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Nlihc 2016 Housing Policy Forum

Passing of Torch at NLIHC's 2016 Housing Forum April 3-6

Bid a fond farewell to retiring NLIHC President and CEO Sheila Crowley and welcome the new CEO at NLIHC's 2016 Policy Forum: *Overcoming Housing Poverty, Achieving Housing Justice*. The NLIHC Board of Directors expects to be able to introduce the new President at the Forum

The Forum, which will take place in Washington DC on April 3-5, 2016, will bring together housing and homeless advocates and policy experts to discuss implementing the National Housing Trust Fund and Affirmatively Furthering Fair Housing, the latest research, housing in the elections and in the media, and much more.

Special Session for Low Income Residents: This year's Forum will feature a special three hour session for low income residents that will cover Section 3, RAD, and the preservation vs. mobility debate on Sunday, April 3 from 9 am to 12 noon. If you are a low income resident who is attending the Forum, please plan on arriving no later than 9am on Sunday, April 3 to take advantage of this session!

Special Hotel Scholarships Available: A limited number of shared-lodging hotel scholarships (covering 3-4 nights at the Washington Court Hotel) are available for NLIHC low income members who are self-paying. They will be offered on a first-come, first serve basis. Contact Renee Willis 202-662-1530 x247 or rwillis@nlihc.org.

For more information about the Forum, go to <http://nlihc.org/events/forum>

Registration for the Forum is available at: <http://nlihc.org/events/forum/registration>

Housing Policy: 2015 Review and 2016 Outlook

In many ways 2015 was a significant year for NHTF's policy agenda, even with a Congress generally characterized as "do-nothing." As the country begins a presidential election year and extreme partisanship continues to reign in Washington, much work remains to protect, improve, and expand low income housing programs.

The House began the second session of the 114th Congress on January 5, and the Senate will gavel-in for 2016 on January 11. Intermittent work weeks are the norm until April, after which both the Senate and House plan to be in session regularly until mid-July.

National Housing Trust Fund

Just prior to the start of 2015, Federal Housing Finance Agency Director Mel Watt lifted the temporary suspension on the 4.2 basis point assessment on the new business of Fannie Mae and Freddie Mac designated for the National Housing Trust Fund. With Fannie Mae and Freddie Mac required to set aside funds for the NHTF beginning on January 1, 2015, HUD published the long-awaited regulations implementing the NHTF on January 30 (proposed regulations were published on October 29, 2010).

Reaction from NHTF opponents in Congress was swift, but the NHTF campaign managed to fend off all attempts to raid the NHTF or otherwise prevent HUD from implementing it. We open 2016 with a clear path forward to implementation.

Funds set aside for the NHTF will be transferred by Fannie Mae and Freddie Mac 60 days after January 1, 2016. HUD will use the statutory formula to determine how much of those funds to transfer to each state, the District of Columbia, and the territories (grantees), and then publish a notice in the *Federal Register*. NLIHC's unofficial estimate is that the total NHTF allocation will be around \$200 million.

Once that notice is published, the grantees will begin the formal process of engaging the public and preparing their NHTF Allocation Plans. HUD is supposed to issue sub-regulatory implementation guidance regarding the Allocation Plan, maximum per-unit subsidy, and use of NHTF resources for operating assistance in the spring. Grantees will submit their Allocation Plans to HUD.

HUD Secretary Julián Castro has stated he wants to be able to distribute the funds during the summer of 2016, setting a tight timetable for advocates to influence their states' Allocation Plans.

Meanwhile, NLIHC continues to work on other more robust sources of funding for the NHTF through housing finance reform and mortgage interest deduction reform. In housing finance reform legislation, the goal is to make sure that the NHTF is protected and well-funded in whatever housing finance reform legislation eventually emerges. While there have been a few bills introduced to reform the government sponsored enterprises (GSEs), Fannie Mae and Freddie Mac, only one offers a comprehensive proposal for reform. No hearings held in either chamber in 2015 to discuss reform measures.

The one bill that laid out a comprehensive approach to reforming the GSEs was introduced by Representatives John Delaney (D-MD), John Carney (D-DE), and Jim Himes (D-CT). H.R. 1491, "The Partnership to Strengthen Homeownership Act," would, if enacted, provide more than \$4 billion annually to the NHTF.

Several measures introduced in 2015 would end the Treasury's sweep of Fannie and Freddie's profits and allow the GSEs to recapitalize. The Obama Administration opposes recapitalizing the GSEs, and the bills stand little chance of being enacted in 2016.

The omnibus FY16 spending bill contained an amendment from Senators Bob Corker (R-TN) and Mark Warner (D-VA) that is meant to "jump start" the debate around housing finance reform. The amendment prohibits the Department of Treasury from selling any Fannie Mae and Freddie Mac stock options without Congressional approval, blunting efforts by hedge funds and some civil and consumer rights advocates to convince the Administration and the Federal Housing Finance Agency to recapitalize Fannie and Freddie. NLIHC supports the prohibition on the sale of stock and recapitalization of the GSEs, and continues to support comprehensive housing finance reform because such reform offers the best opportunity to secure substantial new non-appropriated funding for the NHTF in the coming years.

Senators Corker and Warner, members of the Senate Banking Committee, and key proponents of housing finance reform have stated that reform of the GSEs is unlikely to occur in 2016. However, the amendment to the omnibus spending bill may prime the legislative environment for reforms in the future.

NLIHC continued to pursue major funding for the NHTF through federal tax reform. Modifications to the mortgage interest deduction (MID) are the basis of the United for Homes campaign to fund the NHTF and H.R. 1662, the "Common Sense Housing Investment Act" introduced by Representative Keith Ellison (D-MN). At the end of 2015, there were six cosponsors of H.R. 1662. The Ellison bill serves as a marker for how to reform the MID when comprehensive tax reform takes place, which is highly unlikely to occur in 2016.

At the beginning of the 114th Congress, the Senate Finance and House Ways and Means Committees set their sights on comprehensive tax reform. These efforts stalled during the summer of 2015 and neither committee has introduced legislative proposals for reform of the tax code. The Senate Finance Committee established working groups early in 2015 to examine overhauling the tax code and to draft reports with policy recommendations. In response to the Committee's request for comments from stakeholders and members of the public, NLIHC

submitted the United for Home's proposal to reduce the portion of a mortgage eligible for tax relief from \$1 million to \$500,000 and to convert the mortgage interest deduction to a nonrefundable tax credit. The final Senate Committee working group reports fell far short of the scope and detail originally expected, and did not mention reform of the mortgage interest deduction.

