

TENANT TALK

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PROTECTING PUBLIC HOUSING FROM POLITICAL STORMS

Working towards a Brighter Future



A NATIONAL LOW INCOME HOUSING COALITION PUBLICATION

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**NATIONAL LOW INCOME
HOUSING COALITION**

ABOUT NLIHC

The National Low Income Housing Coalition is dedicated solely to achieving socially just public policy that ensures people with the lowest incomes in the United States have affordable and decent homes.

A key part of our work is through public education and engagement. NLIHC is committed to sharing resources and tools that help individuals become informed advocates. *Tenant Talk* is one of the many resources we provide to the public.

BECOME A MEMBER

NLIHC relies heavily on the support of our members to fund our work and to guide our policy decisions. Members are our strength! Hundreds of low income residents and resident organizations have joined the NLIHC community by becoming members.

We suggest an annual membership rate of only \$5 for a low-income individual membership, and \$15 for a low income resident organization. Please consider becoming a member of NLIHC today at nlihc.org/membership.

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A Letter
from the
EDITORIAL
BOARD

↑
FRANKLIN DELANO
ROOSEVELT MEMORIAL:

PHOTO COURTESY:
LIBRARY OF CONGRESS

**"I SEE ONE-THIRD
OF A NATION
ILL-HOUSED,
ILL-CLAD, ILL-
NOURISHED"**

Dear Readers,

Housing is a human right! We believe that. Sometimes we even hear our leaders say it. The United Nations has investigated the lack of housing in the U.S. as a human rights violation. Too often, we are moving in the wrong direction.

The federal government’s outcomes have always fallen short of its vision of housing all people. Just a few months before establishing the nation’s first public housing in the Housing Act of 1937, President Franklin Delano Roosevelt stated in his inaugural address, “The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little.” That “test” is one that the U.S. continues to fail.

Attempts to undermine public housing have existed since its inception. Whether it was the legal obligation to segregate whites and blacks in public housing, the deep cuts to funding during the past several decades, or the present threat of “repositioning” public housing to private financing and ownership, our neighbors in public housing have always had to fight for their homes. Today is no different. Many people are saying “the writing is on the wall” for public housing. Residents active with NLIHC say something different.

We believe housing is a human right and that publicly owned, safe, and accessible housing is one example of that right. We owe it to the millions of people in public housing and to all those who spend years on waiting lists to win in this struggle. We must preserve and expand public housing along with other affordable housing programs.

The future of public housing may not be certain at the moment - but advocates throughout the NLIHC network will do everything we can to support public housing residents in their quest for the dignity of their communities and work to create greater access to public housing. Many will try to undermine our efforts, but combining the powerful voices of tenants and advocates, we will win this struggle.

If we believe housing is a human right, we have no option but to win.

In solidarity,

Tenant Talk Editorial Board



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Public Housing – WHERE DO WE STAND?

Throughout the nation, public housing is in pretty rough shape. The Public Housing Capital Fund, which Congress provides to pay for repairs, has been underfunded for so long that we now lose more than 10,000 public housing apartments each year because they are no longer habitable. Some public housing agencies have endured financial challenges and mismanagement that leads to HUD taking them over.

The best response to this crisis is for Congress to provide the estimated \$70 billion necessary to repair public housing and stop the unnecessary loss of these scarce affordable homes. Congress has been unwilling to do that. Lacking the money needed to make urgent repairs, HUD is turning more and more to alternative solutions that “reposition” public housing to solutions programs that involve private financing and rely on vouchers.

Public Housing ‘Repositioning’

HUD’s Office of Public and Indian Housing (PIH) sent a letter to public housing agency (PHA) executive directors dated November 13, 2018 signaling its intent to remove itself from administering the public housing program. HUD’s immediate goal was to “reposition” 105,000 public housing units by September 30, 2019.

Because Congress has failed to provide adequate appropriations for the Public Housing Capital Fund for many years, there is an approximate \$70 billion backlog in capital needs (public housing maintenance and repairs). HUD points to that backlog as the reason to provide PHAs with “additional flexibilities” so they can “reposition” public housing.

*What is “repositioning?”
There are three main ways
HUD would “reposition”
public housing:*

- ↗ The Rental Assistance Demonstration (RAD)
- ↗ Demolishing or disposing of (selling) public housing
- ↗ Voluntary conversion of public housing to vouchers

All of these have already been available to PHAs. Repositioning just means making them easier.

Rental Assistance Demonstration (RAD)

Beginnings

Throughout 2010 and 2011, HUD consulted with public housing resident leaders through the Resident Engagement Group to create a demonstration program that would bring in non-federal resources to address the lack of federal money for public housing maintenance and repairs. HUD also wanted to avoid repeating the mistakes of the HOPE VI program, which resulted in many residents losing their affordable homes. During the planning process, HUD presented three proposals to the resident leaders, and each time the group pointed out a resident-oriented problem. HUD incorporated the feedback from the Resident Engagement Group to create the final proposal, the “Rental Assistance Demonstration” (RAD).

Congress authorized the creation of RAD as part of the fiscal year 2012 HUD appropriations to help preserve and improve low-income housing. RAD does not provide any new federal funds for public housing. There are also no RAD regulations, but RAD conversions must comply with a formal RAD Notice. The current Notice is REV4. (Notice H-2019-09/PIH-2019-23).

RAD does not provide any new federal funds for public housing.

What is RAD?

RAD allows PHAs to convert public housing units to either Project-Based Vouchers (PBVs) or Project-Based Rental Assistance (PBRA) – both are forms of project-based Section 8 rental contracts. At first only 60,000 units were to be converted under the “demonstration,” but Congress approved cap increases so that currently 455,000 units can be converted to PBVs or PBRAs. (Both the Obama and Trump administrations have sought to remove the cap and allow all public housing units to convert to RAD; so far that has not happened.) Once converted under RAD, the former public housing’s Capital Fund and Operating Fund are used for PBV or PBRA.

Project-Based Vouchers (PBVs) are Housing Choice Vouchers tied to specific buildings; they do not move with tenants as regular “tenant-based” vouchers do. If public housing units are converted to PBV, the initial contract must be for 15 years (up to 20 years), and must always be renewed. HUD’s Office of Public and Indian Housing (PIH) would continue to oversee the units. Most of the current PBV rules (24 CFR 983) apply.

If units are converted to Project-Based Rental Assistance (PBRA), the initial contract must be for 20 years and must always be renewed. HUD’s Office of Multifamily Programs would take over monitoring. Most of the current PBRA rules (24 CFR 880 to 886) apply.

Why Might Converting Some Public Housing to Section 8 Be Okay?

Converting some public housing to Section 8 might be necessary because Congress continues to underfund public housing, leading to deteriorating buildings and the loss of units through demolition. Congress is more likely to provide adequate funding for existing Section 8 contracts than for public housing. And, if a long-term rental assistance contract is tied to a property, private institutions might be more willing to lend money for critical building repairs. Therefore, some homes that were public housing before conversion are more likely to remain available and affordable to people with extremely low- and very low-incomes because of long-term Section 8 contracts.

What Are the Resident Protections that the Resident Engagement Group Secured in RAD?

Both the appropriations act and HUD's formal rules for RAD include all of the protections the Resident Engagement Group (REG) sought. It has been up to residents, however, to try to get HUD, PHAs, developers, and owners to comply.

Displacement. Permanent involuntary displacement of current residents cannot occur. If a household does not want to transition to PBV or PBRA, they may move to other public housing if an appropriate unit is available.

Right to Return. Residents temporarily relocated while rehabilitation happens have a right to return.

Rescreening. Current residents cannot be rescreened.

Tenant Rent. Existing PBV and PBRA rules limit resident rent payment to 30% of income, or a minimum rent, whichever is higher. Any rent increase of 10% or \$25 (whichever is greater) due to conversion is phased in over three to five years.

Good Cause Eviction. An owner must renew a resident's lease, unless there is "good cause" not to – e.g., non-payment of rent, damage to the building, or criminal activity on the property. This protection means that residents cannot be told for no good reason that their lease will not be renewed.

Grievance Process. The RAD law requires tenants to have the same grievance and lease termination rights they had under Section 6 of the Housing Act of 1937. For instance, PHAs must notify residents of the PHA's reason for a proposed adverse action and of their right to an informal hearing assisted by a resident representative. Advocates argue HUD has not adequately implemented this statutory requirement.

Resident Participation Features

Before a PHA Applies for RAD. The RAD Notice has detailed requirements regarding how a PHA must provide notice to residents. The PHA must hold at least two meetings before applying for RAD and then have at least one meeting after HUD gives preliminary approval (called a CHAP) to convert. Starting with REV4 in September 2019, a fourth meeting is now required after the PHA has a "Concept Call" with HUD. There are also the usual resident, public information, and participation requirements regarding a "Significant Amendment" to a PHA Plan, but those do not kick in until six months after HUD has given preliminary approval and all the project's financing has been lined up – when the conversion is basically a done deal.

