



**Volume 22, Issue 31**  
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## **In This Issue:**

### **Take Action**

- Use August Recess to Meet with Your Members of Congress In-District

### **United for Homes**

- Trump Administration Considers Reforms to Mortgage Interest Deduction
- New Report Makes the Case for Reforming the Mortgage Interest Deduction to Address Homelessness and Housing Poverty

### **Congress**

- Senate Committee Holds Hearing on LIHTC Improvement and Expansion
- HUD Confirmations Move Forward Slowly

### **HUD**

- HUD Reports that 8.3 Million Very Low Income Households Have Worst Case Housing Needs
- HUD Announces Additions to Senior Team
- HUD Makes Available VAWA Training Materials
- HUD Posts VAWA Forms for Comment
- HUD Provides Training Videos on Preparing Rent Comparability Studies
- HUD Issues Notice Related to Resident Income Verification

### **AFFH**

- HUD Accepts Westchester's 11<sup>th</sup> Fair Housing Analysis of Impediments Zoning Supplement

### **Research**

- Study Finds Airbnb Increases Rents
- Neighborhoods Contribute to Racial Disparities in Asthma Rates

### **Fact of the Week**

- Households with Worst Case Housing Needs Increased Across All Family Types from 2013 to 2015

## **From the Field**

- Housing Action Illinois Celebrates 30 Years with Statewide Tour of Housing and Advocacy Groups

## **Resources**

- Updated HTF Information, One-Page Summary of How States Propose to Use the HTF
- CBPP Releases State Fact Sheets for Housing Choice Vouchers
- Guidebook and Webinar on Using Data to Assess Fair Housing
- Blog Focuses on Lead Poisoning of Children in Communities of Color

## **NLIHC News**

- NLIHC Seeks Interns for Fall Semester
- Where to Find Us – August 14
- Shop Amazon Smile to Support NLIHC's Work!

## **NLIHC in the News**

- NLIHC in the News for the Weeks of July 30 and August 6

## Take Action

### Use August Recess to Meet with Your Members of Congress In-District

Members of Congress are home in their states and districts now through Labor Day. This is an ideal time for advocates to schedule an in-district meeting or site visit with your federal lawmakers to educate them about the importance of affordable housing and how potential budget cuts will hurt people with low incomes.

NLIHC has prepared resources that advocates can use, including our Summer/Fall 2017 [Issues Guide](#), outlining the top five affordable housing and related issues before Congress. Other resources are available from the National Housing Week of Action “Our Homes, Our Voices” campaign, including talking points, sample op-eds, tweets, and how-to guides for setting up in-district meetings and site visits. Advocates can check out [www.TownHallProject.com](http://www.TownHallProject.com) to see if and when lawmakers are holding town hall meetings you can attend.

- NLIHC’s Issue Guide is available at: <http://bit.ly/2vAbjHe>
- Our Homes, Our Voices campaign resources are available at: [www.ourhomes-ourvoices.org](http://www.ourhomes-ourvoices.org)
- Sample town hall questions can be found at: <http://bit.ly/2wqxIEk>

## United for Homes

### Trump Administration Considers Reforms to Mortgage Interest Deduction

Momentum for reforming the mortgage interest deduction (MID) – a \$70 billion tax expenditure that primarily benefits higher income households – has been growing in recent weeks. *Politico* and the *Washington Examiner* report that the Trump administration is actively considering reforms to the MID, including changes embraced by the NLIHC-led United for Homes campaign to reduce the amount of a mortgage eligible for the tax break to \$500,000. Currently, homeowners can deduct interest on the first \$1 million of their mortgage.

NLIHC’s President and CEO Diane Yentel participated in a small, invitation-only “Real Estate Industry and Tax Reform” listening session at the White House on July 31, where she made the case for reforming the MID and reinvesting the significant savings into rental homes for people with the greatest needs. Ms. Yentel reports that National Economic Council Director Gary Cohn and other key decision makers on tax reform within the administration responded positively to making both direct and indirect changes to the MID.

However, if the White House and Congress move forward with reforms to MID, they may seek to use the savings to offset the cost of lowering tax rates for wealthy individuals and corporations. It is more important than ever that advocates demand that housing dollars be kept in housing and that housing-related tax savings go toward affordable rental homes for people with the greatest needs.

- Read the *Politico* article at: <http://politi.co/2weU6jY>
- Read the *Washington Examiner* article at: <http://washex.am/2wxE8S8>
- Join the United for Homes campaign at: [www.unitedforhomes.org](http://www.unitedforhomes.org)

## **New Report Makes the Case for Reforming the Mortgage Interest Deduction to Address Homelessness and Housing Poverty**

NLIHC's United for Homes campaign released a new report outlining how the Trump administration and Congress can use tax reform to help end homelessness and housing poverty in the U.S. by reforming the mortgage interest deduction (MID) – a \$70 billion tax expenditure that primarily benefits higher income households – and reinvesting the significant savings into rental homes for people with the greatest needs.

The report shows that tax reform legislation could reprioritize federal housing policy to address the severe shortage of affordable rental homes for extremely low income people, benefit 25 low and moderate income homeowners, and boost economic prosperity and job creation. Three out of four households eligible for housing assistance are turned away due to a lack of funding. At the same time, three-fourths of the \$200 billion spent each year by the federal government to help Americans buy and rent their homes goes to higher income households through the MID and other tax benefits. With smart, modest reforms to the MID, Congress can make the deeply targeted investments in affordable rental homes that our nation needs for the economy, local communities, and families to thrive – all without increasing costs to the federal government.

The report also analyzes the Trump administration's proposal to double the standard tax deduction. While this would provide a greater tax break to low and moderate income households, it would make the MID even more regressive, benefitting only the highest income homeowners with the largest mortgages. The report recommends pairing any proposal to double the standard deduction with reforms to the MID and reinvesting the savings into affordable rental housing solutions for those with the lowest incomes.