FY16 Federal Budget

In 2015, Congress raised the sequester spending caps for both FY16 and FY17. The new caps provided enough fiscal relief to allow enactment of an FY16 omnibus appropriations bill on December 18. HUD programs fared better than they would have had the caps not been lifted, but funding levels for all HUD programs are still far below what is needed. Noteworthy is that the HOME program received an increase over FY15 in the final bill, after being all but eliminated in an earlier version of the HUD appropriations bill.

The new spending agreement provides flat funding for nondefense discretionary (NDD) funding from FY16 to FY17. If the sequester spending caps had not been raised, the FY17 NDD spending limit would have been \$503.5 billion. The agreement to lift the caps raised FY17 NDD spending to \$526.5 billion, equal to the total NDD funding level for FY16. According to the Center on Budget and Policy Priorities, NDD spending for FY17 would be its lowest level as a share of the economy since 1962, when reliable data began to be recorded.

President Barack Obama will submit his FY17 request for federal spending to Congress on February 9, marking the start of federal wrangling over discretionary spending levels. House Budget Committee Chair Tom Price (R-GA) has said he hopes to have the FY17 budget resolution enacted by mid-March when House Speaker Paul Ryan (R-WI) hopes to start moving appropriations bills on the House floor. Speaker Ryan wants to complete all appropriations work by the start of the new fiscal year on October 1.

Complicating efforts to complete FY17 bills on time, in addition to the flat spending caps for FY17 and that 2016 is an election year, is last year's enactment of legislation to make a variety of tax breaks permanent. The new tax extender law is projected to add about \$680 billion to the deficit by 2025. These tax expenditures were not offset with new revenues or other spending cuts and will therefore make more difficult Congress's commitment to balance the budget in 10 years.

Fair Housing

2015 was a banner year for fair housing in the United States.

On June 25, the U.S. Supreme Court upheld of the disparate impact standard in housing discrimination in a 5-4 decision on *The Texas Department of Housing and Community Affairs v The Inclusive Communities Project*. The Inclusive Communities Project (ICP) sued the Texas Department of Housing and Community Development over the siting of most Low Income Housing Tax Credit properties in predominately low income, black communities. At issue was whether the Fair Housing Act of 1968 bars not just intentional discrimination but also policies and practices that have a "disparate impact," i.e., that do not have a stated intent to discriminate but that have the effect of discriminating against the Fair Housing Act's protected classes of race, color, national origin, religion, sex, familial status, or disability.

On the heels of the landmark Supreme Court decision, HUD released the long-awaited final rule implementing the Fair Housing Act of 1968's obligation for jurisdictions receiving federal funds for housing and urban development to affirmatively further fair housing (AFFH) on July 16. The Fair Housing Act not only makes it unlawful for jurisdictions to discriminate; it also requires jurisdictions to take actions that can undo historic patterns of segregation and other types of discrimination, as well as to take actions to promote fair housing choice and to foster inclusive communities. Congressional attempts to thwart implementation of AFFH in the FY16 appropriations process failed.

On the last day of 2015, HUD published the final AFFH Assessment Tool that local governments must use in order to submit an Assessment of Fair Housing (AFH) under the new AFFH regulations. HUD also issued a 219-page *Affirmatively Furthering Fair Housing Rule Guidebook*, launched the AFFH data and mapping tool, and redesigned its AFFH webpage.

The new AFFH rule's obligation to submit an Assessment of Fair Housing (AFH) will officially commence when 22 jurisdictions will be required to submit an AFH in 2016. Only 105 jurisdictions will have to submit an AFH in 2017, with the majority following in 2019. However, nothing prohibits a jurisdiction from complying with the new AFFH rule before its required start date.

In other Fair Housing actions, HUD issued Notice H 2015-06 on July 13, which provides guidance on how the Equal Access Rule applies to HUD Multifamily-insured and assisted housing. The Equal Access Rule, published on February 3, 2013, is intended to ensure that housing across all HUD programs is open to everyone regardless of actual or perceived sexual orientation, gender identity, or marital status. The rule applies to owners or administrators of HUD-assisted or HUD-insured housing, lenders in FHA mortgage insurance programs, and other recipients or sub-recipients of HUD funds. The Notice reiterates key features of the Equal Access Rule, including prohibiting asking people about their sexual orientation or gender identity for the purpose of determining eligibility or otherwise making housing available.

On October 21, HUD published proposed amendments to its fair housing regulations intending to protect individuals who experience harassment in housing. The courts and HUD have long considered harassment based on race, color, national origin, religion, sex, family status, and disability to be prohibited under the Fair Housing Act. The proposed rule would add definitions of the terms "quid pro quo" ("this for that") harassment and "hostile environment" harassment to the existing regulation, provide examples of such harassment, specify how HUD would evaluate complaints, and clarify standards for direct liability. Quid pro quo harassment occurs when a person is subjected to an unwelcome request or demand because of the person's protected characteristic and when acquiescing to the request or demand is either explicitly or implicitly made a condition related to the person's housing.

Finally, HUD released a proposed rule on November 20 that would allow transgender people or those who do not identify with the sex they were assigned at birth to access HUD-supported programs, benefits, services, and accommodations in accordance with their gender identity.

Public and Assisted Housing

The only legislative activity in 2015 on public and assisted housing was H.R. 3700, the "Housing Opportunity through Modernization Act of 2015." The bill was introduced on October 7 by Housing and Insurance Subcommittee Chair Blaine Luetkemeyer (R-MO) and currently has 11 cosponsors including Subcommittee Ranking Member Emanuel Cleaver (D-MO) and two other Democrats. This sweeping assisted housing reform bill was considered and passed by the House Committee on Financial Services on December 10.

The bill met little opposition until it reached mark-up in Committee on December 9, when Committee Ranking Member Maxine Waters (D-CA) voiced strong opposition to the bill's provisions to change medical care and child care expenditure deduction policies. During the Committee's final vote on the bill, which was amended to protect residents who might be affected by the deduction policy changes, ten Democrats opposed the bill. House floor consideration of the bill could come as soon as late January or early February. Action by the Senate is unknown.

