

PRRAC

Poverty & Race Research Action Council

1200 18th St. NW • Suite 200 • Washington, DC 20036 • 202/906-8023 • Fax 202/842-2885
www.prrac.org

February 14, 2012

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

Re: HOME Investment Partnerships Program, Comments on proposed regulations, Docket No. FR-5563-P-01, 76 Fed. Reg. 78344 (Dec. 16, 2011)

Dear colleagues,

These comments are submitted on behalf of the Poverty & Race Research Action Council (PRRAC), a non-profit civil rights policy organization based in Washington, DC. Our comments will focus on the importance of strengthening the commitment to affirmatively further fair housing (AFFH) in the HOME Investment Partnerships Program. As noted in the introduction to the proposed rule, “[t]he HOME program is the largest federal block grant to the States and local governments that is designed exclusively to create affordable housing for low-income households.” For this reason, it is important to ensure that the results of HOME investments not simply reproduce existing patterns of segregation, but lead to more racially integrated housing choices for families receiving federal housing assistance.

Selection of HOME tenants off of the waiting list, § 92.253(d)(5): We respectfully object to the proposed rule’s directive to select tenants in chronological order of application. This first-come, first-served approach is contrary to fair housing and affirmative marketing principles. It favors applicants who have the resources or contacts to hear about a project opening first, it favors local residents over out of town applicants, it discriminates against persons with disabilities, and it does not give the project manager the opportunity to recruit a racially and ethnically balanced waiting list to draw from. The proposed rule should follow well established fair housing guidelines and select applicants by lottery from a waitlist established after substantial affirmative marketing is completed. The rule should also specify that applications can be received by mail, online, or by phone (in the case of persons with disabilities).

Limitations on eligibility, § 92.253(d)(3): The proposed rules’ permissive approach to housing limited to specific groups is reasonable, insofar that it does not have a disparate impact on the basis of race, disability, or other protected classification. However, such special interest housing, whether it be for artists, teachers, or police officers, will often

have such impacts. For this reason, the cursory reference to “non-discrimination requirements in §92.350” is inadequate. The rule should explicitly require an analysis of the potential disparate impacts of special selection criteria, and prohibit criteria that have a demonstrable disparate impact (see, e.g., HUD’s rule on residency preferences, 24 CFR §5.655(c)(1)(iv,v)). We also recommend a cross reference here to HUD’s final disparate impact rule.

Time limits on development of acquired property, §92.205(a)(2): Stricter time limits from land acquisition to development make sense for most HOME projects, but an exception needs to be built in for delays that are the result of local neighborhood or community opposition – otherwise NIMBY interests will have easy veto power over any proposed HOME development under the new rule.

Discrimination against voucher families, §92.253(d)(4): As discussed at length in the comments of the Center on Budget and Policy Priorities, which we support, HUD should take this opportunity not just to restate the statutory prohibition on discrimination against families with vouchers, but also to provide guidance in the regulations on the types of policies and practices that constitute discrimination. HUD should also develop a basic enforcement mechanism to handle complaints filed under this section.

Affirmative Marketing, §92.351: We strongly support the clarification and expansion of the affirmative marketing requirements to apply to all subrecipients and owners, and to tenant based assistance and down-payment assistance programs. We also support the inclusion of applicants with rental assistance in the affirmative marketing requirements for rental developments, and the requirement that participating jurisdictions adopt *and follow* affirmative marketing requirements. All of these changes will promote fair housing and clarify the affirmative marketing obligations of HOME-funded programs.

Thank you for the opportunity to present these comments.

Sincerely,



Philip Tegeler
Executive Director

cc: HUD Assistant Secretary John Trasviña