA Plan Significant Amendment**
4. **PHA Completes and Submits a Financing Plan to HUD**
5. **HUD Issues a RAD Conversion Commitment**
6. **Closing**

These steps are discussed in more detail in this factsheet. Residents should also note that a PHA may plan to convert several buildings in your community to RAD, either all at once or in phases.

- Add the following section:

APPLICATION

A PHA must first apply to HUD before it can go through a RAD conversion. Before submitting a RAD application to HUD, a PHA must have *at least* two meetings with residents of the development(s) planned for a conversion to discuss the proposed conversion plans and solicit feedback. Before the first resident meeting, the PHA must provide a RAD Information Notice (called a RIN) to each resident that explains the residents’ rights, provides basic program information, and facilitates residents’ engagement with the PHA about the RAD conversion plans. The PHA must submit its responses to any resident comments or questions as part of the application to HUD.

- Add the following section:

COMMITMENT TO ENTER INTO A HOUSING ASSISTANCE PAYMENT CONTRACT (CHAP)

If HUD preliminarily approves the PHA's plan to convert to RAD, HUD will issue a Commitment to enter into a Housing Assistance Payment (CHAP). The PHA must provide residents with a General Information Notice (called a GIN) when informing tenants that they might have to move temporarily and describing relocation payments that the resident may be eligible for.

Once HUD issues the CHAP, the PHA must have at least one more meeting with all residents of the property. This is another opportunity for residents to ask questions, provide comments, and collaborate with the PHA and new property owner to create a written relocation plan, if needed.

- Add the following section:

PHA PLAN SIGNIFICANT AMENDMENT (Also see Fact Sheet #4)

A RAD conversion is important enough that it has to be documented in the PHA's Annual or Five-Year PHA Plan.

If the RAD conversion isn't already described in the PHA Plan, the PHA needs to prepare a Significant Amendment to the PHA Plan. This requires Resident Advisory Board (RAB) involvement, notice to all residents served by the PHA, broad outreach to the general public, and a public hearing. Any changes to a PHA Plan must go through a public comment process, which includes a public meeting. The significant amendment process has to be completed in time for the PHA to submit its RAD Financing Plan (see next section) which isn't due until six months after HUD has issued a CHAP, preliminary approval for a RAD conversion.

In addition to the information generally required in the PHA Plan, your PHA must include the following information specific to their RAD conversion plans:

- A description of the number units to be converted, including bedroom size, and the type of units who lives in the units (families, elderly, or those with disabilities);
- Any change in the number of units;
- Any change in the bedrooms per unit;
- Any change in policies about who can live in the units; and
- If any of the units at the property will be moved to another site.

- Add the following section:

RAD CONVERSION COMMITMENT

If HUD approves the PHA's Financing Plan, it will issue a RAD Conversion Commitment (RCC). The RCC describes what the PHA must do before it can officially convert the property

under RAD. Once the RCC is issued, the official RAD conversion (“closing”) will usually happen in 30-90 days.

At this stage, the PHA must notify each household that the RAD conversion has been approved for closing and remind households of the specific rehabilitation or construction plans that will occur and when any temporary relocation is expected to begin. Residents will also likely be asked to sign a new PBV or PBRA lease with certain RAD-specific attachments (“addenda”) to the lease.

After the RCC has been issued, residents may also be required to temporarily relocate according to the RAD relocation plan. Residents must be provided with advanced written notice of this relocation (at least 30 days’ notice to residents who will be relocated for 12 months or less, or at least 90 days’ notice to residents who will be relocated for more than 12 months).

- Add the following section:

RAD CLOSING

The RAD closing is the final step in the RAD transaction. After closing, the property is no longer public housing and the new RAD PBV or RAD PBRA lease becomes effective. If there is a new private property owner, they will begin to manage the property upon closing. At closing, the new property owner will also sign a Housing Assistance Payment (HAP) contract with HUD that includes certain protections to ensure the long-term affordability of the property (see Fact Sheet X).