On the regulatory side, HUD published a substantially revised Rental Assistance Demonstration (RAD) Notice on June 15. The revision, PIH 2012-32 REV-2, incorporates changes authorized by the FY15 Appropriations Act, including increasing the number of public housing units that can be converted through RAD from 60,000

to 185,000 units. The revised Notice refines the meaning of “ownership and control” of post-conversion projects, an improvement that has the potential to address concerns expressed by many residents that their public housing homes could be privatized after RAD conversion. The revised Notice also presents fair housing features upfront. In December, HUD announced that it had reached its Congressional cap of 185,000 public housing units receiving preliminary approval for conversion under RAD.

HUD staff now are working to update RAD guidance. The goals are to provide upfront civil rights reviews, provide better tracking of residents temporarily relocated while their homes are being renovated so that they do not become “lost” and therefore unable to return, and review requests for new construction to ensure that new developments do not change income mixes or occupancy types. In addition, HUD will be a RAD Resident Toolkit and will seek comments before final publication.

On August 20, HUD published the long-awaited final rule amending the Housing Choice Voucher (HCV) portability regulations. The purpose of the amendments is to clarify existing requirements, streamline the portability process for public housing agencies (PHAs), and make it easier for families with vouchers to relocate to areas that may offer greater opportunities. Portability allows a family with a voucher to use it to rent a home anywhere in the country where a PHA operates a HCV program.

On November 12, HUD issued a proposed rule that would require all PHAs and public housing properties to be smoke-free within 18 months of a final smoke-free rule. The proposed rule would require PHAs to prohibit lit tobacco products in all living units, indoor common areas, and in PHA administrative office buildings. PHAs could choose to restrict smoking to outdoor dedicated smoking areas or to make their grounds entirely smoke-free.

HUD’s fall 2015 Regulatory Agenda lists rules on public housing demolition/disposition, forming public housing agency consortia, and using small area fair market rents (SAFMRs) as expected in 2016

Housing Plus Services

On homelessness, efforts were made in the Senate to pass the “Runaway and Homeless Youth and Trafficking Prevention Act” (S. 262) that would reauthorize the Runaway and Homeless Youth Act (RHYA) and add new provisions. Authorization for RHYA expired on September 30, 2013. The bill’s authors, Senators Patrick Leahy (D-VT) and Susan Collins (R-ME), recently offered S.262 as an amendment to a broader human trafficking bill, but the amendment failed to pass by four votes. Homeless advocates will continue to push for passage of S. 262 in 2016.

On December 4, HUD issued a final rule on the definition of “chronically homeless” used in the Continuum of Care Program and in the Consolidated Plan. The final rule made changes to the July 31, 2012 interim rule, intending to align the period of time of those experiencing occasional homelessness with that of those experiencing continuous homelessness.

On jobs, HUD’s Office of Fair Housing and Equal Opportunity published proposed changes to the Section 3 regulations on March 27. The purpose of Section 3 of the Housing and Urban Development Act of 1968 is to ensure that when HUD assists housing and community development projects, preference for some of the new jobs, training, and contracting opportunities that are created go to low income people and to the businesses that hire them, “to the greatest extent feasible.” Advocates have long urged HUD to revise the Section 3 regulations in order to make them more effective and the proposed changes to the regulations attempt to achieve such improvements. Final regulations are expected in 2016.

On April 1, HUD published proposed regulations implementing the “Violence Against Women Act Reauthorization of 2013” (VAWA 2013). As originally enacted in 1994, VAWA did not apply to HUD programs. When VAWA was reauthorized in 2005 (VAWA 2005), the public housing and Section 8 programs

became subject to the law. VAWA 2013 would apply VAWA protections to most other HUD programs. Again, final regulations are expected in 2016.

Low Income Housing Tax Credit

Advocates of the Low Income Housing Tax Credit (LIHTC) Program received good news at the end of the year when President Obama signed into law a broad tax extenders bill that included a provision permanently extending the 9% credit floor for new construction or substantial rehabilitation projects that receive tax credits. Without the extension, LIHTC projects would have continued to receive a floating tax credit rate based on the federal cost of borrowing. The bill did not establish a minimum fixed 4% tax credit rate for acquisition projects.

In 2016, LIHTC advocates are likely to continue to urge Congress to establish a minimum 4% credit rate for acquisition projects and to expand the supply of credits available to housing developers. NLIHC will continue to push our proposal that would allow for a third income targeting criterion to allow developers to better utilize cross subsidization. The new income targeting option would require at least 40% of the units in a project be occupied by residents with incomes averaging no more than 60% of the area median income (AMI), with at least 30% of the units rent-restricted and occupied by tenants with incomes at or below 30% of AMI. No rent-restricted units would include households with incomes above 80% of AMI. NLIHC's proposal recommends that properties that choose this option receive a 50% basis boost.

Criminal Justice Reform

In November 2015, the Obama administration announced new actions to promote the rehabilitation and reintegration for formerly-incarcerated inmates, including new pilot efforts to house people coming out of prison. These new programs will examine cost-effective ways to help people cycling between the criminal justice and homeless services systems, make new permanent supportive housing available for the reentry population, and help eligible public housing residents under the age of 25 expunge or seal their criminal records.

Along with this announcement, HUD released new guidance to Public Housing Authorities (PHAs) and owners of HUD-assisted housing that clarifies the use of arrest records to determine who can live in their properties. The guidance makes clear that HUD does not require PHAs and other housing owners to adopt or enforce "one strike" policies that deny admission to anyone with a criminal record or that require families to be automatically evicted any time a household member engages in criminal activity in violation of the lease.

Criminal justice reform has become an increasingly bipartisan issue in recent years, and Congress could agree on legislation in 2016. Both President Barack Obama and Senate Majority Leader Mitch McConnell have highlighted criminal justice reform as a priority for this year. Goals include reducing mandatory-minimum sentences for drug offenders and helping prisoners integrate successfully into their communities to reduce recidivism rates. Any reform efforts must address the housing needs of the returning prisoners that ensures they do not become homeless or recidivate.

