



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

March 4, 2016

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

Submitted electronically through www.regulations.gov

Re: Docket No. FR-5904-A-01 Strengthening Oversight of Over Income Tenancy in Public Housing; Advance Notice of Proposed Rulemaking

Dear Regulations Division, Office of General Counsel, Department of Housing and Urban Development (HUD):

The following comments are submitted on behalf of the Consortium for Citizens with Disabilities Housing Task Force (CCD) regarding FR-5904-A-01, *Strengthening Oversight of Over Income Tenancy in Public Housing; Advance Notice of Proposed Rulemaking*. CCD is a working coalition of national consumer, advocacy, provider, and professional organizations working together with and on behalf of the 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 appreciates the opportunity to comment on this issue and is submitting comments in response to question number six as to its impacts on public housing tenants with a household member who has a physical, psychiatric, cognitive, intellectual or other disability.

6. Are there exceptions to eviction or termination of tenancy that HUD should consider beyond those listed in HUD's regulation at 24 CFR 960.261?

24 CFR 960.261 provides that two groups of tenants are exempted should a public housing agency (PHA) choose to evict over-income tenants: (1) households participating in a Family Self Sufficiency (FSS) program, and (2) households receiving the earned income disallowance (EID).

Reasonable Accommodation

For some people with disabilities, regardless of their income, a move out of their current public housing unit will have a significant negative impact. Examples include:

- A tenant who has a physical disability and requires accessible housing.
 - Their current public housing unit may be the only accessible unit of the appropriate size for the household in the geographic area.
 - The PHA may have invested funds in specific modifications to meet this tenant's unique needs.
 - Accessible units may be available in the community only in newer properties with rents unaffordable to this household.
- A tenant who has a disability such as a traumatic brain injury or intellectual disability for whom a move would be devastating, requiring them to relearn an entire set of daily living skills such as getting to the bus stop or finding a grocery store.
- A tenant who has a mental health disability for whom the public housing community has become a safe place, and for whom dislocation would be emotionally and functionally devastating.
- A tenant with any type of disability that requires access to supports provided in or near the public housing development and which are not available elsewhere in the community or for which no public transportation is available.

The CCD Housing Task Force recommends that HUD add language to 24 CFR 960.261 requiring PHAs to provide reasonable accommodation as required under Section 504 of the Rehabilitation Act of 1983. The CCD Housing Task Force suggests the following new paragraph be added to 24 CFR 960.261:

(c) A PHA must offer reasonable accommodations, such as exceptions to eviction or termination of tenancy, consistent with 24 CFR Part 8 to families that include a member who has a disability who would be impacted by this section.

Earned Income Disallowance (EID)

As noted above, 24 CFR 960.261 provides that a PHA “may not evict a family for being over the income limit for public housing if the family currently receives the earned income disallowance”. This provision provides eviction protections to many individuals who are attempting to work – including tenants with disabilities who receive Supplemental Security Income and Social Security Disability Insurance for whom eviction could be particularly devastating.

Recently the House of Representatives passed the Housing Opportunity Through Modernization Act (HOTMA; H.R. 3700). Section 102 of HOTMA eliminates the EID as part of the bill's overarching goal of streamlining administration of PHA programs. If HOTMA becomes law,

households that would have been eligible for the EID would no longer be protected from eviction.

If HOTMA becomes law, HUD should ensure that 24 CFR 960.261 continues to provide that families which include a person who is moving towards employment continue to be protected from eviction. Because households impacted by the EID exemption often have members with some of the most significant disabilities, it would be unfair to exclude this group from the protections of the regulation simply because of a change in another unrelated statute.

To continue to protect this group from eviction, the CCD Housing Task Force suggests that HUD include the following language¹ in 24 CFR 960.261 which would maintain the status quo; the new language is in bold:

*(b) Unless it is required to do so by local law, a PHA may not evict or terminate the tenancy of a family solely because the family is over the income limit for public housing, if the family has a valid contract for participation in an FSS program under 24 part 984. **PHA may not evict a family for being over the income limit for public housing for 24 months following an income increase:***

(i) as a result of employment of a member of the family who was previously unemployed for 1 or more years;

(ii) during the participation of a family member in any job training program; or

(iii) during or within 6 months of the assistance of a family member under any State program for temporary assistance for needy families funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.].

In addition to the specific comments above, the CCD Housing Task Force concurs with the recommendations submitted by the National Housing Law Project on behalf of the Housing Justice Network in response to the Advanced Notice of Proposed Rulemaking.

Thank you for your consideration.

Sincerely,

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¹ If HOTMA becomes law in its current form.