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National Housing Trust Fund

States Prepare National Housing Trust Fund Allocation Plans

Most national Housing Trust Fund (HTF) state administering agencies have made significant progress in preparing their HTF Allocation Plans. The plans are required to receive their first disbursements from HUD later this year. As of Friday, June 9, three states have finalized their HTF Allocation Plans, 11 states have submitted draft HTF Allocation Plans for public review and comment, and 19 states and the District of Columbia have sought public input about how their HTF funds should be used prior to drafting their HTF Allocation Plans.

The three states that have finalized their Allocation Plans are Arizona, Hawaii and South Dakota. Arizona submitted a final HTF Allocation Plan to HUD on May 15, after a 30-day review and comment period. Hawaii and South Dakota have produced final Allocation Plans, but it is unclear whether the plans have yet been submitted to HUD.

The 11 states that have submitted draft HTF Allocation Plans for public review and comment are Alabama, Connecticut, Florida, Illinois, Michigan, Minnesota, Missouri, New Mexico, North Dakota, Vermont, and West Virginia. These drafts have been or will be available for public review and comment for at least 30 days.

The 19 states in addition to the District of Columbia that have sought public input about how their HTF funds should be used prior to drafting their Allocation Plans are Alaska, Arizona, Delaware, Connecticut, Florida, Georgia, Iowa, Kentucky, Louisiana, Maine, Maryland, New Hampshire, North Dakota, Oregon, South Carolina, Texas, Utah, Virginia, and Wisconsin.

It is important to have public input prior to drafting an HTF Allocation Plan, particularly during this inaugural year, so that state HTF agencies can inform stakeholders about this new, unique program and its targeting of scarce resources to renters who have extremely low incomes, those with income less than 30% of the area median income. The methods of securing public input include round tables, solicitation of written input, and traditional public hearings. A number of NLIHC state coalition partners were informally contacted by the state. In Vermont, the Vermont Affordable Housing Coalition and other advocates were on the committee that drafted the state's HTF Allocation Plan. Missouri and Tennessee sent surveys to known stakeholders to obtain input prior to drafting the Allocation Plan.

The HTF statute requires states to follow the Consolidated Plan (ConPlan) public participation regulations when conducting public input for the HTF Allocation Plan. The ConPlan regulations require states to submit their Annual Action Plan updates to their ConPlans by August 16 of each year. Because HTF Allocation Plans are required by the interim HTF regulation to be integrated into the Annual Action Plan of a state's ConPlan, HTF Allocation Plans are also due to HUD by August 16. As with Annual Action Plans, HUD has 45 days to review a state's HTF Allocation Plan. HUD has indicated that for this initial year, HUD headquarters staff will be reviewing HTF Allocation Plans in addition to HUD field office staff.

The statute requires the HTF Allocation Plan to describe how a state intends to distribute its HTF funds based on the priority housing needs identified in its ConPlan and to describe the criteria that potential recipients of HTF funds must meet. The statute also requires the HTF Allocation Plan to give priority in awarding HTF funds to potential recipients based on six factors, the most important of which are: the extent to which rent will be affordable, especially for extremely low income households; the length of time HTF-assisted units will remain affordable (a minimum of 30 years as required by the interim HTF rule); and the merit of a project in addressing a state's priority housing needs.

Much more HTF information is at: www.nhtf.org

Congress

House Republicans Release Anti-Poverty Agenda

House Speaker Paul Ryan (D-WI) and the Republican Task Force on Poverty, Opportunity, and Upward Mobility released on June 7 an anti-poverty agenda titled “A Better Way: Poverty, Opportunity, and Upward Mobility.” The Task Force identified four key principles that guided their work: conditioning the provision of welfare benefits on work, providing incentives to move people from welfare to work, measuring results, and focusing support on people with the greatest need.

The following are some of the Task Force’s recommendations, particularly focusing on those pertaining to housing.

Work Requirements

The Task Force recommends that work-capable welfare recipients be required to work or be preparing for work to receive benefits under federal safety-net programs. To encourage work among people receiving federal housing assistance, the Task Force recommends aligning housing benefits with the Temporary Assistance for Needy Families (TANF) program for all work-capable residents who are living in public housing or in project-based Section 8 housing or who have received a Housing Choice voucher. All states currently impose work-related participation requirements on most adults who receive TANF assistance.

The Task Force claims that HUD programs lack requirements that encourage self-sufficiency, contributing “to rental assistance becoming more expensive and waiting lists growing larger each year as current recipients stay longer.” Under the Task Force’s proposal, work-capable individuals receiving housing assistance would be expected to work or prepare to work by developing self-sufficiency plans with a TANF case worker, who would also assist them in preparing for working, such as helping arrange child care, transportation and other necessities.

The Task Force proposes that local jurisdictions administering housing assistance should provide program guidance in the same way states provide guidance for the TANF program, such as mandating work requirements, educational training, and time limits for benefits “to encourage non-working work-capable recipients to move towards jobs, careers, and economic independence.”

While the Task Force proposes linking affordable housing to TANF, it is important to note that the welfare reform of the 1990s that created TANF not only failed to reduce poverty but also pushed some families into deeper poverty. The majority of people who are eligible for TANF benefits do not receive them. In 2012, only 32.4% of eligible families received assistance from the TANF program, and recent research indicates that some of the nation’s poorest families are not receiving assistance. Poor families not receiving TANF benefits include those who have been sanctioned for not complying with program requirements or who have reached their state’s time limit. Studies have found that families that lost their TANF benefits through sanctions are more likely than other families to include a person with a disability that can hinder his or her ability to find or maintain employment.

