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

Re: Comments in Opposition to Proposed Rulemaking: HOME Investment Partnerships Program: Further Program Updates and Streamlining, HUD Docket No. FR-6144-P-09, RIN 2506-AC50

The National Housing Law Project (NHLP)¹ and the National Low Income Housing Coalition (NLIHC)² write in response to the Department of Housing and Urban Development's (HUD) Supplemental Notice of Proposed Rulemaking (SNPRM) to express our strong opposition to the changes regarding tenant protections and selection in the HOME Investment Partnerships Program, published in the Federal Register on April 30, 2026 (RIN 2506-AC50; HUD Docket No. FR-6144-P-09).³ We urge HUD to withdraw the SNPRM in its entirety, as well as the previously published

¹ NHLP's mission is to advance housing justice for people living in poverty and their communities. NHLP achieves this by strengthening and enforcing the rights of tenants and increasing housing opportunities for underserved communities. Our organization also provides technical assistance and policy support on a range of housing issues to legal services and other advocates nationwide. NHLP hosts the national Housing Justice Network, a vast field network of over 2,600 community-level housing advocates and tenant leaders. Housing Justice Network member organizations are committed to protecting affordable housing and tenants' rights for low-income families across the country.

² NLIHC advocates for policies that ensure people with the lowest incomes have quality homes that are accessible and affordable in the communities of their choice. Our members include state and local affordable housing coalitions, residents of public and assisted housing, nonprofit housing providers, homeless service providers, fair housing organizations, researchers, faith-based organizations, public housing agencies, private developers and property owners, local and state government agencies, and concerned citizens. While our members include the spectrum of housing interests, we do not represent any segment of the housing industry. Rather, we work on behalf of and with low-income people who receive or need federal housing assistance, especially extremely low-income people and people who are homeless.

³ HOME Investment Partnerships Program: Further Program Updates and Streamlining, 91 Fed. Reg. 23,194 (Apr. 30, 2026).

indefinite delay of effective date⁴ of its January, 2025 final rule⁵ (“2025 final rule”), and to allow the provisions governing tenant protection and selection in the 2025 final rule to immediately go into effect.⁶

HUD’s SNPRM seeks to roll back crucial HOME program tenant protections at a time when low-income tenants are increasingly relying on robust tenant protections to survive. In its regulatory impact analysis (RIA),⁷ HUD acknowledged that the final rule’s tenant protections would apply to approximately 253,000 rental units with HOME affordability restrictions and the approximately 12,600 households that receive tenant-based rental assistance funded by HOME each year.⁸ Turning its back to tenants, HUD seeks to roll back these protections and remove the requirement of HOME tenancy addendums in leases. The protections in the tenancy addendum that HUD proposes to strip include:

- the right to professional maintenance and time frames for repairs,
- the right to be relocated to alternate housing when a life-threatening deficiency cannot be fixed on the same day,
- prohibition on entry without reasonable advance notification except in emergencies,
- prohibition against retaliation,
- the right to organize, and
- the right to notification of any change in ownership.

In short, HUD seeks to remove basic tenant protections in the name of purported cost-savings, while everyday people increasingly struggle to pay rent during a housing affordability crisis, exacerbated by an evaporating social safety net and skyrocketing gas prices.

⁴ HOME Investment Partnerships Program: Further Program Updates and Streamlining, 91 Fed. Reg. 23,014 (Apr. 29, 2026).

⁵ HOME Investment Partnerships Program: Program Updates and Streamlining, 90 Fed. Reg. 746 (Jan. 6, 2025).

⁶ Irrespective of the complicated posture of this rulemaking, our organizations strongly support the retention of language in HUD regulations, specifically 24 C.F.R. 92.253(d)(3)(ii)(C), that ensures individuals with disabilities can live within their communities in an integrated setting. We therefore oppose removal of the phrase, “Such services cannot be provided in a nonsegregated setting” from 92.253(d)(3)(ii)(C). HUD programs must not encourage the provision of services for persons with disabilities in segregated settings when such services can and should be provided in a community setting. We incorporate the comments regarding the SNPRM submitted by The Kelsey by reference.

⁷ We note that the RIA was posted on regulations.gov on May 6, 2026, five days after the SNPRM itself was posted on May 1.

⁸ Regulatory Impact Analysis, FR-6144-P-08, “HOME Investment Partnerships Program: Further Streamlining,” Supplemental Notice of Proposed Rulemaking, at 5 (posted May 6, 2026) (“2026 RIA”), <https://www.regulations.gov/document/HUD-2024-0045-0125>.

The country is already confronting a housing shortage for the most low-income households. According to NLIHC research, in the United States, there are 11 million renter households with extremely low incomes, yet only 3.8 million rental units are affordable and available to such households.⁹ The average renter wage is insufficient to afford a two-bedroom rental in 49 states, and insufficient for a one-bedroom rental in 37 states.¹⁰ In fact, of the 25 most common U.S. jobs, 17 pay median wages insufficient to afford a one-bedroom rental; 18 pay median wages insufficient for a two-bedroom rental.¹¹ Currently, only 1 in 4 U.S. households eligible for federal housing subsidies receive them.¹² This affordability crisis is further exacerbated by a lack of protections for low-income renters. Many of the 114 million renters in the United States lack basic tenant protections under state and local law, including protections against retaliation, the right to minimum notice before entry or eviction, and a way to obtain repairs to health and safety issues. This lack of tenant protections perpetuates housing instability and, in the worst cases, leads to homelessness. When tenants have the rights they deserve, their lives and their communities improve.

