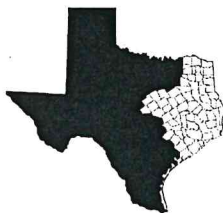


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October 27, 2017

Honorable Dr. Ben Carson, MD
Secretary
U.S. Department of Housing and Urban Development
451 7th Street S.W.
Washington, DC 20410

**Re: HUD administrative actions to alleviate the effects of disaster on Gulf Coast
voucher families**

Dear Secretary Carson:

This letter is a request for HUD to take administrative actions within its authority that will alleviate the suffering imposed by Hurricane Harvey on the residents of the disaster area.

Operating for more than sixty eight (68) years, Lone Star Legal Aid (LSLA) is the 4th largest legal aid organization in the U.S., headquartered in Houston. We operate an additional twelve (12) offices, covering one-third (1/3) of the state, a region made up of seventy two (72) counties in East Texas and along the Texas Gulf Coast. LSLA has an eligible client population of 2.3 million at 125% of federal poverty guidelines.

Hurricane Harvey devastated large portions of LSLA's service area. Twenty-four (24) of the thirty nine (39) Harvey disaster-designated counties are in LSLA's region. These twenty four (24) counties are home to more than 1.47 million people with incomes below 125% of the federal poverty level. More than 800,000 FEMA applications for disaster assistance have been filed, and that number is growing by about 2,000 applicants daily. Additionally, 200,000+ homes were impacted by flooding and Harvey is anticipated to be the costliest weather disaster in U.S. history. As of October 23rd, \$1,271,727,288 in Individual & Household assistance was approved and \$992,489,234 of Housing Assistance has been approved. Harvey's impact on the area's affordable housing is tragic and requires an immediate and significant response in order to ameliorate the housing crisis faced by our client community. Hurricane Harvey caused an unprecedented reduction of affordable housing availability over a vast area of our legal service community. Harvey is the wettest tropical event on record in the United States; resulting floods inundated hundreds of thousands of homes, displaced more than 30,000 people, and prompted

more than 17,000 water related rescues. The rainfall exceeding fifty (50) inches in some areas, Harvey devastated a swath of Texas stretching from the Houston area through East Texas. "Our whole city is underwater," Derrick Freeman, the mayor of Port Arthur, Texas, said. Even as the rain and wind moved on, the region continued to suffer consequences of the storm. Explosions rocked a near Houston chemical plant spewing hazards lurking beneath the floodwaters that soaked the region. LSLA, on behalf of its clients, requests that HUD take the following actions:

HUD recently informed the disaster area housing authorities of the opportunity to seek a voucher payment standard of 150% of the Area Fair Market Rent. This is a dramatic step by HUD to mitigate the catastrophic situation of housing voucher families in the disaster area. There are other administrative actions that HUD can take to substantially improve the impacted individual's or families' chances of finding and keeping affordable housing options in safe and viable neighborhoods. The changes we propose both eliminate bureaucratic barriers to individual, family and landlord participation in the program and provide more funding for the area housing authorities to make the housing available to the voucher families. The barriers include:

- 1) the restrictions on the ability of disaster area voucher individuals and families to move,
- 2) the lack of funding to provide the assistance required to overcome the difficulties disaster area voucher individuals and families experience in finding appropriate housing,
- 3) the use of the single FMR for entire metro areas suffering from the disaster even with the possibility of a 150% payment standard,
- 4) the existing portability restrictions on the ability of voucher individuals and families to move anywhere in the relevant area, and
- 5) the unnecessary lease and contract provisions that many private landlords claim make it too expensive for them to rent to voucher individuals and families.

The actions requested include:

1. Waive the current restrictions on the ability of the Houston Housing Authority (HHA) voucher individuals and families to move if this has not already been done. These are the restrictions imposed by the April 21, 2017 HUD letter to the HHA. This restriction forces many voucher families to remain in dangerous, unhealthy, and unsafe unit and neighborhood conditions.

2. Waive restrictions on the ability of any public housing authority voucher individuals and families in the disaster area to move if this has not already been done.

3. Approve increased administrative fees for the housing authorities to cover:

- increased costs of inspections, paperwork processing, and quicker tenant screening;
- financial assistance to convince landlords to take the vouchers and to assist tenants obtain the housing such as incentive payments, security deposits,

- housing search assistance counseling to find available housing, negotiate with landlords. This assistance has to include assistance to find units outside areas of minority concentration.