The \$25 per Unit for Tenant Participation Remains. Whether a property is converted to PBV or PBRA, the owner must provide \$25 per unit annually for resident participation.

Of this amount, at least \$15 per unit must be provided to any "legitimate resident organization" to be used for resident education, organizing for tenancy issues, and training activities. The PHA may use the remaining \$10 for resident-participation activities.

Resident Participation Rights. Residents have the right to establish and operate a resident organization. If a property is converted to PBRA, then the current Section 8 Multifamily program's "Section 245" resident participation provisions apply.

If a property is converted to PBV, instead of using public housing's Section 964 provisions, the RAD Notice requires resident participation provisions similar to those of Section 245 used by the Section 8 Multifamily program. For example, PHAs must recognize legitimate resident organizations and allow resident organizers to help residents establish and operate resident organizations. Resident organizers must be allowed to distribute leaflets and post information on bulletin boards, contact residents, help residents participate in the organization's activities, hold regular meetings, and respond to an owner's request to increase rents, reduce utility allowances, or make major capital additions.

One-for-One Replacement

Although the RAD Notice does not use the term "one-for-one replacement," HUD's informal material says there is one-for-one replacement. But there are exceptions. PHAs can reduce the number of assisted units by up to 5% or 5 units, whichever is greater, without seeking HUD approval. HUD calls this the "de minimus" exception. In addition, RAD does not count against the 5%/5 unit de minimus any unit that has been vacant for two or more years; any reconfigured units, e.g. making two efficiency units into a one-bedroom unit; or, any units converted to use for social services. Consequently, the loss of units can be more than 5%.

What if there is Temporary or Permanent Relocation?

There are separate relocation requirements, Notice H 2016-17/PIH-2016-17, published in 2017.

Temporary Relocation. For moves within the same building or complex, or moves elsewhere for one year or less, the PHA must reimburse residents for out-of-pocket expenses.

If temporary relocation is expected to be for more than one year during renovation, the PHA must offer a resident the choice of temporary or permanent housing and reimbursement for out-of-pocket expenses due to the move. Residents must have at least 30 days to decide between temporary and permanent relocation assistance. A PHA cannot use any tactics to pressure residents to give up their right to return or to accept permanent relocation assistance.

Permanent Relocation. If a PHA's plans for a project would prevent a resident from returning to a RAD project,

the resident must be given an opportunity to comment and/or object to the plan. If a resident objects, the PHA must alter the project plans to accommodate the resident in the converted project. If a resident voluntarily agrees to permanent relocation, a PHA must obtain informed, written consent from the resident confirming they agree to end their right to return and acknowledging they will receive permanent relocation assistance.

Additional Relocation Guidance. PHAs or owners must prepare a written relocation plan if temporary relocation is expected to be greater than 12 months or for permanent relocation. Owners must provide a “Notification of Return to the Covered Project” indicating a date or estimated date of return.

Log of Residents Temporarily Relocated. A PHA or owner must create a log listing every household living at a project before it converts. The log must track resident status from temporary relocation through completion of rehab or new construction, including re-occupancy after relocation.

Who Will Own the Converted Properties?

Worries about “privatization.” Theoretically, this potential problem is covered by the RAD statute requiring converted units to be owned or controlled by a public or nonprofit entity. In practice, however, legal services attorneys express concerns about loopholes and recommend PHAs have long-term ground leases that ensure direct control. The RAD Notice provides six ways to meet the “ownership or control” requirement, including a PHA continuing to hold title to the land and any improvements (buildings), or having a ground lease (but not necessarily “long-term”).

If the Project Has Low-Income Housing Tax Credit (LIHTC) Financing. A LIHTC property may be owned and controlled by a for-profit, but only if the PHA preserves “sufficient interest” in the property. The RAD Notice lists four ways to meet “sufficient interest.” The two recommended

by legal services attorneys are the PHA or its affiliate is the general partner, and/or the PHA continues to own the land and has a long-term ground lease with the owner.

Mixing RAD and “Section 18” Demolition/Disposition

A new wrinkle was added in 2018 when HUD allowed 25% of the units at a RAD project to be “disposed” through “Section 18” of the Housing Act. These units have to be substantially rehabbed or newly constructed and in the “best interest of residents and the PHA.” All RAD relocation and protection requirements must apply to residents of Section 18 units, including resident notice and comment requirements, right to return, no rescreening, and relocation assistance, HUD will not approve a RAD conversion if the Section 18 units would not be replaced one-for-one. The Section 18 units will get Project-Based Vouchers (PBVs). As a result, the project will probably receive more money, making the conversion to RAD more financially feasible.

Choice Mobility

PHAs must provide all residents of converted units the option to move with regular Housing Choice Vouchers (HCVs). **For PBV units**, the regular PBV rule applies – after one year, a tenant can request a HCV. If a voucher is available, it must be provided; if a voucher is not available, the resident gets priority on the waiting list. **For PBRA units**, a resident has the right to move after two years with a HCV, if one is available.

Section 3

Although Section 3 applies, a PHA or owner is only obliged to give residents preference for employment and training opportunities tied to RAD-enabled new construction or rehab. Once a project converts, it is no longer subject to Section 3. So residents will not have Section 3 opportunities when jobs previously done by PHA staff arise in the future.



TECHWOOD HOMES,
THE FIRST PUBLIC
HOUSING BUILDING

PHOTO COURTESY:
LIBRARY OF CONGRESS



Demolition/Disposition (Demo/Dispo)

Background

Since 1983, HUD has authorized PHAs to apply for permission to demolish or dispose of (sell) public housing units under Section 18 of the Housing Act of 1937. In 1995 Congress ended the requirement that PHAs replace on a one-for-one basis public housing lost through demolition or disposition. In 2016, HUD reported a net loss of more than 139,000 public housing units due to demolition or disposition since 2000.

A PHA must apply to HUD's Special Applications Center (SAC) to demolish or sell public housing. The application must certify the PHA has described the demo or dispo in its Annual PHA Plan and the description in the application must be identical. **Advocates should challenge an application that is significantly different.** The information in this article is primarily from the regulations 24 CFR 970.

In 2018, the Trump administration eliminated a 2012 HUD Notice that had modest improvements advocates had suggested. The 2012 Notice served as a reminder to residents, the public, and PHAs of PHAs' obligations regarding resident involvement and the role of the PHA Plan regarding demo/dispo. The replacement, Notice PIH 2018-04, downplays the role of resident consultation to make demo/dispo easier.

In addition, the Trump administration withdrew proposed regulation changes drafted in 2014 that would have reinforced the modest improvements in the 2012 Notice and required PHAs to submit more detailed justifications for demo/dispo. All of this is a part of the administration's goal of "repositioning" 105,000 public housing units by September 30, 2019.

Resident Participation

A PHA must prepare a demo/dispo application "in consultation" with tenants and any tenant organization at a project, as well as with any PHA-wide tenant organization and the Resident Advisory Board (RAB). The application (form HUD-52860) must include any written comments made by residents, resident organizations, or the RAB, and indicate in writing how the PHA responded to comments. HUD can deny an application if tenants, resident councils, or RABs were not consulted, **so residents should challenge an application if they were not consulted or if the consultation was grossly inadequate.**

Demolition Applications

Is the Public Housing Obsolete?

PHAs must certify that a development is "obsolete," either physically or in terms of location, and therefore no longer suitable as housing.

Physically obsolete means there are structural deficiencies that cannot be corrected at a reasonable cost. Structural deficiencies can include settlement of floors, severe erosion, and deficiencies in major systems like plumbing, electrical, heating and cooling, roofs, doors, and windows. "Reasonable" cost is defined as less than 62.5% of total development costs for buildings with elevators and 57.14% for other buildings. To show a development is physically obsolete, a PHA must submit a detailed scope of work describing the major systems needing repair or replacement, the need to remove lead-based paint and asbestos hazards, or the need to make accessibility improvements for people with physical impairments.



DEMOLITION OF THE
CABRINI-GREEN HOMES
IN CHICAGO

JOE FLICKR CREATIVE
COMMONS

Voluntary Conversion

An **obsolete location** means the surrounding neighborhood is too deteriorated or has shifted from residential uses to commercial or industrial uses. It can also mean environmental conditions make it unsuitable for residents to live there. “Other factors” that “seriously affect the marketability or usefulness” of the development can also be considered.

“De Minimus” Demolition. PHAs do not have to apply to HUD to demolish fewer than 5 units or 5% of all units over a five-year period. The units being demolished must either be beyond repair or be making room for services such as a child care facility, a laundry room, or a community center.

Disposition Applications

A PHA must certify that keeping the development is not in the best interests of residents or the PHA for one of three reasons:

1. Conditions in the surrounding area (such as commercial or industrial activity) have a negative impact on the health and safety of residents or on the PHA’s operation of the project (which could mean a lack of demand for the units). The PHA would have to show high long-term vacancy rates due to factors such as declining population in the area or a lack of transportation options and community amenities like stores and schools.
2. Sale or transfer of the property will allow the PHA to buy, develop, or rehab other properties that can be more efficiently operated as low-income housing and in which replacement units are better – e.g., more energy efficient; in better locations for transportation, jobs, or schools; and/or better for reducing racial or ethnic concentrations of poverty.
3. Sale of the property is “appropriate” for reasons consistent with the PHA’s goals, the PHA Plan, and the purpose of the Public Housing Act - a vague option for disposition applications.