I. HUD’s attempt to bypass the required rulemaking process violates HUD regulations and federal law.

HUD seeks to change regulations governing HOME tenant protections through a Supplemental Notice of Proposed Rulemaking (SNPRM) in circumvention of its own regulations, which make no mention of SNPRMs.¹³ Rather, HUD regulations provide – and Congress has mandated – that HUD must give the public 60 days to comment on a Notice of Proposed Rulemaking.¹⁴

Even if HUD regulations authorized SNPRMs, its use here deviates from the standard practice adopted by other federal agencies. Typically, agencies authorized to use SNPRMs issue this rulemaking notice at some point between publication of the proposed rule and publication of the final rule.¹⁵ This timing gives agencies the

⁹ NLIHC, *The Gap: A Shortage of Affordable Homes*, at 11 (2026), available at: <https://nlihc.org/gap>.

¹⁰ NLIHC, *Out of Reach: The High Cost of Housing* (2025) (Out of Reach), at 14, <https://nlihc.org/oor>.

¹¹ *Id.*

¹² *Id.* at 26.

¹³ *See, generally*, 24 C.F.R. Part 10.

¹⁴ Congress recently mandated in Section 242 of the Consolidated Appropriations Act, 2026 (H.R. 7148) that HUD “shall conduct all rulemaking in accordance with the policies of part 10 of title 24 of the Code of Federal Regulations . . . including providing for public participation and not less than 60 days for the submission of written comments.” *See also* 24 C.F.R. § 10.1.

¹⁵ *See* 33 C.F.R. § 1.05-40 (in regulations governing the Coast Guard, explaining that a SNPRM “may be issued if a proposed rule has been substantially changed from the original notice of proposed rulemaking”); 14 C.F.R. § 11.7 (in regulations governing the Federal Aviation Administration, explaining that a SNPRM is appropriate when the agency decides “that it needs more information on an issue, or that we should take a different approach than we *proposed*” (emphasis added)).

opportunity to obtain additional public input for the final rule. Here, HUD’s timing is backwards. In 2024, HUD published the proposed rule and received over 100 comments through an extensive public engagement process.¹⁶ After considering and addressing these comments, HUD published a final rule in January 2025.¹⁷ Having published the final rule, HUD cannot simply “reopen” the comment period for the 2024 proposed rule as it purports to do here.

The Supreme Court has clearly stated that agencies must go through a formal rulemaking process to revoke or revise final agency actions.¹⁸ For HUD this means a new Notice of Proposed Rulemaking, 60 day comment period, and then issuance of a final rule.¹⁹ A similar attempt by the prior Trump Administration to repeal a final rule promulgated by the outgoing administration with only a 30 day comment period was struck down by a federal court.²⁰

In response to the 2024 HOME proposed rule, HUD received and considered over 100 comments, including “significant amount of comment on its proposed tenant protections that represented a spectrum of participants in the HOME program including [participating jurisdictions], owners, [community housing development organizations], tenant rights and advocacy organizations, fair housing and civil rights organizations, and associations.”²¹ HUD shortened the proposed notice period before termination or lease nonrenewal in response to comments from “[o]rganizations that represented owners and affordable housing managers [who] described how these changes negatively impact the financial feasibility of current and future HOME

¹⁶ During the comment period, HUD held six listening sessions to maximize public participation. National Low Income Housing Coalition, HUD Announces HOME Investment Partnerships Program Proposed Rule Listening Sessions (June 10, 2024), <https://nlihc.org/resource/hud-announces-home-investment-partnerships-program-proposed-rule-listening-sessions>. HUD specifically solicited public comment on the feasibility of executing a tenancy addendum in the HOME TBRA Program. 89 Fed. Reg. at 46,640 (Specific Solicitation of Comment # 10).

¹⁷ The fact that the relevant sections of the final rule have yet to go into effect is immaterial to the question of the propriety of the SNPRM.

¹⁸ See *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515, 129 S.Ct. 1800, 173 L.Ed.2d 738 (2009) (The Administrative Procedure Act “makes no distinction ... between initial agency action and subsequent agency action undoing or revising that action.”).

¹⁹ 24 C.F.R. 10.1; Consolidated Appropriations Act, 2026, Pub. L. 119-75, 140 Stat 173, 422, Sec. 242 (Feb. 3, 2026) (mandating compliance with rulemaking requirements at 24 C.F.R. part 10).

²⁰ *California by & through Becerra v. United States Dep’t of the Interior*, 381 F. Supp. 3d 1153, 1177 (N.D. Cal. 2019) (finding that a 30 day comment period for the proposed repeal was not sufficiently “meaningful” where the final rule was promulgated following a multi-year rulemaking process “that included public workshops and extensive outreach to the industry, government and public” as well as a 60-day comment period extended to 120 days).

²¹ 90 Fed. Reg. at 759.

projects.”²² HUD also specified in the final rule that the new tenant protections need not be applied to projects with commitments prior to the effective date of the rule, or to projects with commitments of less than a year from the effective date, in response to concerns from owners and participating jurisdictions.²³ HUD considered the perspective of owners, industry groups, and participating jurisdictions in its rulemaking, and the final rule was responsive to their concerns.

Thus, HUD is not merely reopening a comment period before issuing a final rule. HUD *already issued a final rule* after extensive public engagement. The agency is now proposing to rescind large portions of that final rule that it claims create “additional costs [and] increased owner or participating jurisdiction burdens,”²⁴ despite having considered these exact factors in its prior rulemaking process. Should HUD seek to change provisions finalized by HUD in 2025 (as it improperly attempts to do in this Supplemental Notice of Proposed Rulemaking), HUD should reissue a regular Notice of Proposed Rulemaking subject to the HUD and Congressionally required 60-day comment period. At minimum, HUD should extend the comment period for an additional 30 days.

Critically, like other commenters, NHLP and NLIHC cannot fully and adequately respond to the complete overhaul of the 2025 final rule that HUD now proposes in only 30 days. With additional time, NHLP would survey and engage the Housing Justice Network – a group of over 2,600 legal aid attorneys and tenant advocates – to learn more about how the new tenant protections enumerated in the 2025 final rule would benefit low-income tenants, and how the delay and ultimate revocation of those protections has impacted their clients and communities. The additional time would also allow NHLP and NLIHC to make more specific comments about how the revocation of tenant protections will impact tenants in specific jurisdictions, including those with limited tenant protections under state and local law.

