

January 8, 2016

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*Comments on selected civil rights aspects of the FY 2016 draft QAP*

Dear Ms. Frawley:

The Massachusetts Law Reform Institute appreciates the opportunity to submit these comments and proposals on selected civil rights aspects of DHCD's Draft FY 2016 Qualified Allocation Plan for the Low Income Housing Tax Credit Program.

The Department's Affirmative Fair Housing Policy and the 2013 Analysis of Impediments to Fair Housing recognize the high level of residential segregation in the state and propose to leverage all of DHCD's programs to meet the challenge. We appreciate the degree to which DHCD in this draft QAP has attempted to implement the commitments articulated in the agency's fair housing policies. But, as described in these comments, there is still more work to do and we look forward to collaborating with you on some of the proposals we put forth here.

In order to effectuate and improve the fair housing provisions of the QAP and to ensure that the scoring criteria advance the Department's fair housing goals, we offer suggestions that focus on the accessibility of information about the tax credit program and selected substantive provisions of the draft. Some of our key suggestions include:

- **Improve transparency and availability of data and information to assist in the fair housing analysis.** To provide DHCD with the most useful and informed fair housing comments, advocates and the public should have ready access, on the DHCD website, to user-friendly information about the LIHTC program. Smart public input requires useful, easily obtained data.<sup>1</sup>

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<sup>1</sup> These comments and suggestions are consistent with HUD's executive summary of its recently issued Affirmatively Furthering Fair Housing rule at [http://www.huduser.gov/portal/sites/default/files/pdf/AFFH\\_Final\\_Rule\\_Executive\\_Summary.pdf](http://www.huduser.gov/portal/sites/default/files/pdf/AFFH_Final_Rule_Executive_Summary.pdf). Just as we do here, the HUD summary stresses the importance of publicly open data to aid in setting fair housing priorities and goals; a balanced approach to fair housing so that the state, with informed public input, can determine best strategies for meeting fair housing obligations; expanding access to opportunity – either in low-income communities in the process of revitalization or those with established opportunity characteristics.

- **Consistent with DHCD’s articulated fair housing policies and principles, and to fulfill the Department’s obligation to affirmatively further fair housing, the QAP should focus to a great extent on housing that will contribute to improved life chances of low-income people, especially families with children and children of color.**
- **The QAP’s competitive scoring system should, to the greatest extent possible, drive the results; the annual allocations should reflect policies and criteria in the QAP.** To ensure that the tax credit program works to implement DHCD’s fair housing principles and further expands the opportunities available to low-income families and children, several key definitions should be more precise and allow for clearer scoring. And the applications and scoring results should be posted on the Department’s website.

## **I. THE CONTEXT FOR THESE COMMENTS**

These comments will focus mostly on the QAP’s role in providing new affordable rental housing in areas of higher opportunity to low-income families with young children - with an emphasis on children of color.<sup>2</sup> Recent research demonstrates that growing up in poor neighborhoods negatively affects children’s cognitive and psychological development and may limit their life opportunities and those of their children and grandchildren. The research shows that the life chances of young children from poor areas are greatly improved when their families move to

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<sup>2</sup> These comments do not address scoring and siting of preservation proposals. Our general view is that preservation credits used in poor neighborhoods should go either to those neighborhoods that are really revitalizing or to prevent displacement in gentrifying areas. With more data and information as requested in these comments, we will be better able to formulate more specific suggestions.

On the issue of “higher opportunity areas,” DHCD officials have expressed concern that fair housing advocates are pushing a one-sided agenda to site all or most tax credit housing in the suburbs and ignore the needs of poor urban neighborhoods. A brief reading of fair housing QAP comments over the years since at least 2001, and a look at where tax credit units are actually sited, should put that mis-characterization to rest.

