

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

OPEN COMMUNITIES ALLIANCE, <i>et al.</i> ,)	
)	
Plaintiff,)	
)	
v.)	Civ. Action No. 1:17-cv-02192
)	
BEN CARSON, <i>et al.</i> ,)	
)	
Defendants.)	

DECLARATION OF TODD RICHARDSON

I, Todd Richardson, do declare the following, under penalty of perjury:

1. I am currently the Acting General Deputy Assistant Secretary for Policy Development and Research, United States Department of Housing and Urban Development (“HUD”). I have I been acting in this capacity since July 2017. I have worked for Policy Development and Research (“PD&R”) since 2000, and had previously worked for PD&R from 1991 to 1997. As Acting General Deputy Assistant Secretary, I have personal knowledge of HUD's determination regarding mandatory use of Small Area Fair Market Rent (“SAFMR”) designations. I make the following statements based on my personal knowledge or information known to me in my capacity as the Acting General Deputy Assistant Secretary for Policy Development and Research.
2. HUD’s policy since the early-2000s to address the concentration of Housing Choice Voucher (“HCV”) holders within a Metropolitan Area was to automatically increase FMRs for a Metropolitan Area from 40th percentile to 50th percentile rents. However, this has had minimal effect on housing/neighborhood quality or de-concentration, but result in rents increasing and adds administrative complexity.
3. On May 18, 2010, HUD announced that in FY 2011 it would seek to conduct a SAFMR

demonstration project managed by PD&R to determine the effectiveness of FMRs which are published using U.S. Postal Service ZIP codes as FMR areas within metropolitan areas. In November 2012, HUD announced the commencement of the SAFMR demonstration and the five participating PHAs.

4. In 2015, HUD entered into a cooperative agreement with Abt Associates to conduct an evaluation of the SAFMR demonstration, examining whether and to what extent providing higher subsidies in ZIP code areas where rents are higher, and lower subsidies in ZIP code areas where rents are lower, helps HCV families to better access areas of opportunity. HUD also requested that the evaluation examine how the transition affected families and landlords, and the impact of the SAFMR on HCV subsidy and administrative costs. The study evaluated the five participating PHAs (Chattanooga, TN; Cook County, IL; Long Beach, CA; Mamaroneck, NJ; Laredo, TX) in the demonstration and two PHAs (Plano, TX and the City of Dallas Housing Authority) from the Dallas metropolitan area that had been operating HCV programs using SAFMR as a result of a settlement involving HUD.
5. Notwithstanding the on-going demonstration to test the impact and effectiveness of the SAFMR, in June of 2015, HUD undertook rulemaking to craft a rule which uses SAFMRs instead of 50th percentile metropolitan area-wide rents to address areas with high voucher concentrations in high poverty neighborhoods. HUD published a proposed rule on June 16, 2016 to require the use of SAFMRs as a replacement for an interim rule that was used then to address high levels of voucher concentration. On November 16, 2016, HUD published the SAFMR Final Rule and a companion Federal Register notice, both of which became effective on January 17, 2017, which provide the text of the final rule, responds to comments filed on the proposed rule and requires PHAs in 24 metropolitan areas to use SAFMR in the administration of their Housing Choice Voucher Programs beginning October 1, 2017. Under the terms of the

rule, all housing authorities would have 3 months to align their payment standards with the newly effective FMRs.

