

May 5, 2010

The Honorable Maxine Waters, Chair
House Financial Services Subcommittee
on Housing and Community Opportunity
U.S. House of Representatives
Washington D.C.

Re: Perpetuation of segregation and the public housing replacement bill

Dear Chairwoman Waters and Members of the Subcommittee,

We appreciate the opportunity to comment on the draft “Public Housing One-for-One Replacement and Tenant Protection Act of 2010,” which amends Section 18 of the U.S. Housing Act, regarding demolition and disposition of public housing. We are writing specifically to comment on the provisions of the bill relating to the location of off-site replacement housing, which would forbid the development of replacement public housing units in lower poverty, predominantly white communities “outside the jurisdiction” of the housing authority.

In our view, such a provision – which is unprecedented in federal law – rewards the racially exclusionary policies of many white suburban towns and will lead inexorably to increased racial segregation in our metropolitan areas and increased poverty concentration in city school districts. While we strongly support one-for-one replacement of public housing and the right of families who wish to do so to return to their former neighborhood, these goals do not in any way require the sacrifice of basic civil rights principles.

The specific provision we are concerned with reads as follows:

§ 2(e)(6): “Any replacement housing units provided in addition to [on-site units] shall be provided in areas within the jurisdiction of the public housing agency having low concentrations of poverty, in a manner that furthers the economic and educational opportunities for residents.”

This language appears to be intended to roll back the existing HUD civil rights site selection standards, at 24 CFR §941.202, which would otherwise apply to the location of off-site replacement housing. These provisions were specifically designed to reverse the restriction of public housing to predominantly minority areas, and to expand housing opportunities in non-minority areas, and thus, with certain exceptions, they prohibit development of new public housing in racially concentrated areas. These standards were adopted in response to civil rights litigation following the passage of the Fair Housing Act, and they provide important guidance to prevent continuing segregated siting of public housing.

The second problem, as noted earlier, is that the bill prohibits any replacement housing units from being built in areas outside the jurisdiction of a public housing agency – which is in most cases the jurisdiction of the city in which the PHA is located. In many metro

regions the status quo is the result of public policies that deliberately concentrated public housing in the central city and excluded it from surrounding, predominantly white jurisdictions.¹ This provision would freeze that legacy of discrimination and exclusion into place.

As noted above, we support the right of tenants to return to the original neighborhood of the public housing development, if that is their choice. But when acquiring or building off-site replacement housing, it is both shortsighted and contrary to the Fair Housing Act to intentionally build additional new segregated units, especially when there are so many other families who could benefit from a move to a new school district in an integrated community. In addition, as has happened in the past, we believe the proposed “low poverty standard” without civil rights safeguards, will lead PHAs to disproportionately target the limited number of low poverty, middle class minority neighborhoods to receive off-site replacement units as the path of least resistance, rather than challenge the exclusionary sentiments of white neighborhoods.

To explore our concerns, we asked researchers at the Kirwan Institute for the Study of Race and Ethnicity to prepare a brief analysis of how this provision would work in a sample of cities and metro areas – including cities with a recent HOPE VI development.² A summary of this analysis is presented below.

1. Because many city school districts are coterminous with city and PHA boundaries, the confinement of replacement public housing to the PHA’s area of “jurisdiction” under Section 2(e)(6) will continue to contribute to economic and racial segregation in the schools, instead of opening up new opportunities elsewhere.

First, looking at all PHA’s that have received HOPE VI revitalization grants since 2005, we find that most of the primary public school districts for these PHAs have significant concentrations of both poor and non-white students:

State	Primary School District for PHA's Receiving HOPE VI Neighborhood Revitalization Grants Since 2005	Number of Students Total	% Free & Reduced Lunch Students	% Non White Students
OH	AKRON CITY	25,408	N/A	57.9%
GA	ATLANTA PUBLIC SCHOOLS	49,991	76.1%	90.5%
TX	BEAUMONT ISD	19,292	69.0%	82.7%
MA	BOSTON	56,168	71.4%	86.6%
WA	BREMERTON SCHOOL DISTRICT	5,152	53.2%	39.2%

¹ As Secretary Donovan recently acknowledged, “the neighborhoods of concentrated poverty we see in communities across America didn’t result in spite of government – but in many cases because of it” (prepared remarks, February 24, 2010). See also *The Future of Fair Housing: Final Report of the National Commission on Fair Housing and Equal Opportunity* (December 2008) (co-chaired by former HUD Secretaries Henry Cisneros and Jack Kemp). www.civilrights.org/publications/reports/fairhousing/future_of_fair_housing_report.pdf.