Fair housing advocates are not proposing an “either/or” policy – but one that will yield more balance than the current locational outcomes of the program. No one is suggesting that this is a “city v. suburbs choice”. The configuration and demography of communities in Massachusetts are far more diverse and nuanced than that. For example, the Metropolitan Area Planning Council’s *Massachusetts Community: A classification system* reveals some of the complexity of municipalities in the state. [http://www.mapc.org/sites/default/files/Massachusetts\\_Community\\_Types\\_-\\_July\\_2008.pdf](http://www.mapc.org/sites/default/files/Massachusetts_Community_Types_-_July_2008.pdf). Some communities in the MAPC typology may, for example, have existing high performing schools and low crime rates; in other communities there may be a strong and demonstrated likelihood of revitalization including good schools, less crime and other “opportunity” attributes to improve the life chances of children and families.

lower poverty neighborhoods.<sup>3</sup> As HUD has emphasized, the importance of growing up, from a young age, in a place with good schools, low crime rates, healthy air and more helpful attributes cannot be underestimated. For example:

Recent groundbreaking research by Raj Chetty has found that family moves to high-opportunity, low-poverty communities have profound long-term effects on children, particularly those under age 13. Many years later, these children earn 30% more as adults, are more likely to have attended college and have more stable financial and personal lives than peers who grew up in high poverty communities.<sup>4</sup>

The starting point for an informed fair housing understanding of the policies and scoring criteria in the QAP and the actual *results* of the QAP process is the statutory obligation to affirmatively further fair housing. HUD's AFFH regulation at 24 CFR 5.150 et seq. rule defines the obligation as:

... taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

Obviously this is a tall order. Massachusetts' persistent, shameful history and current state of racial and economic separation will not be solved with a tax credit allocation. But each year, with each round of funding, we should be working to break down barriers to more equitable housing opportunities and choices. To the greatest extent possible, and understanding the diverse pressures on limited tax credit dollars, we urge DHCD to score applications in a way that results in a good share of tax credit family housing sited in areas with high performing schools, low crime rates and other amenities – be they suburbs, existing higher opportunity neighborhoods, or truly revitalizing neighborhoods within cities. And that housing should be broadly available to

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<sup>3</sup> For a summary of recent research on effects of poor neighborhoods on children and families (before the release of Raj Chetty's work mentioned below) see Barbara Sard and Douglas Rice, *Creating Opportunity for Children, How Housing Location Can Make a Difference* (2014). Center on Budget and Policy Priorities. [http://www.cbpp.org/research/creating-opportunity-for-children#\\_1](http://www.cbpp.org/research/creating-opportunity-for-children#_1). "This recent work, combined with earlier research, supports the following conclusions: High-poverty neighborhoods, which are often violent, stressful, and environmentally hazardous, can impair children's cognitive development, school performance, mental health, and long-term physical health. These effects occur both directly and indirectly by affecting, for example, parents' mental health and parenting practices."

<sup>4</sup> [http://portal.hud.gov/hudportal/documents/huddoc?id=RAD\\_Newsltr\\_Dec2015.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=RAD_Newsltr_Dec2015.pdf). See also Douglas Rice, *Groundbreaking Studies: Good Neighborhoods Help Low-Income Children Succeed* (2015). Center on Budget and Policy Priorities. <http://www.cbpp.org/blog/groundbreaking-studies-good-neighborhoods-help-low-income-children-succeed>.

people from high poverty communities. The program should work, in conjunction with other public and private efforts, to dismantle the stark patterns of economic and racial segregation in our state and improve the lives especially of young children.

**A. Massachusetts has one of the highest rates of “opportunity segregation” based on race in the country.** About ninety percent of Latino and African-American households in the state live in very low or low-opportunity communities while about 56 percent of Asian-Americans and 31 percent of whites live in those communities. According to diversitydata.org - Child Opportunity Index:

In the Boston metro area:

- Of the 100 largest US metro areas – The Boston metro area has the *highest* percentage of Hispanic children living in the lowest-opportunity neighborhoods within the metro area (57.6%) .
- It has the *6th highest* percentage of black children living in the lowest-opportunity neighborhoods within the metro area (57.8%) .
- Black children are 6.4 times more likely and Hispanic children are 6.3 times more likely to live in a very low-opportunity neighborhood of Metro Boston than are white children.

In the Springfield metro area:

- Of the 100 largest US metro areas Springfield has the *4th highest* percentage of black children living in very low-opportunity neighborhoods within the metro area (58.4%).
- It has the *5th highest* percentage of Hispanic children living in very low-opportunity neighborhoods within the metro area (50.4%).
- Black children are 6.9 times more likely and Hispanic children 5.9 times more likely to live in a very-low opportunity neighborhood of Metro Springfield than are white children.