6. HUD published the final rule before the results of the demonstration report were known, but added a provision, 24 C.F.R. § 888.113(c)(4), to the final rule that allowed HUD to suspend SAFMR designations when HUD makes a documented determination that such action is warranted, including for “[o]ther events as determined by the Secretary.”
7. On April 26, 2017, HUD received the SAFMR Demonstration Evaluation Interim Report (“Interim Report”). The Interim Report examines changes in outcomes over time between 2010 and 2015. The Interim Report made several findings. The findings showed the demonstration having some of the desired impact, including showing that HCV holders in the demonstration sites were “slightly more likely to live in high-rent zip codes” in 2015 versus 2010 (20 percent compared to 17 percent) and there was no change for the comparison PHAs. However, the study also found some worrisome findings that indicated to me that further research is needed to address several critical questions with respect to the potential harm to HCV families (both participants and applicants) and PHAs in areas transitioning to SAFMRs.
8. There were several findings in the Interim Report regarding the impact on HCV families that I found concerning. These findings included the following:
 - Units in lower-rent ZIP codes that have relatively modest rents for the metropolitan area may now be too expensive for voucher families to rent when compared to the FMR for their ZIP code area.
 - The increase in units with rents below the applicable FMR in high-rent ZIP codes did not offset the decrease in the number of units in the low-rent and moderate-rent ZIP codes, resulting in a net loss of units that are potentially available to voucher families. The net effect across all PHAs included in the study is a loss of over 22,000 units (3.4 percent) that might otherwise have been affordable to voucher families.

- Because participation, with a few exceptions, in the HCV program is voluntary, the study found that if owners in higher-cost areas have enough demand for their units from higher income unassisted families, they may have little interest or incentive to participate in the HCV program. If owners are not willing to participate in the program, units in higher-rent areas will not materialize in sufficient numbers to off-set the loss of the rental units in the lower-rent ZIP codes.
- Potential that SAFMR increased family rent burdens. For study PHAs, the HCV family contributions to rent increased an average of 16 percent (in real terms) between 2010 and 2015, compared to average increase of only 9 percent for the same period of time for the comparison PHAs.

The study did not draw any definitive conclusions but speculated that the increase in rent burden for the households in low-rent ZIP codes (22 percent) for the study PHAs was perhaps due to the increase in tenant contributions by families who did not wish to move despite a drop in the payment standards stemming from the implementation of SAFMR.


9. Furthermore, there were findings regarding the impact on PHAs and their administration of the HCV program using SAFMR that I found concerning. The Interim Study found that there are IT costs, staff training costs, and landlord recruitment strategies needed to be able to implement the program effectively. However, I believe that with good guidance and technical assistance most PHAs should be able to implement the program effectively.
10. Abt is now working on phase two of the data by updating its analysis with 2016 and 2017 data. Phase two, unlike the first phase, will include an evaluation of how the use of SAFMR's impacts racial groups and racial concentration. The data and findings of phase two will then be combined with the data from the first phase and synthesized into a final report expected to be submitted to HUD by mid-2018. Also, HUD is actively developing the necessary guidance and technical assistance to implement the program effectively.
11. Because of the preliminary findings of the Interim Report, on July 17, 2017, and in coordination with the Office of Public and Indian Housing, I signed a memorandum to Secretary Benjamin Carson recommending a two-year suspension of the designation for the mandatory use of

SAFMR for 23 metropolitan areas and to notify Public Housing Authorities (“PHAs”) in the 23 metropolitan areas of the two-year suspension. The memorandum noted that all other aspects of the rule would be retained, including to allow PHAs to voluntarily implement Small Area FMRs. I believe a two-year suspension would allow sufficient time for Abt to issue their final report, for HUD to analyze the findings, and remedy any concerning findings regarding the impact on HCV families and PHAs through the issuance of guidance and technical assistance.

12. On August 10, 2017, the Secretary issued a determination as such. The SAFMR designation for 23 metropolitan areas were suspended for two Federal Fiscal Years (“FY”) and will become effective at the beginning of FY 2020 instead of FY 2018. Notwithstanding, the determination permits any PHA that seeks to voluntarily participate in SAFMR 2018 implementation to still do so. The determination was sent to more than 200 PHAs in the 23 metropolitan areas noted above.
13. HUD is currently in the process of publishing the Secretary’s Determination in the Federal Register and seeking comment for a period of 30 days. After publication of the notice on the Determination, and 30 days for the public to comment, HUD will consider all comments to determine if any changes to the Secretary's Determination are warranted; and, will publish the outcome of HUD's consideration of comments.

Executed on

December 1, 2017


Todd Richardson