Read the report “Reforming the Mortgage Interest Deduction: How Tax Reform Can Help End Homelessness and Housing Poverty” at: <http://bit.ly/2vkfWEq>

## **Congress**

### **Senate Committee Holds Hearing on LIHTC Improvement and Expansion**

The Senate Finance Committee held a hearing, “America’s Affordable Housing Crisis: Challenges and Solutions,” on August 1. The hearing focused on proposals to reform and enhance the Low Income Housing Tax Credit (LIHTC), including the “Affordable Housing Credit Improvement Act of 2017” (S.548). The Committee heard testimony from five witnesses: Daniel Garcia-Diaz, U.S. Government Accountability Office (GAO); Grant Whitaker, National Council of State Housing Agencies; Katherine O’Regan, New York University Furman Center For Real Estate and Urban Policy; Kirk McClure, School Of Public Policy and Administration, University of Kansas; and Granger MacDonal, National Association of Home Builders.

Committee members expressed their strong bipartisan support for preserving and enhancing LIHTC in any potential tax reform legislation, citing the importance of the tool in the context of America’s housing affordability crisis. Committee Chair Orrin Hatch (R-UT), who is an original cosponsor of S.548, pointed to the scale of the affordable housing shortage and urged bipartisan cooperation on a solution. “There seem to remain many households facing cost burdens associated with renting, with perhaps as much as 26 percent of renter households having paid more than half of their incomes in rent in 2015,” Mr. Hatch said. “This is a problem that should be ready for a bipartisan solution.” Senator Maria Cantwell (D-WA), who introduced S.548, urged action by Congress. “If we do nothing, the crisis will be exacerbated,” she said.

Members and witnesses also discussed several opportunities to improve LIHTC through reforms that help the program produce and preserve units more deeply targeted to people with extremely low incomes, reduce barriers to affordable housing development in high-cost “high opportunity” neighborhoods, and enhance federal oversight. As Dr. McClure noted, the LIHTC program would make even greater impact if it could produce more

units affordable to households with extremely low incomes, whose needs are the greatest. S.548 makes improvements to LIHTC to achieve that.

Several Committee members praised the program’s design, which localizes decision-making and attracts private capital to affordable housing production. “One reason I support the Low Income Housing Tax Credit program is it allows decisions on affordable housing to be made in the communities where the housing is needed while involving the private sector,” stated Chair Hatch. Senator Johnny Isakson (R-GA) agreed. “I’m a big supporter of this program, and of Ms. Cantwell’s bill,” he said. “If we don’t do it, I can’t think of any other way to get private capital flowing to generate the housing necessary to house the American people.” Members and witnesses discussed the state-level compliance standards to which developers and investors must adhere in order to receive their LIHTC allocations.

In his testimony, Mr. Garcia-Diaz discussed a number of the GAO’s concerns regarding federal oversight of the program. Citing GAO findings that noncompliance reporting by state housing finance agencies was inconsistent in their frequency and detail and that the IRS did little to follow up on noncompliance reporting, Mr. Garcia-Diaz highlighted several ways to strengthen IRS oversight of the program. These included clarifying reporting requirements, improving tracking of properties placed in service, and using HUD as a resource to augment IRS’s monitoring and data collection capacity. “We believe that investing in oversight and accountability will help ensure that agencies meet program requirements, use federal resources effectively, and ultimately achieve the nation’s goal of providing poor and vulnerable families safe, decent, and affordable housing, which is so desperately needed today,” he said.

Several Committee members also discussed the connection between LIHTC’s efficacy and the availability of Congressionally-appropriated resources for rental assistance and affordable housing production. Senator Bob Menendez (R-NJ) stated that President Trump’s FY18 budget request, which proposes to slash federal rental assistance and community development programs, “would turn this affordable housing crisis into an epidemic.” Ms. Cantwell rejected the false choice between investing in affordable housing and fiscal discipline. “Doing nothing doesn’t save us any money,” she said. Dr. O’Regan agreed, citing research demonstrating how the lack of affordable housing shows up in other budgets in the form of higher health and criminal justice system costs. Dr. O’Regan also stressed that LIHTC alone is not enough to create units affordable to very low income families, and that there is a large overlap between LIHTC units and federal rental assistance programs targeted to very low income households. “Forty-seven percent of LIHTC units use some form of rental assistance,” she said.

S.548 and companion legislation in the House could advance either on their own or as part of tax reform legislation in the 115<sup>th</sup> Congress. Voicing his support for the program and S.548, Senator Sherrod Brown (D-OH) suggested it should be advanced with or without progress on tax reform. “LIHTC is critical,” he said. “It should be protected and expanded whether tax reform occurs in a bipartisan way or proceeds as a Republican fantasy.”

- Watch a recording of the hearing and read witnesses’ testimony at: <http://bit.ly/2tJTS6C>
- Learn more about LIHTC at: <http://nlihc.org/issues/other/lihtc>
- Learn more about the “Affordable Housing Credit Improvement Act of 2017” at: <http://bit.ly/2mGYFSf>
- Read the text of S.548 at: <http://bit.ly/2w1ATw4>

## **HUD Confirmations Move Forward Slowly**

The Senate confirmed a slate of nominations before it went on August recess, including for key positions at HUD and the Treasury. The Senate confirmed Neal Rackleff as assistant secretary for HUD’s Office of

Community Planning and Development, Anna Maria Farias as HUD’s assistant secretary for Fair Housing and Equal Opportunity, and David Kautter as assistant secretary of the Treasury for Tax Policy. The package of nominations did not include Pamela Patenaude or Paul Compton, who were previously advanced by the Senate Committee on Banking, Housing and Urban Affairs.

Ms. Patenaude, who was nominated as deputy secretary of HUD, faced sharp questions from Committee Democrats about President Trump’s FY18 budget proposal during her confirmation hearing on June 6. (See *Memo*, [6/12](#)). “Anyone who cares about housing should oppose this budget,” said Senator Elizabeth Warren (D-MA) during the hearing. Ms. Warren withheld her support during the June 14 Executive Session vote on Ms. Patenaude’s nomination.

Ranking Member Sherrod Brown (D-OH) opposed the nominations of Mr. Compton, Ms. Farias, and Mr. Ruckelshaus during the Banking Committee’s Executive Session vote. “I vote against [these] nominations because I am concerned about the Administration’s approach to fair housing. I voted for Secretary Carson – I believe I was one of only six Democrats that did – but I was troubled to learn of Secretary Carson’s plans to reinterpret HUD’s AFFH [Affirmatively Furthering Fair Housing] rule.” (See *Memo*, [7/24](#)).