National Housing Trust Fund

HUD Guidance on Using NHTF, HOME, and CDBG for Broadband Infrastructure

HUD updated its National Housing Trust Fund (NHTF) Frequently Asked Questions (FAQs) on December 30, 2015 to clarify that NHTF money may be used for installing broadband infrastructure. On the same day, HUD also issued a similar FAQ for the HOME program. On January 7, HUD issued CDBG broadband FAQs.

As part of NHTF-assisted new construction or rehabilitation, the existing NHTF regulations allow NHTF money to be used to make utility connections from the property line to the adjacent street. In the new FAQ, HUD interprets internet connectivity to fit the regulatory definition of “utility connections.” The FAQ states that NHTF money may not be used for off-site improvements, including running broadband internet cable or wires to the project site.

The existing regulations allow NHTF money to be used at multifamily projects to construct or rehabilitate community facilities that are located in the same building as the NHTF-assisted housing and that are for the use of project residents. The FAQ states that NHTF money may be used to provide a computer room or a multi-purpose room that could serve as a computer room in a multifamily rental project, but cannot be used to pay for a computer room located in separate building. NHTF money also may not be used to purchase computer equipment or other computer-related furniture.

The uses of HOME and CDBG for broadband are more varied and include services such as digital literacy classes.

The NHTF FAQ regarding broadband infrastructure is on page 9 of the December 30, 2015 FAQ at <https://www.hudexchange.info/resources/documents/HTF-FAQs.pdf>

The HOME broadband infrastructure FAQ is at <https://www.hudexchange.info/onecpd/assets/File/HOME-FAQs-Broadband.pdf>

The CDBG broadband infrastructure FAQs are at <https://www.hudexchange.info/resource/4891/cdbg-broadband-infrastructure-faqs/>

FEDERAL BUDGET

New Infographics Illustrate Federal Budget

The Congressional Budget Office has released a set of infographics on FY15 spending and revenues and revenue and spending trends since FY95. The graphics show breakouts of the \$3.7 trillion in federal spending and the \$3.2 trillion in revenues in FY15. They depict federal revenues and discretionary and mandatory spending, as well as the federal deficit and debt. Federal spending for housing represents a portion of the \$583 billion spent in FY15 on nondefense discretionary programs.

The infographics are quite helpful in explaining the difference between mandatory and discretionary spending, and the federal deficit.

The graphics are available at https://www.cbo.gov/publication/51114?utm_source=feedblitz&utm_medium=FeedBlitzEmail&utm_content=855024&utm_campaign=0

National Housing Law Project Summarizes FY16 Appropriations Bill Housing Preservation Provisions

The National Housing Law Project has produced a 13-page overview of the FY16 HUD funding bill, primarily focusing on provisions related to the preservation of multifamily assisted housing. The summary reviews funding levels and policy provisions, including the bill’s treatment of tenant protection vouchers, maintenance of assistance for troubled project-based properties, transfer of project-based assistance, the Rental Assistance Demonstration, and HUD enforcement protocols for properties with low Real Estate Assessment Center scores, among others.

Read the NHP summary at http://nlihc.org/sites/default/files/NHLP_Summary-of-HUD-FY16-Preservation.pdf

HUD

HUD Publishes Final AFFH Assessment Tool, and Other AFFH Resources

On December 31, HUD issued the final version of the Assessment Tool that local governments must use to submit an Assessment of Fair Housing (AFH) under the new Affirmatively Further Fair Housing (AFFH) regulations. It appears in a notice in the *Federal Register*. HUD also issued a 219-page *Affirmatively Furthering Fair Housing Rule Guidebook*, launched the AFFH data and mapping tool, and redesigned its AFFH webpage.

The Assessment Tool is a series of questions designed to help local governments identify racially and ethnically concentrated areas of poverty, patterns of integration and segregation, disparities in access to opportunity, and disproportionate housing needs.

An initial Assessment Tool was published for comment on September 26, 2014 (see *Memo*, [9/29/14](#)) and a revised Assessment Tool was published for further comment on July 16, 2015 (see *Memo*, [7/20/15](#)). NLIHC submitted comments regarding the initial draft (see *Memo*, [11/17/2014](#)) and revised draft (see *Memo*, [8/17/15](#)). Along with the final Assessment Tool, HUD released a “redline” version showing how the final version differs from the revised draft.

The final Assessment Tool only applies to local governments required to submit Consolidated Plans (ConPlan) because they receive Community Development Block Grant (CDBG), HOME Investment Partnerships Program (HOME), Emergency Solutions Grant (ESG), or Housing for Persons with AIDS (HOPWA) formula funds. The National Housing Trust Fund will be added to this list when NHTF money becomes available in 2016. HUD will issue separate Assessment Tools for states, Insular Areas, and public housing agencies (PHAs).

On December 31, HUD also released a data and mapping tool containing 17 maps showing various characteristics such as housing cost burdens by race/ethnicity, disability by type, and Limited English Proficiency. There are also 15 data tables showing demographics such as racially and ethnically concentrated areas of poverty and publicly supported housing by program type. When drafting an AFH, program participants are required to consider these data, as well as locally available data and knowledge. HUD provides a 43-page *User Guide* to help program participants and advocates use the HUD-provided data and maps.

The *Affirmatively Furthering Fair Housing Rule Guidebook* is a detailed, comprehensive presentation of the new AFFH regulation. The *Guidebook* describes the AFH process and timeline, use of the Assessment Tool to complete an AFH, and the content of the AFH. The *Guidebook* is a useful resource for advocates. An appendix provides an optional AFH checklist and worksheet for program participants that could help advocates monitoring their jurisdictions’ compliance. The appendix also provides a sample AFH and five examples of fair housing goals.

The notice states that no AFH will have to be submitted before October 4, 2016. Only local governments that received a CDBG grant of \$500,000 or more in FY15 and that have a new 5-Year ConPlan due on or after January 1, 2017 are required to submit an AFH in 2016 or 2017. Based on estimates that HUD provided to NLIHC in October, only 22 jurisdictions will be required to submit an AFH in 2016, and 105 jurisdictions will follow in 2017 (see *Memo*, [10/19/15](#)).

The notice states that a schedule of submission dates for all 1,233 entitlement jurisdictions will be posted on HUD’s AFFH webpage. Until the official HUD posting, advocates can go to NLIHC’s webpage for a state-by-state listing of anticipated AFH compliance dates based on information provided to NLIHC by HUD.