Resident Relocation Provisions

The demo/dispo application must have a relocation plan that states:

1. Demolition or disposition cannot start until all residents are relocated.
2. Residents will receive 90 days’ advance notice before being relocated.
3. Each household must be offered comparable housing meeting housing quality standards (HQS) and located in an area that is not less desirable.
4. Residents’ actual relocation expenses will be reimbursed (but the Uniform Relocation Act, URA, does not apply).

A PHA may convert any public housing development to vouchers under Section 22 of the Housing Act of 1937. A PHA must first send HUD a “conversion assessment” and then a “conversion plan.” A special HUD office is in charge, the Special Applications Center, SAC. (This is different from Section 33, which is about “required” conversions of public housing that have high vacancy rates and would be too expensive to repair over the long-run.)

Conversion Assessment

The first step a PHA must take to voluntarily convert public housing to vouchers is to conduct an assessment and send it to HUD as part of a PHA’s next Annual PHA Plan. The assessment must address five factors:

1. **Cost.** What is the cost of providing vouchers compared to the cost of keeping units as public housing for the remainder of the property’s useful life?
2. **Market Value.** What is the market value before rehabilitation if kept as public housing compared to conversion to vouchers, and what is the market value after rehabilitation if kept as public housing compared to conversion to vouchers?
3. **Rental Market Conditions.** Will residents be able to use a voucher? A PHA must consider:
 - a. The availability of decent, safe, and sanitary homes renting at or less than the PHA’s voucher payment standard.
 - b. The recent rate of households’ ability to rent a home with a voucher.
 - c. Residents’ characteristics that might affect their ability to find and use a voucher; e.g. are there homes accessible to people with disabilities or homes available in the right sizes for families.
4. **Neighborhood Impact.** How would conversion impact the availability of affordable housing in the neighborhood and the concentration of poverty in the neighborhood?
5. **Future Use of the Property.** How will the property be used after conversion?

Three Conditions Needed for HUD Approval of Conversion.

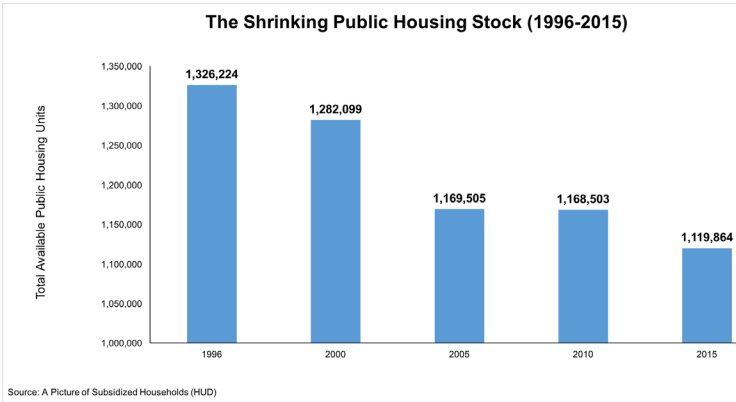
The assessment must show that converting to vouchers:

1. Will not cost more than continuing to use the development as public housing.
2. Will principally benefit the residents, the PHA, and the community. The PHA must consider the availability of landlords willing to accept vouchers, as well as access to schools, jobs, and transportation. The PHA must hold at least one public meeting with residents and the resident council, at which the PHA explains the regulations and provides draft copies of the conversion assessment. Residents must be given time to submit comments. The assessment sent to HUD must summarize residents’ comments and the PHA’s responses.
3. Will not have a harmful impact on the availability of affordable housing.

Conversion Plan

The second step is for the PHA to prepare a conversion plan that has six parts:

1. Description of the conversion and future use of the property.
2. Analysis of the impact on the community.
3. Explanation showing how the conversion plan is consistent with the assessment.
4. Summary of resident comments during plan development and the PHA's response.



5. Explanation of how the conversion assessment met the three conditions needed for HUD approval (as listed above).
6. Relocation plan that:
 - a. Indicates the number of households to be relocated, by bedroom size and by the number of accessible units.
 - b. Lists relocation resources needed, including:
 - i. The number of vouchers the PHA will request from HUD.
 - ii. Public housing units available elsewhere.
 - iii. The amount of money needed to pay residents' relocation costs.
 - d. Includes a relocation schedule.
 - e. Provides for a written notice to residents at least 90 days before displacing them. The notice must inform residents that:
 - i. The development will no longer be used as public housing and that they may be displaced.
 - ii. They will be offered comparable housing that could have tenant-based or project-based assistance, or be other housing assisted by the PHA.
 - iii. The replacement housing offered will be affordable, decent, safe, and sanitary, and is housing that the household chooses (to the extent possible).
 - iv. If residents will be assisted with vouchers, the vouchers will be available at least 90 days before displacement.
 - v. Relocation and/or mobility counseling might be provided.
 - vi. Residents may choose to remain at the property with a voucher if after conversion the property is used for housing.

Resident Participation

The conversion plan must be sent to HUD as part of a PHA's next Annual PHA Plan within one year after sending the conversion assessment. The conversion plan can be sent as a Significant Amendment to an Annual PHA Plan.

In addition to the public participation requirements for the

Annual PHA Plan, a PHA must hold at least one meeting about the conversion plan with residents and the resident council of the affected development. At the meeting the PHA must explain the regulations and provide draft copies of the conversion plan. In addition, residents must have time to submit comments, and the PHA must summarize resident comments and the PHA's responses.

Conditions Needed for HUD Approval of a Conversion Plan.

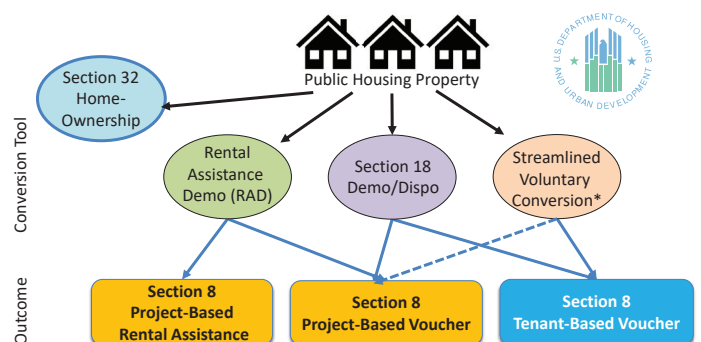
A PHA cannot start converting until HUD approves a conversion plan. Conversion plan approval is separate from the HUD approval of an Annual PHA Plan. HUD will provide a PHA with a preliminary response within 90 days. HUD will not approve a conversion plan if the plan is "plainly inconsistent" with the conversion assessment, there is information and data that contradicts the conversion assessment, or the conversion plan is incomplete or fails to meet the requirements of the regulation.

THE ROADBLOCK: THE FAIRCLOTH AMENDMENT

Senator Lauch Faircloth of North Carolina successfully placed a harmful amendment into the Quality Housing and Work Responsibility Act in 1998. The new law made several administrative changes to HUD programs, adding several provisions making life in public housing harder on residents. The act established minimum rents and created a community-service volunteering requirement for public housing residents not already working or participating in a self-sufficiency program.

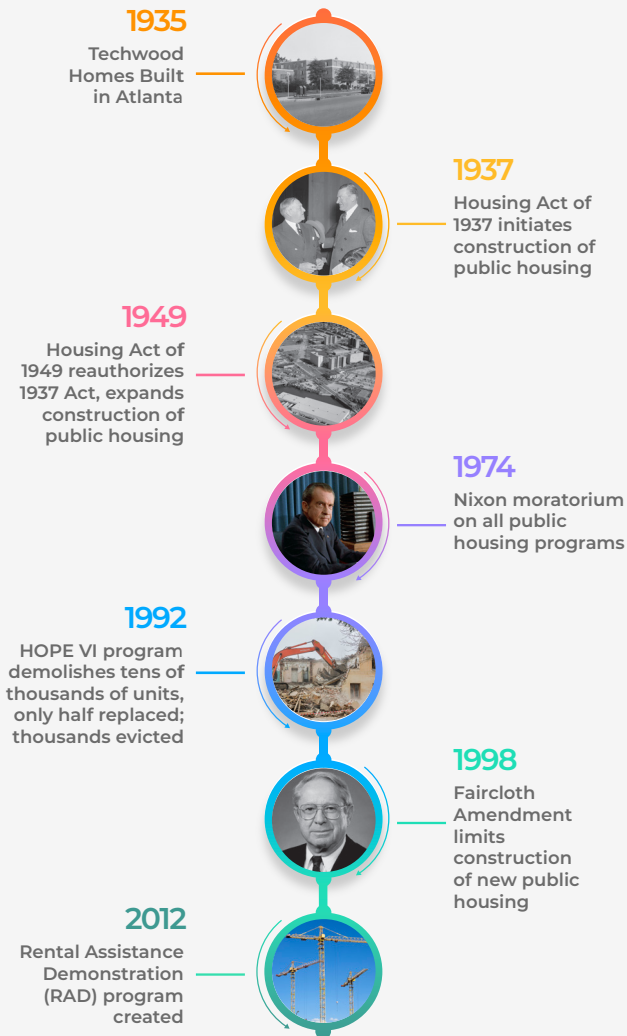
The "Faircloth Amendment" was the most counterproductive part of this troubling public housing law. The amendment bans PHAs from increasing the number of public housing units in their communities. Of course, funding for public housing has been so limited that most PHAs would not have been able to proceed with expansions even if they wanted to, but **no efforts to expand public housing in the future can occur until Congress repeals Faircloth.**

Public Housing Repositioning Options



* Under Voluntary Conversion tenant protection vouchers must first be offered to residents as tenant-based assistance but may be project-based with tenant consent.