Work requirements and time limits have been imposed in HUD’s Moving to Work (MTW) demonstration without the necessary evaluation to see if these provisions help low income residents increase earnings or produce negative outcomes. The upcoming expansion of the MTW program to an additional 100 public housing agencies (PHAs) provides an opportunity to evaluate how such policies impact public housing residents. Unlike the first iteration of the program, the expansion will be overseen by a research advisory committee to ensure the demonstrations are evaluated with rigorous protocols, including quantitative analysis and comparisons to

control groups. This new evaluation requirement conforms to the Task Force’s emphasis on funding programs based on performance outcomes. Lawmakers should hold off on mandating work requirements for recipients of housing assistance until that research is conducted to better understand the potential impacts of such requirements.

Increasing Flexibility

The Task Force proposes allowing states to test new ways of providing welfare benefits to achieve desired outcomes. When states choose to exercise such flexibilities, any demonstration conducted must be paired with an evaluation to determine its efficacy in helping people rise out of poverty.

Creating Individual Choice in Housing Assistance

The Task Force recognizes that many households receiving housing assistance face significant barriers when trying to move to the neighborhood of their choice. NLIHC agrees with the Task Force’s recommendation to reform how PHAs administer housing assistance vouchers to enhance their portability and “to encourage recipients to move to areas with more affordable housing, education, or job opportunities.”

Currently, 2,400 public housing agencies (PHAs) administer the nation’s two million Housing Choice vouchers. Fifty-eight percent of PHAs administer fewer than 400 vouchers. These small housing agencies exist in rural, suburban, and urban markets. In urban markets, there are 558 housing agencies administering vouchers in the nation’s 49 most populated metro areas. Consolidation of the administration of vouchers would result in administrative cost savings, bring significant benefits to voucher holders and people with low incomes in need of housing vouchers, and reduce HUD’s oversight costs.

The Task Force also recommends moving beyond the public housing model towards new housing models “that harness the abilities of non-profits and other cost-effective service providers.” While NLIHC believes that public housing is a critical housing resource for people of modest means, we recognize that in the current unstable federal budget environment, developers can no longer count solely on federal resources to support projects serving extremely low income (ELI) households, those earning less than 30% of the area median income (AMI). The national Housing Trust Fund (HTF), the Low Income Housing Tax Credit, and the Rental Assistance Demonstration programs offer ample opportunities to finance the creation and preservation of affordable housing while leveraging private dollars.

Task Force also proposes efforts to encourage greater engagement of public housing residents in the operation and management of their residences. NLIHC has long advocated for greater resident engagement and participation. Public housing residents have important personal perspectives about the impact of established and emerging housing policies on their homes and communities, and they have good ideas about how their housing should be managed. Resident participation in all aspects of housing management is critical to the long-term success of federal housing programs.

Reducing Duplication

The Task Force recommends consolidating the U.S. Department of Agriculture’s Rural Housing Service rental assistance program into HUD’s Housing Choice voucher program, since they have “almost identical goals.” The Task Force argues that through consolidation, lawmakers can simplify the delivery of services for seamlessness, consistency and fairness.

Measuring Results

The Task Force asserts that taxpayer dollars have been wasted on programs that do not achieve their stated purpose and emphasizes that safety net programs should be funded only if they are proven to be effective

through rigorous data-driven evaluation. The Task Force makes several recommendations for funding programs based on evidence-based policymaking:

- Tiered-Funding Structures: Programs will first be tested on a smaller scale and later, if proven effective, scaled up.
- Use Funding Models that Only Pay Based on Outcomes: The proposal recommends using a pay-for-success or social-impact financing model, in which an organization or intermediary receives payment from the government only if the agreed-upon outcomes are achieved.
- Program Evaluation to Determine Funding Decisions: Every social program would be evaluated to determine its effectiveness. To do so, the Task Force recommends redirecting program funding towards data collection and evaluation.
- Expand the Availability of Data and Information: The proposal recommends that policymakers have access to high-quality data to ensure they can make the best decisions about what programs should be funded.

Over the coming weeks, Speaker Ryan and the Task Force will release five additional pillars of their policy proposal “to get America back on track,” some of which are expected to include concrete legislative proposals. NLIHC will monitor any new legislative proposals that incorporate Task Force housing recommendations to ensure that the poorest families receiving housing assistance do not lose their safety net.

Read the GOP anti-poverty plan at: <http://1.usa.gov/1Ofg6T5>

A Statement from Diane Yentel, president and CEO of NLIHC, is here: <http://nlihc.org/article/nlihc-update-republican-anti-poverty-agenda-statement-diane-yentel-nlihc-president-and-ceo>

CAP Holds Forum on Reducing Poverty

The Center for American Progress (CAP) hosted a conversation on June 7th with Representatives Rosa DeLauro (D-CT), Steny Hoyer (D-MD), and Gwen Moore (D-WI) regarding policies to reduce poverty and advance economic opportunity for the more than 105 million Americans living in or bordering on poverty. The discussion was prefaced by remarks from Senator Sherrod Brown (D-OH) and Jessica Martin, a board member of Restaurant Opportunities Center United and living-wage-advocate.

The event came on the heels of the release of CAP’s policy report titled “A Progressive Agenda to Cut Poverty and Expand Opportunity” and the House Republican anti-poverty plan titled “A Better Way: Poverty, Opportunity, and Upward Mobility.” (See related article about the House GOP plan in this *Memo to Members*.)

CAP’s report highlights the role that Social Security, tax credits for working families, and nutrition assistance programs have played in poverty mitigation over the past half-century but notes that many Americans struggle to achieve financial stability amidst stagnant wages. The CAP report offers progressive policy guidance in strategic areas including wages, job quality, housing, and education. Among suggested measures are increased investments in housing voucher programs, expansion of the Low-Income Housing Tax Credit, and the elimination of exclusionary zoning. The report also highlights the necessity of providing access to affordable housing for individuals with criminal records.

Senator Brown echoed the guidance of the CAP report in his opening remarks. He emphasized the importance that low-income tax credits, including the Earned Income Tax Credit (EITC), have had for struggling Americans, and advised that legislators work to expand the EITC to younger individuals and those without

children. Senator Brown stated that there should be “no tax breaks for corporations without tax breaks for working families.”

