

# Rental Assistance Demonstration: Special Topics for Tenant & Community Advocates



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NATIONAL HOUSING LAW PROJECT**

# HOUSING JUSTICE

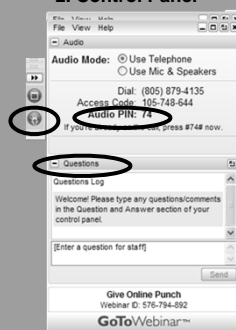
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## GoToWebinar Interface

### 1. Viewer Window



### 2. Control Panel



## What we will cover today

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- Overview
- Focus on Process
- Negotiating up from RAD
  - Resident Involvement
- Ownership, & Long-term Affordability
- Discussion / Questions
- Introductions
  
- First, a poll question....

## RAD Overview

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- Voluntary, permanent conversion of public housing to Section 8 funding
  - Project-Based Vouchers (PBV) or Project-Based Rental Assistance (PBRA)
- Goal: preserve hard units for the long term, by establishing a stable funding platform that supports rehab & repair
- No new federal funds
- Initial 60,000 unit cap raised to 185,000 units
  - HUD's entire waitlist; 15% of nation's public housing stock
- White House proposes no cap in FY16 Budget
  - And \$50M in funding for conversion assistance

## Stay Informed

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- **NHLP**
  - [nhlp.org/rad](http://nhlp.org/rad)
  - Including RAD Basics webinar from December
- **Key doc: PIH Notice 2013-32 REV**
  - PBV & PBRA rules; HUD has broad authority to waive
- **HUD**
  - <http://portal.hud.gov/hudportal/HUD?src=/RAD>
- **RAD Working Group**
- **Webinars**

## RAD Waitlist Lifted

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**RAD now covers 185,000 units, 15% of all public housing**

- **60,000 already in the pipeline**
- **125,000 more under new cap**
  - See HUD lists

## Getting Involved

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- **Application provides vital information**
  - Get a copy from PHA, local HUD office
- **Complex transactions; Considerable PHA discretion on vital details**
  - Resident rights and long-term affordability protections require full implementation and advocacy oversight
- **After HUD issues CHAP – 360 days to closing**
  - Aiming to start issuing CHAPs to former waitlist in February

## Focus on Resident Rights

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- **Continued occupancy**
  - no rescreening; no permanent displacement due to conversion
- **Right to participate & consult**
- **Right to organize; recognition & funding**
  - Right to establish & operate RO to address tenant issues
- **Choice-Mobility**
  - PBV and PBRA

## Negotiating Up from RAD

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- **Cambridge Somerville Legal Services experience w/PHA converting full portfolio**
  - Negotiated citywide on PHA's overall RAD plan and policy
  - Negotiated around Section 8 Admin Plan amendments
  - Negotiated with each development on relocation
- **What RAD authorizes is a floor, not a ceiling**
  - Ensured nonprofit would act as the Housing Authority, holding open board meetings and posting agendas
  - Full grievance rights with tenant rep and two-step procedure
  - Retained the right to transfer between developments
  - Kept PH pet policy for the elderly and disabled tenants

## Negotiating Up from RAD

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- **Cambridge Somerville Legal Services experience**
  - Get it in writing!
  - Eg into the Section 8 Administrative Plan; the Annual Plan or MTW plan
  - Also negotiating around an amendment to the RAD Commitment Contract (RCC) between HUD and the PHA.
- **TBD how much of this HUD will approve**
  - Pending

## Value of Early Engagement

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- Sara Short
- Housing Rights Committee San Francisco

## Ownership and Control

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- PHA must retain “sufficient interest”
  - E.g., PHA ownership; PHA control of LLC; Ground lease
  - Not: seller financing; right of first refusal
- Impact on Transparency
  - Non-profit / LLC not subject to public records
  - Preserve open meetings and transparent decision-making
- Impact on enforcement of rights
  - RAD protections in statute, notice and contracts, creating Qs re judicial enforcement under § 1983, APA or state law vehicles

## Long-Term Affordability

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- **HUD or PHA discretion to terminate HAP**
  - during its term for Owner breach
- **Foreclosure of mortgage**
  - Lender rider controls actions of lender & purchaser (requiring HUD approval of custodians and eventual owner), so that HAP will be assumed unless HUD directs otherwise
- **Appropriations risk**
  - different for PBV vs. PBRA

## Notice & Comment on Proposed Conversion

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- **Prior to PHA submission of RAD Application**
  - HA must notify residents and legitimate ROs of intent
  - HA must conduct *at least 2* meetings with residents of properties and prepare & submit to HUD comprehensive written response to comments
  - Meetings may be portfolio wide
- **More meetings could be negotiated**
- **Add'l meeting required if substantial change in plans**
- **LEP and disability access rules apply**

## **Resident Notice & Comment After HUD Approval**

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- **PHA must amend Annual PHA Plan**
  - 90 days after CHAP; May be done earlier or modified by HUD
- **PHA must also have one more meeting with residents prior to signing Section 8 HAP contract**
  - May be late in the game, month prior to conversion
- **Post-conversion (closing) resident participation rules will vary depending on whether conversion is to PBV or PBRA**

## **Discussion / Questions**

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## Resources

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- NHLP RAD webpage
  - <http://nhlp.org/RAD>
- HUD RAD webpage
  - <http://portal.hud.gov/hudportal/HUD?src=/RAD>
- HJN RAD list-serve and working group
- Contact NHLP
  - [sknight@nhlp.org](mailto:sknight@nhlp.org) 415/546-7000

## Thank you

Please stay in contact for assistance and to share information

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