

Protecting Tenants in Rental Assistance Demonstration (RAD) Communities Nationwide



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HOUSING JUSTICE

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GoToWebinar Interface

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RAD Overview



Why was RAD enacted?

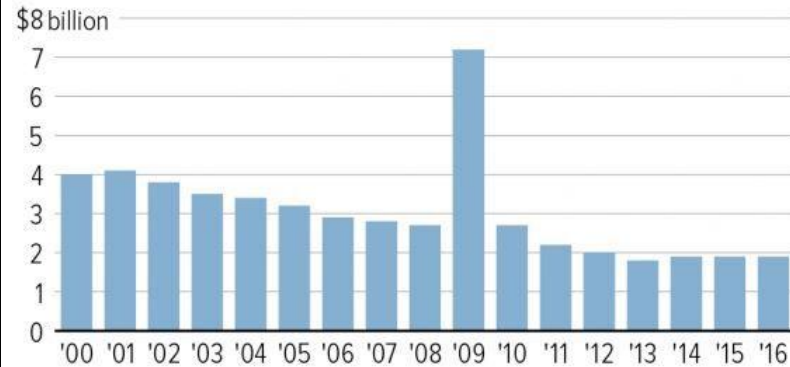
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- Public housing units across the country have been underfunded by Congress for decades
- Congress has not appropriated federal funds to build additional public housing units since the mid-1990s

Public Housing Funding Has Fallen Far Behind Need

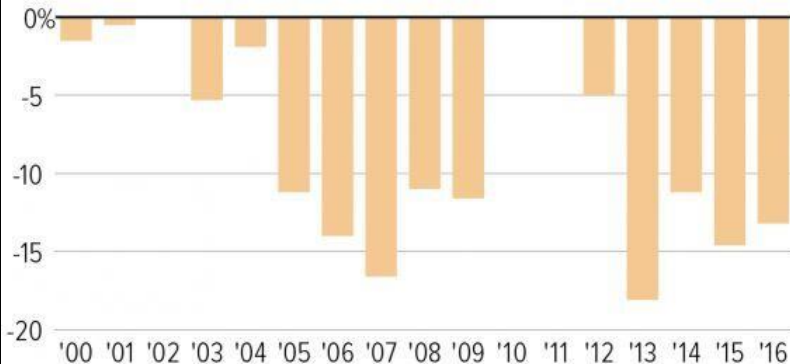
Funding for repairs has fallen 53 percent since 2000...

Budget authority, in billions of 2016 dollars



...While funding for operations has met need only 3 times since then

Budget authority shortfall, relative to HUD formula eligibility



Note: (top chart) 2009 reflects one-time funding under the Recovery Act. (bottom chart) "HUD formula eligibility" refers to agencies' funding eligibility under HUD's operating cost formula.

Source: Office of Management and Budget.

Why was RAD enacted?

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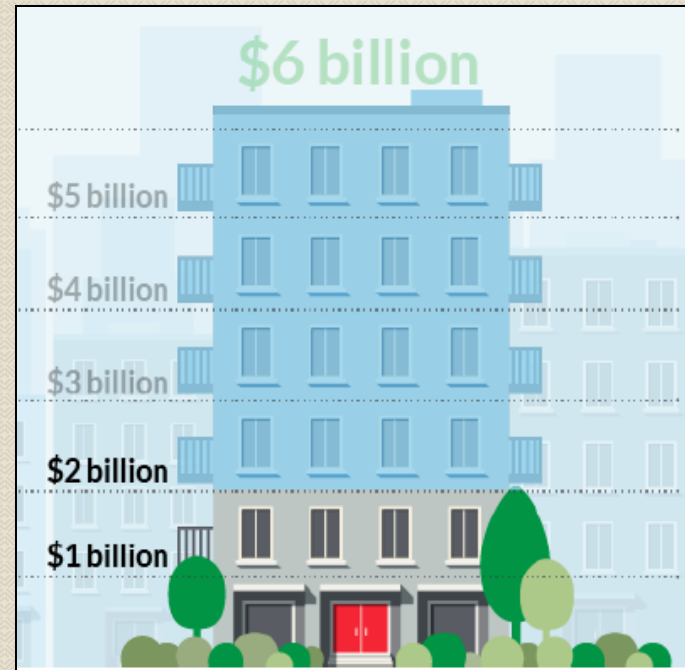
- 1.2 million public housing units need more than \$40 billion in repairs
 - Many important repairs are not happening in public housing units because of this backlog
 - 10,000 public housing units are lost per year, primarily due to disrepair and unsafe housing conditions



Why was RAD enacted?