Representatives Hoyer and DeLauro addressed the Republican anti-poverty plan, with Ms. DeLauro expressing concern that “the plan would increase poverty,” and Mr. Hoyer remarking that the agenda constitutes a “new spin on a bad deal.” Both representatives agreed that the premise upon which the Republican plan is founded—that the initiatives born out of the War on Poverty had been a complete failure—is false. Ms. DeLauro noted that the social safety net had helped reduce poverty by 40% between 1967 and 2012, and she admonished the Republicans for asserting that benefits and assistance programs need to be overhauled or eliminated.

Representative Moore spoke to what she perceived as a demonization of America’s poor. She noted the discrepancy between stereotypes of benefit recipients as lazy and the reality that a great number of those who are poor are working and caring for families. Ms. Moore and Ms. DeLauro both remarked that future policy must strengthen provisions around healthcare, equal pay, and childcare assistance. Representative Hoyer remarked that “when we lift up others, we lift up ourselves.”

Read the CAP report at: <http://ampr.gs/1ZsqO9n>

Hearing to be Held on USDA Rural Development Programs in Native Communities

The Senate Committee on Indian Affairs will hold an oversight hearing titled, “Accessing USDA Rural Development Programs in Native Communities.” The Committee has not yet announced who will testify at the hearing.

The hearing will be held on June 22 at 2:15 PM in the Dirksen Senate Office Building, room 628.

Federal Budget

Status of THUD Appropriations Uncertain; Defense Spending Amendment Defeated

The Senate has agreed to negotiate with the House on the spending package that includes, among other things, the Senate’s Transportation, Housing and Urban Development, and Related Agencies (THUD) spending bill. The Senate bundled the THUD bill with the Military Construction-Veterans Affairs (MilCon-VA) spending bill and funding to combat Zika into one bill, H.R. 2577, which it passed on May 19. The Senate failed to pass an amendment by Senator John McCain (R-AZ) to increase military spending without a commensurate increase to non-defense spending.

When the House took up H.R. 2577, it stripped out the Senate language, including the THUD bill, and replaced it with its version of the MilCon-VA bill and response to Zika. The House passed its version of the bill on May 26. It is unclear if the Senate THUD bill will be included in the final negotiated version of H.R. 2577, though it appears unlikely. It is also uncertain when the House might take up its version of the THUD spending bill on the House floor.

As the Senate debated the National Defense Authorization Act (NDAA), Senator McCain offered an amendment that would have violated the 2015 bipartisan budget agreement, which requires parity between defense and nondefense discretionary (NDD) program funding. Senator McCain’s amendment would boost the Department of Defense’s budget by \$18 billion, pulled from the Overseas Contingency Operations (OCO) account.

The Obama Administration released a Statement of Administration Policy that warned the Senate against breaking the budget agreement’s parity principle. The Administration states, “As the [NDAA] is considered by

the Senate, it is critical that the Congress adhere to the principle that any increase in funding must be shared equally between defense and non-defense – a central tenet of last fall's budget agreement.”

NLIHC joined a coalition of partner organizations on a letter urging senators to oppose the McCain amendment. The letter states, “The \$18 billion proposed by the McCain amendment could be used to fund many domestic programs in need of support, such as the HUD proposal to end family homelessness (\$11 billion over 10 years) which would provide subsidies to 550,000 more families.”

The Senate failed to meet the 60-vote threshold needed to end debate on the McCain amendment, and it was therefore not adopted. The final vote was 56-42.

Senator Jack Reed (D-RI) offered another amendment that would provide equal funds from the OCO account to NDD programs. That amendment would provide \$3.2 billion for programs that address infrastructure needs, including the HOME Investment Partnerships Program. The Senate failed to adopt the Reed amendment by a vote of 43-55.

Read the Statement of Administration Policy at: <http://1.usa.gov/1tfbCma>

Read the coalition letter opposing the McCain amendment at: <http://bit.ly/1UnJmDv>

Administration

Nonprofits Support New Overtime Rule

NLIHC signed onto a letter with over 100 other nonprofit organizations in support of the Department of Labor’s new overtime regulation that increases the number of people eligible to earn overtime pay. The new rule raises the salary threshold below which most workers are eligible for overtime pay from \$23,660 to \$47,476.

The letter states that this change will “create hundreds of thousands of jobs, extend overtime protections to millions of workers, reduce excessive hours of unpaid work by underpaid employees, and increase salaries for employees earning near the new threshold. In particular, this rule represents an important step toward fairer pay for women and people of color, who are overrepresented in lower-paying jobs and are often required to work additional hours without compensation.”

The letter recognizes the challenges nonprofit organizations will face in implementing the rule but states that the organizations that signed the letter are committed to its compliance. “As nonprofit organizations more broadly, we are dedicated to improving the public good. It is time to revisit the idea that working for the public good should somehow mean requiring the lowest-paid among us to support these efforts by working long hours, many of which are unpaid.”

Read and sign onto the letter at: <http://bit.ly/1XIAv6d>

HUD

Notice Provides Voucher Portability Guidance

HUD’s Office of Public and Indian Housing (PIH) issued guidance regarding Housing Choice voucher (HCV) portability and the ability of voucher holders to rent a home anywhere there is a public housing agency (PHA) administering a HCV program. Notice PIH 2016-09 (HA), issued on June 6, updates previous guidance and includes modifications made to the portability rule published on August 20, 2015 (see *Memo*, [8/31/15](#)).

PIH reminds PHAs that they are obligated to affirmatively further fair housing, which “includes helping families use their vouchers to move from segregated areas to integrated areas, from racially or ethnically concentrated areas of poverty (R/ECAPs), and from areas with disparities in access to opportunity within its jurisdiction and through portability moves outside of the jurisdiction.” The PHA that a family moves from is called the “initial PHA” while the PHA that a family moves to is called the “receiving PHA.”