III. Factsheet #3: Rent

We suggest revising this factsheet as follows:

- Delete the “What is RAD?” section and instead including one sentence that references factsheet #1.
- Further clarify and state affirmatively that residents who already pay 30% of their income cannot have their rent increased.
- Revise the third sentence in the “Will my rent increase under RAD?” section to instead read:

If you currently pay a flat rent in your public housing unit, and your property owner proposes to increase your rent at the time of the RAD conversion by more than the greater of 10% or \$25, your new rent will be phased in.

- Provide an example of a five-year rent phase-in.

- Provide a brief summary of what utility allowances are, who sets them, how they may change, and how that will affect tenants' rent.

IV. Factsheet #4: Resident Involvement

We suggest revising this factsheet as follows:

- Delete the “What is RAD?” section and instead including one sentence that references factsheet #1.
- Add language about how residents can work collaboratively with their new property owner and PHA to draft the new leases, house rules, and grievance procedures.
- Revise the “How Can I Be Involved in RAD?” section to instead state:

Your PHA has to take several steps when it decides to participate in RAD. First, your PHA will have to apply for RAD in order to get HUD’s permission to convert public housing properties to Section 8 Project-Based Voucher (PBVs) or Project-Based Rental Assistance (PBRA) properties.

Before submitting an application to HUD, your PHA will let you know that it intends to convert your property and invite you to at least two meetings to discuss the conversion plans. During these meetings, you can learn about the conversion plans, ask questions, express concerns, and provide comments. You will have time to submit feedback to your PHA. After your comments and questions are received, your PHA will need to provide written responses to them. Both your comments and the PHA’s written responses must be submitted to HUD as part of the RAD application.

Once HUD gives the RAD conversion plan preliminary approval (a CHAP), your PHA must have at least one more meeting with all residents of the property. This is another chance for you to ask questions and provide comments.

Once HUD approves a Financing Plan and issues a formal RAD Conversion Commitment (RCC) the PHA must:

- Notify each household that the conversion has been approved.
 - Inform households of the specific rehabilitation or construction plans, and any impact the RAD conversion will have on them.
- Revise the “Your PHA may only submit the PHA Plan to HUD” subsection to instead state:

Your PHA may only submit the PHA Plan to HUD once it has:

- Consulted the Resident Advisory Board;
- Provided notice about a public hearing to all residents served by the PHA;
- Conducted broad outreach to the general public about the upcoming public hearing;
- Conducted the public hearing; and
- Considered all comments received.

After your PHA has completed and submitted all the required documents (including a Financing Plan), and the RAD plans for your property have been approved by HUD, the PHA will receive a RAD Conversion Commitment (RCC). After receiving the RCC, the PHA must have another meeting with residents on the final RAD plans.

- Add the following to the definition box:

Financing Plan – The plan that shows the PHA has all the money needed for repairs and construction, and is ready to convert.

- Revise the following in the definition box:

Conversion – The process of changing from the Public Housing program to a Project-Based Section 8 contract for Project-Based Vouchers (PBVs) or Project-Based Rental Assistance (PBRA) through RAD.

V. Factsheet #5: Resident Procedural Rights

We suggest revising this factsheet as follows:

- Add that residents should consider contacting their local legal aid office with questions or concerns about lease terminations and grievance procedures.
- Delete the “What is RAD?” section and instead including one sentence that references factsheet #1.
- Reference the tenant’s ability to use a grievance procedure for non-eviction purposes.
- Relabel the Termination Notification chart to state “ Number of Days of Advanced Written Notice Required Before Lease Termination” instead of “Number of Days”
- Fix typos, including adding an “and” to “Any individual disputes between you *and* the property owner”

VI. Factsheet #6: Resident Participation and Funding

We suggest revising this factsheet as follows:

- Delete the “What is RAD?” section and instead including one sentence that references factsheet #1.
- Add language about how community-wide tenant associations may change after the RAD conversion.
- Add that residents should consider contacting their local legal aid office with questions or concerns about resident participation and funding.
- Revise the “What is Resident Participation?” section to instead read:

Under public housing, your PHA had to recognize legitimate resident councils, provide funding to support these organizations, and give reasonable consideration to the concerns raised by these organizations. These rights continue under the RAD program.