The final AFFH rule staggers implementation of the requirement to submit an AFH as follows:

- CDBG entitlement jurisdictions that received at least \$500,000 in FY15 and that must have a new 5-Year ConPlan on or after January 1, 2017 will be the first to submit an initial AFH.
- States do not have to submit an AFH until they are required to have a new 5-Year ConPlan on or after January 1, 2018.
- CDBG entitlement jurisdictions that received less than \$500,000 in FY15 do not have to submit an AFH until they are required to have a new 5-Year ConPlan on or after January 1, 2018.
- PHAs with more than 550 units of public housing and/or vouchers, combined, do not have to comply with the new AFFH system until they are required to submit a new 5-Year PHA Plan on or after January 1, 2018.
- PHAs with fewer than 550 units of public housing and/or vouchers, combined, (known as “Qualified PHAs”) do not have to comply with the new AFFH system until they are required to submit a new 5-Year PHA Plan on or after January 1, 2019.

Until required to submit a new 5-Year ConPlan, a jurisdiction must continue to follow the existing Analysis of Impediments (AI) to fair housing choice process, certifying that the jurisdiction has conducted an analysis of impediments and is taking appropriate actions to overcome the effects of any impediments. PHAs must continue to follow the existing requirements that call for them to examine their programs, identify any impediments to fair housing in those programs, address those impediments in a reasonable fashion in view of available resources, work with local jurisdictions to carry out any of their AFFH work, and keep records showing the analysis and actions.

HUD has also posted a new AFFH fact sheet titled “The Fair Housing Planning Process Under the AFFH Rule.” The fact sheet stresses that the AFFH rule is a fair housing planning rule and that the approach established by the AFFH rule is designed to improve the fair housing planning process by providing data and greater clarity about the steps needed to assess fair housing issues and the factors that contribute to those issues. The fact sheet also contains the rule’s definitions of “fair housing issue,” “contributing factor,” and “meaningful actions.” The fact sheet outlines the five essential components of the fair housing planning process: ensuring community participation, assessing fair housing issues, identifying contributing factors, prioritizing contributing factors, and setting fair housing goals. The strategies and actions to implement the fair housing goals must be included in Consolidated Plans, PHA Plans, and Annual Action Plans.

HUD has produced three webcasts to support implementation of AFFH. Two explain the public participation process for preparing an Assessment of Fair Housing (AFH); one is for ConPlan jurisdictions and one is for public housing agencies (PHAs). A third webcast describes the procedures for submitting an AFH for both ConPlan jurisdictions and PHAs.

The two community participation webcasts, each about 16 minutes long, emphasize that public participation must take place prior to the development of the AFH, and that the community participation for the AFH is separate and distinct from that for the ConPlan. Both webcasts stress that program participants (the generic title used in the new rule for both ConPlan jurisdictions and PHAs) must take actions to reach out to people in protected classes, such as people of color and people with disabilities. Materials and public events must be accessible to people with disabilities and to people with limited English proficiency.

The third new webcast, about 17 minutes long, explains when program participants are required to submit their initial AFHs. Most will not be required to prepare an AFH until sometime in 2019. Until required to submit an initial AFH, program participants must at least continue to follow the AI process but could voluntarily begin to

comply with the new rule. This webcast also elaborates on how ConPlan jurisdictions and PHAs can submit joint or regional AFHs.

Finally, NLIHC's website now has an outline of key features of the final Affirmatively Furthering Fair Housing (AFFH) rule. NLIHC's 20-page outline covers essential topics such as the five components of an AFH, the linkage between the AFH and the Consolidated Plan (ConPlan), and the public participation requirements.

NLIHC's AFFH outline is at http://nlihc.org/sites/default/files/Factsheet_AFFH.pdf

Other AFFH material from NLIHC, including the anticipated dates jurisdictions will have to submit an AFH, is at <http://nlihc.org/issues/affh>

HUD's fact sheet, "The Fair Housing Planning Process Under the AFFH Rule," is at <https://www.hudexchange.info/resources/documents/AFFH-Fact-Sheet-The-Fair-Housing-Planning-Process-Under-the-AFFH-Rule.pdf>

HUD's web videos are at <https://www.hudexchange.info/programs/affh/resources/>:

AFFH Community Participation Requirements for Consolidated Plan Program Participants, <https://www.hudexchange.info/training-events/courses/affh-community-participation-requirements-for-consolidated-plan-program-participants-webcast/>

AFFH Community Participation Requirements for Public Housing Agencies, <https://www.hudexchange.info/training-events/courses/affh-community-participation-requirements-for-public-housing-agencies-webcast/>

Procedures of the New AFFH Process, <https://www.hudexchange.info/training-events/courses/procedures-of-the-new-affh-process/>

HUD's modified AFFH homepage is at <https://www.hudexchange.info/programs/affh>

PD&R's HUDuser modified Assessment Tool page is at http://www.huduser.gov/portal/affht_pt.html#affhassess-tab

The *Federal Register* notice is at <https://www.gpo.gov/fdsys/pkg/FR-2015-12-31/pdf/2015-32680.pdf>

A large print version of the *Federal Register* notice is at <https://s3.amazonaws.com/public-inspection.federalregister.gov/2015-32680.pdf>

The final Assessment Tool is at <https://www.hudexchange.info/resources/documents/Assessment-of-Fair-Housing-Tool.pdf>

The redline version showing changes made between the revised and final Assessment Tool is at <https://www.hudexchange.info/resources/documents/Assessment-of-Fair-Housing-Tool-Comparison.pdf>

The Affirmatively Furthering Fair Housing Rule Guidebook is at <https://www.hudexchange.info/resource/4866/affh-rule-guidebook>

HUD's AFFH data and mapping tool *User Guide* are at <https://www.hudexchange.info/resource/4867/affh-data-and-mapping-tool>

RAD Update

In December, HUD announced that the Rental Assistance Demonstration (RAD) reached its 185,000 unit limit. HUD's most recent Rental Assistance Demonstration newsletter in December provides an extensive description of RAD's Choice Mobility option. Also, the National Housing Law Project and the American Federation of State, County, and Municipal Employees launched a new RAD website oriented to residents, workers, and advocates.