The notice reminds PHAs that they must grant a “reasonable accommodation” to PHA rules, policies, practices, and services for residents requesting to move to accommodate the needs of a family member who has a disability. Both the initial and receiving PHAs should consider that people with a disability might require additional time to locate a suitable unit and request an extension of time as a reasonable accommodation.

When a family is first selected to participate in the HCV program, regulations require the PHA to give the family an oral briefing and an information packet that explains how portability works. HCV regulations now require PHAs to provide to all families, not just to families currently living in high-poverty census tracts, an explanation of the advantages of moving to an area that does not have a high concentration of low income families.

The regulations require the briefing packet to include a list of landlords who may be willing to lease a unit or other resources to assist a voucher holder locate a unit. Advocates expressed concerns about landlord lists because many PHAs do not analyze them to ensure that they are not primarily comprised of rentals in areas of high-poverty concentration. The final rule retained the requirement that a list of landlords be provided, but added that the list should include those in areas that do not have concentrations of poverty or minority populations. The notice requires PHAs to reach out to landlords within the PHA’s jurisdiction with properties outside areas of high minority or poverty concentrations, develop relationships with these landlords, market the advantages of participating in the HCV program, and increase their interest in participating. Consistent with PHAs’ obligations to affirmatively further fair housing, PHAs are expected to ensure that the lists also cover areas outside of R/ECAPs, integrated areas, and areas providing access to opportunity.

Portability does not apply to the project-based voucher (PBV) program. A household porting into a receiving PHA’s jurisdiction may only receive a tenant-based voucher or homeownership assistance. In order for a tenant-based voucher holder to be housed in a PBV unit, a household would have to apply to the receiving PHA’s PBV program and give up their tenant-based voucher prior to being housed in the PBV unit.

Notice PIH 2016-09 (HA) is quite extensive and detailed, primarily explaining the roles of initial and receiving PHAs. Topics include:

- Suspension of the term of the voucher.
- Denying requests to move, elaborating on mandatory and discretionary denials. The notice makes exceptions for a household that needs to move, even if that move violates the lease, in order to protect the health and safety of an individual who is or has been the victim of domestic violence.
- Denying requests to move because the PHA does not have sufficient funds, describing when such a denial may be made and the procedures a PHA must follow.
- Initial PHA processing responsibilities, such as determining household eligibility, advising the household on how to contact receiving PHAs, and initial PHA communications with the receiving PHA.
- Receiving PHA processing responsibilities, including a prohibition against refusing to accept porting or directing a household to a neighboring PHA and responsibilities related to rescreening households requesting to port in and determining whether the PHA will absorb the cost of the voucher or bill the initial PHA.

- Billing procedures when the receiving PHA chooses to bill the initial PHA for housing assistance payments (HAP) and administrative fees rather than absorb the cost of the voucher. An initial PHA reimburses a receiving PHA for 80% of the initial PHA's ongoing administrative fee or 100% of the receiving PHA's ongoing administrative fee for each unit under HAP contract, whichever is less.

Notice PIH 2016-09 (HA) is at: <http://1.usa.gov/1UBiX4W>

HUD Releases New Toolkit to Reduce Lead Hazards

HUD Secretary Julián Castro announced on June 13 the release of a new toolkit aimed at eliminating lead-based paint hazards in HUD-assisted housing. The Lead-Safe Homes, Lead-Free Kids Toolkit provides both short and long-term plans to address lead hazards in HUD-assisted housing through immediate changes to HUD programs and legislative proposals.

According to HUD, the toolkit will help the agency:

- Strengthen regulatory framework and monitoring by proposing revisions to HUD's Lead Safe Housing Rule, which, when issued, will align the child blood lead level requiring response with the Centers for Disease Control's (CDC) recommended level.
- Identify and address known lead hazards through increased monitoring, improved local reporting and guidance by increasing monitoring and enforcement of the Lead Safe Housing Rule and the Lead Disclosure Rule, as well as clarifying HUD guidance about these rules to Public Housing Agencies, owners of HUD-assisted housing, and HUD grantees.
- Work with Administration partners to encourage an interagency focus within the administration to address lead hazard prevention for both paint and other sources.
- Provide education and targeted outreach to increase awareness of lead by HUD families, housing providers, local governments, and other key stakeholders, and work with health departments to make available blood lead level testing to all children under age six in HUD-assisted homes.
- Identify best practices through research and determine where best to target federal resources by studying the effectiveness of HUD grantees' use of formula grants to address lead issues.

“The health and safety of the families we serve is our first priority,” said Secretary Castro. “Sadly, decades’ worth of lead hazards in homes continues to put families and young children at risk. As a leader in lead-safe housing, we know there’s still more work to be done. We’re proud to introduce this toolkit so we can better ensure children and their families have a safe, healthy place to call home.”

Read the toolkit here: <http://1.usa.gov/1trRi0T>

Read the HUD press release here: <http://1.usa.gov/1trN6OJ>

USICH

USICH Releases Criteria and Benchmark for Ending Chronic Homelessness

The U.S. Interagency Council on Homelessness (USICH) released guidance issuing criteria and a benchmark for local communities to use in their efforts to end chronic homelessness. The document offers current best practices, including a five-pronged set of criteria describing essential elements of a community's activities, and a benchmark to assess whether efforts have succeeded in eliminating chronic homelessness. The guidance states

that the long-term solution to eliminating chronic homelessness is the provision of permanent housing coupled with individualized supportive services.

Criteria include:

- Engaging in community outreach to persons at risk for or experiencing chronic homelessness,
- Providing persons experiencing unsheltered chronic homelessness access to shelter or temporary accommodations,
- Implementing a community-wide Housing First orientation and response,
- Assisting chronically homeless persons move into permanent housing with supportive services where appropriate, and
- Possessing plans, resources, and system capacity to prevent chronic homelessness from occurring in the future.