Senator Bob Menendez (D-NJ), who voted against Mr. Compton’s nomination as HUD general counsel, stated, “In part my opposition is based on what subsequently came out of responses to questions for the record. In regard to Mr. Compton, I have serious concerns about his willingness to implement HUD’s AFFH rulemaking. Despite affirming during his nomination hearing that he intended to implement HUD’s rule-making, Mr. Compton backtracked in response to questions for the record. Specifically, he raised concerns about whether the rule ‘placed undue bureaucratic burden on local municipalities and public housing authorities.’” Senators Brown, Menendez, and five additional Committee Democrats voted against Mr. Compton’s nomination.

Of the 12 Senate-confirmed positions at HUD, only Secretary Carson, Mr. Ruckelshaus, and Ms. Farias have been confirmed. The nominations of Ms. Patenaude and Mr. Compton are still pending confirmation by the full Senate, and the Trump Administration has not announced nominations for the remaining seven positions.

- View a recording of the Banking Committee’s recent Executive Session at: <http://bit.ly/2h6M1tY>
- Read Mr. Compton’s responses to Senator Brown’s questions for the record at: <http://bit.ly/2vSMBCg>
- Learn more about HUD’s AFFH rule at: <http://nlihc.org/issues/affh>

## HUD

### **HUD Reports that 8.3 Million Very Low Income Households Have Worst Case Housing Needs**

HUD published on August 9 its *Worst Case Housing Needs: 2017 Report to Congress*, showing that 8.3 million unassisted very low income households in America spend more than half of their income on their housing, live in severely substandard housing, or both. The number of households experiencing this “worst case housing” has increased by 41% since 2007 and by 66% since 2001. The report attributed the growth in worst case housing needs to the continuing transition of households from homeownership to the rental market, competition for affordable rentals, and housing assistance that has not kept pace with the nation’s need.

Very low income (VLI) households are those with incomes at or below 50% of the area median income (AMI). HUD's report finds that worst case housing needs “cut across all regions of the country and include all racial and ethnic groups, regardless of whether they live in cities, suburbs or rural areas.” The report shows that large numbers of households with worst case needs include families with children, senior citizens, and persons with disabilities.

Nearly 96% of households with worst case needs spent more than half of their income on housing, 1.8% lived in severely substandard housing, and 2.6% both spent more than half of their income and lived in severely substandard housing. Of the 19.2 million VLI households in 2015, 43.2% had worst case housing needs. Nearly 40% of elderly VLI households, 41.5% of families with children, and 46.8% of non-family households had worst case needs.

Worst case needs are even more prevalent among extremely low income (ELI) renter households with incomes at or below the poverty line or 30% of AMI. More than 70% of ELI renter households spend more than half of their incomes on their housing, leaving them with little for food, medicines, and other basic necessities and one setback away from homelessness.

In a press statement accompanying the release of the report, HUD Secretary Dr. Ben Carson stated: “Today’s affordable rental housing crisis requires that we take a more business-like approach on how the public sector can reduce the regulatory barriers so the private markets can produce more housing for more families.” While fewer regulatory barriers to housing production would help in high cost markets where the rental supply is tight, the private market will never provide sufficient housing for the lowest income households. Without housing assistance, what these families can afford to pay in rent is virtually always too low to cover the costs for the private market to serve them.

Despite this worsening affordable housing crisis, just one out of every four households in America today who qualify for federal housing assistance receives it due to inadequate federal funding. And rental assistance has not kept pace with the growth in need. The number of VLI households increased by 734,000 between 2013 and 2015, but the number of households receiving housing assistance increased by only 35,000. In addition, the number of affordable and available rental homes in the private market for VLI households declined by 234,000 between 2013 and 2015.

The HUD budget proposed by the Trump Administration for FY18 would slash housing assistance and increase the number of families with worst case housing needs. NLIHC calls on Congress to increase, not cut, funding for rental housing assistance and for other programs designed to serve the lowest income households like the national Housing Trust Fund.

The NLIHC-led United for Homes campaign calls for rebalancing federal housing policy to address the needs of those most in need. With modest reforms to the mortgage interest deduction, a \$70 billion per-year tax expenditure that mostly benefits higher income homeowners, we could help 25 million low and moderate income homeowners and generate \$241 billion in savings over ten years to invest in affordable rental housing solutions for those with the lowest incomes. We can solve the affordable housing crisis in America with no additional cost the federal government. We just need the political will to do so.

- HUD’s *Worst Case Housing Needs: 2017 Report to Congress* is available at: <http://bit.ly/2ftHf9t>
- Read NLIHC President and CEO Diane Yentel’s statement about the report at: <http://bit.ly/2w5yCIK>
- Join the United for Homes campaign at: [www.unitedforhomes.org](http://www.unitedforhomes.org)

## **HUD Announces Additions to Senior Team**

Sheila Greenwood, chief of staff to HUD Secretary Ben Carson, announced a number additions to the HUD senior management team.

**Dana Wade** is the general deputy assistant secretary in the Office of Housing. Ms. Wade has worked on the Senate Banking and Appropriations Committees and the House Budget Committee.

**Gisele Roget** is the deputy assistant secretary for single family at the Federal Housing Administration. Ms. Roget formerly was assistant vice president at MetLife, and she worked for the House Financial Services Committee.

**David Woll** is the principle deputy general counsel for enforcement in the Office of General Counsel (OGC). Mr. Woll was senior counsel for the Public Company Accounting Oversight Board in New York, and was an assistant U.S. attorney.

**Christina Brown** is a senior counsel in OGC. Ms. Brown was in private practice, focusing on real estate law.

**Seth Appleton** is the general deputy assistant secretary in the Office of Congressional and Intergovernmental Relations (CIR). Mr. Appleton was chief of staff for Representative Blaine Luetkemeyer (R-MO).

**Michael Kelley** is the deputy assistant secretary at CIR. Mr. Kelley was deputy chief of staff and legislative director for Representative Marlin Stutzman (R-IN).

**Ashley Ludlow**, previously an associate for the telecommunications law firm Fletcher, Heald & Hildreth, PLC, is now an advisor at CIR.

**Ralph Gaines** is the principle deputy assistant secretary for the Office of Community Planning and Development (CPD). Prior to CPD, Mr. Gaines was president and CEO of BeBetter Health, Inc.

