

April 21, 2023

The Honorable Brian Schatz
Chair
Senate Committee on Appropriations
Subcommittee on Transportation, Housing
and Urban Development

The Honorable Tom Cole
Chair
House Committee on Appropriations
Subcommittee on Transportation, Housing
and Urban Development

The Honorable Cindy Hyde-Smith
Ranking Member
Senate Committee on Appropriations
Subcommittee on Transportation, Housing
and Urban Development

The Honorable Mike Quigley
Ranking Member
House Committee on Appropriations
Subcommittee on Transportation, Housing
and Urban Development

To Chair Schatz, Ranking Member Hyde-Smith, Chair Cole, and Ranking Member Quigley:

The undersigned housing organizations write today to encourage Congress to use its spending authority to preserve affordable housing and to strengthen HUD's tools for public housing preservation including through the Rental Assistance Demonstration (RAD). Specifically, the actions recommended below will promote housing stability and strengthen tenant protections for the 1.7 million low-income residents who live in 860,000 public housing units across the country. While we encourage Congress to make important improvements to the RAD program, we oppose the lifting of its current, expanded conversion cap and the elimination of a sunset date for the demonstration until the critical issues identified below are fully addressed.

As the U.S. affordable housing crisis deepens, only 1 in 5 households who are eligible receive rental assistance, and increasingly more eligible households compete for a shrinking market of privately-owned affordable housing supply. Maintaining and preserving our public housing is "crucial to reversing the negative impacts of racism and discrimination in access to quality, affordable housing." (HUD FY 24 Congressional Justifications, 7-2). However, more than 300,000 public housing units have been eliminated since the 1990s; and each year, more than 10,000 units are permanently lost. We urge Congress to direct HUD to promote alternatives to demolition, disposition, and voluntary conversion, including under the RAD, RAD/Section 18 blend, Faircloth-to-RAD, or a mixed-finance redevelopment that replaces or rehabilitates existing affordable units. For those projects that require demolition, disposition, or voluntary (including streamlined) conversion, HUD should be directed to require a market analysis and civil rights assessment to determine if there are other affordable housing units available in the community, and the ability of residents to use issued vouchers in opportunity neighborhoods.

We recognize that because the growing funding gap for critical public housing repairs has not been addressed, new financing strategies are necessary to rehabilitate the existing supply of aging public housing. We applaud Congress and HUD's public housing preservation efforts, which currently rely primarily on the various RAD opportunities and on mixed-finance development mechanisms to leverage private capital and public-private partnerships, and we support many of the President's Budget FY 24

proposed amendments to RAD which will facilitate HUD's administration of the program.¹ More is needed, however, to ensure public housing tenant rights and protections are upheld. Congress must prioritize funding for public housing preservation programs and activities and guide HUD on how best to spend these investments, by (1) strengthening HUD's oversight and proper implementation of RAD, (2) including set-asides for technical assistance to support the preservation capacity of smaller Public Housing Authorities (PHA) and poorly performing PHAs with troubled properties or scattered sites,² (3) encouraging modernization, (4) promoting inclusion of building amenities like broadband access and elevators, and (5) eliminating safety and health hazards.

Since RAD's creation in 2012, 169,157 RAD units have been completed, and 54,885 RAD units are currently in the pipeline, leaving ample room for additional RAD projects under the demonstration program's current cap of 455,000 RAD units. Any future expansion of RAD must be informed by the statutorily required evaluations of the demonstration program, including (1) whether the funds leveraged by RAD are adequate to sustain the long-term preservation and financial viability of converted public housing properties, (2) whether asset management after RAD conversion is adequate, (3) the impact on organizational and operational changes for participating PHAs, and (4) the impact on directly affected public housing tenants which must include an analysis of whether the resident rights and protections guaranteed under the RAD statute were implemented and enforced during conversion and are being implemented and enforced by the new owners after the conversion.

Currently, tenants in RAD-converted projects are not receiving the full benefit of the promise and potential of RAD. There is no transparency after conversion, and private management agents are imposing improper leases with provisions inconsistent with public housing lease requirements under the RAD statute. Residents continue to experience poor housing conditions and are losing important public housing rights, such as an explicit right to organize, access to grievance procedures, and opportunities to transfer to other PHA-owned units. Accordingly, we urge Congress:

- To reject the President's Budget FY 24 proposal to make the demonstration permanent by eliminating the sunset date by which PHAs can apply for the demonstration program and by eliminating the current cap of 455,000 public housing units that may convert under the RAD statute through September 2024; and
- To condition a future increase in the RAD cap on:

¹ In the FY 2024 appropriation bill, we support the following HUD-proposed changes to RAD which would: (1) ensure the continued availability after conversion of resident services funding under the Jobs Plus, Resident Opportunities for Self-Sufficiency (ROSS), and Congregate Housing Services Program (CHSP) programs and full implementation of the Jobs Plus Initiative program; (2) permit budget authority to integrate Tenant Protection Vouchers (TPV) following a Section 18 approval into RAD PBRA or PBV contracts and to combine those contracts into one platform; (3) authorize the use of Participating Administrative Entities (PAEs) by "small PHAs" converting under RAD, *provided that* all requirements relating to resident participation, communications, rights and protections during the RAD process and thereafter are fully and meaningfully implemented by a qualified PAE and/or its experienced agents; and (4) authorize the conversion of Senior Preservation Rental Assistance Contracts (SPRACs) under RAD.

² In 2016, some 3021 PHAs managed 1,067,387 public housing units, but as of 2023, there are only 2,750 PHAs managing about 860,000 public housing units.

- the completion and publication of all statutorily required evaluations of the demonstration program's impacts and HUD's publication of its response and plans for addressing all issues raised in the RAD evaluations;
- the development of a HUD form RAD lease or addendum which incorporates all statutory RAD tenant-owner rights and responsibilities under the RAD statute; and
- the required, on-going periodic evaluation of all RAD-converted properties along a set of compliance and performance metrics developed with resident consultation, including compliance with RAD tenant rights and responsibilities under the required public housing lease provisions.

If you have any questions, please reach out to Noelle Porter, Director of Government Affairs for the National Housing Law Project, nporter@nhlp.org.

Sincerely,

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