² Using the listing of HOPE VI revitalization grantees on the HUD website, we specifically looked at medium-sized and large cities with funding from 2005- 2008 (the most recent year listed).

IL	CITY OF CHICAGO SD 299	407,510	75.7%	92.0%
NC	CUMBERLAND COUNTY SCHOOLS	53,295	N/A	63.0%
DC	DISTRICT OF COLUMBIA PUBLIC SCHOOLS	58,191	52.6%	93.8%
PA	EASTON AREA SD	8,940	32.6%	38.5%
KY	FAYETTE COUNTY	35,416	42.0%	39.2%
TN	KINGSPORT CITY SCHOOL DISTRICT	6,543	43.9%	12.8%
FL	LEE COUNTY SCHOOLS	80,541	46.2%	48.9%
TN	LEXINGTON CITY ELEMENTARY	1,142	44.7%	25.2%
NJ	LONG BRANCH	4,828	61.0%	67.2%
TN	MEMPHIS CITY SCHOOL DISTRICT	115,342	70.8%	92.9%
WI	MILWAUKEE SCHOOL DISTRICT	86,819	77.1%	84.4%
NY	NIAGARA FALLS CITY SCHOOL DISTRICT	7,559	60.9%	44.5%
OR	PORTLAND SD 1J	46,262	41.9%	47.3%
WA	SEATTLE PUBLIC SCHOOLS	45,581	38.3%	57.2%
TX	TEXARKANA ISD	6,448	62.0%	58.1%

Race & Free and Reduced Lunch Status in the 2007-2008 school year for School Districts for PHA Hope VI Revitalization Grantees from Since 2005; Source: National Center for Education Statistics.³

These impacts of Section 2(e)(6) on school segregation would be harshest in older cities in the east and midwest that already tend to be the most highly segregated and are geographically constrained within a small land area. For example, the following table illustrates the high concentrations of Free and Reduced Lunch students and non-White students in a sample of midsized Midwestern and Northeastern cities.⁴

City	% Free & Reduced Lunch	% Non-white
Hartford, CT	97.1	93.8
Philadelphia, PA	68.4	87.1
Buffalo, NY	80.2	75.4
Cleveland, OH	N/A*	84.7
Flint, MI	65.2	85.6
Saginaw, MI	70.1	80.2
East St. Louis, MO	57.0	99.8
Milwaukee, WI	77.1	84.4

³ Note that Phoenix and New Orleans were omitted from this assessment due to their unique school district conditions. The City of Phoenix has 32 school districts within the City limits and New Orleans's schools are still recovering from Hurricane Katrina.

⁴ Source: National Center for Educational Statistics, NCES has no FRL data for Cleveland in its national database but, according to the Ohio Department of Education, 100% of students in Cleveland were "Economically Disadvantaged" in 2009-2010.

2. The restriction to “within the jurisdiction” in Section 2(e)(6) would increase pressure to place replacement public housing units in fragile moderate poverty neighborhoods, threatening to drive these neighborhoods deeper into poverty.

In cities with an insufficient number of low poverty neighborhoods, or where political opposition to placing more public housing in these neighborhoods makes development politically difficult, there will be pressure to place more of the potential replacement units into moderate poverty neighborhoods (10-20% poverty), which will lead to increasing poverty concentration.

Research is beginning to indicate that the effects of concentrated poverty rapidly increase at two thresholds. The first big shift occurs when a neighborhood shifts from about 10% to a 20% poverty rate, or when a neighborhood is “tipping” into high poverty.⁵ For example, researchers found that there is no substantial relationship between neighborhood poverty changes and property values or rents when poverty rates stay below 10%. However, marginal increases in poverty when neighborhood poverty rates are in the range of 10-20% can result in dramatic declines in value and rent.⁶ The second threshold is when the neighborhood reaches a 40% poverty rate, at which point a neighborhood is in extreme high poverty, or “concentrated poverty.”⁷ Again, concentrated poverty in this country is highly racialized. In 2000, 70% of the 7 million people living in concentrated poverty neighborhoods were African American.⁸

Because most public housing has been concentrated in the center cities, that is where most demolition occurs. Using the long-standing HUD definition of “low poverty” as comprised of less than 10% of the population in a census tract at or below the federal poverty line, there are a significant number of older, already developed and geographically constrained American cities that would have difficulty locating all offsite replacement public housing inside the jurisdiction. The restriction to “within the jurisdiction” will have a more significant impact in geographically smaller cities in the Midwest and Northeast – but even in some of our more expansive cities, the shortage of low poverty tracts may force replacement public housing into higher poverty tracts.