PUBLIC HOUSING TIMELINE



now

Emphasis on “repositioning”:
converting public housing units to
the private market

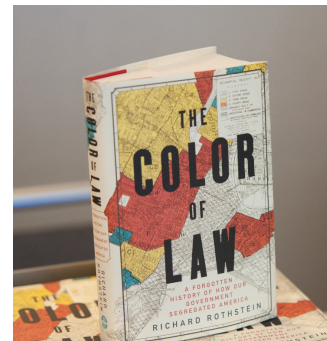
HOW DID WE GET HERE?

A QUICK REVIEW OF PUBLIC HOUSING HISTORY: A New Deal Program with Segregationist Beginnings

This year marks the 70th anniversary of the Housing Act of 1949, which significantly increased the number of public housing agencies (PHAs) and led to more widespread construction of the public housing stock we see today. The following is a brief history of public housing.

Public housing is the oldest and, until recently, largest housing subsidy program in the country. Today’s 1.1 million units of public housing, operated by over 3,000 local public housing agencies, serve 2.2 million residents. Not to be confused with other housing subsidy programs, public housing is housing stock that is owned by HUD and administered by local PHAs.

The federal public housing program started as part of the Housing Act of 1937, passed during the New Deal. First intended to be a jobs program and slums-clearing effort, public housing was the result of powerful grassroots organizing. Social justice advocates like Catherine Bauer of the Regional Planning Association of America mobilized massive public support for the movement for government-sponsored housing, i.e., public housing.



↑ THE COLOR OF LAW BY RICHARD ROTHSTEIN

In his book *The Color of Law*, Richard Rothstein explains the intensely segregationist beginnings of public housing. The federal government helped local governments carry out their housing segregation policies or did little to stop them. The Public Works Administration (PWA), created under the New Deal to address the country’s housing and infrastructure needs, constructed Techwood Homes

in Atlanta, GA, in 1935 as the first federal public housing project. The project evicted hundreds of black families to create a 604-unit, whites-only neighborhood. That same year the Supreme Court ruled the federal government lacked authority to seize property through eminent domain – but local PHAs did have this authority, allowing them to act without proper oversight regarding the placement of public housing.

The federal government’s practice of creating segregated public housing persisted throughout the second half of the 1900s. In 1954, shortly after the federal government expanded the public

housing program under the Housing Act of 1949, the Supreme Court handed down a landmark decision invalidating “separate but equal” public education. Housing and Home Finance Agency (HHFA) General Counsel Berchmans Fitzpatrick stated the decision did not apply to housing. And one year later the Eisenhower administration ended the policy that black and white communities should receive equal quality housing.

While public housing production increased in the post-war period, segregated public housing construction persisted throughout the 60s and 70s and cemented deeply segregated public housing across the country. In 1984, the *Dallas Morning News* visited 47 metropolitan areas and found nearly all public housing tenants in those areas were segregated by race, and white housing projects had better amenities.

After passage of the Fair Housing Act of 1968, public housing would no longer be a tool for advancing segregation. Just six years later the federal government started a steady withdrawal of support for public housing beginning with President Nixon’s moratorium on housing spending in 1974. There has been no significant expansion of public housing since then, as federal housing subsidies shifted to housing vouchers.

HOPE VI

Despite the consistent attempts to undermine public housing and media portrayals of dilapidated, crime-riddled tower buildings — the program remains popular among its residents. Alex F. Schwartz notes in his book, *Housing Policy and The United States*: “Public housing is unpopular with everybody except those who live in it and those who are waiting to get in.” Indeed, so many people want to live in public housing that the wait lists are almost always years-long.

Steady underfunding and austerity cuts under President Reagan in the 80s led to the declining quality of public housing. In 1989, Congress created the National Commission on Severely Distressed Public Housing to survey the condition of the nation’s public housing. The Commission found only a small percentage, 6%, was “severely distressed.” Nevertheless Congress appropriated \$600 million to

the HOPE VI program, which was publicized as an “urban-renewal” effort to demolish distressed units and replace them with mixed-income housing.

The program resulted in an overcorrection for a program that really needed more funding and better management. Over 50,000 households were told they would be “temporarily” relocated, but fewer than half of them could return to their repaired homes and even fewer could afford the new mixed-income housing. Ultimately, HOPE VI left tens of thousands of public housing renters displaced and drastically decreased the public housing stock. HOPE VI was also the precursor to today’s “repositioning” effort (see *Tenant Talk* article on “Repositioning,” page 4).

MYTHS ABOUT PUBLIC HOUSING

Myth #1: Public housing is crumbling everywhere!

Reality: 85% of public housing meets or exceeds federal quality standards and more than 40% of developments are considered “excellent.”

Myth #2: Public housing is a hotbed for criminal activity!

Reality: Researchers agree that high crime rates in areas with lots of public housing are not due to the housing itself, but more likely to the lack of opportunity in the area in which the housing is built. Public housing in neighborhoods with access to employment, commerce, good schools, and other community institutions have crime rates similar to the rest of the neighborhood.

Myth #3: Residents hate it there! They want to get out!

Reality: Surveys consistently show large majorities of public housing residents are satisfied with their housing. So many people are eager to live in public housing and benefit from its affordability that nearly all of the nation’s more than 3,000 PHAs have waiting lists that are more than one year long.

Myth #4: They are all just ugly high-rise projects!

Reality: Most public housing buildings are three stories tall or less, with townhomes or small buildings the most common architecture. When public housing was at its peak in terms of total units, only 27% of public housing was in high-rises, and that number has dropped since the early ‘90s.

WORK PROJECTS ADMINISTRATION POSTER COLLECTION



Myth #5: Low-income white people in America do not benefit from public housing.

Reality: 53% of households living in public housing identify as white. “The Long Wait for a Home,” NLIHC’s 2016 report on PHA waiting lists, shows that 58% of households currently on waiting lists are low-income white renters.

Myth #6: Public housing is only for poor people!

Reality: Households with incomes up to 80% of area median income are eligible to move into public housing. For a 4-person household, this would be \$129,150 in an expensive city like San Francisco, or \$67,300 in a more affordable area like Fargo, ND. These standards are well above the poverty line. PHAs can set their standards below the maximum, and many of them do, but public housing can serve middle-income as well as poor households. Once living in public housing, resident incomes are allowed to climb above average for their community, up to 120% of AMI.

Myth #7: Residents in public housing have no power!

Reality: Public housing’s concentration of subsidized renters in one location, the allocation of tenant participation funds for organizing activities, and required resident participation in PHA planning create an environment for better tenant mobilization than most other forms of affordable rental housing.

The data and information for this article is largely drawn from two excellent books. *In Defense of Housing* by David Madden and Peter Marcuse was released by Verso in 2016. *Public Housing Myths: Perception, Reality, and Social Policy*, edited by Nicholas Dagen Bloom, Fritz Umbach, and Lawrence J. Vale was released in 2015 by Cornell University Press.

CHANGING DIRECTION: WHAT IS THE FUTURE OF PUBLIC HOUSING?

Making public housing a strong program that addresses the affordability and accessibility needs of low-income renters will require a big shift in public policy. Such a shift will require major advocacy campaigns by residents, advocates, and other allies. Fortunately, several federal policy makers are beginning to take notice, recognizing public housing as a permanent source of deeply affordable housing and proposing to not just restore the Public Housing Capital Fund, but to **expand public housing for the first time in decades.**

Moving forward, advocates should focus on the following:

Action Items to Protect and Expand Public Housing

\$70 Billion for the Public Housing Capital Fund

The Public Housing Capital Fund is the funding PHAs use for maintaining and repairing public housing. Advocates should tell their legislators to fund the capital budget adequately by including it in any infrastructure package that may be undertaken and by supporting legislation that provides \$70 billion to meet the cost of estimated repair backlogs, which grow at a rate of \$3.4 billion per year. Significantly increasing funding to the capital budget would help preserve the public housing stock for current tenants and future generations.