II. HUD has already violated federal law and harmed tenants by indefinitely delaying the effective date of the January, 2025 final rule without notice and comment.

HUD has already harmed tenants and violated the Administrative Procedure Act by repeatedly delaying the effective date of the January 2025 HOME final rule without notice and comment.²⁵ Just like revocation or revision, indefinite delay of the effective

²² *Id.* at 762.

²³ *Id.* at 750.

²⁴ 91 Fed. Reg. at 23,198.

²⁵ HOME Investment Partnerships Program: Program Updates and Streamlining—Delay of Effective Date, 90 Fed. Reg. 8780 (Feb. 3, 2025) (delay until April 20, 2025); HOME Investment Partnerships

date of a rule is, in and of itself, substantive rulemaking that requires notice and an opportunity for public comment.²⁶ But for HUD’s unlawful efforts to delay the effective date of the 2025 final rule, tenants living in properties that received a commitment of HOME funds on or after February 5, 2025, and tenants receiving TBRA or security deposit assistance pursuant to a contract dated on or after February 5, 2025,²⁷ would have benefitted from the new tenant protections in 24 C.F.R. § 92.253. These include protections against retaliation and entry without reasonable notice, and the right to professional maintenance and repairs in a particular time frame with a right to relocation where a deficiency is life threatening. In fact, tenants may have relied on the promise of these new protections going into effect in February, 2025 when they made repair requests and/or made the decision to organize their neighbors in January, 2025. And legal aid organizations and service providers working with HOME-subsidized tenants may have relied on the promise of the new protections when they made plans to assist these tenants in furtherance of their mission. For example, a charitable organization may have only agreed to provide rental assistance funds to prevent eviction of a HOME-assisted tenant after seeing that a new rule would soon go into effect requiring the landlord to accept the money. And a legal aid attorney may have planned to defend the eviction of a HOME-funded tenant using a retaliation defense only to have that protection delayed and then revoked.

Thus HUD’s unlawful delay of the effective date of the January, 2025 final rule has already harmed some tenants for whom the new provisions would have protected access to stable, habitable housing, as well as other stakeholders. These harms will only increase over time.

III. HUD must clarify the regulatory changes it is proposing so that the public will have a meaningful opportunity to comment.

The convoluted regulatory history impedes the public’s ability to meaningfully comment on HUD’s proposal. There are three versions of 24 C.F.R. § 92.253: the version currently in the Code of Federal Regulations, the version that HUD approved in

Program: Program Updates and Streamlining—Delay of Effective Date, Withdrawal, and Correction, 90 Fed. Reg. 16,085 (Apr. 17, 2025) (delaying tenant protections until October 30, 2025); HOME Investment Partnerships Program: Further Program Updates and Streamlining, 90 Fed. Reg. 48,443 (Oct. 22, 2025) (delaying tenant protections until April 30, 2026); HOME Investment Partnerships Program: Further Program Updates and Streamlining, 91 Fed. Reg. 23,014 (Apr. 29, 2026) (indefinite delay).

²⁶ *Open Communities All. v. Carson*, 286 F. Supp. 3d 148, 162–63 (D.D.C. 2017) (finding that delaying the effective date was tantamount to a revocation of the rule, and that “[A]n agency issuing a legislative rule . . . may not alter such a rule without notice and comment.” (quoting *Clean Air Council v. Pruitt*, 862 F.3d 1, 9 (D.C. Cir. 2017)).

²⁷ 90 Fed. Reg. at 865 (revising 24 C.F.R. 92.3(d)(4) to specify that tenant protections were to be effective for HOME-assisted properties that received commitments, and TBRA contracts executed, on or after February 5, 2025).

the final rule but never implemented, and the version that HUD proposes in the SNPRM. It is difficult to identify the precise regulatory changes because HUD does not clearly indicate which version the SNPRM proposes to amend.

For example, the 2025 final rule significantly changes 24 C.F.R. § 92.253(b) from a list of prohibited lease provisions to a list of required contents for new mandatory lease addenda. In the preamble to the 2026 SNPRM HUD states that, with limited exceptions, “HUD is proposing to revert to tenant protections as they existed prior to the 2025 Final Rule.”²⁸ And in the section setting out the actual regulatory changes, HUD omits 24 C.F.R. § 92.253(b), indicating no change to this provision.²⁹ But no change *from what version*? The preamble would indicate that there is no change from the pre-2025 version of the regulation. But the omission could just as easily indicate that there is no change from the January 2025 final rule, effective date currently delayed, since it is the most recent final version of the regulation published by HUD. Given the confusing nature of the SNPRM, HUD must clarify its proposed changes so that the public has a meaningful opportunity to comment.

IV. By removing the required HOME lease tenancy addendum, HUD ignores benefits for housing providers, participating jurisdictions, and tenants.

HUD should retain the 2025 final rule’s use of a lease tenancy addendum because of the significant benefits conferred to owners and participating jurisdictions (PJs), which HUD itself has recognized. As an initial matter, other HUD programs use tenancy addenda or model leases.³⁰ For owners of HOME-assisted rental properties, a tenancy addendum requirement would lighten administrative burden by removing the responsibility of “designing a lease that meets the regulatory requirements” and allowing owners “to meet the HOME lease requirements simply by adding the HOME tenancy addendum supplied by HUD to their leases.”³¹ HUD also recognized the potential for the lease tenancy addendum to relieve PJs of the administrative burden of “reviewing leases to ensure they comply with HOME requirements.”³² And, contrary to

²⁸ 91 Fed. Reg. at 23,198.

²⁹ *Id.* at 23,203 (inserting “* * * *” in place of § 92.253(b) indicating no change from the existing regulation.

