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Administration

Obama Administration Releases Housing Development Toolkit

The White House released the “Housing Development Toolkit” which highlights actions state and local jurisdictions can take to encourage housing development. The white paper, released on September 26, argues that restrictive zoning contributes to high rents, exacerbates wealth inequality, and slows the U.S. economy.

According to the white paper, local barriers to new housing development, particularly affordable housing, include local land use restrictions, parking requirements, residential conversion restrictions, and slow permitting processes. The white paper provides a description of actions taken by jurisdictions to reduce these barriers. These actions include:

- Establishing by-right development that reduces a developer’s need to seek zoning variances or other approvals which add to the length of time needed to complete a project;
- Taxing vacant land to encourage development or finding ways to donate it to non-profit developers; streamlining or shortening permitting processes;
- Eliminating parking requirements;
- Enacting high-density and multifamily zoning;
- Allowing accessory dwelling units;
- Establishing density bonuses;
- Employing inclusionary zoning; and
- Establishing tax incentives for development of affordable housing.

Zoning regulations are usually seen as a local issue. But many mayors and developers are welcoming President Barack Obama’s engagement on this issue.

The Administration’s publication has received praise from economists and conservatives. Jason Furman, Chairman of the Council of Economic Advisers, states, “When unnecessary barriers restrict the supply of housing and costs increase, then workers, particularly lower-income workers who would benefit the most, are less able to move to high-productivity cities. All told, this means slower economic growth.”

Housing Development Toolkit is at: <http://bit.ly/2daTO5v>

Congress

NLIHC’s Analysis of the Middle Income Housing Tax Credit Bill

Last week, Senator Ron Wyden (D-OR) introduced S.3384, the *Middle Income Housing Tax Credit Act of 2016*, to create a new federal tax credit to incentivize developers to build and preserve housing that is affordable to families earning 100% of the Area Median Income (AMI) or below. Senator Wyden sent a Dear Colleague letter to Senate offices seeking cosponsors. The proposed Middle Income Housing Tax Credit (MIHTC) would cost \$4.5 billion annually when fully implemented, according to NLIHC’s initial estimate. NLIHC opposes the bill and is urging all Senate offices to not cosponsor the legislation.

In a press release, NLIHC President and CEO Diane Yentel called the proposal “a misguided and wasteful use of federal resources.” She explained, “Given the growing affordable housing crisis, bold action is needed to serve more families in need. New federal resources must be targeted to serve those with the clearest and greatest needs—families with extremely low incomes (ELI). If enacted, Senator Wyden's bill would divert much-needed resources to higher-income households who, the data show, do not face significant housing challenges. Just 2%

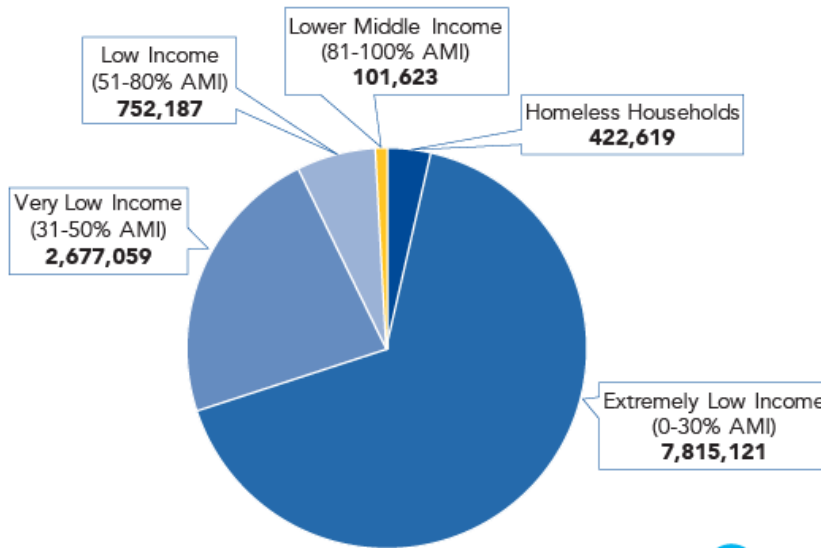
of middle-income renters nationwide are severely cost burdened, compared with 75% of the poorest renters paying more than half their income towards their rent.”