HUD recognizes the importance of resident involvement in improving the quality of life for residents. Resident organizations and councils should work to improve resident satisfaction and participate in initiatives that enable residents to create a positive living environment for all families.

In public housing developments converting to the Rental Assistance Demonstration (RAD) program, HUD regulations enable residents to organize and form an independent resident organization to represent their interests to the PHA. Resident councils are encouraged to meet regularly with your PHA to discuss issues, plan activities, and review progress.

Under the RAD program, residents are encouraged to comment on and participate in all stages of proposals to convert their developments to new ownership. This includes the right to comment and participate in decisions relating to new ownership and management, repair and relocation plans, and long term affordability and financing plans.

To establish and operate an independent resident organization, your PHA must allow residents and resident organizers to:

- Contact other residents;
- Conduct surveys of residents to determine interest in establishing an organization or to offer information about an organization;
- Distribute leaflets in the lobby and common areas and place leaflets at or under residents’ doors;
- Post information on bulletin boards;
- Assist residents to participate in resident organization activities
- Hold regularly scheduled meetings in a location where residents can easily attend;
- and
- Conduct other reasonable activities.

Your resident organization may coordinate a response on behalf of residents to proposed PHA actions such as:

- Changing from PHA-paid utilities to resident paid utilities;
- Reducing resident utility allowances;
- Rent increases;
- Prepayment of loans;
- Converting residential units to non-residential use, cooperative housing, or condominiums or
- Major construction or modernization work at your property.

In addition to these activities, property owners must allow residents and resident organizers to conduct other reasonable activities related to the establishment or operation of a resident organization. Property owners cannot require residents and resident organizers to obtain prior permission before engaging in the activities permitted in this section.

Will I Have A Right to Organize After a RAD Conversion?

When your property converts under RAD, 24 CFR Section 964 will no longer apply. However, if your property converts to PBRA it must follow the existing resident participation requirements of what is called 24 CFR Section 245. If your property converts to PBV, it must follow new resident participation requirements that are basically the same as 24 CFR Section 245.

- Revise the “What makes a resident organization “legitimate?” subsection to instead read:

To be considered “legitimate,” your resident organization must:

- Be established by the residents of the property;
- Meet regularly;
- Operate democratically;
- Represent all residents at the property; and
- Be completely independent from the property owner, management and their representatives, and public housing authority.

If there is no legitimate resident organization at your property, HUD encourages your property owner to actively engage residents and develop a constructive working relationship.

- Revise the definition of Resident Organization to instead read:

Resident Organization — A group of residents that meets regularly, operates democratically, represents all residents and is completely independent of owners and management, including the

PHA. An “organizing committee” that meets these standards can qualify as a legitimate group, even if it does not have written by-laws or formally elected leaders.

- Add the following to the “Will my resident organization still receive resident participation funding?” section:

In order to clarify the logistics of when and how your property owner will provide the resident participation funding to your resident organization, your resident organization should consider drafting and signing a Memorandum of Understanding (MOU) with your new property owner. Residents should consider contacting their local legal aid office with questions or concerns before signing a MOU with your new property owner in order to ensure independence for the tenant organization.

Residents should also refer to HUD Notice 2013-21 for guidance on how the tenant organization can use tenant participation funding after the RAD conversion. Allowable uses include, but are not limited to:

- Distributing leaflets in lobby areas;
- Placing leaflets at or under tenants’ doors;
- Distributing leaflets in common areas;
- Initiating contact with tenants;
- Conducting door-to-door surveys of tenants to ascertain interest in establishing a tenant organization and to offer information about tenant organizations;
- Posting information on bulletin boards;
- Assisting tenants to participate in tenant organization activities;
- Convening regularly scheduled tenant organization meetings in a space on site and accessible to tenants, in a manner that is fully independent of management representatives. In order to preserve the independence of tenant organizations, management representatives may not attend such meetings unless invited by the tenant organization to specific meetings to discuss a specific issue or issues;
- Formulating responses to owner’s requests for:
 - Rent increases;
 - Partial payment of claims;
 - The conversion from project-based paid utilities to tenant-paid utilities;
 - A reduction in tenant utility allowances;
 - Converting residential units to non-residential use, cooperative housing, or condominiums;
 - Major capital additions; and
 - Prepayment of loans.