Repeal the Faircloth Amendment

The Faircloth Amendment prohibits new public housing to be built if it results in a net increase to a PHA’s overall stock of housing. In other words, HUD cannot create new public housing units unless the agency demolishes or disposes of (sells) other units. Repealing this amendment would allow for the first expansion of public housing to occur in decades, increasing the supply of homes available to extremely low income (ELI) renters.

Establish a Private Right of Action for RAD Compliance

A common criticism of HUD’s enforcement of housing contracts is that tenants are not empowered to make HUD honor contract rules. The tenant protections included in RAD that were won by the Resident Engagement Group are strong. But what if those tenant protections are being ignored? Renters need to be able to take PHAs to court for violating essential tenant protections through what is known as a “private right of action.” Legislators should pass a law empowering public housing tenants to hold HUD accountable to following the terms of their contracts.

Conclusion

Despite public housing’s racist and segregationist beginnings and uncertain present, the program remains popular among its residents. While there are many challenges facing the program, public housing is good policy. It maintains permanent, deeply affordable housing independent of the uncertainties of the private market. Public housing is a socially just program providing safe, affordable homes for people with the lowest incomes.

SPOTLIGHT ON...

New York Advocates Celebrate Passage of “Housing Stability and Tenant Protection Act of 2019”

Tenant organizers across New York recently celebrated the passage of the strongest law protecting tenants in the state’s history, the “Housing Stability and Tenant Protections Act of 2019.” The law permanently closes loopholes in New York’s rent stabilization system, allows the system to expand to the entire state, and offers eviction protections to renters and manufactured-housing residents everywhere in New York.

Rent stabilization is the regulation of rent prices. If someone lives in a rent-stabilized apartment, the landlord can only increase the rent by a certain percentage, determined by the New York Rent Guidelines Board. In the past, major rent hikes would come from resident turnover or apartment renovations. Now, landlords’ ability to raise the rents based on apartment improvements and vacancy of units is significantly reduced.

renter protections. They called on key political leaders to sign onto the complete *Housing Justice for All* legislation sponsored by House Speaker Carl Heastie and Senate Majority Leader Andrea Stewart-Cousins. They visited the state capitol every Tuesday to engage with lawmakers, marched in the streets, and delivered a pro-renter petition with 3,000 signatures to Governor Andrew Cuomo.

Delsenia Glover, former director of New York State Tenants & Neighbors and a spokesperson for the campaign, said she was “thrilled and honored to be at the helm of this great organization to witness this historic legislation to protect rent-regulated tenants, including laws which do not sunset! This bill is a huge step forward in reversing decades of weakening amendments to the laws that govern rent regulation in New York state. This is the culmination of years of tenant activism and advocacy, and a great victory for all New York.”



← HOUSING JUSTICE FOR ALL RALLY AT NEW YORK STATE CAPITAL

New York State Tenants & Neighbors, an NLIHC state partner, advanced these efforts in their role within the *Housing Justice for All Campaign*. Advocates organized, marched, and lobbied. They met with city councils across the state urging them to support

“**Advocates organized, marched, and lobbied.**”

Nebraska Housing Advocates Win Landlord-Tenant Improvements and Local Rental Inspection Ordinances

Nebraska's affordable housing crisis has worsened in recent years, due in part to landlord-friendly laws and developers' gentrification of low-income areas in cities like Omaha and Lincoln. Housing advocates successfully advocated for stronger tenant protections in Nebraska to address the growing affordable housing crisis, getting a law passed that requires landlords to give more notice to tenants before an eviction. Local ordinances were also passed in Omaha and Lincoln that require landlords to register their properties and keep their apartments up to code.

State Senator Matt Hansen of Lincoln introduced legislation updating the Landlord-Tenant Act and Nebraska's fair housing law after hearing from renters and advocacy groups across the state. Advocates from Nebraska Appleseed and Together Omaha shared renters' stories with senators to show the need for greater renter protections. Legislature Bill 433 (LB433), which became law this year, changes the 3-day notice to quit for nonpayment of rent to a 7-day notice and mandated that security deposits be returned within 14 days whether or not the tenant makes a written demand, as the previous law required. Under the new law low-income renters will have more time to avoid a possible eviction and more protections from landlords who rely on their tenants' lack of legal knowledge to steal security deposits.

In Omaha, a broad coalition of local housing advocates came together to push the City Council to adopt a proactive rental registration and inspection ordinance, building on the outrage surrounding the September 2018 evacuation of a local housing complex after thousands of major code violations were discovered. The ordinance, passed in April 2019, requires all rental properties in the city to be registered and those properties with a history of unresolved code violations to be placed on an annual inspection list for two years. All other rental properties in the city will be inspected every ten years to ensure they are up to code. The ordinance, which goes into effect January 1, 2020, will have a positive impact on low-income renters who often pay too much for substandard housing.

The Lincoln City Council also recently adopted a housing ordinance that triggers more internal inspections of properties and creates a centralized rental registry, thanks to the joint efforts of residents, advocates, and city council members. Under the ordinance, all rental properties with three or more rental units must be listed in the rental registry, and those with one or two rental units must be listed if they have been the subject of a housing code violation. The ordinance requires internal inspections if a landlord is cited for a housing code violation, when multiple apartments from the same property register

housing code complaints, or when complaints are received from different properties under the same owner. Though internal inspections continue to be complaint-based, the additional circumstances triggering these inspections provide tenants greater protections against substandard housing conditions.

These are major successes in a state that has done little for low-income renters in the past. Nebraska housing advocates are making the state a more equitable place for renters to live.



↑ NEBRASKA STATE SENATOR MATT HANSEN

“Low-income renters will have more time to avoid a possible eviction and more protections from landlords who rely on their tenants’ lack of legal knowledge to steal security deposits.”

THE CRUCIAL IMPORTANCE OF ORGANIZING TENANTS

By Shalonda Rivers, NLIHC and NAHT board member



As a long-time resident of 22nd Avenue Apartments Cordoba Courts located in Opa Locka, FL, and as a mother four, I am very aware of the importance of organizing renters. My advocacy is mostly local, but I benefit from partnerships with many national groups. I am on the board of directors of

NLIHC and the National Alliance of HUD Tenants (NAHT), and I am also a member of the Miami Dade Branch NAACP. I received three awards from NAHT in June of 2019 for my advocacy work as the president of the Tenant Association in my community. Our association started in 2013 with the assistance of Greater Legal Services of Miami because of various complaints from residents about management.

For many of us, this housing situation has felt like a merry-go-round-ride. I am currently living in a hotel because of renovations to my uninhabitable home, and I have been here since September 2018. Still on the merry-go-round. Still spinning.

Since the Tenant Association formed, the most common complaints from residents have always been about the deplorable conditions and crime in the housing community. As a community leader, I have always advocated for better living conditions in my own apartment unit per HUD's safe and sanitary standards. As a result, I have faced retaliation such as decrease of services, slander or lies, towing of my vehicles, threats, and false violation notices. I even had to call the police on staff for refusing to leave a tenant meeting, which is a violation per HUD Notice H 2016-05.

I spoke out to management about the water leaks in my and other apartments and communicated directly to HUD. The management company denied liability for the leaks, and then HUD informed me the company fixed the leaks. Not true. When I finally thought I was off the merry-go-round ride, I found more water leaking into my apartment during a heavy downpour.

Besides water leakages, the residents deal with rats, roaches, termites, and raw sewage backing up into their

units and on the grounds. Many residents have old-fashioned wall heaters which are open access for rats, roaches, and maggots. We have dealt with maggots on many occasions. Not one resident should continue to be put on the merry-go-round of week-by-week, month-by-month, and year-after-year of instability due to deplorable living conditions.

In 2004 our apartment complex became a tax-credit property. The old-fashioned wall heaters were supposed to be removed from the apartments after installation of central air. After the installation, residents still lived in unsafe living conditions despite many calls and written communications to HUD and management, face-to-face meetings with management, and even local government intervention.

A silver lining is that I am now a wiser community activist and resident as a result of all these challenges. I am making my voice heard by staying involved in my community and being a spokesperson for fair, decent, safe, and sanitary housing for low-income residents. I have consistently joined with P.U.L.S.E, NAACP, Greater Legal Services of Miami many other great groups to advocate for the betterment of others who reside in low-income housing. I have also completed the first cohort of HEAL Miami, a Housing, Equity, Advocacy, & Leadership training put on by Catalyst Miami. I continue to be a vocal advocate for change by taking action during NLIHC's 2019 *Our Homes, Our Voices* Housing Week of Action.



↑ MIAMI DADE, WEEK OF ACTION 2019

Proverbs 21:31 tells us that the horse is made ready for the day of battle, but victory rests with the Lord and the Lord will continue to vindicate for the righteous. I continue to pray during these battles and advocate for righteous things, such as ending discrimination against low-income residents and ending homelessness. With "victorious results" driving my advocacy, this is what victory looks like to me.