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- Preserve and improve affordable housing and address the \$40+ billion dollar nationwide backlog of deferred maintenance on affordable housing properties by leveraging new financial resources (i.e. LIHTC)
- To establish a more stable funding platform and attract additional funding sources

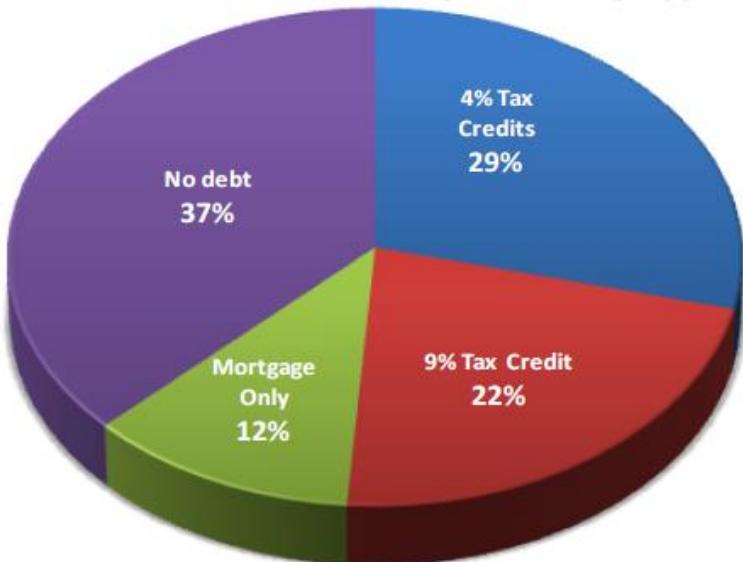


What is RAD?

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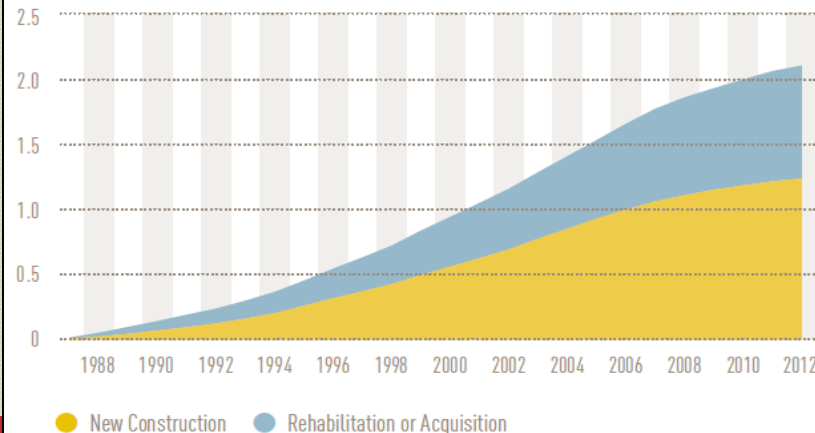
- Voluntary, permanent conversion of certain affordable housing programs to the Section 8 program
 - Converting to Section 8 can attract other types of funding (i.e. LIHTC)
 - PHAs can choose between converting to either project-based vouchers (PBVs) or to project-based rental assistance (PBRA)

Closed Transactions by Financing Type



The LIHTC Program Remains the Primary Source of Financing for Both the Construction and Preservation of Affordable Housing

Cumulative Low-Income Units Placed in Service (Millions)



Note: Data include only units financed with 9% and 4% credits by year placed in service.
Source: JCHS tabulations of HUD, Low Income Housing Tax Credit Database.