³⁰ See e.g., Section 8 Housing Choice Voucher Program Tenancy Addendum, <https://www.hud.gov/sites/dfiles/OCHCO/documents/52641A.pdf>; Section 8 Project-Based Voucher Tenancy Addendum, <https://www.hud.gov/sites/dfiles/OCHCO/documents/52530CENG.pdf>; required model leases for Section 8 Project-Based Rental Assistance, Section 202/8, 202 PAC, 202 PRAC, and 811 PRAC, <https://www.hud.gov/hudclips/forms> (HUD-90105-A through HUD-90105-D).

³¹ Regulatory Impact Analysis, FR-6144-F-03, “HOME Investment Partnerships Program: Further Streamlining,” Final Rule, at 21, <https://www.regulations.gov/document/HUD-2024-0045-0112> (posted Jan. 5, 2025) (“2025 RIA”).

³² 2026 RIA at 5.

HUD's current claim otherwise, offering three lease tenancy addendums is not overly complicated,³³ but rather, demonstrates that the final rule was responsive to the different needs arising from the different ways HOME funds are used.

Tenants also benefit from lease tenancy addendums, which provide them with an accessible means to understand and enforce their rights and mitigate the information imbalance between tenants and housing providers. Housing providers know the federal housing programs and grants and the differing rules to which they are subject. This information, however, is usually not readily available to tenants. And in places where tenant protections are locally minimal, crucial protections in the addendum, such as the right to organize and a prohibition on retaliation, increase the likelihood that tenants or their advocates can collectively or individually raise concerns with owners about housing conditions without fear of reprisal. The SNPRM ignores such benefits considered by HUD in 2024, leaving the public with no detailed explanation for why HUD has reached the opposite conclusion from the one it reached less than two years ago.

V. HUD's justification for revoking tenant protections focuses on unsubstantiated "additional costs" on owners and PJs without considering the impact on tenants.

In justifying the proposed changes in the SNPRM, HUD claims that the "HOME Final Rule's tenant protections created additional costs [and] increased burden" on owners and PJs.³⁴ Nothing in the 2026 RIA, however, supports this claim; indeed, the analysis of costs for owners and PJs remains largely the same in the 2024 and 2026 RIAs. Ultimately, HUD fails to meaningfully counter its analysis in the 2024 RIA or demonstrate why it now finds the 2024 analysis erroneous.

In its RIA accompanying the 2025 HOME final rule, HUD explained that any increased costs to housing providers would be minimal³⁵ because of the overlap between the protections in the HOME Final Rule and state and local protections that "are already standard practice in many places."³⁶ Even where the final rule adds more protections than HOME rental housing is complying with, HUD noted these protections would not be costly to the housing providers.³⁷ In fact, HUD explained in its 2025 regulatory impact analysis the reasons for minimal expected costs were because "new

³³ 91 Fed. Reg. at 23,197 (asserting that updated tenancy addenda provisions could lead to "significant confusion" in the public).

³⁴ 91 Fed. Reg. at 23,198.

³⁵ 2025 RIA at 20.

³⁶ *Id.*

³⁷ See 2025 RIA at 20.

requirements (e.g., not retaliating, providing timeframes for repairs) are not costly and because most HOME rental housing projects or owners of TBRA units meet the new requirements in practice.”³⁸ Allowing tenants the right to organize and keeping information confidential are other such practices that should not be costly for owners. And, in certain cases where there may be discernible increased costs – such as relocation expenses for tenants with a life-threatening issue that cannot be addressed that day – HUD failed to adequately balance those costs against the health and safety harms (and associated costs) to tenants absent relocation.

HUD also fails to demonstrate that housing providers would cease HOME program participation if the tenant provisions were implemented. Although HUD alludes to decreased landlord participation and deterred production of HOME-assisted affordable housing, HUD fails to explain the scale of discouragement or deterrence, or question whether these concerns are reasonable.³⁹ Nor does HUD explain why it now reaches the opposite conclusion from its statement in 2024 that the proposed tenant protections would *not* have “a meaningful impact on the quantity or quality of housing produced with a given amount of HOME funds.”⁴⁰ Indeed, HUD’s concerns about the chilling effect of new tenant protections are unfounded and meritless.

For example, regarding the prohibition on retaliation, HUD’s SNPRM preamble asserts that the prohibition against retaliation could chill landlord participation because the question of whether an owner engaged in retaliation is subjective and “courts were the more appropriate authority to rule on landlord-tenant disputes”⁴¹ But this ignores the fact that a court would ultimately determine whether a HOME housing provider had violated the anti-retaliation provision, or any other provision, of the tenancy addendum. And landlords must already comply with anti-retaliation protections under the federal Fair Housing Act, and state and local law. In other words, it is unclear what the specific burden on housing providers would be in this instance.

Moreover, contrary to HUD’s conclusion that the 2025 final rule version of Section 92.253 would chill participation, several HOME property owners and developers and affordable housing industry members have written comments in support of (or not in opposition to) the strengthened tenant protections. In 2024, One

³⁸ *Id.*

³⁹ HUD also asserts that “[b]eyond [the] statutorily required tenant protections, the Act does not require HUD to further expand tenant protections under the HOME program.” 91 Fed. Reg. at 23,199. 42 U.S.C. § 12755(a) provides, however, that “the lease . . . shall contain such terms and conditions as *the Secretary shall determine to be appropriate,*” authorizing HUD to impose protections beyond the floor set by the statute creating HOME. *Id.* (emphasis added).

⁴⁰ 2025 RIA at 21.

⁴¹ 91 Fed. Reg. at 23,198.

