

PRRAC

Poverty & Race Research Action Council

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October 9, 2007

Ms. Jenn Fogel-Bublick
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Ms. Fogel-Bublick:

We are writing to commend the Senate Banking Committee on its inclusion of several important fair housing provisions in the draft Section 8 Voucher Reform Act bill that was recently circulated. The Section 8 program was originally designed to expand housing choices for low income families, and it remains the most effective means for poor families who seek housing outside of higher poverty areas. However, as you know, the program's potential has been undermined by a number of program design issues, including restrictions on allowable rent levels, weak performance standards for deconcentration of poverty, elimination of funding for housing mobility counseling, and bureaucratic obstacles related to the arcane "portability" system triggered when families cross jurisdictional lines. Because these program design issues restrict the mobility of families and increase segregation in metropolitan areas, they are also important civil rights issues.

We would like to take this opportunity to highlight some of the best features of this bill from a civil rights perspective, and to offer our suggestions for strengthening the bill further:

pp 43-45: The requirement of mandatory absorption of vouchers by "receiving" PHAs would eliminate one of the major barriers to voucher mobility. However, the draft Senate bill does not fully address this problem. We strongly support the policy in the House bill of requiring absorption of all ported vouchers, independent of PHAs' authorized level of vouchers. Only this type of clear, simple policy will be likely to minimize the administrative impediments to mobility that have prevented the voucher program from achieving its potential. Available data indicate that the number involved is relatively small in comparison to the overall program and the costs would be met by "recirculating" previously appropriated voucher funds that are not used.

pp. 72- 73: The redefining of market areas in order to obtain Section 8 rents "adequate to cover typical rental costs...in as wide a range of communities as is feasible, including communities with low poverty rates," is one of the most common sense provisions we

have seen in a housing bill in some time. The untethering of cities from their suburban neighbors in setting Fair Market Rent (FMR) levels is a particularly important step in this regard, and will open up new housing and educational opportunities for thousands of families and children.

pp. 36-37, 43: The provisions linking renewal funding and reallocation funding to support excess costs for portability will remove a major disincentive to PHAs in sending and receiving families across jurisdictional lines. This problem, we hope, will be further resolved by the phasing in of mandatory absorption of vouchers and adequate compensation of sending and receiving PHAs under such a new system.

p.68: The provision of annual and publicly available reports on the geographic concentration of vouchers in each PHA's jurisdiction is an important step. We recommend that racial data be included in this reporting requirement.

pp.69-70: We strongly support the automatic approval of 120% payment standards to address undue concentration of voucher families in higher poverty areas – in past years, HUD has used its approval authority to deny these requests by agency inaction. We also urge the Committee to clarify standards for HUD review of payment standards above 120% of the FMR.

pp. 81-83: We support clarifying the basic non-discrimination obligations of assisted housing owners and eliminating procedures like minimum income requirements that can serve as proxies for discrimination against voucher holders. But we think that it is essential to make clear that the list of criteria does not provide a "safe harbor" that limits the existing obligations of owners, and to ensure that state and local antidiscrimination provisions are not inadvertently preempted by new Congressional language.

pp. 84-85: The collection of data on race, ethnicity, income and family composition of families in Low Income Housing Tax Credit program properties is required – in theory – by the Fair Housing Act, but has never been explicitly required in the LIHTC program by Congress or the IRS. This provision removes a longstanding gap in the program and is crucial to determining whether the LIHTC program is operating in accordance with the obligation to affirmatively further fair housing. We would suggest that the obligation to report data publicly on a project-by-project basis be made explicit – otherwise, there will be no way of knowing whether states are administering segregated LIHTC programs within a metropolitan area.

Thank you for the opportunity to present these comments. We are also attaching a statement on Section 8 voucher mobility that was endorsed by over 50 national, state, and local organizations earlier this year in anticipation of House consideration of the Section 8 Voucher Reform Act. This statement indicates the broad base of support for the changes referenced above, and we hope it will also encourage the Committee to consider the next set of reforms that are needed: reestablishing the housing mobility counseling programs that have been eliminated over the past 8 years, and establishing a new targeted voucher mobility program in our most segregated metropolitan areas.

Sincerely,

A handwritten signature in black ink, appearing to read 'Philip Tegeler', with a stylized, sweeping flourish at the end.

Philip Tegeler
Executive Director
Poverty & Race Research Action Council

Joseph Rich
Nicole Birch
Lawyers Committee for Civil Rights

Enclosure

The Section 8 program and access to opportunity: An agenda for policy reform

*Submitted to the House Financial Services Committee, Subcommittee on Housing and Community Opportunity: Subcommittee Hearing on The Section 8 Voucher Reform Act
Friday, March 9, 2007*

Racially segregated, high poverty neighborhoods are a continuing reality in many American cities. Families living in these neighborhoods often do not have access to quality jobs, high performing schools, and other important life opportunities. Federal and state housing programs have helped to create this situation, but they can also be part of the solution to change it.

The nation's largest federal housing program, the Section 8 "Housing Choice Voucher Program" has the potential to help poor families voluntarily move to lower-poverty and less-segregated areas. Unfortunately, this benefit of the voucher program is not automatic, and is highly dependent on program features that include how higher-rent areas are treated, how public housing agencies (PHAs) receive their funding, how PHAs interact with families and with each other when a voucher crosses jurisdictional lines ("portability"), and the extent to which families receive housing search assistance. Each of these program features is subject to competing political, administrative and policy demands, so housing mobility becomes simply one goal among many.