USICH provides an accompanying benchmark to determine the success of these measures. It asserts that chronic homelessness has been effectively ended when “all individuals known to be experiencing chronic homelessness (including Veterans) have obtained permanent housing with appropriate services (e.g., permanent supportive housing). Or, if not all, the number of individuals that continue to experience chronic homelessness does not exceed 0.1% of the total number of individuals reported in the most recent Point-in-Time count, or 3 persons, whichever is greater.”

USICH advises that, while this particular benchmark must be met, communities should consider it within a more holistic set of information and data to determine whether they have successfully eliminated chronic homelessness.

See the full text at: <http://1.usa.gov/1PLILAD>

Treasury

GAO Report Continues to Fault IRS for Lax Housing Tax Credit Oversight

The Government Accountability Office (GAO) issued a report concluding that the Internal Revenue Service (IRS) continues to exercise lax oversight of state and local agencies that allocate tax credits under the Low Income Housing Tax Credit (LIHTC) program. In particular, the IRS does not review allocating agencies’ (commonly referred to as housing finance agencies, HFAs) Qualified Allocation Plans (QAPs) and their practices for awarding discretionary 130% tax credit basis boosts. GAO also found that IRS records very little of the information in project noncompliance forms submitted by allocating agencies and does not review the forms that have critical noncompliance issues.

The May 11, 2016 report, titled *Low-Income Housing Tax Credit: Some Agency Practices Raise Concerns and IRS Could Improve Noncompliance Reporting and Data Collection*, follows a July 2015 report recommending that Congress consider designating HUD as a joint administrator responsible for LIHTC program oversight (see *Memo*, [7/27/15](#)).

Section 42 of the United States Code is the statutory basis for the LIHTC program. Among other requirements, QAPs must give preference to certain projects and incorporate ten selection criteria, such as projects serving tenant populations with special housing needs, tenant populations with children, and tenants on public housing waiting lists. The GAO reviewed the QAPs of 58 allocating agencies and found that QAPs did not consistently

contain address information or mention selection criteria, though some allocating agencies incorporated this information in other LIHTC documents. IRS officials stated that they did not regard regular review of QAPs as part of their responsibilities.

Section 42 requires allocating agencies to notify the chief executive of the local jurisdiction in which a LIHTC project is to be located and provide the official with a reasonable opportunity to comment on a proposed project. The GAO identified 12 agencies that require local letters of support as a threshold requirement and another 10 that provide competitive points to projects that have letters of support. HUD has raised fair housing concerns about QAPs with local approval requirements or preferences and has recommended eliminating them from QAPs.

The Housing and Economic Recovery Act of 2008 (HERA) allowed allocating agencies the discretion to give a 130% “discretionary basis boost” to any project, effectively increasing the amount of tax credits to that project. Prior to HERA there were only two opportunities for a project to receive a 130% basis boost: 1) if the project was located in a Qualified Census Tract (QCT), a census tract where 50% or more of the households have incomes less than 60% of the area median income (AMI), or where the poverty rate is greater than 25%; or 2) if it was located in a Difficult to Develop Area (DDA), an area designated by HUD as having high construction, land, and utility costs relative to AMI.

Section 42 requires allocating agencies to find that a discretionary basis boost is necessary for a project to be financially feasible, but the statute does not require agencies to document financial feasibility. The GAO notes that HERA’s legislative history included expectations that agencies would set standards for awarding a discretionary basis boost in their QAPs. The GAO learned that IRS does not review agencies’ criteria for awarding discretionary basis boosts, nor does it provide guidance for determining whether a project might need a basis boost to be financially feasible. The GAO found a range of allocating agency practices, including automatic discretionary basis boosts without determining financial feasibility, which could result in fewer housing projects being subsidized and more credits provided than are necessary for financial feasibility.

Allocating agencies are responsible for monitoring a LIHTC property’s physical condition and compliance with tenant income eligibility and maximum contract rent rules for the 15-year compliance period. Agencies must submit noncompliance information using IRS Form 8823. The GAO found that allocating agencies had varying practices for submitting noncompliance information because they interpreted IRS guidance differently, resulting in agencies providing varying levels of information and submitting the forms at irregular intervals. The GAO concluded that without IRS clarification about what to include in Form 8823 and when to submit it, agencies will continue to submit inconsistent noncompliance data, making it difficult for the IRS to efficiently distinguish between minor violations and severe noncompliance, such as properties with health and safety issues.

The GAO also reported that the IRS records little of this information in its database and does not review the forms for critical noncompliance issues. Consequently, the IRS cannot provide program-wide information on the most common types of noncompliance or ascertain trends in noncompliance. In addition, the IRS has no method to determine whether issues reported as uncorrected have been resolved or if properties have recurring noncompliance issues.

Without a better process to gather consistent noncompliance information from allocating agencies and to regularly review compliance trends, the GAO asserts that there is a significant risk that ongoing noncompliance issues at LIHTC properties may not be detected and that appropriate actions, including recapture of tax credits, will not be taken.

GAO Report 16-360 is at: <http://1.usa.gov/1PjbqWW>

More information about LIHTC is on page 5-29 of NLIHC’s *2016 Advocates’ Guide* at: <http://bit.ly/1Tn9sqm>

Research

Study Uses Craigslist to Examine Rental Housing Markets

A report titled *New Insights into Rental Markets across the United States: Web Scraping Big Data to Analyze Craigslist* by Geoff Boeing and Paul Waddell of the University of California, Berkeley, uses Craigslist rental listings for an analysis of 415 metropolitan rental housing markets. The median rent nationwide was \$1,145 and the average apartment size was two bedrooms. Rent per square foot was highest along the Boston-Washington corridor and along the coast of California. Rents were also high along the coast of southern Florida and in Chicago, Denver and Seattle. Overall the most expensive areas were in the cities of New York, San Francisco, Boston and Santa Barbara and in metropolitan areas in North Dakota.