Larger cities

The analysis below, using a sample of PHA’s that have received HOPE VI revitalization grants since 2005 and are located in the 50 most populous metropolitan areas, suggests that geographically larger cities in the West may be more easily able to absorb off-site replacement housing “within the jurisdiction” of the housing authority – whereas

⁵ The USDA Economic Research Service uses a 20% poverty rate to delineate areas of “high poverty” in the U.S.

⁶ G. Galster, J. M. Cutsinger, & R. Malega. “The Social Costs of Concentrated Poverty: Externalities to Neighboring Households and Property Owners and the Dynamics of Decline.” Paper presented at *Revisiting Rental Housing: A National Policy Summit*, Joint Center for Housing Studies, Harvard University, Nov. 14-15, 2006.

⁷ G. Galster, R. Quercia, and A. Cortes, “Identifying Neighborhood Thresholds: An Empirical Exploration.” *Housing Policy Debate* 11 (3):701-732 (200).

⁸ P. Jargowsky, *Stunning Progress, Hidden Problems: The Dramatic Decline Of Concentrated Poverty In The 1990s* (May 2003). The Brookings Institute. Available on-line at: <http://www.brookings.edu/es/urban/publications/jargowskypoverty.htm>.

relatively more poverty-concentrated major cities in the Midwest, South, and East Coast may be significantly constrained in their siting choices if this new “one size fits all” federal restriction is imposed on replacement housing in varied markets and cities across the country:

PHA Jurisdiction	Total Number of Census Tracts in 2000	Number of low-poverty Census Tracts (below 10% poverty rate in 2000)	Percentage of Total Census Tracts which Qualify as Low-Poverty Census Tracts in 2000
Atlanta, GA (City PHA)	129	29	22.5%
Boston, MA (City PHA)	157	36	22.9%
Chicago, IL (City PHA)	876	231	26.4%
New Orleans ,LA (City PHA)	181	22	12.2%
Milwaukee, WI (City PHA)	235	63	26.8%
Phoenix, AZ (City PHA)	321	144	44.9%
Portland, OR (City PHA)	163	68	41.7%
Seattle, WA (City PHA)	126	67	53.2%
King County, WA (County PHA)	373	269	72.1%
District of Columbia (City PHA)	188	49	26.1%

Analysis of low poverty census tracts in PHA’s receiving HOPE VI grants after 2005 and located in the nation’s 50 largest metropolitan areas. Source: Census 2000

Geographically limited smaller and medium sized cities

The segregative and poverty-concentrating impacts of Section 2(e)(6) would be harshest in older cities in the East and Midwest that already tend to be the most highly segregated and are geographically constrained within a small land area. As seen in Map 1 (attached), the Census Bureau American Community Survey identified a large number of cities across the U.S. with a poverty rate above 20% from 2006 to 2008. For example, according to the American Community Survey, more than 375 local governments had poverty rates exceeding 20% in from 2006 to 2008. When assessing mid to small size cities, we see similar trends. For example, among our nation’s 280 cities and Census Designated Places with populations exceeding 100,000 residents, 75 or approximately 1/4 had poverty rates exceeding 20%. Racial concentrations are extremely prevalent among these 75 cities, particularly in relation to African American populations. Twenty one of these 75 cities have African American populations greater than 40%. Restricting off-site replacement public housing to “within” these jurisdictions will inevitably perpetuate metropolitan segregation, in contravention of the Fair Housing Act.

3. The requirement that replacement housing be located “in a manner that furthers the economic and educational opportunities for residents,” will be difficult to implement if replacement housing is limited to locations inside the city.

Using an analysis that measures neighborhood “opportunity” in metropolitan communities by census tract across a range of factors, including education, employment,

health, and transportation, the Kirwan Institute has mapped opportunity in approximately two dozen metro areas.⁹ We asked the Institute to look at those maps with this proposed legislation in mind, and we found that in many cities there are even fewer high opportunity neighborhoods than there are low poverty neighborhoods within central cities. Also, the geographic limitation of Section 2(e)(6) means that most of the truly high opportunity areas in the surrounding metro areas will be off limits to replacement public housing units. This will preclude former public housing residents and other low income workers from choosing to live in the areas where most of the nation’s job growth is occurring and from seeking an education for their children in high performing schools in these communities.

The table below illustrates the absence of high opportunity census tracts within the primary public housing authority boundaries in eight metropolitan areas for which opportunity maps were produced at the regional or state level. Attached maps 2 to 9 illustrate this concentration of low opportunity census tracts within each PHA boundary. Of the eight areas analyzed, only the cities of Austin, TX, Los Angeles, CA and Seattle, WA contained a significant number of high opportunity census tracts.