Shalonda Rivers
Opa Locka, FL

RENTERS ORGANIZE TO WIN IN OREGON

By Marih Alyn-Claire, Community Organizer at Community Alliance of Tenants

The news has spread about Oregon becoming the first state in the nation to have a statewide rent regulation policy, which passed this spring as Senate Bill 608. This policy caps rent increases at 7% plus inflation, meaning now as much as 9.9%. Many tenants are celebrating this victory, but renters at very or extremely low-income levels – those living at 50% or 30% of area median income (AMI) and below – are left at great risk of losing their homes because this rent increase cap is too high! The action taken was not enough. After four years of extreme rent hikes in Portland, so much of the damage has already been done. Too many people have already been displaced several times, have maxed out their credit, and are now priced out. Many have had to leave Oregon. For many renters I know, working two jobs and paying more than 50% of their household income for rent, a 9.9% rent increase per year is unsustainable. Each annual rent increase pushes these renters closer to the brink of homelessness. I can join people in being excited about this as a first step, but what I'm most proud of is not the disappointing result, but the four years of excellent work from resident leaders all over our city that brought us to this moment. The real victory for us was the tenant empowerment, organizing, and mobilization.

I am a native Oregonian. I have been both a landlord and a renter. I have rented market-rate housing and subsidized housing and used a voucher. I have seen the affordable housing issue from several angles, but I never thought I would see the unbelievable rent increases and no-cause evictions (rent-hike evictions) that became so common starting in 2015. Renters had no choice but to mobilize to protect our homes. Over time, our coalitions included all types of renters. Labor unions, fast food workers, families with children, people experiencing homelessness, teachers, seniors, and various communities of color -- we all came together to call for bold action from our elected leaders. In some cases, we successfully campaigned to replace the state legislators who were ignoring our concerns and proposals.

↓ MARIH ALYN-CLAIRE COMMUNITY ALLIANCE OF TENANTS



It is important to emphasize how strong coalitions build on wins in a way that leads to even bigger wins. Before we had a cap on rent increases, in 2017 we passed a strong just-cause eviction standard in Oregon. In 2016, resident leaders in Community Alliance of Tenants were a key voice in passing a law to ban rent increases within the first year of tenancy. And we're not stopping here. Moving forward, I plan to work on limiting the ways credit histories and conviction records are used in screenings of tenants as a form of discrimination, when rent history is what should matter most. We are working toward lowering the rent increase cap from 7% plus inflation to 2-3% across the board. I plan to continue the conversation with Governor Kate Brown about a rent-cap exemption for the most vulnerable renters on extremely low- or fixed incomes, mostly people who are seniors, disabled, medically fragile and single parents.

What I believe is needed most going forward is a structural change in the way we house our citizens. I believe housing for everyday working people should be income-based and partitioned off from the volatile price upsurges of the speculative real estate market.

I am proud to work with so many other excellent resident leaders and am grateful for the support we get through excellent organizations like the Homes For All campaign, Community Alliance of Tenants, the Poor People's Campaign, the Lents Strong Housing Team, and SE Renters in Action, among others. One piece of advice I have for advocates hoping to have success like ours: renters must join together. Find the housing organizations in your state and community that can help put your story in front of lawmakers and news media. Work with housing advocates to find other renters and encourage them to tell their stories. Some of the best work I have done has been listening to renters tell their stories on video or through door-to-door surveys and then sharing their messages. The wisdom and experience of impacted renters is powerful, and that is what needs to lead the way.

WE WANT TO HEAR FROM YOU!
Submit your feedback about this edition of Tenant Talk, stories about events in your community, or reflections on federal policy to outreach@nlihc.org, and you could be featured in future editions of Tenant Talk!

Remember, EVERYONE has a hand in helping with tenant protections and changing the laws.

Marih Alyn-Claire
Portland, OR



OUR HOMES, OUR VOICES

NATIONAL HOUSING WEEK OF ACTION 2019

WAS A GREAT SUCCESS!

The third annual *Our Homes, Our Voices* National Housing Week of Action proved to be another great success, with thousands of advocates raising their voices for affordable homes. Residents, organizations, and elected officials gathered at 120 events in 85 cities across 34 states, Puerto Rico, and Washington, DC from May 30 to June 5. Advocates organized and attended rallies, public forums, letter writing events, film screenings, and press conferences. See below for some highlights from the week.

Congressman Al Green @RepAlGreen

Affordable housing should be available to all hardworking Americans. They should not face the dilemma of losing their homes because of rising costs. We must continue to work for safe and affordable housing options that are accessible to those who need it most. #OurHomesOurVoices

2:05 PM · Jun 4, 2019 · Twitter for iPhone

25 Retweets 96 Likes

HousingNetwork of RI @HousingNetworkRI

A packed house at the RISD Museum! Thank you to all who came out last night for the premiere of "Providence Lost," produced by @SignsofPVD. The Trotter's heartbreaking story led to an important community discussion around the housing crisis in RI. #OurHomesOurVoices @NLHC

12:44 PM · Jun 4, 2019 · Hootsuite Inc.

4 Retweets 15 Likes

Senator Cortez Masto @SenCortezMasto

Affordable housing like the new Flamingo Pines Senior Apartments is key to the well-being of Nevada's seniors. I'm grateful for @NevadaHANDLV's efforts to tackle the Silver State's housing crisis.

6:27 PM · May 30, 2019 · TweetDeck

11 Retweets 30 Likes

Alma S. Adams @RepAdams

Housing is a right, not a privilege. Everyone deserves a place to call home & a roof over their head. That's why I introduced a Constitutional Amendment recognizing housing, healthcare, nutrition & education as as fundamental rights for all. #OurHomesOurVoices

2:44 PM · Jun 4, 2019 · Twitter Web Client

16 Retweets 36 Likes

Joseph Lindstrom @JosephLindstrom

Shoreline! @RAPWashington #OurHomesOurVoices

11:39 PM · Jun 5, 2019 · Twitter for Android

3 Retweets 10 Likes

Kamala Harris @SenKamalaHarris

Here's the bottom line: housing is a human right, yet far too many Americans are facing skyrocketing rent costs. No one should have to choose between paying rent and putting food on the table. Passing my Rent Relief Act is one step to addressing this crisis. #OurHomesOurVoices

8:27 PM · Jun 5, 2019 · Twitter for iPhone

606 Retweets 2.9K Likes

COHHIO Homeless @COHHIO

Replying to @NLHC @INCommDev and 2 others

Glad to spread the word with @GovMikeDeWine's cabinet members about the need for more #affordablehousing during the #OurHomesOurVoices Week of Action 2019!

3:13 PM · Jun 13, 2019 · Twitter Web Client

3 Retweets 4 Likes

CEDAM @CEDAMinfo

Thank you @GovWhitmer for proclaiming May 30 - June 5 Housing Week of Action! We look forward to working with you to address Michigan's need for investment in affordable housing and community development. #OurHomesOurVoices

1:35 PM · May 31, 2019 · Twitter Web Client

9 Retweets 24 Likes

Rep. Barbara Lee @RepBarbaraLee

Let me be clear: housing is a human right – not a privilege. It's unconscionable that there are millions of people struggling to keep a roof over their heads in the richest nation on earth. #OurHomesOurVoices

The U.S. has an affordable housing crisis. Here's why Market forces, policy decisions, and demographic changes have converged, making it more difficult to increase affordable housing for renters and buyers in ...

2:03 PM · Jun 4, 2019 · TweetDeck

92 Retweets 278 Likes

Catholic Charities USA @CCharitiesUSA

Millions of seniors and families live in poverty in the United States. CCUSA advocates for #affordablehousing for all. #OurHomesOurVoices Learn how three Catholic Charities featured housing projects serve vulnerable people in their communities. ccusa.fai/hwfp

Catholic Charities Affordable Housing

Catholic Charities provides affordable housing for those in need www.catholiccharitiesusa.org

4:20 PM · Jun 6, 2019 · Twitter Ads Composer

8 Retweets 15 Likes

AZ Housing Coalition @SpeakUp4Homes

Thank you to everyone who has stopped by to fill out postcards commenting on HUD's problematic proposals! #OurHomesOurVoices

6:39 PM · May 31, 2019 · Twitter Web Client

4 Retweets 13 Likes

Senator Mazie Hirono @maziehirono

Everyone deserves to have a place to call home. But with Ben Carson in charge? Our marginalized communities will continue to struggle to keep a roof over their heads. We are in an affordable housing crisis and this administration is providing no solutions. #OurHomesOurVoices

10:06 AM · Jun 5, 2019 · Twitter Web Client

230 Retweets 776 Likes

Rep. Bonnie Watson Coleman @RepBonnie

Happy to take part in the #OurHomesOurVoices National Housing Week of Action to discuss how federal policy and funding affect affordable housing in NJ and around the country.

12:45 PM · May 29, 2019 · Twitter for iPhone

17 Retweets 53 Likes

OUR HOMES, OUR VOTES: 2020

AFFORDABLE HOMES ARE BUILT WITH BALLOTS!