Two Components of the RAD Program

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Component 1

- Conversion of public housing units
- Currently capped at 185,000 units nationwide
- Competitive selection process

Component 2

- Conversion of Mod Rehab, Rent Supp, RAP units
- No nationwide unit cap
- No competitive selection process
- Can be prospective conversion (can convert to PBV or PBRA) or retroactive conversion (can convert to PBV only)

Main Differences Between RAD PBV v. PBRA



U.S. Department of Housing and Urban Development

Office of Multifamily & Public and Indian Housing

Rental Assistance Demonstration

GUIDE TO CHOOSING BETWEEN
PROJECT-BASED VOUCHERS (PBVs) AND
PROJECT-BASED RENTAL ASSISTANCE (PBRA)

February 27, 2015

Main Differences Between RAD PBV v. PBRA

Topic	RAD PBV	RAD PBRA ¹⁸
Limit on Number of Assisted Units	For properties converting to PBV under RAD: <ul style="list-style-type: none"> • up to 50% of the units in a project may be assisted with PBV; or • up to 100% of the units may be assisted <i>if</i>: <ul style="list-style-type: none"> ○ at least 50% of the units are single-family homes (four or fewer units per building), ○ units serving elderly/disabled families, or ○ families receiving supportive services.¹⁹ 	For properties converting to PBRA under RAD, there is no limit on the percentage of PBRA units in a project.
Contract Rents²⁰	Contract rents are limited by the lower of: <ol style="list-style-type: none"> (1) reasonable rent, or (2) 110% of the Fair Market Rent.²¹ 	Contract rents cannot exceed 120% of the Fair Market Rent, <i>except</i> : <ul style="list-style-type: none"> • <u>if</u> current funding²² is below market, the current funding cannot exceed 150% of Fair Market Rent. This must be supported by a rent comparability study.
Choice Mobility²³	Residents have the right to move with a voucher (or other comparable tenant-based rental assistance) after 12 months from occupancy. ²⁴	Under RAD PBRA contracts, residents have the right to move with tenant-based assistance after the later of 24 months from date of execution of the HAP contract or 24 months after the move-in date.

RAD= best of both worlds?

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Public Housing

- Long-term affordability of units for low-income households
- Significant tenant protections
 - Examples: grievance procedure, rent capped at 30% of income
- Public ownership of the property

Section 8

- Financing flexibility, including leveraging public and private debt and equity
- Allows for public-private partnerships
- Private 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:**
 - **RAD Notice:** HUD Notice 2012-32 (REV-2)
 - **RAD Relocation Notice:** HUD PIH Notice 2014-17
- **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”

So What Does This Mean?

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- RAD is changing the future of public housing, Mod Rehab, Rent Supp, and RAP properties, subject to annual Congressional appropriations
- Achieving RAD's lofty goals requires significant tenant involvement, coordination among tenant advocates, and ongoing discussions with HUD about ways to improve the RAD program



RAD Conversion Timeline

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PHA evaluates RAD feasibility + submits RAD application to HUD

Stage 1

HUD approves RAD conversion and issues CHAP

Stage 2

PHA + developers draft key policies and documents

Stage 3

RAD closing

Stage 4

Ongoing RAD monitoring

Stage 5

Stage 1:

PHA Evaluates RAD Feasibility + Submits RAD Application to HUD

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- At this stage, the PHA *must*:
 - Determine if it is eligible to convert its public housing units to RAD
 - Conduct at least 2 meetings w/ residents to discuss conversion plans and provide opportunity for comment
 - Prepare comprehensive written responses to comments received and submit responses to HUD w/ RAD application
 - Issue a General Information Notice to affected tenants (informs tenants of potential for temporary displacement, generally describes relocation payments that resident may be eligible for)
 - Complete the significant amendment process for their Annual/ Five Year Plan
 - Evaluate and determine potential financing sources
- At this stage, the PHA *cannot*:
 - Fail to fill vacant units
 - Relocate residents without HUD approval

Stage 2:

HUD Approves RAD Conversion and Issues CHAP

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- Once HUD has preliminarily approved the PHA's RAD application by issuing a CHAP, the PHA *must*:
 - Have at least one more meeting with residents
 - Determine if the PHA is planning to utilize a private developer/ property manager for during and after the RAD conversion (via RFP process)
 - Develop a temporary relocation plan, identify relocation housing options, budget for relocation expenses
 - Prepare to submit its Financing Plan and FHEO Accessibility & Relocation checklist to HUD
- At this stage, the PHA *cannot*:
 - Fail to fill vacant units
 - Relocate residents without HUD approval



Stage 3:

PHA, Developers Draft Key Documents and Policies for RAD Conversions

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- What substantive issues matter most to the residents you serve?
- How does the PHA plan to address key tenant RAD issues such as:
 - No rescreening of tenants upon RAD conversion
 - Relocation plan and right to return
 - Relocation assistance
 - Demolition and reduction of units
 - Phase-in of tenant rent increases
 - Tenant organizations
 - Long-term public ownership
 - Tenant grievance procedure
 - Waiting lists
 - House Rules, pet policies
 - Emergency transfers



Stage 4: RAD Closing

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- At this stage, the PHA *must*:
 - Have secured a firm commitment for financing
 - Met all of the requirements on the HUD closing checklist + RAD Conversion Commitment
 - Notify tenants that their public housing lease will terminate in accordance with 24 CFR 966.4(l)(3)
 - Adhere to Uniform Relocation Act notification requirements re: tenant relocation
 - Prepare tenants for new Section 8 program (i.e. lease signings)
 - Receive HUD approval if rehabilitation or construction of the RAD units will take longer than 18 months after closing



Stage 5: Ongoing National and Local RAD Monitoring

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- Advocates should ask the following questions throughout the conversion process:
 - How is the PHA planning to continue to monitor the properties that have converted to RAD?
 - How will various RAD developers within the same local RAD portfolio be held accountable? Who will hold them accountable?
 - What happens if a RAD developer attempts to change agreed-upon conversion terms (i.e. house rules)?
 - Will data about the RAD properties and tenant housing retention be collected by the PHA or other local entity after closing?



San Francisco RAD Ongoing Data Collection

DEVELOPER	SITE	UNITS	% CONSTRUCTION	ESTIMATED COMPLETION DATE	RELOCATION			LEASE ENFORCEMENT / EVICTIONS			MAINTENANCE			SAFETY			WORK ORDERS		
					# Currently Relocated On-Site	# Currently Relocated Off-site	# Returned to Original Unit	# of Residents with Delinquent Rent	# of Residents with Legal Cases	# of Residents Evicted	# of Units with Mold and Mildew	# of Units with Pests Present	# of Units with Squatters	# of Emergency Calls	# of Code Violations	# of Police Incident Reports	# Received this Cycle	# Closed this Cycle	# of Total Open
Chinatown																			
CCDC	227 Bay	51	14%	5/18/2017	5	19	12	1	0	0	0	1	3	0	0	0	10	10	0
	990 Pacific	92	2%	10/30/2017	6	0	0	1	0	0	0	1	0	0	0	0	7	7	0
Western Addition 1																			
Related	Robert B. Pitts	203	4	4/7/2017	12	0	0	35	3	1	unknown	125	0	0	0	0	56	55	1
Western Addition 2																			
TNDC	939 Eddy	38	21%	11/30/2016	6	12	0	1	0	0	0	1	0	5	0	14	25	25	0
	951 Eddy	24																	
Tenderloin/SOMA																			
CHP	888 Ellis	100	26%	12/16/2016	7	1	9	9	2	0	0	4	0	0	1	0	36	30	6
TNDC	430 Turk	89			10	8	0	1	0	0	0	2	0	6	0	15	48	48	0
Bernal Heights																			
Bernal	Holly Courts	118	24.98%	5/10/2017	2	17	24	11	0	0	still assessing	1	0	4	0	2	10	3	7
Bridge																			
Mission/Castro																			
MEDA	25 Sanchez	90	25.14%	2/17/2017	5	0	14	8	0	0	0	8	0	2	0	1	14	13	1
Bridge	462 DuBoce	42	28.73%	12/1/2016	3	14	6	10	0	0	0	0	0	0	0	0	9	9	0
	255 Woodside	110	26.15%	5/8/2017	14	0	8	4	0	0	1	1	0	7	2	9	18	0	27
California Corridor																			
Mercy	1880 Pihe	113	23%	4/7/2016	11	0	0	2	1	0	0	0	0	5	0	2	25	22	3
JSCO	345 Arguello	69			7	1		11	0	0	0	0	0	2	0	0	17	17	0
Japanese-Am	491 31st	75	21%	5/1/2017	7	0	14	2	0	0	0	0	0	2	0	0	53	53	0
Southeast																			
JSCO	Hunters Pt. E/W	213	14.8%	9/15/2017	24	8	0	58	0	0	185	51	0	6	0	2	73	6	67
Related																			
SFHCD																			