**Chris Bourne**, a retired colonel in the U.S. Marine Corp., joins the Office of Policy Development and Research as a senior advisor to CPD.

**Matthew Hunter** is the assistant deputy secretary for field policy and management. Mr. Hunter was the director of political affairs with Cambridge Analytica. Prior to that he worked at HUD for 25 years in data science and audience engagement.

**Richard Youngblood** is the acting director of HUD's Center for Faith-Based and Neighborhood Partnerships. Mr. Youngblood is a former realtor, mortgage loan officer, and director for Concerned Veterans for America.

Three new HUD regional administrators are now in place:

- **Joseph (Joe) J. DeFelice** is the Region Three regional administrator. Prior to HUD, Mr. DeFelice was an attorney in Philadelphia.
- **Lynne Patton** is the regional administrator for Region Two. Previously, Ms. Patton was senior advisor in the Office of the Secretary.
- **Denise Cleveland-Leggett** is the Region Four regional administrator. Ms. Cleveland-Leggett has more than 30 years of legal experience in the public and private sectors.

**Michael Bright** is the executive vice president and chief operations officer at Ginnie Mae. Prior to HUD Mr. Bright was director of financial markets for the Milken Institute's Center for Financial Markets.

**Maren Kasper** is Ginnie Mae's executive vice president, having previously served as senior advisor in the Office of the Secretary.

## **HUD Makes Available VAWA Training Materials**

HUD's Office of Multifamily Housing Programs conducted two webcasts about Notice H 2017-05, guidance it recently issued regarding the final rule implementing the Violence Against Women Reauthorization Act of 2013

(VAWA 2013) (see *Memo*, [7/10](#)). Although the guidance and webcasts are oriented to owners and management agents of HUD-assisted multifamily housing, advocates could also benefit from familiarity with the guidance.

As previously reported in *Memo*, HUD is preparing Frequently Asked Questions (FAQs) and invites stakeholders to submit questions to Carissa Janis at: [carissa.l.janis@hud.gov](mailto:carissa.l.janis@hud.gov)

The July 26 webcast explained VAWA requirements for owners and management agents of HUD-assisted multifamily housing. Topics included: applicability, protections, eligibility, notification, documentation, lease bifurcation, the Emergency Transfer Plan, actual and imminent threat, and HUD enforcement. The July 26 webcast is at: <http://bit.ly/2v1jfjy>, and the slides are at: <http://bit.ly/2wq80Pg>

The August 1 broadcast focused on HUD and contract administrators' monitoring and enforcement of VAWA requirements. Topics included: notification and distribution of required documents, proper documentation and record-keeping of VAWA requests and their outcomes, maintenance of confidentiality, contents and execution of a property's Emergency Transfer Plan, and documentation of admission or transfer preferences given to victims of domestic violence, dating violence, sexual assault, or stalking. The August 1 webcast is at: <http://bit.ly/2fcybG4>, and the slides are at: <http://bit.ly/2v3H9ta>

## **HUD Posts VAWA Forms for Comment**

HUD has posted for comment four forms required by the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) (see *Memo*, [3/1/13](#)) and the implementing regulations (see *Memo*, [11/21/16](#)). VAWA includes core protections across HUD programs, ensuring individuals are not denied assistance, evicted, or have their assistance terminated because of their status as survivors of domestic violence, dating violence, sexual assault, or stalking, or for being affiliated with a victim.

HUD must provide three model documents to all public housing agencies (PHAs), owners and managers of private HUD-assisted housing, and grant recipients, collectively referred to as "Covered Housing Providers" (CHPs). A fourth form is for optional consideration by CHPs.

Form HUD-5380 is the "Notice of Occupancy Rights" that HUD must provide to CHPs and that CHPs must distribute to tenants and to applicants denied assistance. This form is being revised to provide more information about lease bifurcation and to better align it with the regulations. Bifurcation allows CHPs to evict or end assistance to any lawful occupant who engaged in criminal acts of physical violence but not evict or end the assistance of others in the household. In addition, HUD will add more language about emergency transfers and about reasonable accommodations for persons with disabilities.

Form HUD-5381 is the "Model Emergency Transfer Plan" that HUD must provide to CHPs, but which CHPs have the option of using or developing their own emergency transfer plans. The form adds an "Emergency Transfer Policies" section, clarifying that the housing provider must specify their individual policies for different categories of transfers, such as internal and external transfers. The form will also add a "Priority for Transfer" section, requiring CHPs to detail the measure of any priority given to tenants who qualify for an emergency transfer and to describe policies for ensuring that VAWA-related requests for internal emergency transfers receive any priority that CHPs might already provide to other types of emergency transfer requests.

Form HUD-5382 is the "Certification" that HUD must provide to CHPs and that CHPs must distribute to tenants and applicants. An individual has the option of using this form to certify that they are a victim or provide documentation from a third party, such as a victim service provider or medical professional. The revised version includes more information about reasonable accommodations.

Form HUD-5383 is “Emergency Transfer Request” that CHPs have the discretion to distribute to tenants and applicants. The model form allows an individual to submit a request for an emergency transfer and also certify that they are a victim.

Comments are due October 2. Because these forms are subject to the Paperwork Reduction Act, HUD will issue the forms again after the agency receives and considers comments – perhaps modified to reflect public comment – for an additional 30 days of comment.

The proposed form revisions are at: <http://bit.ly/2fbYegA>

## **HUD Provides Training Videos on Preparing Rent Comparability Studies**

HUD posted a series of four videos about rent comparability studies (RCS) based on the recently revised Chapter 9 of the *Section 8 Renewal Policy Guide* (see *Memo*, [7/17](#)). The videos provide training on preparing and reviewing rent comparability studies. The RCS is HUD’s tool for estimating market rents for private properties that have Section 8 Project-based Rental Assistance contracts.

The first video describes alternatives to the RCS in Option Two and contains a better explanation of non-shelter services. Option Two is for owners who request a renewal of their Section 8 contract when the RCS indicates that the contract’s aggregate current rents:

1. Are at or below comparable market rents, or
2. Exceed comparable market rents, but the project is exempt from Mark-to-Market restructuring and the owner is willing to cut the rents to comparable market rents prior to renewal of the contract.