That's why NLIHC has launched *Our Homes, Our Votes: 2020*, a nonpartisan effort to engage renters, housing advocates, and candidates in the upcoming 2019 and 2020 elections.

OUR HOMES, OUR VOTES

2020

BECAUSE HOUSING IS BUILT WITH BALLOTS



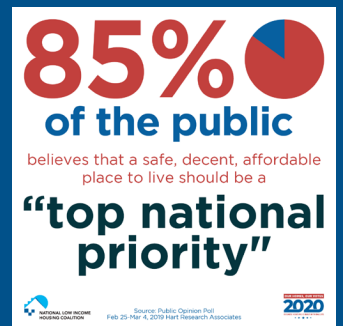
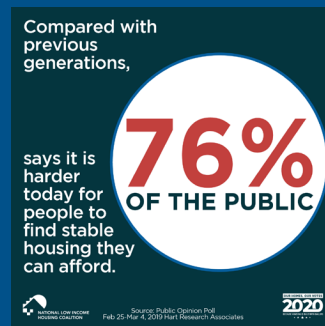
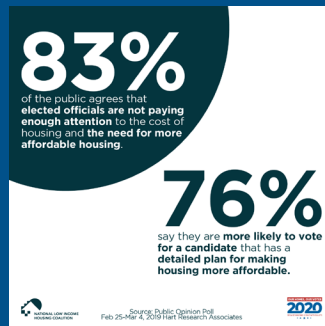
NATIONAL LOW INCOME HOUSING COALITION

“AFFORDABLE HOUSING CRISIS HAS REACHED HISTORIC HEIGHTS

Our country's affordable housing crisis has reached historic heights, most impacting the lowest-income renters, and presidential candidates are taking note. Several presidential candidates have announced plans to address housing affordability and homelessness and are talking about these issues on the campaign trail more than in any previous presidential race! Check out the new *Our Homes, Our Votes: 2020* website to see what they're saying at:

www.ourhomes-ourvotes.org/the-candidates

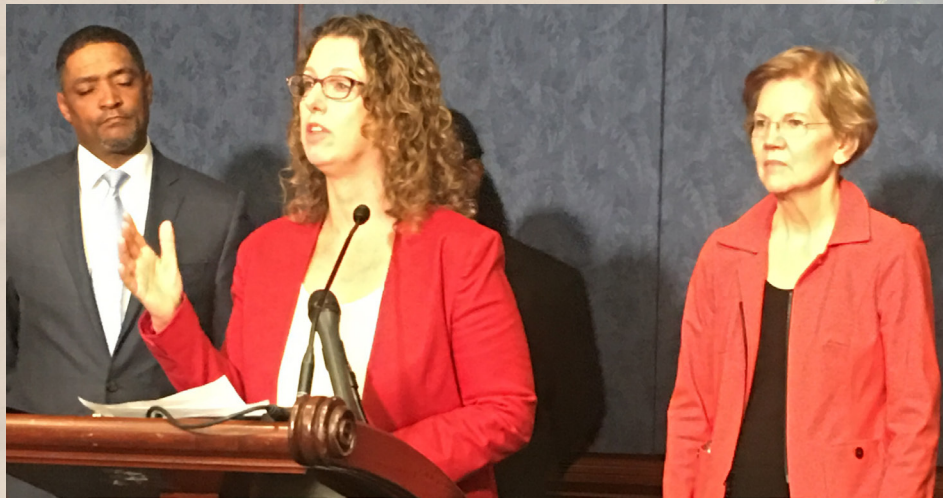
The *Our Homes, Our Votes: 2020* website also includes resources for people to easily engage candidates and voters on affordable housing issues in their own communities. Visit www.ourhomes-ourvotes.org today to learn more about how affordable homes are built with ballots – and how you can get involved!



Lawmakers Introduce Bills to Improve Public Housing

For every 100 extremely low-income renter households in the U.S., there are only 37 available and affordable rental units. Public housing plays a crucial role in addressing the gap between affordable housing supply and demand, but decades of federal disinvestment has decreased the quantity and quality of the public housing stock. Members of Congress have introduced several bills this year aimed at improving conditions for public housing residents and increasing the supply of affordable, accessible housing. NLIHC policy staff have played an important advisory role in crafting and building support for many of these proposals.

Representative Maxine Waters (D-CA) released on April 30 a draft of her “Housing is Infrastructure Act,” which she is expected to introduce in the House this fall. The bill would invest \$70 billion in needed repairs to public housing and \$5 billion in the Housing Trust Fund (HTF), a program that funds the development of new housing for the lowest-income households.



NLIHC PRESIDENT AND CEO, DIANE YENTEL JOINS SEN. ELIZABETH WARREN AND REP. CEDRIC RICHMOND TO ANNOUNCE THE AMERICAN HOUSING AND ECONOMIC MOBILITY ACT.

Senator Elizabeth Warren (D-MA) and Representative Cedric Richmond (D-LA) introduced the “American Housing and Economic Mobility Act” (S. 787/H.R.1737) on March 13. The bill would invest \$3.6 billion in the Public Housing Capital Fund to address public housing’s severe repair needs as well as \$445 billion in

the HTF over 10 years. It would also expand the Fair Housing Act to ban housing discrimination on the basis of sexual orientation, gender identity, marital or veteran status, and source of income, which would make it easier to use Housing Choice Vouchers. The legislation would provide \$25 billion for the Capital Magnet Fund to build new affordable homes and community service facilities and would set aside \$2 billion for HUD’s Indian Housing Block Grants and \$8 million for the Native Hawaiian Housing Block Grant, funding housing construction and rehabilitation on tribal and Hawaiian home lands.

Senator Tammy Duckworth (D-IL) and Representative Daniel Kildee (D-MI) introduced the “Get the Lead Out of Assisted Housing Act” (S. 2087/ H.R. 3721) on July 11. The bill would enhance protections against lead poisoning in public housing through a grant pilot program to give state and local governments resources to identify and fix threats of lead in drinking water.

Representative Yvette Clarke (D-NY) introduced the “Hardest Hit Housing Act” (H.R. 2295) on April 12. The bill would authorize an additional \$4 billion for the Public Housing Capital Fund Program and create an additional 20,000 housing vouchers every year until 2023.

Senator Marco Rubio (R-FL) and Representative Steve Cohen (D-TN) introduced on July 23 the “Housing Accountability Act” (S. 1270/H.R. 3902), which would require any housing provider receiving federal funds to

maintain “decent, safe, and sanitary” housing conditions and would mandate a semi-annual survey of public housing tenants to evaluate the condition of housing units. Property owners would face fines if their buildings fail to meet requirements.

Senator Kamala Harris (D-CA) and Representative Jesus Garcia (D-IL) introduced on March 12 the “Safe Housing for Families Act,” which would mandate the installation of carbon monoxide detectors on every floor of a public housing unit.

Tell your legislators to vote yes on these important bills!

Public Housing Residents - A Snapshot

Average household income per year 15,434

Average monthly payment (\$) \$367

Program Profile

Units available 1,007,911

Average Household Size 2.1

Total Number of Households 841,098

Total Number of Household Members 1,755,591

Distribution of Households by Income

% \$1 - \$4,999 11

% \$5,000 - \$9,999 26

% \$10,000 - \$14,999 22

% \$15,000 - \$19,999 12

% \$20,000 - \$ 25,000 7

% Above \$25,000 16

Distribution of Source of Income

% With any Wages 34

% With any Welfare 29

% With any SSI/SS/Pension 56

% With any other Income 18

Distribution of Households by Household Type

% With disability, among Head, Spouse, Co-head, aged 61 years or less 31

% With disability, among Head, Spouse, Co-head, aged 62 years or older 51

% With disability, among all persons in households 22

% 2+ adults with children 4

% 1 adult with children 34

% Households female head with children 34

% Elderly 33

Distribution of Households by Size Category

% 1 person 49

% 2 persons 21

% 3 persons 14

% 4 persons 9

% 5 persons and larger 7

Distribution of Households by Race

%White 53

%Black 43

%Native American 1

%Asian or Pacific Islander 3

% Hispanic 24

Distribution of Residents by Age

% 0 to 5 years 12

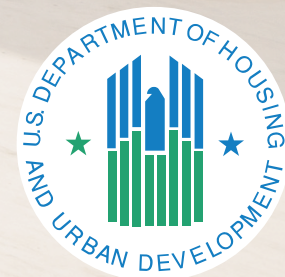
% 6-17 years 24

% 18-50 years 34

% 51-61 years 11

% 62-82 years 16

% 83+ years 2



Source: HUD. Resident Characteristics Report 2018 and Picture of Subsidized Households 2018.

Federal Budget Updates

The new fiscal year (FY 2020) started October 1, but Congress has yet to finalize the twelve annual spending bills needed to fund federal agencies and programs. Both the House and the Senate introduced their versions of the bills funding HUD, but the Senate has not yet passed its proposal. To give itself more time, Congress passed a temporary spending bill, known as a continuing resolution, to keep the government open through November 21.