HUD has given preliminary approval for 185,000 public housing units, the maximum allowed by Congress, to convert to either Project-Based Vouchers (PBV) or to Project-Based Section 8 Rental Assistance (PBRA) under RAD. Currently HUD has a waiting list of 10,946 public housing units that could be considered for RAD conversion if some of the projects with preliminary approval are withdrawn or revoked.

The December 2015 RAD newsletter is devoted to the Choice Mobility option under RAD. Public housing residents whose developments are converted under RAD have the option to choose to move from their RAD-converted property with a regular Housing Choice Voucher. Residents whose properties converted to PBV can exercise the mobility option for up to one year after conversion; residents in properties converted to PBRA can exercise the mobility option for up to two years after conversion. The mobility option is part of HUD's strategy to enable residents who choose to do so to move to areas with greater opportunity.

The National Housing Law Project (NHLP) and the American Federation of State, County, and Municipal Employees (AFSCME) have created RAD-Watch.org, a new website for residents, workers, and advocates. The site provides basic information about RAD, a tab with a clickable map showing where RAD is happening, and a tab providing brief descriptions of tenant and worker rights. The site also links to NHLP's RAD webpage which includes a detailed guide for legal services advocates.

HUD's RAD webpage, which has a link to the list of properties under the 185,000 cap as well as the wait list, is at <http://portal.hud.gov/hudportal/HUD?src=/RAD>

HUD's December 2015 Rental Assistance Demonstration newsletter is at http://portal.hud.gov/hudportal/documents/huddoc?id=RAD_Newsltr_Dec2015.pdf

RAD-Watch.org is at <http://www.rad-watch.org/>

NHLP's RAD webpage is at <http://nhlp.org/rad>

NLIHC has a RAD outline at http://nlihc.org/sites/default/files/FactSheet_RAD_2015.pdf, along with general RAD information on page 4-21 of NLIHC's 2015 Advocates' Guide at http://nlihc.org/sites/default/files/Sec4.07_Public-Housing-Rental-Assistance_2015.pdf

Admission Preferences for Homeless People in HUD-Assisted Multifamily Housing

HUD's Office of Multifamily Housing has published a toolkit to help community leaders encourage owners and managers of HUD-assisted private multifamily housing to develop and implement admission preferences for homeless individuals and families.

Opening Doors Through Multifamily Housing: Toolkit for Implementing a Homeless Preference offers a step-by-step framework, drawing on the experiences of ten communities participating in a 2012 HUD pilot program. Preferences for homeless individuals and families was officially allowed in July 2013 when the Office of Multifamily Housing issued Notice H 2013-21 (see *Memo*, [8/2/13](#)).

Opening Doors Through Multifamily Housing: Toolkit for Implementing a Homeless Preference is at <https://www.hudexchange.info/resource/4810/opening-doors-through-multifamily-housing-toolkit-for-implementing-a-homeless-preference>

Symposium on Evolution of HUD Policies and Treatment of Race and Poverty

HUD's Office of Policy Development and Research will hold a symposium exploring how HUD policies have evolved over its 50-year history. Topics will include HUD's treatment of race and poverty; the rise, fall, and rebirth of cities; the relationship between housing policy and demographic change; how HUD's work serves vulnerable populations; and how HUD will approach these issues in the future.

The symposium will take place from 2:00-4:30 pm ET on Tuesday, January 12 in the Brooke-Mondale Auditorium at HUD Headquarters, 451 Seventh St. SW, Washington, DC and also will be available via live webcast.

The first panel will be on *The Evolution of HUD's Policies and Programs*. Panelists are:

- Erika Poethig, Institute Fellow and Director of Urban Policy Initiatives at the Urban Institute
- Raphael Bostic, Judith and John Bedrosian Chair in Governance and the Public Enterprise at the University of Southern California's Price School of Public Policy
- Ingrid Gould Ellen, Paulette Goddard Professor of Urban Policy and Planning at New York University's (NYU) Robert F. Wagner Graduate School of Public Service and Faculty Director of the NYU Furman Center
- Margery Turner, Senior Vice President for Program Planning and Management at the Urban Institute

Panel two will be at *A Look at HUD's Future Direction*, featuring:

- Katherine O'Regan, HUD Assistant Secretary for Policy Development and Research
- Lourdes M. Castro Ramirez, HUD Principal Deputy Assistant Secretary for Public and Indian Housing
- Edward L. Golding, HUD Principal Deputy Assistant Secretary for Housing – FHA Commissioner
- Harriet Tregoning, HUD Principal Deputy Assistant Secretary for Community Planning and Development
- Gustavo Velasquez, HUD Assistant Secretary for Fair Housing and Equal Opportunity

Register for the symposium at <http://www.huduser.gov/portal/event/Jan2016Registration.php>

Webinars on Final Definition of Chronically Homeless

HUD's Office of Special Needs Assistance Programs (SNAPS) is conducting six identical webinars in January to ensure that all stakeholders understand the new definition of chronically homeless and the recordkeeping associated with the new definition (see *Memo*, [12/7/15](#)).

Marcy Thompson, Senior Advisor to the Deputy Assistant Secretary for Special Needs, and Brett Gagnon, Senior Specialist in the Office of Special Needs Assistance Programs will discuss the history of the definition of chronically homeless and the rationale for the changes implemented in the Final Rule, the final definition of chronically homeless, including a highlight of the major changes, and recordkeeping requirements for the documentation of chronic homelessness.

The intended audience includes Continuum of Care (CoC) leaders and recipients, as well as other stakeholders. Each webinar is targeted to specific HUD regions and is limited to 1,000 participants. Stakeholders may register for a webinar not in their region.

The three remaining webinars will take place on:

January 12th, 1:00 pm ET – Regions 4 and 6

January 13th, 1:00 pm ET – Regions 1 and 2

January 14th, 1:00 pm ET – Regions 5, 7, and 8

If you already have a HUD Exchange Account, register at <http://bit.ly/1PiW580> If you do not already have a HUD Exchange Account, create an account at <http://bit.ly/1mI7zv9>

White House

Forum on Smoking Ban in Public Housing

On January 6, the White House hosted a convening on HUD's proposed smoke-free public housing rule (see *Memo*, [11/16/15](#)). HUD Secretary Julián Castro and United States Surgeon General Dr. Vivek Murthy spoke about the dangers of secondhand smoke, the benefits of smoke-free housing policies, and the steps needed to implement such a rule.