- Other reasonable activities related to the establishment or operation of a tenant organization

Owners and their agents cannot require tenants and tenant organizers to obtain prior permission before engaging in these activities.

- Add the following section, entitled “Resident Organizers”:

A “resident organizer” is a resident or non-resident who assists other residents in establishing and operating a resident organization, and who is not an employee or representative of current or prospective owners, managers, or their agents. Your property owner must allow resident organizers to assist residents in establishing and operating resident organizations. If a project has a consistently enforced, written policy against canvassing, then a non-resident resident organizer must be accompanied by a resident while on the property of the multifamily housing project. If a project has a written policy favoring canvassing, or no policy about canvassing, any non-resident resident organizer must be afforded the same privileges and rights of access as other uninvited outside parties in the normal course of operations.

VII. Factsheet #7: Family Self-Sufficiency and Resident Opportunity and Self-Sufficiency

We suggest revising this factsheet as follows:

- Delete the “What is RAD?” section and instead including one sentence that references factsheet #1.
- Add language pursuant to PIH Notice 2012-32, rev-3 regarding if the project owner is a PHA that continues to run an FSS program and therefore continues to be eligible to apply for FSS funding.
- Add what happens to the remaining FSS/ROSS money if a tenant moves from the property.

VIII. Factsheet #8: Renewing Your Lease

We suggest revising this factsheet as follows:

- Delete the “What is RAD?” section and instead including one sentence that references factsheet #1.
- Clarify the Termination Notification chart to state “ **Number of Days of Advanced Written Notice Required Before Lease Termination**” instead of “Number of Days”
- Add language about changing house rules, pet policies, utility allowances, other lease addenda, and security deposits

- Add language reaffirming that tenants cannot be rescreened because of the RAD conversion
- Add language about reasonable accommodations
- Add language about moving expenses

IX. Factsheet #9: Choice Mobility

We suggest revising this factsheet as follows:

- Delete the “What is RAD?” section and instead including one sentence that references factsheet #1.
- Add language clarifying that tenants who choose a Housing Choice Voucher may be limited in where they can live in their community if landlords can legally discriminate against tenants solely because they have a HCV.
- Add language about how tenants exercising their choice mobility rights will receive priority on the PHA’s waiting list.
- Add language explaining the timeline for tenants who wish to exercise their choice mobility rights (i.e. when must they provide notice to their property owner that they are moving with a HCV, unit inspection)

X. Factsheet #10: The Difference Between Project-Based Vouchers (PBV) and Project-Based Rental Assistance (PBRA)

We suggest revising this factsheet as follows:

- Delete the “What is RAD?” section and instead including one sentence that references factsheet #1.
- Revise this factsheet to account for the recent changes in HOTMA and HUD Notice 2012-32, REV-3.
- Add reference to the ongoing effect of the PHA Administrative Plan in PBV properties only after the RAD conversion.
- In the “Will my property remain affordable?” section, revise the following sentence to read:
When these contracts end, they must be renewed each time so that the units will always be affordable.

XI. Additional Factsheets That HUD Should Create

We would also like to strongly suggest that HUD draft additional factsheets on key RAD topics impacting residents, including:

- Long-term affordability
- Admissions
- Rescreening
- Demolition and reduction of units
- Services and jobs
- Relocation, fair housing, and civil rights

We have included a sample factsheet with relocation, fair housing, and civil rights content for HUD’s review:

**Rental Assistance Demonstration (RAD)
Factsheet #X: Relocation, Fair Housing, and Civil Rights Requirements**

The PHA should plan renovation activities that minimize disruption to your life and ensure that you are not exposed to unsafe living conditions. The PHA must follow relocation, fair housing, and civil rights requirements.

I have to move to allow for the renovations. What are my rights?