According to NLIHC’s report, *The Gap: The Affordable Housing Gap Analysis 2016*, nearly all of the need for affordable housing is concentrated among ELI families, not middle-income households. America’s 10.4 million ELI renter households face a shortage of 7.2 million affordable and available apartments. For every 100 ELI renter households, there are just 31 affordable and available rental homes. These households include seniors, people with disabilities and families with children who struggle to keep a roof over their heads.

Because of this shortage, 75% of ELI households are severely cost burdened, paying more than half of their income towards their rent each month (See Figure 1). They face difficult decisions between paying rent and buying food or seeing a doctor and, in the worst cases, become homeless.

In comparison, just 2% of median-income families—or 101,000 households nationally—are severely cost burdened and there is an excess of homes affordable and available to them. For every 100 median-income households, there are 104 homes affordable and available.

**Figure 1:
Homeless and Severely Cost-Burdened Renter Households**



Sources: Renter households from NLIHC tabulations of 2014 ACS PUMS Data. Homeless households from *The State of Homelessness in America 2016*. Note: Severely cost-burdened households pay more than 50% of their income on rent and utilities. AMI = Area Median Income



S. 3384 would target scarce resources to the 100,000 middle-income renters who are severely cost burdened, while providing minimal benefit to the lowest income families paying more than half their income on rent.

For the few communities where providing affordable housing to middle-income households is a challenge, NLIHC recommends alternative solutions. S. 3237 is a bipartisan proposal by Senators Cantwell (D-WA), Hatch (R-OH), and Wyden (D-OR) that would, along with significantly expanding the Low Income Housing Tax Credit (LIHTC) program, provide additional flexibility for LIHTC to serve higher-income families. By allowing “income averaging” in certain LIHTC developments, the proposal would help high-cost cities serve families up to 80% of AMI, as long as the average income across the entire development remained at 60% of AMI.

Building and preserving affordable housing targeted to ELI families through the national Housing Trust Fund would also benefit middle-income families. Because of the significant deficit in homes affordable to the lowest

income people, most ELI families rent apartments that they cannot afford that would otherwise be available to higher-income families. As the shortage of housing targeted to ELI households decreases, the rental market would become better aligned to meet all of the needs in a community.

See NLIHC's Press Release at: <http://nlihc.org/press/releases/7163>

See NLIHC's Call to Action at: <http://bit.ly/2dhI9zM>

See NLIHC's Factsheet on S.3384: http://nlihc.org/sites/default/files/MIHTC-Factsheet_1016.pdf

Compare the housing needs of ELI and middle-income families in your state: <http://bit.ly/2dLz727>

Bill Seeks to Help Low Income Tenants Build Credit

The House Financial Services Subcommittee on Financial Institutions and Consumer Credit considered legislative proposals to help consumers, particularly those with low incomes, gain more access to mainstream banking and credit services during a hearing on September 27. One of the proposals discussed was the "Credit Access and Inclusion Act of 2015" (H.R. 4172) that would allow landlords, including public housing authorities (PHAs), and utility and telecom companies to report on-time payment data to credit reporting agencies, not just negative payment data. Introduced by Representatives Keith Ellison (D-MN) and Mike Fitzpatrick (R-PA), the bill seeks to help those with little to no credit build their credit scores based on a more comprehensive picture of their payment history.

"Millions of Americans lack credit scores or have scores that are too low to gain access to affordable credit," Rep. Ellison said when introducing the bill back in July 2015. "The problem disproportionately affects young people, African-Americans, Latinos and immigrants, many of whom can't establish a credit score without taking on debt. Congress should give companies permission to thicken credit reports with predictive alternative data, like payments on gas, water, electric, heating oil, cable TV, broadband, wireless cellphone bills and rent payments."

Dr. Michael Turner of the Policy and Economic Research Council (PERC) explained that there are currently 54 million American "credit invisibles"—people who have no credit report or who have insufficient information to generate a credit score. Because of their credit invisibility, these individuals have more difficulty accessing affordable sources of mainstream credit and must rely on high cost lenders, such as check cashing and payday loan companies. Dr. Turner said that one study has shown that \$3.4 billion is stripped from credit invisibles each year. Credit invisibles are overwhelmingly comprised of younger individuals, the elderly, people with low incomes, and members of minority communities.