**B. The degree of racial segregation in Massachusetts metro areas remains unconscionably high.** The most recent report from diversitydata.org reveals that of the largest 100 metro areas in the country:

For Hispanics

- Springfield metro area is *the most highly segregated* of the top 100 metro areas in the country. It occupies the shocking distinction of being *#1 on the dissimilarity index*. This means that 63.4% of Hispanics would have to move out of the Springfield metro area so that their distribution would be similar to Whites.<sup>5</sup>
- Providence-New Bedford-Fall River is the *4<sup>th</sup> most segregated metro area* (60.1% on the dissimilarity index)
- Boston-Cambridge-Quincy is the *5<sup>th</sup> most segregated metro area* (59.6% on the dissimilarity index)
- Worcester is the *17<sup>th</sup> most segregated metro area* (52.7% on the dissimilarity index)

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<sup>5</sup> A value of 0% represents absolute racial integration and 100% represents absolute integration.

#### For Blacks

- Springfield is the 22<sup>nd</sup> most segregated metro area (68.3% on the dissimilarity index)
- Boston-Cambridge-Quincy is the 27th most segregated metro (64% on the dissimilarity index)
- Providence-New Bedford-Fall River is the 57th most segregated metro area (53.5% on the dissimilarity index)
- Worcester is the 61<sup>st</sup> most segregated metro area (52.6% on the dissimilarity index)

#### **C. Massachusetts also ranks high among the 100 top metro areas for the share of Hispanics and Blacks who live in high poverty neighborhoods (census tracts):**

#### For Hispanics

- Providence-New Bedford-Fall River is the 4<sup>th</sup> among the top 100 metro areas (68.9% living in high poverty neighborhoods)
- Springfield is the 6<sup>th</sup> among the top 100 metro areas (65.7% living in high poverty neighborhoods)
- Boston-Cambridge-Quincy is #20 (47.4% in high poverty neighborhoods)
- Worcester is #23 (45.9% in high poverty neighborhoods)

#### For Blacks

- Providence-New Bedford-Fall River is 22<sup>nd</sup> among the top 100 metro areas (54.7% living in high poverty neighborhoods).
- Springfield is 37th among the top 100 metro areas (49.2% living in high poverty neighborhoods)
- Boston-Cambridge-Quincy is # 61 (35.7% in high poverty neighborhoods)
- Worcester is #68 (33.3% in high poverty neighborhoods)

**D. Tax credit properties in Massachusetts are disproportionately located in high poverty, high minority areas close to underperforming schools, perpetuating an existing pattern of concentrated poverty.** In the recently released, *Race to Equity: The State of Black Massachusetts*, the Massachusetts Budget and Policy Center reports that 63% of the state's Black students and 69% of Latino students attend "high poverty schools", defined as school districts in which 60% or more students have household incomes below the poverty line.<sup>6</sup>

Keeping this context of segregation in mind and in an attempt to understand the civil rights implications of the QAP, DHCD should provide and post answers to some basic questions including:

- where are tax credit properties located?
- what are the opportunity features of the neighborhoods in which they are located?

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<sup>6</sup> Nicole Rodriguez, Colin Jones, Mary Tittman, Nancy Wagman, *Race to Equity: The State of Black Massachusetts* ( Dec 11, 2015, p. 6). [http://www.massbudget.org/report\\_window.php?loc=Race-to-Equity%20The-State-of-Black-Massachusetts.html](http://www.massbudget.org/report_window.php?loc=Race-to-Equity%20The-State-of-Black-Massachusetts.html)

- what are the characteristics, the demographics, of the households living in these units? <sup>7</sup>

As a partial answer to the first question, as of 2010 we learned that only about 14% (41) of the 289 tax credit projects in Greater Boston are located in either high or very high “opportunity areas” while 79.6% (230) are located in low or very low-opportunity areas. Although we don’t have the state data for FY 2016, assuming it is somewhat similar, the people who live in these developments continue to live in areas where it is difficult to access the services and amenities necessary to succeed.

