PRRAC
Poverty & Race
Research Action Council

Policy Brief *August 2010*

Important civil rights issues in H.R. 5814, the "Public Housing Reinvestment and Tenant Protection Act of 2010"

H.R. 5814, the "Public Housing Reinvestment and Tenant Protection Act of 2010," could roll back basic civil rights protections against the re-segregation of low income housing that have been in effect for decades. Among the damaging provisions of this bill:

► Pursuant to Title I (Choice Neighborhoods Initiative), all new low income public housing units (or similarly income targeted units) generated by a Choice Neighborhoods development are required to be located in an already segregated, high poverty neighborhood – unless such siting is found to be "not feasible" (§109(a)(6)). This unprecedented requirement is contrary to the spirit and the letter of Title VI of the Civil Rights Act and the Fair Housing Act, and is harmful to the health and well-being of residents of these communities.

► Pursuant to Title II (Public Housing One-for-One Replacement and Tenant Protection), the siting requirements for replacement public housing units replaced "off-site" include vague standards that would not significantly address racial segregation.[1]

► For the first time in federal law, the bill would limit the development of off-site replacement public housing to "within the jurisdiction" of the public housing agency – another requirement that will lead to resegregation in many older cities and undermine efforts to expand regional housing opportunity nationwide.[2]

► The only option in the bill for out-of-jurisdiction development of replacement public housing is included in Title I (Choice Neighborhoods), when siting of all units within the neighborhood is found to be "not feasible," and siting in other neighborhoods within the jurisdiction is also found not to be feasible. Only then can off-site replacement housing be built in high opportunity suburban school districts. But here the Committee bill adds an additional requirement: the siting of low income housing units outside the jurisdiction can only be accomplished with the express permission of the local (usually suburban) government. Thus, even private development of assisted housing designed to replace demolished units could be easily impeded by local NIMBY opposition and this local veto. [3]

---

[1] The bill currently requires that the units be located in "low poverty" areas and areas that "further the economic and educational opportunities for residents." This vague standard could be interpreted to override existing civil rights site selection regulations that implement Title VI and the Fair Housing Act and have been law since the 1970's.

[2] See comment letter of the Lawyers Committee for Civil Rights et al to the Committee, dated May 5, 2010 (commenting on an earlier version of the bill), www.prrac.org/pdf/section_18_bill-5-5-10.pdf.

[3] This local approval provision is unprecedented in federal law, although the old federal public housing statute from the 1940s still requires a "cooperation agreement" with neighboring PHAs to build traditional public housing. Generally, the area in which a PHA may develop or finance housing is a question that has always been left to state law, not federal law. *See, e.g.,* former 24 CFR 970.11(a) (5-1-96 Edition)(one for one replacement). Even the HOPE VI site selection standards permit and encourage a balance of sites that "expand assisted housing opportunities in non-minority neighborhoods, opening up choices throughout the metropolitan area for all assisted households" while at the same time reinvesting in minority neighborhoods. *See* 73 Fed. Reg. 16139, 16151 (March 26, 2008). HOPE VI rules impose no added requirement of local approval for properties outside the jurisdiction. *Id.*

H.R. 5814 was recently voted out of the House Financial Services Committee and will be coming to the House floor in September. It is crucial that Congress amend this bill to include the following fair housing protections:

► Require a balanced approach that includes replacement housing both within and outside of the original neighborhood. To that end, the bill should limit in-neighborhood replacement housing units to 1/3 of the original housing stock, or the number needed to accommodate original residents who seek to remain in or return to the original neighborhood (whichever is greater).

► Impose strong civil rights siting standards for off-site replacement housing, and require that this housing be sited throughout the metro area, for the benefit of the original residents of the neighborhood and so that future generations have access to neighborhoods served by strong schools and in areas where job growth is occurring.

► Require strong housing mobility standards for the initial relocation process, so that tenants who wish to do so have a real opportunity to voluntarily move to a safer and more economically advantaged neighborhood.

► Eliminate any local approval provisions giving higher-opportunity communities the ability to veto the moves of low income families of color into their "jurisdictions".

For more information go to www.prrac.org/projects/civilrightshousing.php or contact Phil Tegeler, ptegeler@prrac.org