Neighborhood Builders, a developer of at least seven HOME-funded properties, supported the strengthened and expanded tenant protections.⁴² Costello Companies, which develops and manages thousands of units of affordable housing in several states, did “not strongly resist the use of a federal lease addendum to foster consistency” and only opposed only two specific protections (one of which was removed in the final rule).⁴³ In response to the current SNPRM, Jane Place Neighborhood Sustainability Initiative, a mission-driven owner and developer of HOME-funded rental properties, stated that it fully supports the increased tenant protections in the January, 2025 final rule and does not find them burdensome.⁴⁴ And the National Association of Housing and Redevelopment Officials (NAHRO), a major industry group representing affordable housing owners and developers, has submitted a comment generally supporting the new tenant protections, including the prohibitions on unreasonable interference and retaliation, and noting that “where these protections do not exist, it is important that HUD have some form of protection in place.”⁴⁵ HUD does not account for perspectives from HOME-funded housing providers and the affordable housing industry that contradict their assertions of undue burden.

HUD elevates speculative harms to owners and jurisdictions over real benefits to tenants. Indeed, HUD cites to a handful of landlord and industry comments in the SNPRM, but fails to cite a single of the many comments submitted by advocacy organizations, state housing finance agencies, local governments, trade organizations, and legal services providers that cited the benefits of the added tenant protections. HUD recognized that the benefits of the final rule include improved quality of services for tenants and increased owner responsiveness.⁴⁶ The final rule’s tenant protections provide a myriad of other benefits, including, but not limited to, those discussed in the following subsections:

a. Contact information on lease

The SNPRM proposes to remove the basic requirement that HOME leases include contact information for owner, property management, and participating jurisdiction. This new protection from the 2025 final rule helps address the information asymmetry that inherently exists between tenants and housing providers. Having clear

⁴² Comment from One Neighborhood Builders to HUD (Jul. 26, 2024), <https://www.regulations.gov/comment/HUD-2024-0045-0034>.

⁴³ Comment from Costello Companies to HUD, at 1 (Jul. 29, 2024), <https://www.regulations.gov/comment/HUD-2024-0045-0099>.

⁴⁴ Comment from Jane Place Neighborhood Sustainability Initiative to HUD (May 29, 2026).

⁴⁵ Comment from NAHRO to HUD (June 1, 2026), <https://www.regulations.gov/comment/HUD-2024-0045-0148>.

⁴⁶ 2026 RIA at 5.

contact information for an owner or property manager affords tenants a way to raise concerns or attempt to resolve problems informally, potentially lessening the possibility of litigation or administrative action for all parties. For example, providing this basic information ensures that tenants have access to the owner and manager when urgent repairs are needed, so that tenants are not living in uninhabitable or unsafe conditions and so that the owner can mitigate damage to its asset. A quick response to an issue, such as a unit flooding, lessens the likelihood of more extensive or widespread damage, benefitting both the housing provider and other tenants. Having owner contact information also means that tenants with concerns about property staff – e.g., a staff member engaging in possible harassing behavior toward a tenant – can elevate the issue quickly (without involving the perpetrating party) so that the housing provider can act and minimize harm. Providing the contact information of the participating jurisdiction creates accountability for the owner to maintain a safe living environment.

a. Notice requirements

In the SNPRM, HUD proposes to remove requirements that tenants be notified of any change in ownership or management, and of any hazardous environmental conditions. HUD justifies the reversal with an unnecessarily narrow misunderstanding of how tenants would benefit from the information in these notices. On the required *notice of change of ownership and property management*, HUD claims that tenants do not benefit because they “have no meaningful method of objecting to changes in property ownership or management.”⁴⁷ Tenants, however, need this information not because they are trying to impact the change, but because at a very basic level, they need to know who to contact if problems arise in their unit. On the required *notice of environmental and safety hazards*, HUD wrings its hands over the potential liability to owners and participating jurisdictions without acknowledging that, again, at a fundamental level, tenants need this information to keep their families safe and to take actions to mitigate the hazard. Given the important benefits that tenants will receive from these notices, which incur a very limited administrative burden (especially since HUD will draft the addendum with these new protections for property owners), HUD should maintain the final rule’s notice requirements.

b. Unconditional relocation of tenants during repairs to life-threatening defects

HUD seeks to revoke the requirement in the 2025 final rule that housing providers relocate tenants where life-threatening defects cannot be immediately corrected because of concerns about “costs.” This concern is unreasonable given that

⁴⁷ 91 Fed. Reg. at 23,198.

HOME participating jurisdictions are “strongly encouraged” to follow NSPIRE standards,⁴⁸ which provide that life-threatening defects must be corrected within 24 hours. Therefore, the maximum amount of time a tenant would be relocated would be for one day. The cost of relocating a tenant for one day pales in comparison to the costs of a tenant dying due to an unmitigated life-threatening deficiency in their unit because they could not afford to immediately relocate. Furthermore, HUD clearly takes life-threatening conditions seriously in HUD housing programs, such as in the case of the prohibition on Housing Choice Voucher tenants moving into a unit with a life-threatening deficiency.

HUD’s concern about tenant-caused life-threatening conditions lacks merit because it is highly unlikely that a tenant could cause a truly life-threatening condition, based on HUD’s NSPIRE definition. For example, a nonworking heating system, gas leak, or structural failure are all classified as life-threatening deficiencies that most likely would not be caused by a tenant.⁴⁹ In sum, the added protection of relocation for life-threatening conditions that cannot be immediately repaired is reasonable, necessary, not overly burdensome, and should be preserved.

c. *New requirements to accept holders of all federal, state, and local tenant-based rental assistance*

The SNPRM proposes to eliminate a broad source of income protection for tenant-based rental assistance. Doing so is shortsighted and again ignores practical benefits. While the SNPRM preamble speculates, without elaboration, that such protections “may have created significant program design issues,”⁵⁰ the preamble fails to acknowledge the benefits of such protections. For example, if owners are required to accept tenant-based rental assistance, this means that owners would be required to accept rental assistance when a tenant falls behind on rent. While the owner would also benefit from participation by receiving rental arrears, the tenant would receive significant benefits of housing stability and avoiding eviction and its downstream consequences. HUD fails to consider this significant benefit to such source of income protections in the preamble.