We have also learned, based only on press announcements, that of the 23 projects receiving funding awards in September, 2015 (not all of which may be tax credit developments) it appears this trend continues – disproportionate siting of assisted units in high poverty areas (poverty rates of 30% or higher). It appears that over half (52%) of the affordable units announced in this round are in high poverty census tracts, including 55% of units in what appear to be family projects. While affordable units in preservation projects awarded funds in the 2015 round were more likely to be in such tracts (64%), 47% of the affordable units in production projects were also in such tracts (including 45% of the affordable units in family production projects).

Finally, a report from the Poverty Race and Research Council reveals that Massachusetts families in tax credit developments units do not live close to higher performing schools. Out of the 100 largest metro areas, the three in Massachusetts (Boston, Providence-Fall River and Springfield) rank among the *lowest* on proximity to higher performing schools for families in tax credit developments. <sup>8</sup>

Without more information, as requested in these comments, it would appear that a disproportionately high share of tax credit properties do little to break the racial isolation of low-income residents in many areas of the state. It is precisely such information that we urge DHCD to provide in a user friendly form to allow an informed fair housing understanding of the program. It may be, for example, that some developments in high poverty and/or minority neighborhoods are part of a real revitalization undertaking, may serve as a hedge against gentrification/displacement, or accomplish other fair housing goals. But how is one to know? <sup>9</sup>

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<sup>7</sup> We understand that DHCD is required to gather and has submitted a certain amount of tenant data to HUD. <http://www.huduser.gov/portal/publications/pdf/2012-LIHTC-Tenant-Data-Report-508.pdf>. Thus, it shouldn’t be difficult to make the data public on the Department’s website.

<sup>8</sup> Ingrid Gould Ellen, Keren Mertens Horn, *Do Federally Assisted Households Have Access to High Performing Public Schools?* (2012). Poverty and Race Research Action Council. <http://www.prrac.org/pdf/PRRACHousingLocation&Schools.pdf>.

<sup>9</sup> One good example of public access to basic tax credit information is the Texas Department of Housing and Community Affairs web page at <http://www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/>. By clicking on a few links we can learn, for example: public objections to certain sites; the scoring for the current year’s 9% credits; a description of some characteristics of the recommended and not recommended projects including the poverty rate of the census tract and the entire test of all applications. Another example is Ohio whose website, <http://www.ohiohome.org/lihtc/default.aspx>, has links to its scoring tool and an opportunity map tool. Ohio also puts online all tax credit applications and awards, <https://ohiohome.org/lihtc/2015proposalapplications.aspx> <http://ohiohome.org/lihtc/2014HTC-recipients.pdf>.

Against this background of racial and economic separation, we offer these comments and suggestions.

## **II. GENERAL COMMENTS AND PROPOSALS**

**A. Improve transparency and availability of information to assist in the fair housing analysis. Post user-friendly fair housing data and information about the tax credit program on the DHCD website.** In order to implement the AFFH obligation (which to some extent also involves a disparate impact analysis) the Department must first examine its policies and the results of those policies. For the tax credit program this means asking and answering at least these basic questions: What are the characteristics of neighborhoods where tax credit developments are sited and what are the characteristics of the tenants who live in the housing? Only when DHCD has a clear idea about the allocation of credits and the resultant siting of properties can it create a fair housing roadmap for future tax credit activities.

*We urge DHCD to make the scoring process and results of that process publicly available on the Department's website.* As far as we know, there is no readily accessible information about tax credit applications, scores and details about the tax credit projects and their neighborhoods.<sup>10</sup> Thus, it is difficult for the general public, to know if the scoring process really matters – how closely the results are connected to the scoring - unless we can read the applications and understand how they are evaluated under the QAP criteria. As Texas, Ohio, and perhaps other states have done, DHCD should post all information about applications submitted and scored. That would give those who comment on the QAP a better idea of what works and what doesn't.

A basic first step would be to publish a list of the addresses of tax credit projects and basic information such as whether the project is production or preservation, number of affordable units, bedroom sizes, whether project is family, elderly or specialized, amount of credit award, etc. This list would be helpful not just to those seeking to understand the program, but invaluable to voucher holders and others searching for affordable housing.