Currently HUD and PERC are undertaking a joint study on rental payment data that includes six PHAs and various credit reporting agencies. The study is specifically looking at how reporting rental payment data will impact public housing residents. PHAs currently do not report this data to HUD. The results from the study are expected to be released in six months to a year.

Subcommittee Ranking Member William Lacy Clay (D-MO) questioned whether it was prudent to advance H.R. 4172, allowing PHAs to report rental payment data, without seeing the results from the study. Dr. Turner responded that while it might make sense to hold off on encouraging PHAs to report positive rental payment history, there is "over a decade of research based on the experience of millions of Americans that show benefits of energy, utility, and telecom data being fully reported." Given the chronic underfunding of public housing, Mr. Clay also raised concerns about PHAs' ability to maintain accurate rental payment data, and pointed out that H.R. 4172 does not include language to ensure that data is reported accurately. Dr. Turner said the processes for setting up rental data reporting would address most of Mr. Clay's concerns and that there are organizations currently working with PHAs and credit reporting agencies to help residents build credit histories.

Representative Andy Barr (R-KY) wanted to know whether residents would have the option to decide whether to have rental payment data reported.

Watch the archived hearing and read witness testimony here: <http://bit.ly/2d45fwP>

Marco Rubio Introduces HUD Inspection Reform Bill

On September 27, Senator Marco Rubio (R-FL) introduced the HUD Inspection Process and Enforcement Reform Act of 2016. This bill aims to protect low-income residents from dangerous living conditions while holding HUD accountable for prosecuting negligent property owners.

This bill would require property owners to comply with maintenance deadlines and would establish independent audits of HUD inspections. Rubio believes auditing inspections are necessary for holding HUD accountable and will result in firing incompetent landlords and inspectors.

Neglected facilities often receive passing inspection grades, which condemns residents to live in unhealthy conditions. Rubio exclaims “For too long, the slumlords at Global Ministries Foundation were able to get away with their despicable scheme in part because of HUD’s lax oversight.” Global Ministries Foundation owns several apartment complexes throughout the country and has been the subject of a federal investigation.

The proposed bill would also cut red tape, making it easier for HUD to relocate residents to protect them from potentially dangerous living conditions.

Read the full press release here: <http://bit.ly/2ddClbW>

Congress on Recess until After November Elections

The House and Senate headed back to their home states and districts for the Congressional recess, allowing lawmakers to campaign for the November elections. Congress will return from the recess on November 14 for the lame duck session.

At that time, Congress will have a number of legislative priorities to address, including enacting another Continuing Resolution (CR) or a full Fiscal Year (FY) 2017 spending bill before the current CR expires on December 9.

“This short time frame will allow Congress to complete our annual appropriations work without jeopardizing important government functions,” said House Appropriations Chairman Harold Rogers (R-KY).

NLIHC and the Campaign for Housing and Community Development (CHCDF) have urged Congress to pass clean full-year spending bills for FY17 as soon as possible.

House Speaker Paul Ryan (R-WI) has also indicated that he hopes to take up criminal justice reform when Congress returns, although it is unclear if other members of the Republican caucus are supportive of that effort.

“I’m trying to get criminal justice reform done this session of Congress,” Speaker Ryan said during a speech. “That train is on the tracks, and I’m hoping we can get that done sooner rather than later.”

Budget

Government Shutdown Averted, Congress Passes Stopgap Measure to Keep Government Open through December 9

With only two days to spare before the deadline, Congress avoided a government shutdown by passing a short-term continuing resolution (CR), set at Fiscal Year (FY) 2016 spending levels, on September 28. The CR will keep the federal government funded through December 9, and the measure now heads to the White House for President Obama's signature.

The CR passed in the Senate by a vote of 72 to 26 and in the House by a vote of 342 to 85. Lawmakers were able to reach a deal after weeks of negotiations. One of the biggest stumbling blocks was disagreement over whether and how to provide aid to Flint, Michigan to address the city's lead-tainted water system. In the end, Congress agreed to authorize aid for Flint as part of separate legislation for water infrastructure projects.

When discussing the CR on the Senate floor, Senator Barbara Mikulski (D-MD), the top Democrat on the Senate Appropriations Committee, stated, "Is it perfect? No. Is it acceptable? Yes. Is it necessary? Absolutely."