⁴⁸ National Standards for the Physical Inspection of Real Estate: Implementation Guidance and Inspection Standards for the HOME Investment Partnerships and Housing Trust Fund Programs, 91 Fed. Reg. 19,145, 19,150 (April 14, 2026) (“HUD strongly encourages participating jurisdictions and grantees to adopt the HOTMA LT List as part of their rehabilitation, ongoing rental, and HOME TBRA property standards to meet HOME and HTF health and safety requirements.”); HUD, *Table 65: HOTMA Life Threatening Conditions*, https://www.hud.gov/sites/dfiles/PIH/documents/6092-N-05nspire_final_standards.pdf, at 292-94 (listing life-threatening conditions and requiring 24 hour repair).

⁴⁹ *Table 65: HOTMA Life Threatening Conditions* at 292-94.

⁵⁰ 91 Fed. Reg. at 23,198.

d. Other new protections removed without explanation

HUD offers no specific explanation whatsoever for its removal of the following tenant protections, and instead simply lumps them together (or, in the case of (b)(8), ignores it all together). To the extent that HUD alludes to generalized increased administrative burden or cost for owners or PJs, it offers no meaningful explanation of what the burden or cost would comprise of. Among these protections:

- Requirements at §92.253(a)(1) that all leases be provided to the participating jurisdiction prior to execution: *Important so that the PJ can ensure that the lease is in compliance with federal requirements.*
- Requirements at §92.253(b)(1) that the lease contain provisions requiring owners to follow the HOME requirements that they maintain physical condition of the unit and project to the participating jurisdiction's property standards and State and local code requirements; that owners professionally maintain and repair units; and that owners, when controllable, provide continued, uninterrupted utility service: *Important to ensure that HUD-assisted families live in safe, healthy, habitable dwellings, that HUD-assisted owners maintain and repair their units, and that HUD-subsidized assets remain in livable condition to serve low-income families for the full commitment period.*
- Requirements at §92.253(b)(1) that owners must provide written time frames for maintenance and repairs as soon as practicable and that owners not charge tenants for reasonable wear and tear: *Important so that tenants can plan and budget for expenses related to unrepaired defects in their unit. For example, if a tenant's refrigerator is broken, they need to know approximately when it will be fixed so they can plan when to purchase groceries and how much to purchase.*
- Requirements at §92.253(b)(2) that the lease explicitly describe use and occupancy protections that include rights for the family to reside with a foster child, foster adult, or live-in aide and rights that a tenant be able to reasonably access common areas of the project: *Important for transparency and to ensure tenant is aware of their use and occupancy rights. In particular, it is important that people with disabilities understand their right to be reasonably accommodated with a live-in aide given HUD's recent withdrawal of civil rights guidance related to reasonable accommodation.⁵¹*
- Requirements at §92.253(b)(2) that owners provide reasonable written notice prior to entering the unit and that they extend protections to allow tenants to organize tenant associations and associated activities: *Important for protection*

⁵¹ Notification of Withdrawal of Fair Housing and Equal Opportunity Guidance Documents, 91 Fed. Reg. 17,291 (Apr. 6, 2026).

of tenant privacy and peaceful possession (provision included an exception to the requirement of advance notice before entry for emergencies), and important so that tenants can exercise their right to organize with their neighbors to address issues in the property without fear of retaliation.

- Requirements at §92.253(b)(7) that a tenant lease include a requirement that owners must keep the personally identifiable information of assisted families secure and confidential: *Important to prevent identity theft of HUD-assisted families, to protect private medical information for persons with reasonable accommodations, and to protect survivors of domestic violence, dating violence, sexual assault, and stalking.*
- Requirement at §92.253(b)(8) that the owner shall operate HOME-assisted housing in compliance with nondiscrimination, equal opportunity, and Violence Against Women Act (VAWA) requirements. *Important to remind tenants that they are protected from housing discrimination, and regarding the VAWA requirements specifically, inclusion of this provision could help flag for tenants that they are protected under VAWA if other VAWA related notification or lease addenda requirements are not being complied with.*
- Requirements at §92.253(b)(9) that security deposits be refundable, not be more than two months' rent, and that owners provide an itemized list of deductions for any charges against the security deposit: *Important for uniformity, transparency, and fairness across HOME-assisted properties. Without a cap on deposits, many low-income tenants would not be able to assist HOME-funded properties despite being income-eligible.*

Without explanation, it is unclear why HUD is reversing its prior conclusion that these provisions are beneficial to HOME-assisted tenants without being overly burdensome to HOME-assisted housing providers. NHLP and other commenters cannot adequately comment on the removal of these provisions without an explanation for why they are being removed.

VI. HUD's proposed removal of various health and safety provisions will harm tenants.

The SNRPM removes critical health and safety standards from the HOME program, including the requirement that participating jurisdictions and landlords must inform HOME-assisted tenants in writing of “environmental, health, or safety hazard affecting their project, units within their project, or tenants residing within their projects,” and include a “summary of the nature, date, and scope of such hazards.”⁵²

⁵² 90 Fed. Reg. at 881 (2025 Final Rule regulatory text for § 92.253(f)).

In the SNPRM, HUD also proposes to remove the relocation requirement, at no additional cost to the tenant, for life-threatening hazards that cannot be fixed by the owner the same day.⁵³

Current federally mandated housing inspections do not take into account environmental contamination and allow for dangerous environmental conditions to develop or go overlooked.⁵⁴ At the same time, outside limited circumstances, federal and state law does not require disclosure of numerous environmental hazards, including carcinogens and neurotoxins, that could permanently and significantly harm tenants.⁵⁵ Without notice of hazards, tenants cannot make personal healthcare decisions or take precautions that could protect their family from harm. And without no-cost relocation in the instance of a life-threatening deficiency where the owner cannot make a same-day repair, tenants would face difficult decisions about where to go or how to pay for safe shelter while the issue is addressed.