The authors collected the square footage, asking rent price and location for 11 million Craigslist rental listings over a three-month period in 2014. Thirty-seven percent of Craigslist listings nationwide were below HUD's Fair Market Rent (FMR) for their area. Percentages varied significantly among metropolitan areas. Across all apartment sizes, over two-thirds of Craigslist rental postings in Phoenix, Las Vegas and Kansas City were below FMR, but only seven percent of New York City listings and six percent of Boston listings were below FMR. The typical FMR is set at the 40th percentile of rents for recent movers, therefore 40% of listings would be expected to be under the FMR. Nine metropolitan areas had median listing prices within the forty-percent threshold: Louisville, Seattle, Buffalo, Cleveland, Columbus, Grand Rapids, Raleigh, Salt Lake and San Antonio.

Rents within each metropolitan area also varied significantly. For instance, Detroit displayed a rather narrow range of rents per square foot across neighborhoods, while rents in San Francisco's various neighborhoods fell along a much wider spectrum. Cities like Atlanta, Detroit, Phoenix, and Houston featured relatively narrow rent ranges, whereas New York, San Francisco, Boston, Los Angeles and DC all showed a wider range of rents per square foot. Wide variations in rents within cities present mobility challenges for voucher holders as metropolitan-wide FMR-based payment standards make it difficult for households to access housing in higher rent neighborhoods.

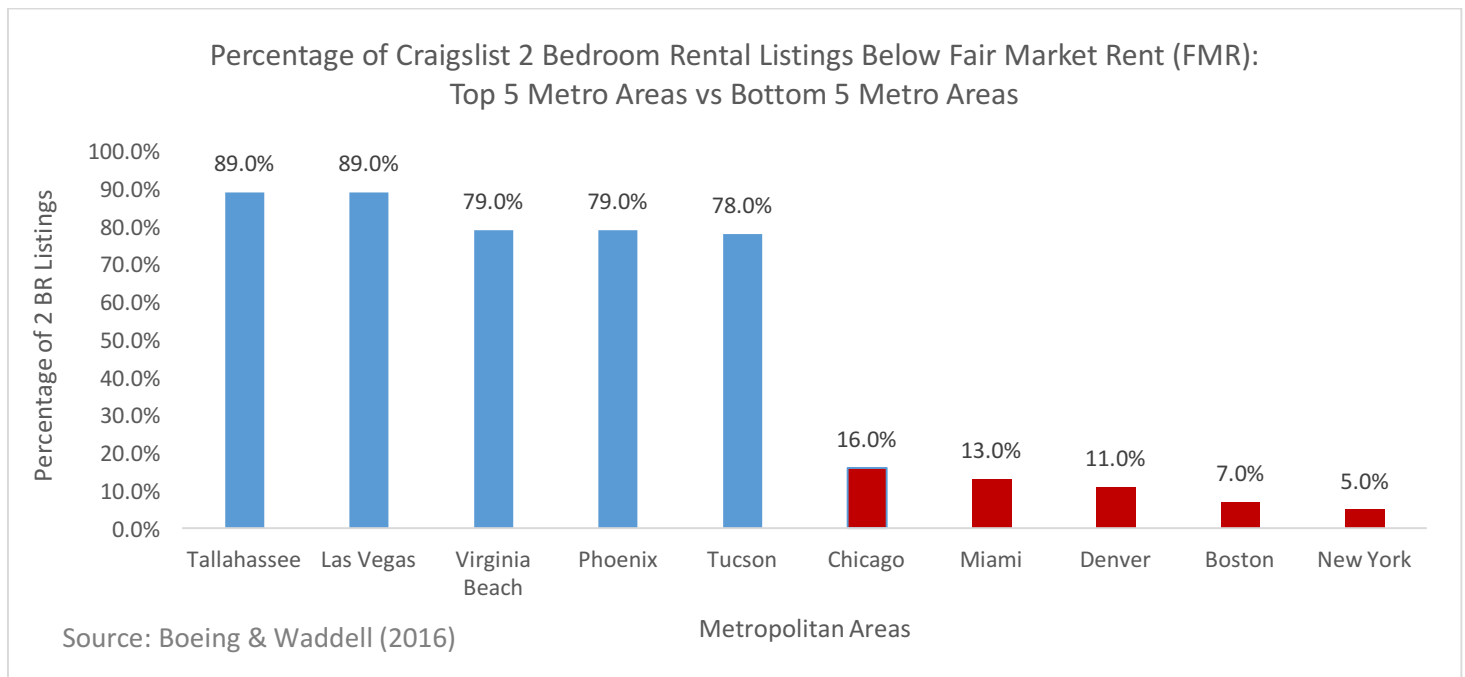
American Community Survey (ACS) data from 2014 was used to analyze the percent of median income needed to afford the median rent found in listings in each metropolitan area. The authors found that New York, Boston, Miami, the San Francisco Bay Area, and Los Angeles were home to median rents above 30% of median income, exceeding the commonly accepted rent burden threshold. While this analysis does not factor in rent burden for those below median income levels, the findings do identify areas where affordability poses a distinct challenge.

The authors' research provides an example of how big data (large-scale data sets) from Craigslist, the most popular rental listing site in the U.S., can be used to analyze rents in fluid rental markets. One limitation to the use of such data is that Craigslist apartment listings may not be representative of the entire rental market, capturing only rental homes whose owners advertise on Craigslist. Some markets like New York, for example, are dominated by brokers. Another limitation of the Craigslist data is that not all apartment seekers have access to the internet. Still, the research sheds light on how housing markets can be analyzed in a timelier manner than when using more representative data sources.