Relocation assistance requirements vary depending on where you are being relocated and for how long. If you are being relocated temporarily off site, you will have a right to return to the property after the renovations. The unit you return to on site must be a size that does not leave you “under-housed,” which means that it has at least the number of bedrooms you are allowed under the PHA’s rules. The new unit must also provide the same main features of your previous unit. You cannot be denied relocation housing or your right to return based on rescreening, income eligibility, or income targeting.

If you have a disability or Limited English Proficiency, the PHA may have to provide you with additional assistance.

The PHA says I have to move to another unit in the complex, what are my rights?

If you are being moved within the same complex to a new unit, the PHA must pay for all reasonable out-of-pocket moving expenses. This includes, but is not limited to, the cost of boxes, movers, and utility connection fees. The unit they move you to must be a size that does not leave you “under-housed” which means that it has at least the number of bedrooms you are allowed under the PHA’s rules. The new unit must also provide the same main features of your previous unit.

The PHA says I have to move off site during the renovations, what are my rights?

If you are being temporarily moved off site for less than one year, your temporary housing must be decent, safe, and sanitary, and you must be reimbursed for all reasonable out-of-pocket expenses incurred as a result of your move. These expenses include, but are not limited to,

moving expenses, increased housing costs associated with the new unit, and meals if the temporary housing lacks cooking facilities.

The PHA is moving me off site during the renovations and say that it will be more than a year until my replacement unit is ready. What are my rights?

If you are being temporarily moved off site for more than one year, you are eligible for at least all reasonable out-of-pocket expenses incurred, including moving expenses, increased housing costs in the new unit, and meals if your temporary housing lacks cooking facilities. You may also be entitled to reimbursement for the moving expenses you actually incur or a flat rate amount of money to cover your relocation expenses.

I have a disability and I need additional support during this RAD conversion. What can I do?

The Fair Housing Act requires that the PHA make reasonable accommodations in rules, policies, and services, when such accommodations may be necessary to afford a person with a disability equal opportunity. Reasonable accommodations must follow the individual with the disability throughout the RAD process, including during relocation. A reasonable accommodation may mean that you need additional help with your move, that your new unit must have an additional bedroom for your live-in aide, or that your new unit have an exception to a no pet policy to allow for your assistance animal. If you need a fully accessible unit, the PHA should add you to the waiting list for one of these units.

My current unit was modified because I have a disability. Will these same modifications be in my new unit?

The Fair Housing Act requires that the PHA make reasonable modifications to your unit. A reasonable modification is a structural change made to existing units, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. An example of a modification is the installation of grab bars in your bathroom. The PHA is required to provide the same modifications you requested in your old unit in your new unit, so long as you still need those modifications. The PHA must pay for the reasonable modifications in your new unit, just like they did in your old unit.

I have a visual or auditory disability, what does the PHA have provide during the RAD conversion?

The PHA must follow effective communication requirements, such as providing interpreters and alternate format documents (e.g., Braille, large print, accessible electronic communications) for persons with disabilities.

I do not speak or read English fluently, is the PHA required to translate documents and provide interpreters at meetings?

The PHA is required to take reasonable steps to ensure that residents have meaningful access to their programs and activities for persons who have limited English proficiency (a limited ability to read, speak, or understand English). This includes verbal and written communications during relocation and throughout a RAD transaction. Language assistance may include, but is not limited to, providing written translation of notices regarding the plans for the project and relocation and oral interpretation at meetings.

Thank you for your consideration of our comments and recommendations. We look forward to working with HUD and are happy to further discuss our suggestions. Please contact Jessica Cassella (jcassella@nhlp.org) should you wish to talk with NHLP and/or HJN members to clarify our comments on these important factsheets.

Sincerely,

Jessica Cassella, National Housing Law Project

On behalf of the Housing Justice Network:

Sargent Shriver National Center on Poverty Law

LAF Chicago

Housing Rights Committee of San Francisco

Legal Aid Society of Southwest Ohio

Community Legal Services of Philadelphia

National Alliance of HUD Tenants

Greater Syracuse Tenants Network

National Low Income Housing Coalition

Jaime Alison Lee

Legal Aid Service of Broward County, Inc.

Legal Aid Justice Center