The risk of environmental exposure remains high among low-income tenants, including those whose housing stability depends upon HOME funding. According to the Harvard University Joint Center for Housing Studies, 41% (18.2 million) of the nation's rental stock is located in an area with threatened substantial housing loss due to environmental hazards.⁵⁶ No state in the country is without risk, while Florida, Oregon, Louisiana, California, Missouri, Texas, among others, carry the greatest risk.⁵⁷ Low-income tenants are overwhelmingly located in neighborhoods that also have more pollution, noise, environmental and health hazards, substandard housing stock, and overcrowding—all of which are social determinants of poor health.⁵⁸ In 2020, researchers determined that 70 percent of Superfund sites were on or within a mile of

⁵³ 91 Fed. Reg. at 23,198.

⁵⁴ Emily Coffey et al., SHRIVER CTR. ON POVERTY L. & EARTH JUST., POISONOUS HOMES 33 (2020), https://www.povertylaw.org/wp-content/uploads/2020/06/environmental_justice_report_final-rev2.pdf.

⁵⁵ *Id.* at 48, 52.

⁵⁶ Joint Center for Housing Studies of Harvard University. 2026. *America's Rental Housing 2026*, at 18, <https://www.jchs.harvard.edu/americas-rental-housing-2026>.

⁵⁷ *Id.* at 19 (Fig. 15).

⁵⁸ See Renee E. Walker et al., *Disparities and Access to Healthy Food in the United States: A Review of Food Deserts Literature*, 16 HEALTH & PLACE 881, 876–84 (2010); Nicole I. Larson et al., *Neighborhood Environments: Disparities in Access to Healthy Foods in the U.S.*, 36 AM. J. PREVENTATIVE MED. 74, 74–81 (2009); LaVonna Blair Lewis et al., *African Americans Access to Healthy Food Options in South Los Angeles Restaurants*, 95 AM. J. PUB. HEALTH 672, 668–73 (2005) (noting lack of healthy food options and health); Ingrid Gould Ellen et al., *Neighborhood Effects on Health: Exploring the Links and Assessing the Evidence*, 23 J. URB. AFFS. 393, 391–408 (2001) (finding “the strongest evidence for independent neighborhood effects on overall mortality as well as on health outcomes that can be expected to develop and be discernible fairly quickly, such as health-related behaviors and mental health”); A.V. Diez Roux, *Investigating Neighborhood and Area Effects on Health*, 91 AM. J. PUB. HEALTH 1783, 1786 (2001).

federally assisted housing.⁵⁹ It is highly likely that HOME-assisted units are also at risk of toxic exposure, necessitating the need for early and detailed disclosure to tenants.

At the same time, the rental housing stock is increasingly plagued with inadequate conditions and repair needs. The Federal Reserve Bank of Philadelphia estimated that 18.8 million occupied rental units (41 percent),⁶⁰ including properties that are eligible for HOME assistance, had at least one repair need in 2024. Federally assisted housing is typically located in highly segregated and resource-deprived neighborhoods and is frequently cited for substandard conditions.⁶¹ These units place tenants at increased risk of exposure to lead, radon, mold, asbestos, among other severe health hazards that have permanent and devastating impacts. These conditions are not exclusive to urban rental housing. More than 11.5 million homes in rural America have safety hazards, including infestations, peeling paint, structural issues, and mold, among others.⁶²

Black and Hispanic renter households are more likely to reside in inadequate housing, even accounting for income.⁶³ Overall, Black renter households disproportionately suffer from conditions associated with substandard housing, including asthma, respiratory distress, carbon monoxide poisoning, high blood pressure, heart disease, lead poisoning, mental health impairment, and cancer, among others.⁶⁴ These hazards have life altering outcomes for children. For example, exposure

⁵⁹ Emily Coffey et al., at 11 (figure only accounts for public housing and project-based Section 8, not other HUD programs).

⁶⁰ Federal Reserve Bank of Philadelphia, Home Repair Costs 2025: Updated Estimates and New Measures of Cooling Needs, at 13 (Dec. 2025).

⁶¹ See, e.g., Press Release, [U.S. Atty's Off/ SDNY, U.S. Attorney Announces Application Process for Second Term Of NYCHA Monitorship](#) (May 24, 2023); CREATING A TRULY INDEPENDENT DC HOUSING AUTHORITY: INCREASING POLITICAL INSULATION TO IMPROVE OUTCOMES AT DCHA, D.C. OFF. OF THE ATT'Y GEN. (2022), <https://oag.dc.gov/sites/default/files/2022-12/DCHA-Report-final-.pdf>.

⁶² National Ctr. for Healthy Housing & National Environmental Health Assn., Opportunities to Address Healthy Housing Needs in Rural and Frontier Communities: A Guide for Environmental Public Health Professionals, at 5 (2024), https://nchh.org/resource-library/report_opportunities-to-address-healthy-housing-needs-in-rural-and-frontier-communities.pdf.

⁶³ Sophia Wedeen, "Greater Assistance Needed to Combat the Persistence of Substandard Housing," Harvard University Joint Center for Housing Studies (Aug. 1, 2023), <https://www.jchs.harvard.edu/blog/greater-assistance-needed-combat-persistence-substandard-housing>

⁶⁴ E. A. Benfer and A. E. Gold, *There's No Place Like Home: Reshaping Community Interventions and Policies to Eliminate Environmental Hazards and Improve Population Health for Low-Income and Minority Communities*, 11 HARV. L & POL'Y REV. ONLINE S1 (2017);; Douglass S. Massey & Jonathan Tannen, *A Research Note on Trends in Black Hypersegregation*, 52 DEMOGRAPHY 1025 (2015); Douglas S. Massey, *American Apartheid: Segregation and the Making of the Underclass*, 95 AM. J. OF SOCIO. No. 2 (1990); Douglas S. Massey & Nancy A. Denton, *Hypersegregation in U.S. Metropolitan Areas: Black and Hispanic Segregation Along Five Dimensions*, 26 DEMOGRAPHY 373 (1989); DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* (1998); Douglas S.