HUD announced the proposed ban on November 12, 2015, saying it required more than 3,100 public housing agencies (PHAs) across the country to implement smoke-free policies in their developments within 18 months of the final rule. HUD will continue to receive public comments and feedback until January 19.

The proposed ban would make it illegal to smoke in public housing properties. Violation of the rule could lead to punitive actions, including eviction. Special smoking-zones for residents, located at least 25 feet from the housing and administrative office buildings, could be created.

Julie Rodriguez, Deputy Director for the White House Office at Public Engagement, moderated a Q&A session with the HUD Secretary and the Surgeon General to discuss the proposed rule. Secretary Castro said that access to clean and fresh air is a right, not a luxury, to which everyone should have access. Dr. Murthy said the ban on smoking at public housing was about giving everyone a chance for good health.

Lourdes Castro Ramirez, Principal Deputy Assistant Secretary for Public and Indian Housing, moderated a stakeholder panel whose members panel agreed that the proposed ban was a laudable effort given the documented dangers of second hand smoke. However, some expressed concerns about how the rule would be implemented. Several public health related organizations, including the American Lung Association, were represented and offered numerous smoking cessation resources.

Breakout sessions covered working with residents, policy development and implementation, costs and benefits of implementation, and role of smoking cessation services. NLIHC board members Michael Steele, Martha Weatherspoon, and Delorise Calhoun, as well as NLIHC members Katrice Cheaton and Donald Sherman, represented public housing residents at the convening and offered their perspectives.

Read HUD's proposed rule on smoking at <http://portal.hud.gov/hudportal/documents/huddoc?id=smoke-freepublichousing.pdf>

US Interagency Council on Homelessness

USICH Adopts New Strategies to End Family Homelessness

The U.S. Interagency Council on Homelessness (USICH) met in December to review the nation's progress toward ending family homelessness and to recommend new strategies to achieve the goals set forth in the Obama administration's strategic plan on ending homelessness called *Opening Doors*. The strategies proposed build on USICH's 2013 report that lays out the Administration's vision for a coordinated community response to family homelessness.

USICH will focus its efforts on better coordinating homeless services systems with mainstream programs, such as early childhood, education, and welfare programs, to meet the broad array of housing and service needs of families experiencing homelessness.

To reach the goal of ending family homelessness, USICH and its member agencies have agreed to increase mainstream programs' awareness and understanding of families experiencing homelessness, provide federal guidance and technical assistance to improve coordination between homelessness assistance and mainstream programs, and ensure local communities have the capacity to provide the appropriate level of services tailored to meet the specific needs of families.

USICH is composed of the heads of 19 federal agencies. The current chair is Health and Human Services Secretary Sylvia Mathews Burwell.

Read the USICH press release at <http://1.usa.gov/1IUVyfM>

From The Field

New York City Mayor Bill de Blasio Announces Plan for 15,000 New Supportive Housing Units

On November 18, New York City Mayor Bill de Blasio (D) announced the largest commitment to supportive housing creation in the city's history, promising to create 15,000 units over the next 15 years. Housing advocates are hopeful that this unprecedented commitment will be matched by New York Governor Andrew Cuomo (D) in a fourth New York/New York agreement to create 35,000 supportive housing units statewide.

The Supportive Housing Network of New York (SHNNY) and the Coalition for the Homeless, both NLIHC state coalition partners, worked with the Corporation for Supportive Housing, Enterprise Community Partners, and others to launch the "Campaign 4 NY/NY Housing" in May of 2014. The Campaign has garnered widespread support, with 350 organizations, more than 250 faith leaders, and 75% of the New York State Legislators endorsing the initiative.

Mr. de Blasio's plan involves developing 7,500 congregated, single-site supportive housing units and another 7,500 units in scattered-site and mixed income properties. His commitment to supportive housing is part of a broader strategy for addressing record-high levels of homelessness in New York City, with nearly 58,000 people in city shelters each night. Supportive housing promotes housing stability and reduces public spending on costly emergency room visits, temporary shelters, and law enforcement interactions. A recent study quantifying the savings from the NY/NY III Agreement found that supportive housing paid for itself and saved taxpayers an additional \$10,100 in public costs per housed individual per year.

Advocates hope that Mr. de Blasio's plan to fund 15,000 new units of supportive housing will bolster efforts to secure a similar commitment from the Governor, building on the success of the prior three New York/New

York Agreements. The first NY/NY Agreement was negotiated by the current governor's father, Governor Mario Cuomo, in 1990. Collectively the three previous agreements created 14,000 units of supportive housing.

“We are delighted to have Mayor de Blasio's leadership in our ongoing efforts to address the need for supportive housing in New York,” said Laura Mascuch, Executive Director for the Supportive Housing Network of New York. “We need Governor Cuomo to recognize the need for state resources as well.”

For more information about campaign efforts to expand supportive housing in New York, contact Steve Piasecki at spiasecki@shnny.org.

To read SHNNY's report on the cost savings of permanent supportive housing go to: <http://bit.ly/1ZbpzK7>

Research

Subsidized Housing Improves Conditions Related to Child and Family Health Outcomes

A study published in the recent issue of *Housing Policy Debate* titled “Development of an Index of Subsidized Housing Availability and its Relationship to Housing Insecurity,” provides evidence that an increase in subsidized rental housing in communities decreases housing insecurity among low income families, which has implications for improving a range of child and family health outcomes.

There is a significant and growing literature on child and family health as it relates to housing security. However, the study noted a gap in the literature regarding the specific relationship between housing insecurity and the availability of subsidized housing. The authors developed an indicator called the Subsidized Housing Availability Index (SHA Index), which provides a ratio of existing subsidized units available in an area relative to demand from low income, cost-burdened households. The index was calculated for five study: Little Rock, Baltimore, Minneapolis, Boston, and Philadelphia. Data on housing insecurity were collected through survey interviews with caregivers of children receiving services at urban medical centers in each of the five study sites.