"This short time frame will allow Congress to complete our annual appropriations work without jeopardizing important government functions," said House Appropriations Chairman Harold Rogers (R-KY).

To fit under spending caps required by the Budget Control Act, the CR includes a half percent across-the-board cut to funding levels with a number of exceptions.

The measure also includes \$500 million in emergency funding to help flood victims in Louisiana and other states. The White House had requested \$2.6 billion in Disaster Recovery Community Development Block Grant funds and urges Congress to provide more aid to help flood victims when Congress returns after the November elections.

The White House and Congress now have until December 9 to either negotiate another CR or enact full FY17 appropriations bills. NLIHC strongly urges Congress to enact full-year FY17 spending bills for HUD and USDA as soon as possible. A long-term CR that extends into 2017 could cause thousands of families to lose access to stable housing and puts vital investments in affordable housing at risk

HUD

HUD Sponsoring Three Webinars about Multifamily Family Self-Sufficiency Program

HUD's Office of Multifamily Housing Programs is launching a three-webinar series focused on the new Multifamily Family Self-Sufficiency (MF FSS) program (see *Memo*, [9/6](#)). Attendees will learn the basics of the MF FSS program, best practices for running a successful program, and details of program compliance.

- **Webinar #1: Launching a Multifamily FSS Program, October 11, 1:00 – 2:30 p.m. ET**
This webinar, designed to introduce MF FSS to owners and staff of HUD-Assisted Multifamily Properties, will provide a basic overview of the program. Jeffrey Lubell and Melissa Vandawalker of Abt Associates will review basic components of the MF FSS program. Aaron Gornstein, President and CEO of Preservation of Affordable Housing, Inc., and Debbie Nutter, President of The Caleb Group, will discuss why they offer MF FSS to residents of their properties.
Registration Link for Webinar #1 at <http://bit.ly/2daXNP0>
- **Webinar #2: Best Practices in Running a Multifamily FSS Program, October 19, 12:30 – 2:00 p.m. ET**
This webinar will highlight best practices for running an effective MF FSS program. Speakers will be Sherry Riva, Founder and Executive Director of Compass Working Capital, Ann Lentell, Compass'

Director of Programs, and Nancy Scull, former director of the MF FSS program with the Housing Opportunities Commission of Montgomery County, MD.

Registration link for Webinar #2 at <http://bit.ly/2dlsu66>

- **Webinar #3: Complying with Multifamily FSS Program Requirements, October 26, 1:00 – 2:30 p.m. ET**
This webinar will review the steps that HUD-Assisted Multifamily properties must take to start and operate an MF FSS program, and to comply with reporting and other program requirements outlined in H Notice 2016-08. The webinar will be led by Danielle Garcia, Branch Chief, Subsidy Oversight, Carissa Janis, Program Analyst, and A. Rahmaan Sharper, Multifamily Representative with HUD's Office of Asset Management and Portfolio Oversight.
Registration link for Webinar #3 at <http://bit.ly/2d5Eo2v>

HUD to Webcast Convening About Proposed Lead Safe Housing Rule

HUD will webcast a convening discussing its proposed Lead Safe Housing Rule (see *Memo*, [9/6](#)). The proposed rule would enhance HUD's approach in responding to cases of children in HUD-assisted housing with an elevated blood lead level. At the convening, invited organizations, agencies, and federal partners will discuss the importance of strengthening work around childhood lead poisoning prevention. HUD Secretary Julián Castro will offer remarks, to be followed by a discussion with a panel of experts from the housing and health sectors. A set of breakout sessions will provide an opportunity for dialogue; however, breakout sessions will not be webcast and questions will only be taken from the live audience.

Date: Thursday, October 6, 2016

Time: 1:00 - 4:00 pm ET

Webcast: To view the plenary session and panel discussion via webcast,

Without Captions - http://portalapps.hud.gov/HUDMediaChannel/liveplayer_secondary.jsp

Link: With Captions - <http://portalapps.hud.gov/HUDMediaChannel/liveplayer.jsp>

Note that this link will not be live until 10 minutes before the event.

Contact Shannon Steinbauer for more information at: Shannon.E.Steinbauer@hud.gov.