The second video discusses what happens if an appraiser cannot find sufficient comparable properties, how to value non-shelter services, and common errors that have occurred in the past. The third video describes the process if a project’s rents exceed 140% of the Census Bureau’s median rent estimate. The fourth video contains information on the RCS review.

The videos are on HUD’s [Section 8 Renewal webpage](#) under “What’s New.”

## **HUD Issues Notice Related to Resident Income Verification**

HUD’s Office of Public and Indian Housing (PIH) issued Notice PIH 2017-12, providing guidance regarding complying with the requirement to use the Enterprise Income Verification System (EIV). Advocates working with households who live in public housing or who receive voucher assistance might find the Notice instructive, even though it is oriented to public housing agency (PHA) staff.

Notice PIH 2017-12 supersedes and makes several technical corrections to PIH Notice 2010-19. HUD regulations at 24 CFR 5.233 require PHAs to use the EIV system to verify resident employment and income information before or during mandatory annual and interim reexaminations of household income and/or composition in order to reduce tenants’ under-reporting of income and improper subsidy payments. The EIV System is a web-based application that provides PHAs with employment, wage, unemployment compensation, and Social Security benefit information, derived from computer matching programs with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS).

The Notice describes a hierarchy of six ways to verify a household’s income. It also offers examples of how to address substantial differences (\$2,400 annually) between EIV information and resident-provided documents or unreported income. If a resident has been underpaying rent, the PHA must immediately notify the resident and respond to any resident disagreement by following the PHA’s established grievance procedures.

If there is a rent underpayment, commonly referred to as “retroactive rent,” the resident must enter into a written repayment agreement. The monthly retroactive rent payment, plus the amount of rent the resident is paying, should not exceed 40% of the household’s monthly adjusted income. If the resident refuses to enter into a repayment agreement or fails to make payments, the PHA must terminate the household’s tenancy or assistance, or both.

Along with the Notice, HUD provides a two-page information guide, “What You Should Know About EIV,” that PHAs have the option of providing to residents.

- Notice PIH 2017-12 is at: <http://bit.ly/2hGUowA>
- “What You Should Know About EIV” is at: <http://bit.ly/2viAQIG>

## **AFFH**

### **HUD Accepts Westchester’s 11<sup>th</sup> Fair Housing Analysis of Impediments Zoning Supplement**

A one-paragraph letter dated July 14, 2017 announced HUD’s acceptance of the eleventh submission of the Zoning Supplement to Westchester County’s Analysis of Impediments (AI) to fair housing choice. Because Westchester County, NY no longer participates in HUD’s formula programs such as the Community Development Block Grant Program (CDBG), this ends HUD’s role in the affirmatively furthering fair housing (AFFH) saga with Westchester that began in 2006.

The Anti-Discrimination Center of New York sued the County in April, 2006 for falsely certifying that Westchester was complying with the Fair Housing Act of 1968 obligation to affirmatively furthering fair housing. Each year when jurisdictions submit an Annual Action Plan to receive funds from one of HUD’s formula programs, such as CDBG, they must certify that they are affirmatively furthering fair housing.

On April 28, 2009 HUD rejected the accuracy of Westchester’s certification that it was affirmatively furthering fair housing. HUD’s action followed the February 24, 2009 ruling by the U.S. District Court for the Southern District of New York that Westchester had “utterly failed” to meet its AFFH certification, and that its annual certification and more than 1,000 claims for payments sought from HUD over a six-year period were false. A Consent Decree (Settlement) was reached by all parties on August 10, 2009, which, among other provisions, required Westchester to submit an AI acceptable to HUD.

HUD’s July 14, 2017 letter accepting the latest Zoning Supplement to the AI follows two previous letters. A letter dated April 10, 2017 found Westchester’s March 20, 2017 Zoning Supplement to the AI unacceptable in part because “it continues to lack appropriate analyses of impediments to fair housing choice.” Highlighting several examples, HUD stated, “Yet, the County fails to analyze whether zoning is a factor,” and “These residential segregation patterns require closer analysis to determine the influence of zoning.” HUD focused on Westchester’s declarations such as “There is no correlation between zoning and concentrations of the Hispanic population,” and “There is no correlation between zoning and the concentration of the Black/African American population.” HUD wrote on April 10 that these conclusions were not supported by the data.

A HUD letter dated May 4, 2017, in response to the County’s request for HUD to reconsider, referred back to its April 10 letter stating, “Specifically the County’s conclusions regarding correlations between zoning and Black/African American and Hispanic populations cannot be logically drawn. . . . Although the County consistently finds that there is no correlation between zoning and demographic patterns, upon re-evaluation of the Supplemental Zoning Analysis, HUD identified clear patterns and a degree of correlation between zoning and where Black/African American and Hispanic populations reside based on the data contained in the County’s latest zoning analysis.”

The May 4, 2017 letter concluded: “For HUD to accept the County’s AI, the County must either: 1. Acknowledge where a correlation exists between zoning and where Black/African American and Hispanic populations reside; or 2. At a minimum, remove conclusory statements that find “no correlation” between zoning and Black/African American and Hispanic populations given the facts relating to the demographic patterns and various zoning districts, as already contained in the Supplemental Zoning Analysis.”

Emphasizing option 2 above, HUD sent Westchester a “redline” version of the County’s Zoning Supplement on June 16, 2017, specifically indicating which lines should be removed in order to secure HUD acceptance. Sixteen towns and villages were previously agreed upon as those subject to the Court Settlement. For all but one, HUD suggested one or two lines be struck, such as: “Therefore, there is no zoning-related barrier to minority populations residing in the village of Larchmont.” Westchester’s final, HUD-accepted Zoning Supplement deleted the sentences suggested by HUD.

NLIHC believes HUD should have insisted on option 1, acknowledging where a correlation exists between zoning and where Black/African American and Hispanic populations reside. Allowing option 2, merely excising sentences that claim there are no such correlations, enables Westchester to evade addressing genuine impediments to fair housing choice.