The Senate waited to write its spending bills until Congress and the White House had agreed to lift overall spending caps that would have significantly limited funding for affordable housing, community development, and other critical programs. The House wrote and passed its bills before the deal was finalized at the beginning of August and included \$1.5 billion more for HUD programs than the Senate. Both bills reject the deep cuts proposed by President Trump.

Both the Senate and House proposals fully fund Housing Choice Vouchers, although the House plan includes additional money for youth aging out of foster care and a mobility-voucher pilot program that would help families with young children move to neighborhoods with better schools, lower rates of crime and poverty, and additional economic opportunities.

The House also provided a substantial increase in funding for public housing not matched by the Senate. Both bills recommended new competitive grants (\$50 million in the House and \$40 million in the Senate) for public housing agencies (PHAs) to reduce lead-based paint hazards and other health hazards, including mold and carbon monoxide poisoning. The bills differed on funding levels for Housing Opportunities for Persons with AIDS (HOPWA), housing for the elderly (Section 202), housing for persons for persons with disabilities (Section 811), and several community development block grant programs. Both bills have positive aspects, and NLIHC and other advocates will continue working with Congress to ensure public housing, rental assistance, and other important programs receive the highest levels of funding possible.

Advocates are also watching for policy riders. Although spending bills are supposed to only provide funding, members of Congress try to attach language – or policy riders – that advance non-funding-related policies. Some of these policy riders are helpful, such as those blocking

HUD proposals to evict mixed-status immigrant families or to allow shelters to discriminate against LGBTQ individuals experiencing homelessness. Others can be extremely harmful, like restricting access to housing for formerly incarcerated and justice-involved people.

As the House and Senate negotiate over the differences in their bills, NLIHC urges advocates across the country to engage with their members of Congress to push for the highest spending levels possible for affordable housing programs.

“NLIHC urges advocates across the country to engage with their members of Congress to push for the highest spending levels possible for affordable housing programs.”

Fair Chance at Housing Act

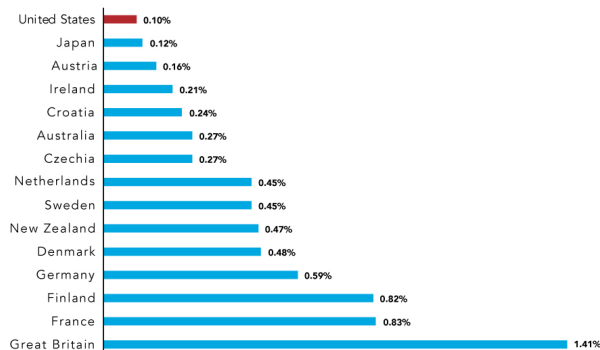
Senator Kamala Harris (D-CA) and Representative Alexandria Ocasio-Cortez (D-NY) introduced the “Fair Chance at Housing Act of 2019” (S 2076/HR 3685) on July 10. The bill aims to increase access to affordable homes for individuals who have had contact with the criminal justice system by changing the eviction and screening process for federal housing assistance.

Under current law, housing authorities and other federally-assisted housing providers can openly discriminate against individuals with a criminal record. Rising rents, flat wages, and openly discriminatory

practices make formerly incarcerated people – who are most often people of color, people with disabilities, and members of the LGBTQ community – uniquely vulnerable to homelessness.

The bill would require public housing agencies (PHAs) and owners of HUD-assisted housing to create a review panel with at least one resident representative. The panel would conduct an individualized review of applicants considering the full circumstances of an applicant’s criminal history as well as any supporting documents provided by the applicant, like evidence of rehabilitation, reduced sentence, and letters of recommendation. Housing providers would be able to consider only felonies that resulted in a conviction and that could threaten the health or safety of other tenants, employees,

Housing Allowances as % of GDP Among Top 15-Spending OECD Nations (2015)



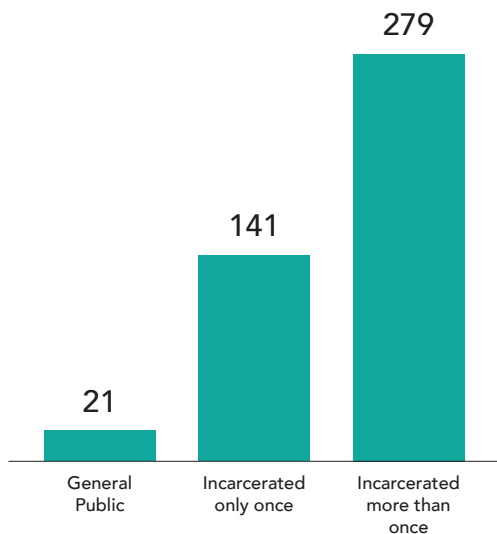
Source: OECD Affordable Housing Database, 2019

or owners. Other interactions with the criminal justice system, e.g., arrests without convictions, offenses sentenced to probation, minor drug offenses, and offenses related to the individual's inability to pay legal fees, would not prevent someone from receiving federal housing assistance. If a PHA denies an applicant, it would need to provide the reason in writing and give the applicant the opportunity to appeal the decision.

The bill would also eliminate "one-strike" eviction policies that allow PHAs and owners to evict an entire household if a member or guest engages in criminal activity. Like the screening process, PHAs and owners would be able to consider only activities that could threaten the health and safety of others and would need to conduct an individualized review taking into account the family's full circumstances before ending a lease. If the PHA or owner decides to evict the family, the family would have the option of removing the offending member of the household to stay in the housing. The current requirement that PHAs and owners include "no-fault" eviction policies, which allow a household to lose its assistance because of a guest's drug-related criminal activity even if the household is unaware the activity is taking place, would be eliminated.

The revolving door of prison contributes to homelessness

Number of people experiencing homelessness in 2008, per 10,000 population



Source: Prison Policy Initiative. August, 2018

The legislation would also ban forced entry into federally assisted housing to investigate criminal conduct, and end drug and alcohol testing as a requirement for receiving federal housing assistance. Finally, the bill would bar PHAs from banning non-tenants from visiting a public housing development based on their past criminal conduct, unless the non-tenant was convicted of a felony that threatens other peoples' health or safety.

These measures would help end the cycle of homelessness and recidivism by expanding opportunities for stable, affordable, accessible housing, and ensuring formerly incarcerated individuals can reunite

with their families. NLIHC urges low-income residents and housing advocates to tell their members of Congress to pass this important legislation!

Proposed Mixed-Status Rule

HUD published a proposed rule in May that would significantly change eligibility requirements for federal housing assistance based on immigration status. According to the agency's own analysis of the proposal's potential impacts, more than 25,000 families – including at least 55,000 children who are citizens or legal residents – could be evicted under the rule.

The proposed rule would prohibit "mixed-status" families from living in public housing or Section 8 homes. Mixed-status families are families that include household members who are eligible and ineligible for housing assistance based on their immigration status. Under current law and policy, HUD prorates rental assistance so that the subsidy only covers eligible members. The family must pay the difference. This policy allows mixed-status families to receive needed housing assistance and remain living together. The current policy recognizes that ineligibility for assistance does not mean that one is undocumented. The proposed rule would force families to either separate as a family to keep their housing assistance or face eviction and potentially homelessness, disparately impacting the most vulnerable members of our society.

Through the *Keep Families Together* campaign, NLIHC and the National Housing Law Project lead efforts to mobilize advocates across the country to oppose this cruel proposed rule. More than 30,000 organizations and individuals submitted comments during the required public comment period. The previous record for a HUD rule was just over 1,000 comments. Members of Congress also expressed strong opposition to the proposed rule, and several introduced bills preventing HUD from implementing it.

This extraordinary response shows that people understand that blaming struggling families will not fix the nation's affordable housing crisis. The USDA Rural Housing Service is expected to release a similar proposal later this year. These proposals are additional attempts by the administration to instill fear in U.S. immigrants. If the Trump administration was truly concerned about providing affordable, accessible housing, it would not have repeatedly proposed severe cuts to housing assistance programs.

HUD's rule is not yet final and mixed-status families currently receiving housing assistance should continue participating in these programs. Several organizations and states plan to sue HUD if and when a final rule is published. To learn more and stay up-to-date, visit www.Keep-Families-Together.org. Also urge your legislators to pass any bill that would prevent this rule's implementation.

PROPOSED TRUMP RULE WOULD FORCE 25,000 FAMILIES TO SPLIT UP OR LOSE THEIR RENTAL ASSISTANCE
It targets families that receive reduced assistance because at least one person isn't eligible based on their immigration status

In the typical family of four affected by the rule, **3 out of 4 people are eligible for assistance** – most are children

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“We must **act boldly to
reinvest in the marginalized
communities public housing was
created **to serve.**”**

-Representative Nydia Velázquez

Photo: Representative Nydia Velázquez and NLIHC’s Sarah Saadian Mickelson at a launch event to announce the “Public Housing Emergency Response Act” (H.R. 4546).



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