The authority to set the administrative fee to include the extra costs imposed by the disaster is set out in the law. The statute setting the standard for the amount of administrative fees paid by HUD to the PHAs for administering the voucher program requires that the fees include the costs of overcoming the difficulties experienced by voucher families in obtaining appropriate housing; 42 U.S.C. § 1437f (q) (2) (B). HUD has used this authority to provide funding to remedy racial segregation in the Dallas, Texas area and in the East Texas area; HUD, "Texas State Office of Public Housing Young v. Martinez Litigation Desegregation Housing Opportunity Manual.", P-80-8 (E.D. Tex.), available at <https://www.danielbesharalawfirm.com/young-v-pierce/> exhibit 3 to settlement stip and order.

The current administrative fee funding is arbitrary and unresponsive to local needs such as those faced by housing authorities in the disaster area. See Abt, Housing Choice Voucher Program Administrative Fee Study, Final Report, August, 2015. The current administrative fee rates remain arbitrary and unresponsive to local needs. HHA's administrative fee rates are \$72.34 and \$67.53. The Boston Housing Authority's 2017 voucher administrative fee rates are \$121.00 and \$113.37. The Los Angeles area housing authorities have administrative fee rates of \$117.00 to \$109.20; DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT [Docket No. FR-6024-N-01] Notice of Annual Factors for Determining Public Housing Agency Administrative Fees for the Section 8 Housing Choice Voucher, Mainstream, and Moderate Rehabilitation Programs, 82 Fed. Reg. 28336, 28338, 28340, 28346, June 20, 2017. The difficulties experienced by voucher families in obtaining appropriate housing in the disaster area would clearly justify a substantial increase in the administrative fee for the specified purposes.

4. Authorize the implementation of the SAFMRs for the disaster area counties. While the possible 150% FMR payment standard is a good start, it will still provide only a few units in many areas with available rental units in good conditions and neighborhoods but higher rents. The 2 bedroom FMR for the entire Houston FMR area is only \$1,066.00. The maximum rent available using 150% of FMR is \$1,599.00. The SAFMR Zip Code rents range from \$820.00 to \$1,600.00. The maximum rents using 150% of the SAFMR Zip Code rents range from \$1,230.00 to \$2,400.00. The higher maximum rents are needed.

5. Waive the existing portability restrictions. This will eliminate a set of bureaucratic barriers that can deny voucher holders available units outside the City of Houston and other parts of the disaster area. The voucher statute authorizes voucher families to use the voucher in any area where vouchers are administered; 42 U.S.C. § 1437f(r) (1) (A). But HUD's portability regulations limit voucher holders' ability to use vouchers in many areas where vouchers are being administered. These restrictions make units unavailable for voucher individuals and families seeking to use their voucher in adjoining or nearby suburbs with otherwise available and eligible units in non-minority locations. The locations are either put off limits or made available only by a complicated bureaucratic process involving the cooperation of two separate PHAs; 24 C.F.R. § 982.355. HUD has waived its regulatory portability restrictions in desegregation cases.

The need to eliminate this barrier in the disaster areas is dire. The waiver of the portability restrictions should be accompanied by the authorization for each housing authority to administer its vouchers in the home county and any adjacent county.

6. Waive unnecessary lease and contract provisions. Many landlords with rental units in good conditions and neighborhoods refuse to rent to voucher families because of their perception that there are unnecessary bureaucratic elements in the program. HUD has added its own regulatory restrictions on leases and housing assistance payment contracts that exceed the statutory requirements. The voucher statute requires the use of leases that:

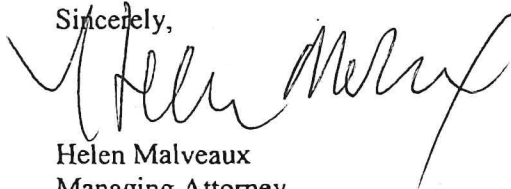
- (i) are in a standard form used in the locality by the dwelling unit owner; and
- (ii) contain terms and conditions that—
 - (I) are consistent with State and local law; and
 - (II) apply generally to tenants in the property who are not assisted under this section; 42 U.S.C.A. § 1437f(o) (7) (B).

Waiving all but the statutory restrictions on lease forms and HAP contracts will provide a lease and contract that are closer to the usual market forms. This may persuade more landlords with units in good conditions and neighborhoods to rent to voucher families.

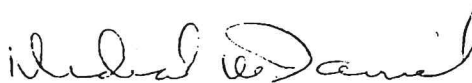
This short letter does not contain the evidence that supports the requested changes. Should the need to see relevant evidence be a critical element of your decision making process, we will provide it.

Thank you.

Sincerely,



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