Fair Housing

HUD Posts 36 AFFH FAQs

HUD posted 36 frequently asked questions (FAQs) about the Affirmatively Furthering Fair Housing (AFFH) regulation. The FAQs address: a description of AFFH and the AFFH rule, the AFFH data and mapping tool, the Assessment of Fair Housing (AFH), community participation requirements, and implementing the AFFH rule.

Three of the FAQs stress the balanced approach to AFFH, one describing it to include both place-based and mobility strategies. The first FAQ points out that place-based and mobility strategies are not mutually exclusive.

Place-based strategies may include but are not limited to:

- Making investments in segregated, high poverty neighborhoods that improve conditions and eliminate disparities in access to opportunity between residents of those neighborhoods and the rest of the jurisdiction and region.

- Maintaining and preserving existing affordable rental housing stock, including HUD-assisted housing, to reduce disproportionate housing needs.

Mobility strategies may include but are not limited to:

- Developing affordable housing in areas of opportunity to combat segregation and promote integration.
- Providing greater access to existing affordable housing in areas of opportunity, for instance through mobility counseling for Housing Choice Voucher households.
- Creating housing mobility programs that effectively connect low income residents of segregated areas to affordable housing in integrated areas, providing greater access to opportunity.

A second FAQ answers the question, “Is HUD moving away from revitalizing struggling neighborhoods?” The answer is no, HUD does not support continued disinvestment in racially and ethnically concentrated areas of poverty. Continued disinvestment in struggling areas does not promote fair housing choice or equal access to opportunity. HUD supports a balanced approach to AFFH that encourages a variety of activities that connect housing and community development policy and investment planning with meaningful actions that affirmatively further fair housing. A balanced approach includes both place-based strategies, such as revitalizing impacted neighborhoods, and mobility strategies, as appropriate depending on local context.

A third FAQ makes clear that HUD is not mandating construction of affordable housing, relocation of people to more affluent communities, or race-based quotas to achieve integration. HUD supports a balanced approach to affirmatively furthering fair housing that keeps decision making in the hands of local communities and does not impose any particular strategy for overcoming impediments to fair housing choice. However, program participants are required to take meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities free from discrimination.

The FAQs are at <http://bit.ly/2dd5ndC>

More information about AFFH is available on NLIHC’s AFFH webpage, <http://bit.ly/2dxHJtT>, and on page 7-4 of NLIHC’s *2016 Advocates’ Guide*, <http://bit.ly/1WiozGd>

HUD Issues Final Gender Identity Rule for CPD Programs

HUD published a final rule that requires housing, facilities, and services funded through programs administered by the Office of Community Planning and Development (CPD) to establish, amend, or maintain program admissions, occupancy, and operating policies and procedures in a manner to ensure equal access to programs, benefits, services, and accommodation for individuals based on their gender identity without intrusive questioning or being asked to provide documentation.

CPD currently administers the following programs: Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), Emergency Solutions Grants (ESG), Continuum of Care (CoC), Housing Opportunities for Persons with AIDS (HOPWA), national Housing Trust Fund (HTF), and Rural Housing Stability Assistance.

The rule builds upon HUD’s February 2012 final Equal Access Rule (see *Memo*, [2/3/12](#)) which defined the terms “sexual orientation” and “gender identity” and required that HUD-assisted housing, including all housing funded by CPD and housing insured by FHA, be made available to individuals and families without regard to actual or perceived sexual orientation, gender identity, or marital status. The 2012 Equal Access Rule also generally prohibited inquiries into sexual orientation or gender identity for the purpose of determining eligibility for, or availability of, such housing. HUD’s Office of Public and Indian Housing issued guidance through

Notice PIH 2014-20 on August 20, 2014 (see *Memo*, [7/20/15](#)), and the Office of Multifamily Housing Programs issued guidance through Notice H 2015-06 on July 13, 2015 (see *Memo*, [9/2/14](#)).

The 2012 Equal Access Rule provided a limited exception in cases involving single-sex emergency shelters with shared sleeping areas or bathrooms. At the time, HUD did not adopt a national policy on the placement of transgender and gender nonconforming persons in temporary, emergency shelters with shared sleeping quarters or shared bathing facilities. Instead, HUD wanted to conduct research and monitor its programs to determine whether additional guidance or national policy was needed to ensure equal access for transgender and gender nonconforming persons. In the meantime, CPD issued Notice CPD-15-02 on February 20, 2015 providing guidance on how best to provide shelter for transgender people in single-sex facilities receiving funds from ESG, CoC, and HOPWA (see *Memo*, [3/22/15](#)). The CPD Notice clarified that HUD expected recipients and subrecipients under these programs to base placement decisions on the gender with which a person identifies.