**B. Issue an annual report on the outcomes of the tax credit program including its contribution to the state's fair housing goals.** Even if the public were able to easily learn where tax credit developments are located – the fair housing *significance* of those locations matters for AFFH purposes. One HUD study shows how changes in the QAPs of several states from 2002-2013 correlate with location. Massachusetts comes out well compared to most other states; after insertion of several fair housing policies in the QAP, Massachusetts saw a marginal increase in share of units sited in lower poverty neighborhoods and a marginal decrease in units located in areas with more than 30% poverty.<sup>11</sup> But even with gradual improvements in the QAP

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<sup>10</sup> Although much of the information described here may be available in response to individual public records requests, that burdensome undertaking should not be necessary.

<sup>11</sup> *Effect of QAP Incentives on the Location of LIHTC Properties (2015).*  
[http://www.huduser.org/portal/pdredge/pdr\\_edge\\_research\\_060115.html](http://www.huduser.org/portal/pdredge/pdr_edge_research_060115.html) .

over more than a decade, according to the HUD study more than 41% of units put online since 2002 are located in high poverty areas (over 25% poor).

The AFFH obligation means, at a minimum, that DHCD should review its policies, and the actual results of those policies, to assess how successfully the tax credit program works to address the state's stark pattern of residential segregation by race and ethnicity. DHCD already collects and submits some relevant data to HUD.<sup>12</sup> That information and more should be easily available so that DHCD can receive the best-informed comments to its QAP.

*Thus, we urge DHCD to issue an annual public report on what the tax credit program has accomplished – cumulatively and in the reporting year. This report should include a disparate impact analysis of the results of the program, basic data about the program from a fair housing perspective, and proposals for improvement in order to further fair housing goals.*<sup>13</sup>

**C. Convene a fair housing advisory committee.** DHCD should annually convene a group of fair housing advocates to review the *outcomes* of the QAP under an affirmatively furthering analysis and develop specific proposals for improvements that would better accomplish the state's fair housing goals, with particular attention breaking entrenched patterns of racial segregation.

That group could consider, among other things:

- The development of an opportunity index (if DHCD as a whole has not done so);
- A definition of what is a revitalization plan for which tax credit units are a component;
- How to evaluate proposals for developments in high poverty areas claiming that the housing is part of a neighborhood revitalization project.

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<sup>12</sup> <http://www.huduser.gov/portal/publications/pdf/2012-LIHTC-Tenant-Data-Report-508.pdf>

<sup>13</sup> The report, including maps, could tell us, for example:

- The number and location of family, elder units and specialized units in the portfolio and the number added in the reporting year;
- How the selection of developments in the year of the report measured up against the stated policies in the QAP;
- A description (including poverty rates, race, and ethnicity) of the census tract in which all family developments in the portfolio, and those selected and developed in the reporting year, are located;
- A description (for projects after a certain number of years) of the whether the community revitalization goals considered when awarding credits to high poverty or high minority neighborhoods were achieved;
- For projects receiving points as a catalyst for private investment, a description of the investment and its place in the fair housing analysis;
- A description of who lives in the tax credit units (by race, ethnicity, income, family size, disability and more);
- The effect, if any, of residency preferences used by tax credit developments;
- If the projects in what are determined to be opportunity areas are more racially integrated than the communities in which they are located;
- For developments located in Qualified Census Tracts, a description of those tracts (income, race, school quality, crime, etc.)



- The features of communities in what are determined to be higher opportunity areas (with emphasis on race, level of poverty and quality of the elementary schools);
- Mechanisms to better assist and reward proposals for family developments in higher opportunity areas;
- How to ensure that those developments are made available to minority applicants and others from lower-income neighborhoods;

### **III. SPECIFIC COMMENTS AND PROPOSALS**

**A. Ensure that tax credit units in higher opportunity areas are broadly available to people from high poverty areas.** Depending on what the outcomes study suggested above reveals, DHCD may need to address how to ensure that tax credit housing in higher opportunity areas is not occupied primarily by people from those communities and only to a small extent by households from high poverty neighborhoods including people of color. Certainly DHCD’s excellent Affirmative Fair Housing Marketing Plan and fair housing conscious residency preference rules will help to that end.