Key Tenant Rights Required by RAD

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Baseline Tenant Protections Under RAD

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- Usually no rent increases, but if necessary to align with 30% of income standard, rent increase must be phased in
- Resident notification requirements
- Right to return to property after rehab/construction
- Relocation rights (URA)
- Long-term public or non-profit ownership of the property
- Choice mobility option
- One-for-one unit replacement
- No rescreening because of RAD conversion
- Resident organizations and funding
- Grievance procedure protections

Baseline Tenant Protections Under RAD

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- **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))
- **Right to return:**
 - “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:**
 - URA 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)

Baseline Tenant Protections Under RAD

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- **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))
 - Preserving PHA interest includes:
 - ✦ PHA is sole general partner or managing member
 - ✦ Long-term ground lease
 - ✦ PHA retains control over the leasing of the RAD project
 - ✦ Control Agreement
 - ✦ Other means that HUD finds acceptable, in its sole discretion.

Baseline Tenant Protections Under RAD

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- **Choice mobility:**

- RAD PBV residents have the right to move with a voucher (or other comparable tenant-based rental assistance) after **12 months** from occupancy (HUD Notice 2012-32 (REV-2))
- Under RAD PBRA contracts, residents have the right to move with tenant-based assistance after the later of **24 months** from date of execution of the HAP contract or 24 months after the move-in date (HUD Notice 2012-32 (REV-2))



Baseline Tenant Protections

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- **Demolition and reduction of units:**
 - “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 5% of the number of project or portfolio units under ACC immediately prior to conversion or 5 units” (HUD Notice 2012-32 (REV-2))
 - Unit is **excluded** from *de minimis* threshold if:
 - ✦ Unit has been vacant for > 24 months at the time of RAD application
 - ✦ Reducing the total unit number will allow the PHA to more effectively or efficiently serve assisted households through reconfiguring apartments (i.e. efficiency → 1-bedroom units) or facilitating social service delivery (i.e. converting basement unit into community space)

Baseline Tenant Protections

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- **Resident notification:**

- ***Before* submitting an application to convert its public housing units under RAD, a PHA must:**
 - ✦ Notify residents of projects proposed for conversion and notify “legitimate resident organizations” of the PHA’s intent to pursue a conversion;
 - ✦ Conduct at least two meetings with residents of projects proposed for conversion to discuss conversion plans and provide opportunity for comment;
 - ✦ Prepare comprehensive written responses to comments received in connection with the required resident meetings and submit the responses with the RAD application; and
 - ✦ Issue a General Information Notice (GIN), which informs affected tenants of the potential for temporary displacement from the project because of the proposed conversion and generally describes the relocation payments that the resident may be eligible for
- **Additional meeting w/ residents after CHAP, but before executing HAP contract with HUD**

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 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))



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**

RAD Challenges

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RAD Challenges

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- Transparency for RAD conversions and access to documents in local jurisdictions
- Extent of tenant participation in developing RAD conversion plans
- Ongoing local and federal oversight after RAD conversion
- Tenant temporary relocation plans
- Emergency transfers during and after RAD conversions
- Debts owed by tenants to PHAs upon conversion (EIV)
- Fair housing RAD concerns
- RAD-MTW overlap
- RAD as a demonstration program + potential expansion
- Long-term affordability if contract default or foreclosure
- Exclusion of third party beneficiary rights in HAP contract