While deleting the lines that asserted there was no correlation between zoning and minority concentrations addressed one aspect of HUD’s May 4 letter, it appears as if HUD stopped pressing on another key component referred to in the May 4 letter and in prior letters – strategies for addressing impediments to fair housing choice. The May 4 letter concludes, “In addition, HUD requests that the County describe how its findings and the possible actions it identifies for expanding affordable housing opportunities will inform strategies developed in the County’s Analysis of Impediments overall.”

A December 29, 2016 HUD letter noted that the County made four Zoning Analysis submissions throughout December, each of which lacked “any commitment on the part of the County to develop and implement strategies to overcome the effects of the exclusionary zoning practices identified in the Court-appointed Monitor’s report.” That letter also stated that the County’s consultant would “have to identify and include strategies to be employed by the County to overcome the effects of the exclusionary zoning.”

The April 10, 2017 HUD letter continued to emphasize the need for the Zoning Analysis to address strategies. The opening paragraph declared that the March 20, 2017 submission was “unacceptable because it continues to lack appropriate analyses of impediments . . . and fails to identify forward-looking strategies to overcome those impediments.” The letter refers to a HUD email dated February 17, 2017 advising the County that the AI Zoning Supplement “must provide strategies that the County may utilize in addressing the [demographic] patterns [that may arise as a result of zoning].” The April 10 letter concludes, “The Settlement dictates that an AI will contain forward-looking actions the County would take to overcome the effects of identified impediments. However it has none. Instead, the AI Supplement discusses actions in Section 5 focusing mainly on education and outreach efforts since 2010. . . . For any AI Supplement the County submits to be acceptable to HUD, consistent with the Fair Housing Planning Guide, both the identified impediments to fair housing choice and the strategies to overcome them must be appropriate and consistent with data and local context. The AI Supplement does neither.”

Between the April 10 letter and the May 4 letter, HUD’s emphasis on strategies was significantly diluted, and between May 4 and July 14, HUD’s concern about strategies for overcoming impediments to fair housing choice was dropped altogether.

- HUD’s July 14, 2017 letter is at: <http://bit.ly/2undD4g>
- HUD’s “redline” version of the Westchester Zoning Supplement is at: <http://bit.ly/2vhd6Qx>
- HUD’s May 4, 2017 letter is at: <http://bit.ly/2umSdjV>

- HUD’s April 10, 2017 letter is at: <http://bit.ly/2uDRDNX>
- HUD’s December 29, 2016 letter is at: <http://bit.ly/2un4dlu>
- Westchester County’s AI webpages are at: <http://bit.ly/2wmKaF5>
- Anti-Discrimination Center’s Westchester webpage is at: <http://bit.ly/2uiPKLe>
- Previous NLIHC *Memo to Members* articles about the Westchester AFFH case are at: <http://bit.ly/2vha9PS>
- More about AFFH is available on pages 7-5 and 7-16 NLIHC’s *2017 Advocates’ Guide* at: <http://bit.ly/2uiU21f> and <http://bit.ly/2uALYIs>

## Research

### Study Finds Airbnb Increases Rents

A new study by Kyle Barron, Edward Kung, and Davide Prosperpio, *The Sharing Economy and Housing Affordability: Evidence from Airbnb*, finds that a 10% increase in Airbnb listings in a neighborhood leads to a 0.39% increase in rents. Airbnb’s impact is stronger in neighborhoods with more absentee landlords and weaker in neighborhoods with more owner-occupants. The findings suggest that Airbnb incentivizes absentee landlords to remove their properties from the long-term rental market and rent them to short-term tenants, causing rents for long-term leases to increase.

Airbnb listings are also associated with higher home values, because of homeowners’ potential profits through short-term leasing or higher long-term rents. A 10% increase in Airbnb listings in a neighborhood is associated with a 0.65% increase in home values.

The results show that Airbnb has a negative price impact for renters, but a positive value impact for current homeowners. The authors argue that home-sharing policies should attempt to limit the number of long-term rental homes that shift to the short-term market. For example, occupancy taxes could be charged to absentee owners who list an entire home on Airbnb to reduce the incentive for them to use Airbnb rather than keep the home in the long-term rental market, but not charged to owners who use Airbnb and occupy their property. Owner-occupied housing is less likely to be available for a long-term lease. The authors call for additional research to examine other effects of Airbnb for a more complete understanding of its costs and benefits.

*The Sharing Economy and Housing Affordability: Evidence from Airbnb* is available at: <http://bit.ly/2weLQAI>

### Neighborhoods Contribute to Racial Disparities in Asthma Rates

A working paper by the National Bureau of Economic Research, *Is It Who You Are or Where You Live? Residential Segregation and Racial Gaps in Childhood Asthma*, indicates that residential neighborhoods contribute to racial disparities in asthma rates among children.

While babies with low birth weight (LBW) of any race are more likely than babies with normal birth weight to later be diagnosed with asthma, African America babies with LBW have a higher likelihood of an asthma diagnosis than other LBW babies. When the authors looked only at children living in ZIP codes where more than one-quarter of the children were black, however, LBW babies were still more likely to be diagnosed with asthma than non-LBW babies, but the racial disparities in asthma rates disappeared. The authors, Diane Alexander and Janet Currie, argue that their findings show the important role of neighborhoods in racial health disparities.

The authors based their study on birth and hospital records in New Jersey. In addition to finding that the relationship between LBW and asthma was similar for all children in high-percentage-black ZIP codes

regardless of race, they also found that the impact of LBW on asthma was twice as high in high-percentage-black ZIP codes as in low-percentage-black ZIP codes. Both of these findings indicate that neighborhoods matter with regard to asthma.