*To open tax credit housing in higher opportunity areas to a broader group, we suggest that in addition to DHCD’s residency preference policy, DHCD give more points or otherwise reward projects that include an admission preference in low poverty areas for applicants from high poverty areas.*

**B. Eliminate local support and participation preferences and substitute with Section 42 statutory minimum notice requirement.** The QAP continues to prefer projects with active support from local elected officials and neighbors. Up to 4 points will be awarded to an application with a support letter from the chief elected official from the community.<sup>14</sup>

The applicable federal statute covering local involvement in the siting of tax credit properties, 26 U.S.C. § 42(m)(1)(A)(ii), requires only that the agency do no more than notify “the chief executive officer (or the equivalent) of the local jurisdiction within which the building is located of such project and provides such individual a reasonable opportunity to comment on the project. Unfortunately, DHCD’s scoring for local involvement is above and beyond the control localities already have and use over development through zoning and land use regulations. Because of the costs of seeking appropriate sites and acquiring site control pending submission and approval of a tax credit proposal, or because of their desire to maintain friendly relationships for other projects in those localities, developers may only rarely seek to develop in areas where they anticipate community or local government opposition.

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<sup>14</sup> “DHCD will award up to four points to any application with a letter of support from the chief elected official of the community to benefit from the tax credit project. The support letter must specifically endorse the proposed project. The number of points awarded in this category will depend, in part, on whether the chief elected official commits local resources to the project and the extent to which the chief elected official offers support and resources in furtherance of the Department’s Fair Housing Principles . . .”

*In the context of many Massachusetts communities' longstanding opposition to affordable, racially integrated housing, we urge DHCD to implement the best practices that have been adopted by at least 11 other states and require only the statutory minimum notification.*

**C. Develop stronger and more explicit criteria on comprehensive neighborhood revitalization in high poverty neighborhoods; the threshold should be high.** As discussed above, many projects and project proposals are located in low-opportunity urban or near-suburban areas. Therefore, it is imperative that new properties in these areas are part of a *demonstrable* comprehensive neighborhood revitalization effort. Otherwise, we are using the tax credit program to replicate patterns of racial and poverty isolation. A showing that tax credit housing is a component of an actual revitalization effort is critical to ensuring that funds going to poor urban areas are contributing towards real neighborhood improvement and better chances for the people in those communities. And, recognizing that it would not be a simple task, there should nevertheless be a clearer definition of “revitalization” – especially as it affects low-income families with children.

Given the critical fair housing element of this requirement, we see that you have increased the maximum points from two to four for projects that are part of a revitalization effort in low-income communities. But there is not enough clarity as to what constitutes “revitalization” and how the threshold of “revitalization” should be evaluated. Points are given for projects to be developed in areas where there is a “formal neighborhood plan” but doesn’t set high standards for what that plan must include.

Applicants for tax credit housing in high poverty neighborhoods should demonstrate how that revitalization will improve the lives and opportunities for residents of the project and the neighborhood. As one commentator noted: “Neighborhood improvement not only focuses on improving the physical environment but also creating wealth and opening opportunities (such as employment, better schools, lower crime rates, etc.) to existing residents. The anticipated result of real revitalization is accelerated community transformation and improved quality of life for residents.” “Real community development is not just adding low-income housing to desperately poor neighborhoods. It should be a multifaceted strategy involving schools, health, parks, public infrastructure and transit to improve both neighborhood conditions and individual opportunity in the context of a more racially integrated and economically interdependent and connected region.”<sup>15 16</sup>

*We urge DHCD to more effectively harmonize its tax credit work with proposals in the agency's Analysis of Impediments to Fair Housing which include the following:*

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<sup>15</sup> See Myron Orfield's comments in *Up for Discussion -- Regionalism and Affordable Housing* (2011). LISC Institute. <http://www.instituteccd.org/news/3262>.

<sup>16</sup> Myron Orfield, *Racial Integration and Community Revitalization: Applying the Fair Housing Act to the Low Income Housing Tax Credit*. 20 *Vanderbilt Law Review*. <http://www1.law.umn.edu/uploads/91/00/910025e37bde290347fa006d64eb5be0/18a-Racial-Integration-and-Community-Revitalization.pdf>.

### DHCD Action Steps

DHCD will examine, with input from its partners, how to best measure and evaluate the extent to which neighborhood revitalization actually occurs as a result of housing investment in concert with a revitalization plan. DHCD notes that determining how to appropriately measure whether a community has “revitalized,” or will revitalize, as a result of a project or public investments is complex and may require a somewhat sophisticated regression or other multivariate analyses by partner agencies or research organizations. Determining whether poverty has decreased and whether “opportunity” or “community assets” has increased in a neighborhood that has undergone revitalization project(s) might be a more workable measure, although the latter still requires input from the working groups and/or final direction from HUD.