New Insights into Rental Markets across the United States: Web Scraping Big Data to Analyze Craigslist is available at: <http://bit.ly/1UDVO1O>

Fact of the Week

Craigslist Rental Listings Below Fair Market Rent in Ten Metro Areas



Source: Boeing, Geoff and Waddell, Paul (2016) *New Insights into Rental Markets across the United States: Web Scraping Big Data to Analyze Craigslist*. University of California, Berkeley. <http://bit.ly/1UDVO1O>

Housing in the Elections

Donald Trump Opposes HUD's Fair Housing Rule

Presumptive GOP presidential nominee Donald Trump indicated during a meeting with Westchester County Executive Rob Astorino on June 7 that, if elected, he would rescind HUD's Affirmatively Furthering Fair Housing (AFFH) rule. The AFFH rule has faced repeated attacks – most recently when the Senate debated the Transportation, Housing and Urban Development, and Related Agencies (THUD) spending bill – with opponents claiming the rule tramples on local decision-making in community planning.

After the discussion with Mr. Trump, Mr. Astorino spoke with the media and said: “[Mr. Trump] is aware of [the AFFH rule] and he understands it and he absolutely opposes what the Obama administration is trying to do and what Hillary would perpetuate. It’s urbanizing the suburbs and it’s taking away the rights of local communities through their own elected officials to determine how their community is made up. And that’s exactly what the Obama administration is doing through the powers of the federal government. It would not continue under the [Trump] administration.”

Contrary to such claims, the AFFH rule affirms that states and localities control the development and implementation of solutions for removing barriers to housing opportunity. The rule is designed to provide state and local governments with the guidance and tools they need to better address such barriers and to help ensure federal funds are more fairly and effectively invested in communities across America.

Westchester County has been litigating in court with HUD and the Department of Justice regarding a 2009 fair housing settlement that the agencies say the county has violated.

An NLIHC summary of the AFFH rule is at: <http://bit.ly/1UpLIBO>

From the Field

CA Advocates Express Concerns about Governor Brown’s Proposal to Expedite Development

California Governor Jerry Brown (D) released on May 13 the “May Revise” update to his 2016-2017 budget proposal, and it included a controversial proposal to expedite rental housing development approvals. Concerned with the extraordinary cost burdens experienced by California renters, Mr. Brown proposes to streamline approval timelines and reduce regulatory barriers by establishing a “by-right” process for attached multifamily housing that meets certain requirements. Under the proposed legislation, called “Streamlining Affordable Housing Proposals,” local governments would not be able to require discretionary reviews of new developments through tools such as conditional use or planned unit development permits. Instead, development proposals can only be blocked by local governments when documentation is provided to show that the new rental housing would not meet the criteria of existing local housing plans and zoning codes.

The California Department of Housing and Community Development (HCD) asserts that the new proposal would complement, rather than replace, local zoning codes and housing plans. Under the proposed change, all developments eligible for a “by-right” process must be located on sites designated for housing, and the proposals must be consistent with current zoning. HCD also touts the proposals potential to expand affordable rental housing. All developments created through this process will be required to provide 20% of all units affordable to low income households at 80% of area median income (AMI). For those developments proposed in Transit Priority Areas (TPA), either 10% of housing units must be affordable to low income households or 5% must be affordable to very low income (VLI) households with rents set at the 50% of AMI.

Housing advocates in California welcome Mr. Brown’s leadership on urgent efforts to produce more rental housing throughout the state, but have expressed concerns about specific elements of the proposal. Nine affordable housing and homelessness advocacy organizations submitted a letter to Mr. Brown on May 27, urging specific amendments and additions to the proposed legislation and promising their support if specific changes are made. Some of the proposed changes are included in updated language that was released as technical modifications to the proposed trailer bill on June 1. Advocates were successful in getting language added to ensure “no net loss” of affordable units. This provision stipulates that no development approved under the “by-right” process may provide fewer affordable units or higher rents compared with the rental housing it might replace. Other recommendations, such as expanding the required period of affordability from 30 years to 55, have not been included in the new legislative draft. The proposal must still be approved by the state legislature when they vote on the budget this summer, and advocates will continue efforts to improve the proposal.

Housing advocates believe strongly that development-by-right will be only one piece of solving the housing affordability problem in California. Additional funding for effective housing programs will be equally important. The coalition of advocates stressed in their letter the importance of the California Senate’s “No Place Like Home” legislative package that includes a \$2 billion bond initiative for constructing permanent supportive housing for people who are homeless.

The coalition working to modify the development-by-right proposal include three NLIHC state coalition partners—Housing California, California Housing Partnership, and California Coalition for Rural Housing. Other signers of the letter are California Housing Consortium, Western Center on Law and Poverty, California Rural Legal Assistance Corporation, LeadingAge California, San Diego Housing Federation, and the Kennedy Commission.

Development-by-right is an idea that has been discussed for many years in California but has faced strong opposition from environmental groups and local governments. Mr. Brown’s by-right proposal will allow developments that include affordable housing to be exempt from the California Environmental Quality Act (CEQA), which requires various compliance measures to protect public health. Proponents for development-by-right argue that CEQA evaluations and sometimes the resulting legal challenges can tie up developments for years, exacerbating the shortage of available rental housing. A bill seeking to achieve the same development-by-right changes as Mr. Brown’s budget proposal recently died in the legislature.

“Development-by-right would help provide affordable housing developers with greater certainty and, in some cases, reduce the costs of long delays in local approvals and community review,” said Rob Wiener, Executive Director at California Coalition for Rural Housing. “This approach, however, is only one piece of a bigger puzzle and a relatively minor one at that. Governor Brown needs to show his support for affordable housing by embracing bold funding initiatives currently proposed by the legislature and not linking funding for affordable housing to passage of development-by-right legislation that mostly benefits market-rate housing.”

