



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

December 14, 2016

Electronic submission to www.regulations.gov

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

Re: Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component—Public Housing Conversions: Solicitation of Comment - Docket No. FR-5630-N-08

To Whom It May Concern:

Thank you for the opportunity to comment on the “Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component—Public Housing Conversions: Solicitation of Comment - Docket No. FR-5630-N-08” (November 14, 2016). Please accept this letter as the comments of the Co-Chairs of the Consortium for Citizens with Disabilities (CCD) Housing Task Force. CCD is a working coalition of national consumer, advocacy, provider, and professional organizations working together with and on behalf of the approximately 57 million children and adults with disabilities and their families living in the United States. CCD advocates for national public policy that ensures full equality, self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

The CCD Housing Task Force would like to thank you for the comprehensive and thoughtful Notice regarding the civil rights requirements related to Public Housing Conversions, especially as regards accessibility for people with disabilities including access to the conversion process (e.g., public meetings, relocation process) as well as the accessibility of the project itself.

We are writing to highlight several areas of concern in the Notice, areas in which we hope HUD will provide Public Housing Agencies (PHAs) and their partners with additional guidance.

Section 5.6 (B) Review of Changes in Occupancy

The Notice indicates that “RAD conversions that result in the implementation of an admissions preference (e.g., residency preferences or restrictions) at the Covered Project that would alter the occupancy of the property (e.g., family units converting to elderly units, elderly/disabled units converting to elderly only units) are subject to a front-end civil rights review by HUD pursuant to the RAD Notice and Section 5.3(A).” Further the Notice states that “A PHA must demonstrate that the proposed change in occupancy type is consistent with the demand for affordable housing in its jurisdiction as demonstrated by factors such as the demographics of its current occupancy, the demographics of its waiting list or a market study.”

The CCD Housing Task Force is concerned that this standard is significantly lower than the PHA would be required to demonstrate if the PHA were to request to convert elderly/disabled housing project to an elderly-only project outside of the RAD process. That standard was included in PIH Notices from 2005 to 2011¹ and we believe is the standard HUD continues to use to review designated plans, some of which continue to be submitted for HUD’s approval every year (see http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/dhp/designated) The standard in these Notices includes:

- **Justification for Designation.** A PHA must establish that the designation of the project is **necessary to achieve the housing goals for the jurisdiction under the Comprehensive Housing Affordability Strategy, part of a jurisdiction’s Consolidated Plan** [emphasis added], and to meet the housing needs of the low-income population of the jurisdiction.
- **Alternative Resource.** A Plan must include a description of any plans to secure additional resources or housing assistance to provide assistance to families that may have been housed if occupancy in the project were not restricted pursuant to this section.
- **No Eviction or Lease Termination Due to Designation.** A PHA may not evict or terminate the lease of any tenant lawfully residing in a dwelling unit in public housing because of the designation.
- **Voluntary Relocation Because of the Designation.** A PHA must provide the following to persons and families who agree to be relocated in connection with a designation:
 - A notice of the designation and an explanation of available relocation benefits, as soon as is practicable for the agency and the person or family.
 - Access to comparable housing (including appropriate services and design features), which may include tenant-based rental assistance under the Housing Choice Voucher Program, at a rental rate paid by the tenant that is comparable to that applicable to the unit from which the person or family has vacated.
 - Payment of actual, reasonable moving expenses.

The CCD Housing Task Force is particularly concerned that alterations to the property’s occupancy type be linked to the objective state or local Consolidated Plan rather than a market survey conducted by a PHA or a developer. The CCD Housing Task Force understands that many communities have unmet

¹ See http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_8096.pdf and http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_11413.pdf and

demand for elderly housing but there is also significant unmet housing need among extremely low-income people with disabilities. HUD's most recent Worst Case Housing Needs Report², found the rate of worst case needs among very low-income nonfamily renters was higher than of the three other housing types: elders, families with children and other family households.

7.7 Right Sizing

“Right-sizing” a household with one or more members who have disabilities may require providing reasonable accommodations to a PHA's or project's occupancy standards. For example, a single person household who requires a live-in or overnight aide, may be entitled to the additional bedroom as a reasonable accommodation and should not be considered over-housed and should not be expected to move to a smaller unit upon or after relocation. Reasonable accommodations of this and other types are discussed in Section 4 of the Notice; referring the reader back to Section 4 here and elsewhere in the Notice as appropriate would be a helpful reminder.

Thank you for the opportunity to comment on the “Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component—Public Housing Conversions: Solicitation of Comment - Docket No. FR-5630-N-08” (November 14, 2016).

Sincerely,

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Co-Chair, CCD Housing Task Force

T.J. Sutcliffe, The Arc of the United States
Co-Chair, CCD Housing Task Force

² https://www.huduser.gov/portal/Publications/pdf/WorstCaseNeeds_2015.pdf