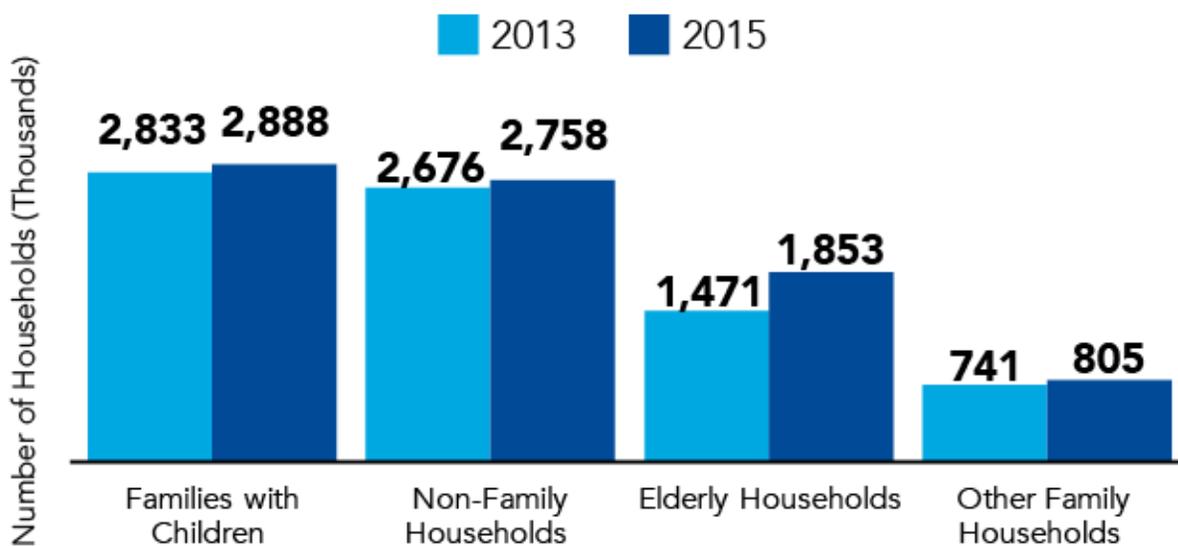
The authors discussed possible explanations for their findings. High-percentage-black ZIP codes appeared to have higher pollution levels. Air monitoring stations within two miles of these ZIP codes had higher pollution levels than stations further than two miles from the ZIP codes. Many of the state’s top 25 pollution emitters are located in or near high-percentage-black ZIP codes. Black neighborhoods are also more likely to be adjacent to major highways and in older, poorer cities. These neighborhoods also tend to have an older housing stock, which may have problems like mold that can trigger asthma.

*Is It Who You Are or Where You Live? Residential Segregation and Racial Gaps in Childhood Asthma* is available at: <http://bit.ly/2vPqi0r>

## Fact of The Week

### Households with Worst Case Housing Needs Increased Across All Family Types from 2013 to 2015

#### Very Low Income Households with Worst Case Housing Needs



Source: U.S. Department of Housing and Urban Development (2017).

Source: U.S. Department of Housing and Urban Development. (2017). Worst Case Housing Needs: 2017 Report to Congress. Washington, DC: Author. Retrieved from: <http://bit.ly/2ftHf9t>

## From the Field

### Housing Action Illinois Celebrates 30 Years with Statewide Tour of Housing and Advocacy Groups

Housing Action Illinois, an NLIHC state partner, turns 30 this year. In commemoration of three decades of outstanding organizing and advocacy for affordable housing, staff from Housing Action Illinois recently embarked on the 30<sup>th</sup> Anniversary Caravan—a tour of member agencies throughout the state that included site

visits, meetings with legislators, and discussions with residents who rely on essential housing services. The Caravan tour will continue throughout the month of August with an intention of making 25 stops throughout the state.

A primary focus of the Caravan has been connecting with local advocates and learning about the challenges their communities are facing. At various Caravan stops, Housing Action Illinois staff are seeing the negative impact of the years-long budget impasse between the state legislature and Governor Bruce Rauner (R). Due to insufficient state funding, shelter providers, housing counseling agencies, and community action agencies have had to lay off staff or reduce services. Now that the state has produced a budget, many agencies are still waiting to be paid for essential services they have already provided.

An additional concern raised throughout the Caravan has been the lack of funding for affordable housing development. Agencies working on behalf of people with disabilities have commented on the increasing prevalence of individuals being forced to live in nursing homes due to the lack of affordable housing options that would enable them to live independently in the community. The Caravan's launch coincided with celebrations of the anniversary of the Americans with Disabilities Act (ADA), and the tour has included numerous discussions about the importance and cost effectiveness of building new housing with accessibility features.

Other Caravan stops have highlighted the enormous positive impact of federal community development resources like the HOME Investment Partnerships Program, which President Trump has proposed eliminating and the House of Representatives has threatened to cut. Declining federal funding for essential housing programs has been an obstacle discussed frequently throughout Illinois. As part of the movement to increase resources for HUD programs, the Caravan was one of more than 60 local events to take place throughout the country as part of the *Our Homes, Our Voices* National Housing Week of Action, July 22-29.

“The 30th Anniversary Caravan has been an invigorating opportunity to connect with Housing Action Illinois members throughout the state and see first-hand the impact of their work,” said Sharon Legenza, executive director at Housing Action Illinois. “These visits are also a sobering call to action when we see so much unmet need for low income households. It is clear that we urgently need greater political will and leadership at both the state and federal levels if we are going to end the shortage of affordable homes.”

For more information about the 30<sup>th</sup> Anniversary Caravan, contact Kristin Ginger, communications manager at Housing Action Illinois, at: [kristin@housingactionil.org](mailto:kristin@housingactionil.org)

Read more about the stops along the 30<sup>th</sup> Anniversary Caravan at: <http://bit.ly/2fywYc6>

## Resources

### Updated HTF Information, One-Page Summary How States Propose to Use the HTF

NLIHC has updated and streamlined its national Housing Trust Fund (HTF) [website](#). In particular, the “HTF State Allocation Plan” section currently has the 2016 HUD-approved HTF Allocation Plans for all but six states. In addition, the site has draft 2017 HTF Allocation Plans for 39 states. The 2017 HTF Allocation Plans are due to HUD by August 16.

Also new is a one-page sketch of NLIHC's summary of all 51 draft 2016 HTF Allocation Plans. NLIHC will be updating the full summary based on HUD-approved 2016 HTF Allocation Plans. The thumb-nail sketch highlights the special populations states intend to serve, geographic preferences, key features given preference like access to essential services, and the extent HTF will work in conjunction with other federal and state funding sources. The sketch is at: <http://bit.ly/2fuy74I>, and the full summary of draft 2016 HTF Allocation Plans is at: <http://bit.ly/2nfegq1>

NLIHC reminds readers that 20 individuals have volunteered to serve on an advisory group of nonprofit developers from around the nation who have experience and expertise in developing and operating rental housing that extremely low income (ELI) households can afford. The members of this group serve as a resource to potential HTF grant recipients, as well as to state housing coalition advocates and state officials involved in HTF planning and implementation.