Another coalition of community organizations submitted a letter to State Senate President Kevin de Leon (D-Los Angeles) and Assembly Speaker Anthony Rendon (D-Los Angeles), specifically asking them to defeat the development-by-right proposal in the budget. The letter was signed by more than 50 statewide and community organizations who oppose Mr. Brown’s proposal both because the affordable housing requirement is not bold enough and because development-by-right will decrease opportunities for low income residents to have a voice the developments proposed for their communities. The letter contends that a public approval process is often the only opportunity for renters to oppose new developments that will drive up housing values and increase neighborhood displacement. Signers of the letter include numerous organizations representing communities of color and contends that gentrification will likely increase due to Mr. Brown’s proposal.

Read the HCD fact sheet on the “by-right” development approval proposal at: <http://bit.ly/25PMIXU>

Read the letter from housing advocates to Governor Brown urging modification of development-by-right at: <http://bit.ly/1ZCtu4l>

Read the letter from community organizations opposing development-by-right at: <http://bit.ly/1XMhiAC>

Resources

Beginner’s Guide to RAD Advocacy

The National Housing Law Project (NHLP) has created a “Beginner’s Guide to RAD Advocacy,” a four-page summary of the Rental Assistance Demonstration (RAD). The guide provides a short description of RAD, suggests how public housing residents can get involved in local RAD conversions, and offers questions residents should ask their public housing agency (PHA) about proposed RAD conversions. The guide also lists important RAD documents, highlights key HUD webpages, and points to NHLP resources such as a detailed “RAD Advocacy Guide,” a RAD Materials Clearinghouse, and RAD-watch.org (<http://www.rad-watch.org>).

To help preserve and improve low income housing, RAD allows PHAs to leverage Section 8 rental assistance contracts to raise private debt and equity for capital improvements. Up to 185,000 units of public housing have competed for permission to convert their existing federal assistance to project-based Housing Choice vouchers or to Section 8 project-based rental assistance by September 30, 2018.

The “Beginner’s Guide to RAD Advocacy” is available at: <http://bit.ly/1U7YbwB>

NLIHC has information about RAD at <http://bit.ly/1Yfa0E9>, and on page 4-13 of NLIHC’s *2016 Advocates’ Guide* at: <http://bit.ly/22QZiEm>

Events

Briefing on What Works – and Doesn’t – to Reduce Poverty and Expand Opportunity

The Coalition on Human Needs will host a briefing that will include an evidence-based discussion of effective and ineffective anti-poverty programs. The discussion will include analysis of how the House Republican anti-poverty plan fits into this framework. (See related article on the House GOP plan in this *Memo to Members*.) NLIHC is cosponsoring the event.

The briefing will be held on June 16 from 1-3 pm ET at the Capitol Visitors Center, room HVC 215, and will also be live-streamed.

Speakers include:

- Deborah Weinstein, Coalition on Human Needs
- Olivia Golden, Center for Law and Social Policy
- Melissa Boteach, Center for American Progress
- Liz Schott, Center on Budget and Policy Priorities
- Elizabeth Lower-Basch, Center for Law and Social Policy
- Jim Weill, Food Research and Action Center
- David Bowers, Enterprise Community Partners, Inc.
- Sarita Gupta, Jobs With Justice

Register at: <http://www.chn.org/what-works-to-fight-poverty/>

Webinar on Protecting Renters’ Rights and Preventing Homelessness

The National Law Center on Homelessness and Poverty will host a webinar on responding to the eviction crisis in the U.S., protecting renters’ rights, and preventing homelessness. The webinar will be held on Wednesday, June 15 at 2:00pm ET.

The webinar will underscore the importance of protecting renters’ rights to access and remain in affordable housing within the broader context of homelessness prevention. Panelists will discuss emerging policy around renters’ rights, including protections for renters in foreclosed properties, “just cause” eviction laws, eviction and credit history sealing and expungement. The event will provide guidance on successfully implementing renter protection laws locally.

Speakers include:

- Tristia Bauman, National Law Center on Homelessness & Poverty
- Leah Simon-Weisberg, Tenants Together
- Jith Meganathan, Western Center on Law & Policy
- Jeremy Bergstron, Sargent Shriver National Center on Poverty Law
- Michael Santos, National Law Center on Homelessness & Poverty

Register for the free webinar at: <http://bit.ly/1XaKjoF>

Webinar on Housing Programs Streamlining Rule

The National Housing Law Project (NHLP) will conduct a webinar about the “Streamlining Rule” issued in March (see *Memo*, [3/7](#)). The rule revised regulations governing many federal housing programs, including

public housing, the Housing Choice voucher program, and project-based Section 8 multifamily housing program. The webinar will be held on Thursday, June 23 at 2:00 pm ET.

Presenters will help residents and advocates learn whether their local public housing agency (PHA) or private Section 8 owner is in compliance with these regulatory changes and how they can effectively advocate given the changes.

The webinar will discuss:

- Whether a PHA is required to provide copies of grievance hearing decisions.
- Whether the procedure for requesting a reasonable accommodation for a payment standard up to 120% of the fair market rent has been simplified.
- What happens if a household began receiving the earned income disregard (EID) prior to publication of the streamlining rule?
- PHAs' quarterly utility reimbursement.

Presenters are:

- Deborah Thrope, Staff Attorney, NHLP
- Stephen Knight, Interim Co-Executive Director, NHLP

Register for the webinar at: <http://bit.ly/1WFpIsX>

NLIHC News

NLIHC Welcomes Field Intern Isaac Harris

NLIHC welcomes Isaac Harris as the Field Intern. Isaac is a rising junior at Pomona College in California, studying Politics and Spanish. Isaac has campaigned for campus political groups on issues such as climate change and criminal justice issues. In 2015, Isaac interned with the Jails Project of the American Civil Liberties Union-California. He hopes to continue with advocacy work to achieve social justice. Please join us in welcoming Isaac to the NLIHC team!

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