As a result of its review, HUD concluded that the 2012 Equal Access Rule did not adequately address the significant barriers faced by transgender and gender nonconforming persons. Therefore, on November 20, 2015, HUD issued a proposed rule to address those barriers (see *Memo*, [12/7/15](#)). In response to public comment, the final rule made a number of changes to 24 CFR Part 5.

The final rule modifies the definition of “perceived gender identity” at Section 5.100 by adding “identification in documents” to the proposed definition, so that “Perceived gender identity means the gender with which a person is perceived to identify based on that person’s appearance, behavior, expression, other gender related characteristics, or sex assigned to the individual at birth, or identified in documents.” The preamble to the final rule explains that transgender persons often encounter difficulty obtaining accommodations that accords with their gender identity because identification documents often indicate an individual’s sex at birth instead of an individual’s gender identity.

Section 5.105(a)(2)(ii) of the 2012 Equal Access Rule prohibited inquiries about an individual’s sexual orientation or gender identity. However, Notice CPD-15-02 allowed such inquiries so that a provider could determine the most appropriate placement for someone seeking housing. HUD later concluded that providers might not make the inquiries allowed by Notice CPD-15-02 out of concern for violating the 2012 Equal Access Rule. Therefore the proposed rule sought to eliminate the prohibition on inquiries related to sexual orientation or gender identity. As explained in the preamble to the proposed rule, eliminating the prohibition allows shelters and other facilities with physical limitations or configurations that require shared sleeping quarters or shared bathing facilities to ask an individual’s gender identity. The final rule no longer has language prohibiting inquiries related to sexual orientation or gender identity.

Section 5.106(b) addresses admissions, occupancy, and operating policies and procedures. The final rule adds a provision that policies and procedures must ensure that individuals are not subjected to intrusive questioning or asked to provide anatomical information or documentary, physical, or medical evidence of the individual’s gender identity.

The proposed rule at Section 5.106(c) would allow alternative accommodation for a transgender individual if necessary to ensure health and safety. However, public comments expressed concern that this exception could be inappropriately used by facility staff or other occupants to assert that transgender individuals could be the cause for health and safety concerns. Therefore, the final rule removes the exception. The final rule also removes the proposed rule’s Section 5.106(d) which would have required equivalent alternative accommodations or referrals to comparable alternatives that meet the needs of a transgender person requiring alternatives in order to ensure their health and safety as would have been allowed under the now deleted Section 5.106(c).

The final rule is at <http://bit.ly/2da5GEh>

HUD's LGBT Homeless webpage has additional information of individuals and service providers at <http://bit.ly/2dfcqRR>

HUD Issues Limited English Proficiency Fair Housing Guidance

HUD's Office of General Counsel has issued a memorandum providing guidance discussing how the Fair Housing Act applies to a housing provider's consideration of a person with limited English proficiency (LEP), the limited ability to read, write, speak or understand English. The Fair Housing Act prohibits both intentional housing discrimination and housing policies and practices that have an unjustified discriminatory effect because of race, national origin, color, sex, family status, disability, and religion. People with limited English proficiency are not a protected class under the Fair Housing Act. However, there is a close link between LEP and certain racial and national origin groups.

Because of this close link, selective application of a language-related policy, or use of LEP as a pretext for unequal treatment of individuals based on race or national origin violates the Fair Housing Act. In addition, restrictions on access to housing based on LEP are likely disproportionately to burden certain protected classes, and if not legally justified may violate the Fair Housing Act under a discriminatory effects theory (see *Memo*, [6/29/15](#)). Numerous court decisions are cited throughout the guidance.

The memorandum notes that although language discrimination is not necessarily national origin discrimination, national origin discrimination includes discrimination because an individual has the physical, cultural, or linguistic characteristics of persons from a foreign geographic area. Thus, courts have found a connection between language requirements and national origin discrimination. In addition, as with language discrimination, discrimination against non-citizens or against those with a particular immigration status is not national origin discrimination, but a requirement involving citizenship or immigration status will violate the Fair Housing Act when it has the purpose or unjustified effect of discriminating on the basis of national origin.