Although HUD and Congress took some promising steps during the 1990s with a series of housing mobility policies designed to help families move to lower-poverty neighborhoods, these policy interventions only lasted a few years, and in recent years we have experienced a policy retrenchment, which has restricted families' geographic choices in the voucher program, and is likely now leading to greater geographic concentration among poor Black and Latino participants in the program.¹

Congress has an opportunity to undo this systematic dismantling of the Section 8 program, and to reinvigorate two of the program's original goals of housing choice

1. The current Administration's cutbacks on housing mobility in the voucher program began in 2002, with the elimination of federal funding for regional housing mobility programs, and the consequent shutdown of dozens of such programs around the country. Then, in 2003, HUD began affirmatively restricting housing choice by cutting back on the use of Section 8 "exception payment standards," which permit families to move to lower-poverty areas that have higher rents. In 2004, the Administration's original Flexible Voucher proposal (successfully resisted by Congress) would also have discouraged housing mobility by changing each agency's Section 8 allocation to a single block-grant system, rather than paying each agency for all the authorized vouchers that they are able to use. But in the same way, a change in the way HUD allocates budget funds (to cover each agency's prior year expenditures) along with HUD's decision in June of 2004 to retroactively cut voucher funding in PIH Notice 2004-7 both increased incentives for PHAs to adopt policies that discourage or prohibit families from moving to higher-rent areas. These policies also led to across the board reductions in payment standards that limit choice of available neighborhoods. HUD again restricted mobility in a guidance issued in July of 2004 that seemed to allow PHAs to restrict voucher holders' portability rights, where PHAs make a showing of financial hardship (HUD retracted this ambiguous and unlawful guidance in 2006, but only after much damage had been done).

and deconcentration of poverty. To accomplish this, the Congress could take the following steps:

- ▶ Elimination of financial penalties imposed on Public Housing Agencies (PHAs) when families move from one jurisdiction to another. Currently, a “sending” PHA has to pay a premium to a neighboring PHA for higher rents in the receiving town, with no possibility of reimbursement from HUD. A proposal in the pending 2007 Appropriations Bill would eliminate this penalty by allowing PHAs to seek reimbursement of excess “portability” costs from HUD. It is important to incorporate this intended policy change in the 2007 funding resolution.
- ▶ Reauthorization of the system in effect prior to 2000, that permitted somewhat higher Section 8 rents in more expensive, lower-poverty areas. This system of “Exception Payment Standards” is still part of the Section 8 regulations, but, as noted above, its use was suspended unlawfully by HUD in 2003.
- ▶ Statutory changes to eliminate the complex administrative system of “portability” and replace it with a simpler system that allows families to move from jurisdiction to jurisdiction without bureaucratic complications. One leading proposal is to require receiving PHAs to simply “absorb” incoming families into their program, so long as spaces remain for families on the PHA waitlist.
- ▶ Reauthorization of an improved version of the Regional Opportunity Counseling Program, a multi-city program that helped families move to lower- poverty neighborhoods (defunded in the first two years of the Bush Administration).
- ▶ Experimentation with new approaches to cooperation among PHAs operating similar voucher programs in the same metropolitan areas – including financial incentives for PHAs that take steps such as sharing waitlists, adopting common application forms, etc.
- ▶ Passage of a new national housing mobility program modeled on the successful Gautreaux Assisted Housing Mobility Program in Chicago. An estimated 50,000 new vouchers per year, dedicated to deconcentrating poverty in 10-15 of America’s most severely segregated urban neighborhoods, could have a substantial impact in ameliorating the impacts of concentrated poverty over a ten-year period.

The recent report of the Third National Conference on Housing Mobility: ***Keeping the Promise: Preserving and Enhancing Housing Mobility in the Section 8 Housing Choice Voucher Program***² includes a review of the best practices and most promising administrative approaches to promoting housing mobility in the Section 8 voucher program. The main lesson of this report is that housing mobility is feasible, we know how to make it work, and, given the assistance, many families in high-poverty neighborhoods

2. Report available at www.prrac.org/pdf/KeepingPromise.pdf.

will make a choice to move to safer and higher-opportunity areas. **It is time to restore the promise of choice to the Housing Choice Voucher Program.**

Supported by:

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Poverty & Race Research Action Council
National Fair Housing Alliance
National Low Income Housing Coalition
Leadership Conference for Civil Rights

State and Local Organizations in support of statement:

Massachusetts Law Reform Institute (MA)
Metropolitan Boston Housing Partnership (MA)
HomeStart (MA)
City of Boston Fair Housing Commission (MA)
Cambridge Eviction Free Zone (MA)
Western Massachusetts Legal Services (MA)
Massachusetts Nonprofit Housing Association (MA)
Lawyers Committee for Civil Rights Under Law
of the Boston Bar Association (MA)
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Iowa Coalition for Housing & the Homeless (IA)

Intermountain Fair Housing Council (ID)

Mid-Minnesota Legal Assistance (MN)

Metropolitan Milwaukee Fair Housing Council (WI)

Arizona Fair Housing Center (AZ)

Inclusive Communities Project (TX)