*We urge DHCD to set a high threshold and clear criteria for activities which involve not just housing in these low-income neighborhoods, but corresponding and demonstrable development of opportunities especially in education, employment, crime-reduction, health outcomes, transportation, etc.. Further, DHCD should consider disqualifying proposals for developments in “undesirable areas”(as determined by the advisory committee proposed here.).*

*Also, DHCD should better explain what it means to invest in distressed communities where housing has strong likelihood of “catalyzing private investment”. What kind of catalyzed private investment? How will this investment improve the lives of people in the neighborhood? If there are examples of tax credit projects that were catalysts for private development that created opportunities for people in the neighborhood, it would be helpful to post those on the website.*

**D. Further minimize local residency preferences:** As DHCD continues to review its local preference policies, *we urge you to minimize the amount of local preference beyond the current policy in situations where that preference has a tendency or actually inhibits racial integration.* Minimally, as occupancy data becomes available for new developments as suggested above, DHCD should review the racial composition of residents in tax credit properties in largely white communities. If those residents also are significantly white, DHCD should investigate to what extent the residency preference contributed to that outcome and take appropriate action to further limit the preference.

**E. Clarify definition of “area of opportunity.** Since 2010 the QAP rewards, as a priority, the siting of a development in an “opportunity area” with up to 14 points . Starting on page 39 the Department defines an area of opportunity in part as a neighborhood or community with a relatively low concentration of poverty based on HUD data. The definition goes on to say:

To be eligible to receive points within this category, a family housing project typically must be located in a census tract with a poverty rate below 15%. Projects located in municipalities with overall poverty rates below 15% may also qualify for points within this scoring category. On a case by case basis, at its sole discretion, the Department will permit certain projects to receive points in this category if the poverty rate in the census tract and/or the municipality is 15% or higher, as long as the project is located in an area with compelling attributes that make the location desirable to renters.

In addition, DHCD identifies an area of opportunity as a neighborhood or community that offers access to opportunities such as jobs, health care, high performing school systems, higher education, retail and commercial enterprise, and public amenities. DHCD then describes points to be awarded for strength of public school system, access to employment and health care.

This definition is somewhat confusing – at least to this commenter. Does it mean that most developments selected by DHCD in areas of opportunity are those with less than 15% poverty but in rare circumstances other areas with higher poverty rates plus other characteristics will be deemed an area of opportunity. Does this mean that a poor and racially isolated area with jobs and transit and a health center can be an area of opportunity? If that is what the QAP intends, it should be much clearer and an applicant should have to make a compelling case showing why a low-income neighborhood should be deemed an opportunity area.<sup>17</sup>

**F. Consider a preference for applicants who provide resident hiring opportunities.** Tax credit developments, like other publicly supported housing, can potentially create employment opportunities for residents of the development or the neighborhood. It is our understanding that the Pennsylvania Housing Finance Agency 2016 QAP states “The Agency may also provide a preference to ... developments providing employment opportunities for property or community residents.” DHCD should consider a similar policy, most likely for the FY 17 QAP, so that our tax credit developments play a role in improving employment opportunities for residents and neighbors.

#### **IV. CONCLUSION**

We thank DHCD for our state’s tax credit program that creates and preserves quality affordable rentals even in the toughest times. In hopes of making the program even stronger and more balanced, we hope you will seriously consider these fair housing comments and proposals. We look forward to your response to these comments and of course feel free to contact me with any questions or informal responses.

Sincerely,

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<sup>17</sup> Some commentators suggest that the number one criterion to define opportunity area for families with children is the quality of the schools.

Hence, there should be a strong preference to adding new family units in areas with the best schools and against adding new units in areas that only have failing schools. While I think that the federal government can and should build part of its housing in segregated areas, its overall balance sheet must be pro-integrative on a metropolitan basis. The law and the facts require state agencies to take into account the racial and economic composition of schools and their performance before they make location decisions about new low-income family housing.

Myron Orfield, *Up for Discussion -- Regionalism and Affordable Housing (2011)*. LISC Institute in the News. <http://www.instituteccd.org/news/3262>.

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