Regarding intentional discrimination, suspect practices include advertisements containing blanket statements such as "all tenants must speak English," or turning away all applicants who are not fluent in English. The guidance, citing a court decision, notes that LEP persons may speak English well enough to conduct essential housing-related matters, or have a household member who can provide assistance as needed, making a blanket refusal to deal with LEP persons in the housing context unlikely to be motivated by genuine communication concerns.

Regarding discriminatory effects, the guidance states that a housing provider violates the Fair Housing Act when the provider's policy or practice has an unjustified discriminatory effect, even when the provider had no intent to discriminate. Determining whether a policy or practice has a discriminatory effect involves the three-step, burden-shifting legal evaluation of the statistical evidence of a discriminatory effect (see *Memo*, [2/8/13](#)). First, an LEP person, or HUD in an administrative proceeding, must prove that the housing provider's policy or practice has a discriminatory effect, a disparate impact on a group of persons because of national origin, race, or other protected characteristic. Second, the housing provider must prove that the policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. Assertions based on generalizations or stereotypes about LEP persons will not satisfy this burden. If the second step is demonstrated by the housing provider, then the LEP person or HUD must prove that there is a less discriminatory alternative policy or practice.

Discussing the second step, the guidance states that English proficiency is likely not necessary in the landlord-tenant context where communications are not particularly complex or frequent, or where for example, a landlord employs a management company with multilingual staff or otherwise can access language assistance. In the seller-buyer context, refusing to allow an LEP borrower to have mortgage documents translated, or refusing to provide the borrower with translated documents that the lender or mortgage broker has readily available, is likely not necessary to achieve a substantial, legitimate, nondiscriminatory interest. Likewise,

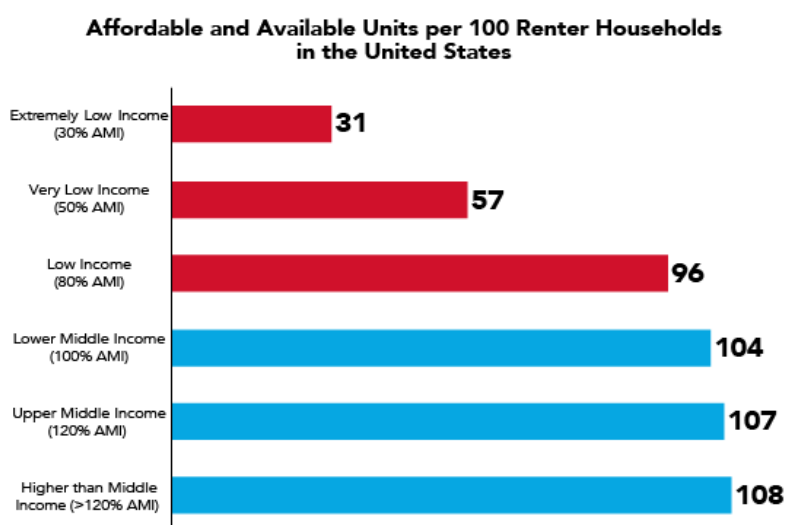
restricting a borrower's use of an interpreter, or requiring that an English speaker cosign a mortgage, likely will not prove justifiable.

Discussing the third step, the guidance states that allowing a tenant (or home-buyer or mortgage-borrower) a reasonable amount of time to take a document such as a lease to be translated, could be a less discriminatory alternative. Other less discriminatory alternatives in an LEP case might include obtaining written or oral translation services or drawing upon the language skills of staff members. Similarly, if the family has a member who speaks English or brings another person along to interpret, agreeing to communicate through these individuals could be an alternative to refusing to deal with anyone who does not speak English.

The guidance memorandum is at <http://bit.ly/2cuYZAr>. HUD's LEP webpage is at <http://bit.ly/2d4kkOO>.

Fact of the Week

Affordable and Available Units Per 100 Renter Households in the United States



Source: NLIHC tabulations of ACS 2014 PUMS data.