The study found that an increase in the availability of subsidized housing predicted a significantly decreased likelihood for two measures of housing insecurity: overcrowding and multiple moves in the past year. These “results estimate that if subsidized units are made available to an additional 5% of the eligible population, the odds of overcrowding decrease by 26% and the odds of families making multiple moves decrease by 31%.” Overcrowding and multiple moves are both known predictors of poor child and family health outcomes.

The results suggest that expanding the subsidized housing stock can improve housing security and, by extension, child and family health outcomes. The authors recommend increased investments in affordable housing through programs like the National Housing Trust Fund, local housing trust funds, and others.

The study utilized survey data from Children's HealthWatch, county-level data from the U.S. Census Bureau, and subsidized housing data from HUD's *A Picture of Subsidized Households—2008*.

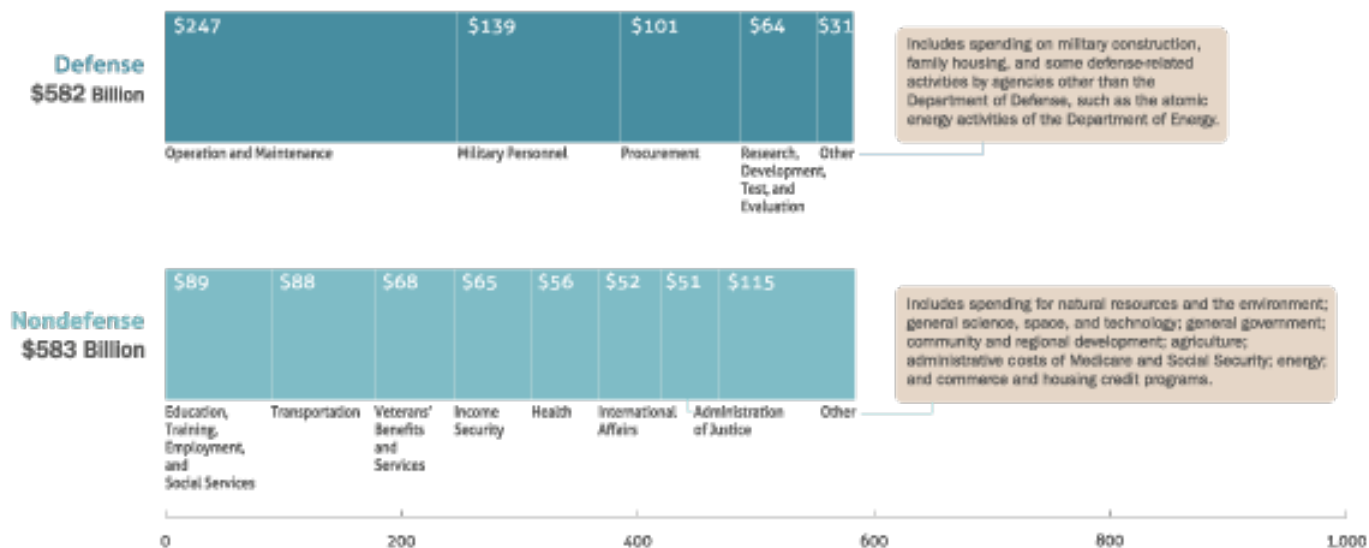
An on-line version of *Development of an Index of Subsidized Housing Availability and its Relationship to Housing Insecurity* was published in April 2015 and is available at Children's HealthWatch at <http://bit.ly/1Pe4gIP>.

Fact of The Week

2015 Federal Spending and Revenue by Category

Discretionary Spending in 2015

Billions of Dollars



Source: Congressional Budget Office <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/graphic/51110-budget1overall.pdf>

Housing and The Election

Nonprofit VOTE Webinar: Plan Ahead 2016

Nonprofit VOTE will hold a webinar on Thursday, January 21 at 2pm ET entitled *Plan Ahead 2016*. The webinar cover best practices for planning and conducting voter registration, voter education, and get-out-the-vote efforts. Presenting are Nonprofit VOTE's Director of Research Julian Johannesen and National Field Director Lindsey Hodel.

Register for the webinar at: <https://cc.readytalk.com/cc/s/registrations/new?cid=k4ehaxu5qmby>

NLIHC News

February 5 is Deadline for Annual Organizing Award Nominations

The February 5 nomination deadline for NLIHC's Annual Organizing Award is quickly approaching. Please nominate an outstanding local or statewide organizing effort. The 2016 Organizing Award recognizes outstanding achievement during 2015 in state or local organizing activity that furthers NLIHC's mission of achieving socially just public policy that assures people with the lowest incomes in the United State have affordable and decent homes. Special consideration will be given to Organizing Award nominations that incorporate tenant organizing.

The 2016 Organizing Award will be presented at the *NLIHC 2016 Policy Forum: Overcoming Housing Poverty, Achieving Housing Justice*, held April 3-5, 2016 at the Washington Court Hotel in Washington, DC. A representative of the winning organization will be asked to make brief remarks.

An Award Committee composed of NLIHC board members and previous award winners will select this year's honoree. Two representatives of the honored organization will receive complimentary Forum registrations, hotel accommodations, and transportation to Washington, D.C. to accept the award.

To be eligible, nominated organizations must be current NLIHC members. Organizations may self-nominate. NLIHC board members and Award Committee members may not nominate an organization with which they are employed or affiliated.

Nominations are due by 5pm ET on Friday, February 5, 2016. Please submit your nomination online at <http://www.nlihcforum.org/#!awards/gm8p2>.

Nominations should contain the following information:

- Name and contact information of the nominated organization,
- Name and contact information of the nominator,
- Description of the organization's achievement in the area of state and local organizing or resident organizing in 2015, and how that achievement has assisted in furthering NLIHC's mission (800-word maximum), and
- Supporting materials that describe the activity or impact, such as press clips or campaign materials.

For more information, contact our Field Team at outreach@nlihc.org.

NLIHC Welcomes Research Intern Kate Rodrigues

Kate Rodrigues joins NLIHC as a new research intern for the spring semester. Originally from the Minneapolis-St. Paul area and with a B.A. in English and Political Science from the College of Saint Benedict, Kate has spent the last five years working in the property management industry. Her exposure to both housing choice voucher programs and LIHTC properties sparked an interest in shifting to a career in housing policy and advocacy efforts. She hopes to pursue a graduate degree in urban and regional planning in the near future.

NLIHC STAFF

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