to lead, a neurotoxin, interferes with virtually every organ system, damaging the brain and nervous system, impairing intellectual and behavioral development, lowering IQ, and increasing the risk of cardiovascular, renal, reproductive harms, and other harms across the life course—even at low levels of exposure.⁶⁵

Substandard housing is associated with a 43% greater odds of poorer health status among children.⁶⁶ Exposure to infestations, mold, structural leaks, and aging housing, increases risk of asthma.⁶⁷ This risk is particularly high among Black and Hispanic children living in *subsidized* housing, “compared to their White or Asian peers.”⁶⁸ Black children, in particular, “are nearly five times more likely to be hospitalized for asthma” than their White counterparts.⁶⁹ In a 2026 peer reviewed study, researchers determined that these outcomes were in part due to unresponsive landlords. These findings further underscore the importance of federal requirements to report and mitigate conditions that threaten the health and safety of HOME-assisted tenants.

HUD’s reasoning for removal of the requirement to provide notice of environmental, health, or safety hazards affecting the project is that it “may be

Massey & Mary J. Fischer, *How Segregation Concentrates Poverty*, 23 ETHNIC & RACIAL STUD. 670 (2000).

⁶⁵ See Talia Sanders et al., *Neurotoxic Effects and Biomarkers of Lead Exposure: A Review 2* (Apr. 22, 2010) (unpublished manuscript) (on file with NIH Public Access) <https://pmc.ncbi.nlm.nih.gov/articles/PMC2858639/pdf/nihms190515.pdf> (last visited June 1, 2026); Bruce Lanphear, Ana Navas-Acien & David C. Bellinger, *Lead Poisoning*, 391 NEW ENGLAND J. MED. 1621, 1622 (2024); U.S. Dep’t of Hous. & Urb. Dev., GUIDELINES FOR THE EVALUATION AND CONTROL OF LEAD-BASED PAINT HAZARDS IN HOUSING 1–4 (2nd ed. 2012) (ebook).

⁶⁶ Boch S, Chisolm D, Kaminski J, Kelleher K. [Home quality and child health: analysis of the Survey of Income and Program Participation](#). *Journal of Child Health Care*. 27 Jan 2021.

⁶⁷ Liu M, Chung JE, Currie J, Park I, Bhavsar D, Carlis SA, Cabassa-George I, Washington K, Lan M. Mitigating Home Environmental Asthma Triggers in Subsidized Housing: Experiences of Caregivers and Healthcare Workers. *Healthcare (Basel)*. 2026 Jan 7;14(2):150. doi: 10.3390/healthcare14020150.

⁶⁸ Liu M, Chung JE, Currie J, Park I, Bhavsar D, Carlis SA, Cabassa-George I, Washington K, Lan M. Mitigating Home Environmental Asthma Triggers in Subsidized Housing: Experiences of Caregivers and Healthcare Workers, at 2. *Healthcare (Basel)*. 2026 Jan 7;14(2):150. doi: 10.3390/healthcare14020150 (citing Kim B., Mulready-Ward C., Thorpe L.E., Titus A.R. Housing environments and asthma outcomes within population-based samples of adults and children in NYC. *Prev. Med.* 2022;161:107147. doi: 10.1016/j.ypmed.2022.107147. Titus A.R., Terlizzi K., Conderino S., Doàn L.N., Kim B., Thorpe L.E. Patterns and drivers of disparities in pediatric asthma outcomes among Medicaid-enrolled children living in subsidized housing in NYC. *Prev. Med.* 2024;185:108023. doi: 10.1016/j.ypmed.2024.108023).

⁶⁹ Liu M, Chung JE, Currie J, Park I, Bhavsar D, Carlis SA, Cabassa-George I, Washington K, Lan M. Mitigating Home Environmental Asthma Triggers in Subsidized Housing: Experiences of Caregivers and Healthcare Workers, at 2. *Healthcare (Basel)*. 2026 Jan 7;14(2):150. doi: 10.3390/healthcare14020150 (citing Binney S., Flanders W.D., Sircar K., Idubor O. Trends in US pediatric asthma hospitalizations, by race and ethnicity, 2012–2020. *Prev. Chronic Dis.* 2024;21:E71. doi: 10.5888/pcd21.240049).

confusing or create a duty of care that currently does not exist.”⁷⁰ This argument makes little sense and lacks legal merit. If a property owner has a duty of care to report a known hazard that could impact a resident’s health or safety (such that failure to do so would give rise to a negligence claim), that duty of care exists *whether or not* the regulations and/or tenancy addendum contain a reporting requirement. And failure to comply with a reporting requirement in a tenancy addendum gives rise to a claim for breach of contract, not a tort claim based on breach of duty of care. Moreover, a family’s interest in knowing about potential hazards that could impact their health or their children’s health far outweighs any interest housing providers might have in avoiding hypothetical legal liability. If a family is informed about, say, high lead levels in the dirt surrounding an apartment complex, parents can make informed choices to protect their children from harm. For example, they might decide not to let the child play outside, or to remove shoes upon entering the home, or to have their child tested for blood lead levels more frequently. These actions might mean the difference between a healthy child and one with permanent brain damage. The fact that HUD now takes the position that providing families with basic information so they can protect their children from life-altering medical issues is somehow less important than protecting landlords from hypothetical lawsuits shocks the conscience.

In conclusion, we strongly urge HUD to revoke the current supplemental notice of proposed rulemaking, as well as the indefinite delay of the effective date of the tenant protections discussed herein.⁷¹ HUD should instead immediately publish notice in the Federal Register effectuating the tenant protections enumerated in the 2025 final rule.

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Sincerely,

National Housing Law Project
National Low Income Housing Coalition

⁷⁰ 91 Fed. Reg. at 23,198.

⁷¹ HOME Investment Partnerships Program: Further Program Updates and Streamlining, 91 Fed. Reg. 23,014 (Apr. 29, 2026).