RAD Jurisdictions

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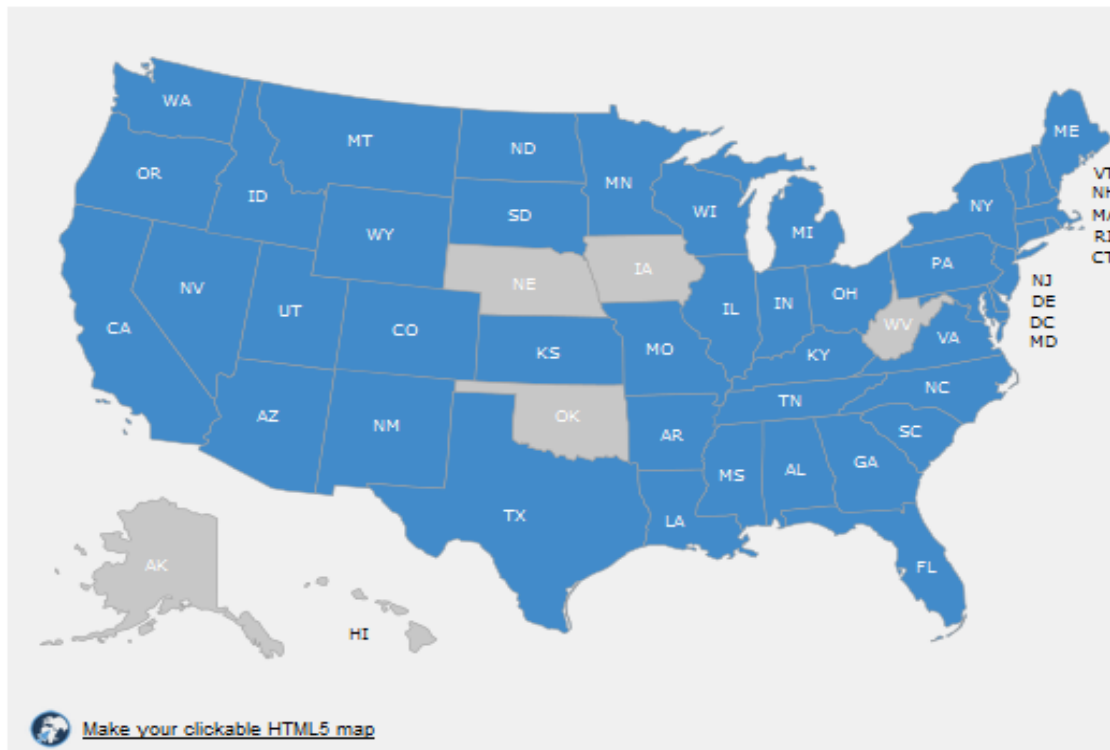


RAD Project Directory

COMPONENT I PROJECTS

Component I: Allows projects funded under the Public Housing and Moderate Rehabilitation (Mod Rehab) programs to convert to long-term Section 8 rental assistance contracts. These contracts may be either Project-Based Vouchers (PBVs) or Project-Based Rental Assistance (PBRA). The RAD statute authorizes up to 185,000 units to convert under this component.

To see a list of Component II projects, [click here](#).



Largest RAD Conversions in the U.S.

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1. Chicago, IL (6,189)
2. Birmingham, AL (4,760)
3. Baltimore, MD (4,061)
4. El Paso, TX (3,295)
5. San Francisco, CA (3,061)
6. Philadelphia, PA (3,006)
7. Charlotte, NC (2,922)
8. Nashville, TN (2,806)
9. Greensboro, NC (2,202)
10. Cambridge, MA (2,130)
11. Cuyahoga, OH (1,925)
12. Mobile, AL (1,850)
13. Indianapolis, IN (1,618)
14. Asheville, NC (1,525)
15. New York City, NY (1,359)

Key RAD Conversion Documents

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- PHA's RAD application to HUD
- General Information Notice (GIN)
- Proposed (or final) amendments relating to RAD in the PHA's Five-Year Plan, Annual Plan, MTW Plan, Admissions and Continued Occupancy Policy (ACOP), and/or Section 8 Administrative Plan
- CHAP
- RAD Relocation Plan
- Ground lease with private developer
- Financing Plan
- RCC
- Proposed RAD tenant leases



Strategies to Get Involved

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- Informal meeting with the Executive Director at the PHA
- PHA's board or commission meeting
- Assist the tenant organization in writing a letter to the PHA Executive Director
- Local government elected representatives
- Local public records act request
- Local media attention
- State legislation
- HUD RAD Transaction Manager
- Utilize an existing consent decree and/or seek a supplemental consent decree

RAD Advocacy Resources

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- **NHLP Resources:**

- NHLP RAD Advocacy Guide
- NHLP Beginner's Guide to RAD Advocacy
- RAD-watch.org
- NHLP RAD Materials Clearinghouse
- Housing Justice Network
National RAD Working Group
- NHLP RAD webpage:
<http://nhlp.org/RAD>

- **HUD Resources:**

- HUD.gov/RAD
- HUD RAD Resident Toolkit
- RAD Case Studies



RAD

Information
Center

Thank you!



If you have any questions, please contact:
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