PHA Jurisdiction Analyzed: Opportunity mapping results for census tracts within the primary PHA jurisdictional boundary (city).	Number of Tracts Ranking as High or Very High Opportunity in Opportunity Analysis	Total Census Tracts Within Primary PHA Jurisdiction (City) Boundaries	% of Tracts Ranking as High or Very High Opportunity in Opportunity Analysis
Austin, TX	83	147	56.5%
Baltimore, MD	8	196	4.1%
Boston, MA	0	156	0.0%
Detroit, MI	0	314	0.0%
Hartford, CT	0	43	0.0%
Los Angeles, CA	297	824	36.0%
Seattle, WA	61	126	48.4%
Tampa Bay, FL	14	78	17.9%

Analysis of PHA “opportunity index” results for Census Tracts with primary PHA boundaries (city boundaries) from eight opportunity mapping assessments conducted at the metropolitan or State level. Source: Kirwan Institute opportunity mapping assessments, all data kept on file at the Kirwan Institute.

⁹ For more information on this work, please visit the Kirwan Institute report “The Geography of Opportunity” available on the Kirwan Institute website at: http://4909e99d35cada63e7f757471b7243be73e53e14.gripelements.com/pdfs/Opportunity_Mapping_Research_Initiatives.pdf

4. The solution is not, as some have argued, to allow public housing authorities to develop off-site replacement public housing in high poverty and/or low opportunity areas, the same practices that lead to concentrations of poverty and contributed to the distress and demolition of so much public housing.

We applaud the bill's requirement that that off-site replacement housing be sited in low poverty areas. To throw out the low poverty requirement because of the shortage of low poverty areas "within the jurisdiction" of many urban PHAs, as some have argued, would be precisely the wrong solution. The longstanding practice of PHAs to "take the path of least resistance" by siting new public housing in already poor neighborhoods is one of the major contributors to concentrated poverty in our cities – and one of the reasons that so much public housing is now so distressed that it is at risk of demolition.

Yes, high poverty neighborhoods are in need of new investment and should not be forsaken. But the research evidence shows that construction of affordable housing is a relatively weak tool for neighborhood revitalization.¹⁰ Instead, high poverty neighborhoods need investment in improved schools, jobs and economic development, libraries, recreation facilities, public infrastructure, green space, health clinics, grocery stores and enhanced public safety. Investment in affordable housing alone cannot revitalize a high poverty neighborhood and will instead be overwhelmed by the surrounding poverty and disinvestment.

Public housing investments in already strong or improving neighborhoods, on the other hand, have been shown to have a positive impact on the surrounding neighborhood while providing poor families with new and better housing choices.¹¹ Investments in replacement housing in strong neighborhoods can be a positive tool to create or preserve affordable rental options in these neighborhoods as rents rise and rentals are converted to other uses.¹²

5. The need for affirmative housing mobility assistance in Section 18 relocation programs

Section 2(h)(8) of the Act requires that families who are initially relocated be informed of their full range of options, including the opportunity to move to a lower poverty neighborhood, and also "comprehensive housing search assistance for household[s] that receive a voucher for tenant-based assistance." The provision of "comprehensive housing search assistance" is particularly important for families who are interested in moving to low poverty communities and school districts – our experience has shown that

¹⁰ Khadduri and Rodda, *Making the Best Use of Your LIHTC Dollars: A Planning Guide for State Policy Makers*, United States Department of Housing and Urban Development, Office of Policy Research and Development (July 2004) at 19; Khadduri, Burnett and Rodda, *Housing Production Subsidies: Literature Review*, United States Department of Housing and Urban Development, Office of Policy Development and Research (December 2003) at 68-73.

¹¹ Galster, Smith and Tatian, *Assessing Property Value Impacts of Dispersed Housing Subsidy Programs: Final Report*. U.S. Department of Housing and Urban Development, Office of Policy Research (May 1999) at 8-2 to 8-4. In contrast to positive impacts on property values in stable, higher value, non-minority neighborhoods, the presence of assisted housing in lower income and/or minority neighborhoods was found to have a negative impact on property values and to raise residents anxieties about the neighborhood.

¹² Khadduri, Burnett and Rodda at 78.

these families often need staff assistance with their move, because of the increased difficulty in using vouchers in these areas, and the lack of information many families have about the full range of choices that are open to them. For many families, the initial move they make is the most important, and comprehensive housing mobility programs need to be available to help families make successful and stable moves on their first try, and to keep in touch with families after they move.

Thank you for the opportunity to present these comments. We hope that the Committee will remove the harmful “within the jurisdiction” language from the draft bill and make it clear that locations of off-site replacement housing must comply with civil rights site selection standards and affirmatively further fair housing.

Sincerely,



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