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April 11, 2016

Regulations Division

Office of General Counsel

Department of Housing and Urban Development

451 7th Street SW

Room 10276

Washington, DC 20410-0500

Via regulations.gov

Re: Docket No. FR-5904-N-02. Strengthening Oversight of Over-Income Tenancy in Public Housing Advance Notice of Proposed Rulemaking; Reopening of Comment Period.

To whom it may concern:

The National Low Income Housing Coalition (NLIHC) is an organization whose members include state and local 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 focus on what is in the best interests of people who receive and those who are in need of federal housing assistance, especially extremely low income (ELI) people and people who are homeless.

NLIHC holds as a fundamental principle, the necessity of federal housing policy to meet the affordable housing needs of low income people, especially ELI renters. In the context of HUD's Advanced Notice of Proposed Rulemaking (ANPR) regarding over-income policies in public housing, NLIHC's position requires a delicate balance between two goals – maintaining housing stability for those who have affordable housing, and addressing the crushing need for affordable housing for those who lack it.

As research demonstrates, affordable housing is the foundation for a host of objectives, such as improved health, educational attainment, and employment. Housing stability is crucial; efforts by public housing residents to seek economic self-sufficiency should be rewarded, not discouraged. Because family and employment circumstances often vary within the course of a year, assessing household income should be considered over a longer period of time.

Dedicated solely to achieving socially just public policy that assures people with the lowest incomes in the United States have affordable and decent homes

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Housing stability must be balanced by the staggering need for affordable housing. Waiting lists for public housing and vouchers are exceedingly long. There is a shortage of 7.2 million units of rental housing that is both affordable and available to ELI households. Seventy-five percent of ELI renter households spend more than half of their income for rent and utilities. The ANPR solicits comments on how to structure policies to reduce the number of individuals and families whose income significantly exceed the income limit and have significantly exceeded the income limit for a sustained period of time after initial admission to public housing.

At this time, NLIHC believes that the guidance HUD provided to Public Housing Agencies (PHAs) in the September 3, 2015 letter from Principle Deputy Assistant Secretary Ramirez is sufficient. If HUD decides to move forward with a proposed regulation, NLIHC recommends that, rather than devise a fixed, uniform over-income policy for the nation HUD should instead craft a policy that requires PHAs to conduct assessments on a case-by-case basis, guided by a range of measures that PHAs must consider.

The balance of this letter responds to the key questions posed by the ANPR.

Area cost of living, family finances, local housing market, wait list data as considerations

Two of the ANPR questions ask whether data about area cost of living, the local housing market, wait list data, and family finances should be taken into consideration. All of these factors must be considered, but they will vary from market to market and over time. It might be too difficult to compile and utilize reliable factors to enter into an equation for suggesting when a household that is significantly over income for a sustained period of time could be able to successfully move to an affordable market-rate home. Therefore, HUD should not attempt to formulate such an equation. If HUD can provide PHAs with some research that might be indicative, albeit not determinative, such data might assist PHAs when using their discretion regarding over-income tenants.

Income "significantly" exceeding the income limit for admission to public housing

NLIHC supports the language included in the "Housing Opportunities Through Modernization Act" (H.R. 3700), which passed the House unanimously in February. HR 3700 would impose housing assistance limits for households with incomes above 120% of the poverty level.

Period of time in which the household has had income that significantly exceeds the income limit for admission to public housing

H.R. 3700 proposes and NLIHC supports a two-year period, recognizing the precariousness of employment that many low income people experience, as well as situations in which adult children become employed but eventually move to their own apartments.

Period of time to find alternative homes

It is difficult to arrive at a fixed period of time, or even a range, because circumstances are likely to vary greatly from locality to locality and time to time. As advocates, we are aware of how difficult it is for households with Housing Choice Vouchers to secure a home in the time frame generally allotted.

Ability to return

If HUD proceeds with a proposed rule, there should be provisions that enable a household to be re-admitted to public housing or receive a voucher should the household's income significantly decline for a sustained period of time.

HUD should require a rigorous relocation plan

If HUD proceeds with a proposed rule, NLIHC strongly recommends that the rule require PHAs to develop a rigorous relocation plan for households that might ultimately be required to leave public housing. Such a relocation plan should mirror the provisions of relocation plans for public housing residents required to move due to PHA actions. Assistance in locating decent, safe, affordable, and comparable homes must be a component of implementing any required or discretionary over-income policy – enhanced with mobility counseling so that the affected household considers moving to an area of high opportunity, consistent with the PHA's obligation to affirmatively further fair housing.

Thank you for the opportunity to comment on this important matter. If you have any questions, please feel free to reach out to me or to Ed Gramlich, Senior Advisor, at egramlich@nlihc.org.

Sincerely,

A handwritten signature in cursive script that reads "Diane Yentel".

Diane Yentel
President and CEO