Source: NLIHC tabulations of ACS 2014 PUMS data

From the Field

Georgia Makes Significant Strides in Criminal Justice Reform

Over the past five years, Georgia Governor Nathan Deal (R) has launched criminal justice reform efforts that have made Georgia an exemplar in reentry innovation and recidivism reduction.

Housing advocates have mobilized around Governor Deal's initiatives and have used the momentum from his efforts to push for housing programs targeted towards reducing recidivism. Advocates, including Paul Bolster of the Georgia Supportive Housing Alliance, Elizabeth Appley of Housing Georgia, and Doug Ammar of the Georgia Justice Project, formed a Reentry Housing Working Group. The working group—comprised of housing advocates, government officials, service providers, and others—will analyze and advocate for programs and policies that support successful reentry for returning citizens that will enable them to be successfully restored to their communities, reduce recidivism, promote public safety, and conserve limited public resources.

The Reentry Housing Working Group recently submitted thirteen recommendations to the Governor's Criminal Justice Reform Council that included steps the state of Georgia could take in order to build on its early success in supporting returning citizens through housing programs.

Specifically, the working group urged the state to publicize HUD's guidance on blanket bans of those with criminal records (see Memo, [4/11](#)) and to develop and promote rules to monitor compliance with the HUD guidance.

The working group also recommended that the state expand and build upon many of Georgia's existing programs to better meet the needs of returning citizens. One such program, the Reentry Partnership Housing (RPH) program—which is designed to provide housing to individuals on parole—has the capacity to assist 500 individuals at any given time and provides landlords with limited stipends for up to three months. The working group has recommended that the program be expanded to serve more individuals for longer periods of time.

Similarly, the working group urged Georgia to build upon its Housing Voucher Program, which serves individuals with severe and persistent mental illness (SPMI), by developing a pilot voucher program for returning citizens with a diagnosis of SPMI. Georgia requires individuals with SPMI to secure permanent housing prior to be released on parole. The proposed voucher program would target individuals who are otherwise eligible for parole, but don't have access to housing.

Beyond expanding existing programs, the Reentry Housing Working Group has also made a recommendation to establish new programs for returning citizens. The working group proposed an income tax credit for landlords who house returning citizens, modeling their proposed program after a recently established tax credit for employers who provide parolees with employment within one year of release. The tax incentive would help expand the supply of available housing for returning citizens.

In addition, the working group is also calling on the state of Georgia to help reduce housing barriers for individuals leaving prison by granting the Department of Criminal Supervision (DCS) the authority to issue Completion Certificates. These certificates would reduce landlords' liability in leasing to returning citizens, making landlords more likely to do so. By allowing DCS to issue these certificates, an ability currently restricted to the Department of Corrections, Georgia would enable individuals currently on parole or probation to benefit from the program and the increased likelihood for housing security it provides.

Together, the working group's recommendations, which also include provisions for state identifications, expedited restoration of SSI/SSDI and post-incarceration inclusion in Medicaid, in-reach programs, and local reentry coalitions, have the potential to strengthen the reform system, reducing recidivism and lowering the cost of Georgia's criminal justice system.

The recommendations of Georgia's Reentry Housing Working Group represent the types of innovative programs needed across the country. In order for criminal justice reform to be successful, we must ensure housing programs for returning citizens are in place. By investing in housing for those leaving the criminal justice system, Georgia would create a model for the rest of the country.

For more information on the Reentry Housing Working Group, contact Paul Bolster at bolster@bellsouth.net.

NLIHC News

NLIHC Seeks Fall Research Intern

NLIHC is accepting applications for the fall 2016 research internship position. Interns are highly valued and fully integrated into our staff work. We seek students passionate about social justice issues, with excellent writing and interpersonal skills, and preferably with quantitative research experience.

The NLIHC Research Intern assists in ongoing quantitative and qualitative research projects, writes weekly articles on current research for *Memo to Members*, attends briefings, and responds to research inquiries.

This position runs until December and is at least 20-30 hours a week. Two semester placements are possible. NLIHC provides modest stipends.

A cover letter, resume, and writing sample are required for consideration. In your cover letter, please indicate that you are applying for the fall 2016 research internship.

Interested students should send their materials to: Paul Kealey, chief operating officer, National Low Income Housing Coalition, 1000 Vermont Avenue, NW, Washington, DC 20005 via email to pkealey@nlihc.org.

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