HTF Developer Advisory Group members have agreed to make themselves available to answer questions posed by nonprofit developers, state housing coalition advocates, and state officials involved in HTF planning and implementation. The members of the group are at: <http://bit.ly/1Sj1uOp>

## **CBPP Releases State Fact Sheets for Housing Choice Vouchers**

The Center on Budget and Policy Priorities (CBPP) posted updated, interactive state fact sheets about the Housing Choice Voucher program for each state and the District of Columbia. The fact sheets provide the latest information on voucher recipients, including demographic breakdowns; where vouchers are used across urban, suburban, and rural areas; the total federal dollars going to landlords who take vouchers; and the potential loss of vouchers if Congress does not increase renewal funding sufficiently to cover rising rents.

Another fact sheet highlights how vouchers fight homelessness and increase opportunities for children in each state. This fact sheet includes recent data on the unmet need for rental assistance in a state, including the number of homeless people and children without stable housing.

- The updated voucher fact sheets are at: <http://bit.ly/2vq8uFY>
- The fact sheet about vouchers and homelessness is at: <http://bit.ly/2usF8FE>

## **Guidebook and Webinar on Using Data to Assess Fair Housing**

The Urban Institute released a guidebook to help community organizations use data to improve fair housing and access to opportunity. “Using Data to Assess Fair Housing and Improve Access to Opportunity” is designed to help community organizations gain a better understanding of neighborhood conditions, improve their program planning, and enhance their ability to advocate for policy change.

The guide walks through the types of data and resources available for fair housing planning. It offers detailed information about data sources for demographics and segregation, housing, employment, and public safety, among other areas. The guide discusses how local data can be incorporated into planning to affirmatively further fair housing. For organizations contributing to HUD’s Assessment of Fair Housing (AFH) process locally, the guide contains specific references to relevant data sources for the AFH.

On August 24<sup>th</sup> at 4:00 pm ET, the Urban Institute will co-host a webinar along with the National Fair Housing Alliance and the National Coalition for Asian Pacific American Community Development (National CAPACD). The webinar will present the guide and describe how the Philadelphia Chinatown Development Corporation and the Greater New Orleans Fair Housing Action Center used data to support their successful advocacy around fair housing and access to opportunity.

- Register to join the webinar [here](#).
- The guidebook is available at: <http://urbn.is/2vCehKY>
- Information about the Fair Housing Act obligation to affirmatively further fair housing is available on pages 7-5 and 7-16 NLIHC’s *2017 Advocates’ Guide* at: <http://bit.ly/2uiU21f> and <http://bit.ly/2uALYIs>

## **Blog Focuses on Lead Poisoning of Children in Communities of Color**

A blog post in *HealthAffairs* by Emily Benfer, a senior fellow and distinguished visiting scholar at the Yale Law School, describes the extent to which minority children are disproportionately affected by lead-based paint hazards and the prevalence of lead-based paint hazards in HUD-assisted homes, and it criticizes a limitation of HUD's recently revised lead-based paint rule.

In "Contaminated Childhood: The Chronic Lead Poisoning of Low-Income Children and Communities of Color in the United States," Ms. Benfer writes: "The medical and public health fields and numerous federal agencies agree: There is no safe level of lead in the blood. The effect of lead poisoning on major bodily systems is permanent, and no amount of clinical or public health intervention can reverse it. For this reason, the American Academy of Pediatrics has consistently recommended the adoption of policies that require the identification of lead hazards before a child is exposed to them."

Ms. Benfer notes, however, that "with few exceptions, federal, state, and local policies only require lead hazard identification and remediation after a child develops lead poisoning." For instance, HUD's updated lead rule (see *Memo*, [9/6/16](#)) does not require pre-rental lead hazard risk assessments in the Housing Choice Voucher program or in the Project-Based Section 8 program for units receiving less than \$5,000 in assistance.

"Despite the federal mandate to affirmatively further fair housing, the majority of federally assisted housing is clustered in low-income, segregated areas at high risk of lead poisoning," Ms. Benfer writes. "Decades of government-sanctioned discriminatory practices have burdened communities of color with increased poverty, segregation, substandard housing, and environmental hazards. . . . The risk of lead poisoning falls disproportionately on minority children, with black children nearly three times more likely than white children to have elevated blood-lead levels."

Ms. Benfer continues, "Racial bias explains, in great part, the lack of robust lead poisoning prevention policies and the persistently high rates of lead poisoning among communities of color." She notes that when Vice President Mike Pence was governor of Indiana in 2016, he refused to provide disaster relief to help families move out of the toxic West Calumet Housing Complex in East Chicago, IN where the population is 99% black. Then-Governor Pence did, however, provide assistance to Greentown, IN, where the population is 97% white, when the lead content of its water was slightly elevated.

Emily A. Benfer is a senior fellow and distinguished visiting scholar at the Yale Law School, Solomon Center for Health Law and Policy. Prior to joining the Yale Law School, Ms. Benfer was a clinical professor of law at Loyola University Chicago School of Law, and Loyola University Chicago Stritch School of Medicine, Department of Public Health. She founded and directed the Health Justice Project.

The blog post is at: <http://bit.ly/2vjxWge>

More information about lead hazard control and healthy housing is on page 5-6 of NLIHC's *2017 Advocates' Guide* at: <http://bit.ly/2uDMeWY>

## **NLIHC News**

### **NLIHC Seeks Interns for Fall Semester**

NLIHC is accepting applications for internship positions for the fall 2017 semester. Interns are highly valued and fully integrated into our staff work. We seek students passionate about social justice issues with excellent writing and interpersonal skills.

The available positions are:

- **Research Intern.** Assists in ongoing quantitative and qualitative research projects, writes weekly articles on current research for NLIHC's weekly *Memo to Members and Partners* newsletter, attends briefings, and responds to research inquiries. Quantitative skills and experience with SPSS a plus.
- **Communications/Media/Graphic Design Intern.** Prepares and distributes press materials, assists with media research and outreach for publication releases, works on social media projects, maintains a media database, and tracks press hits. Also assists with sending out e-communications; designing collateral print material such as brochures, flyers, and factsheets; and updating content on the NLIHC website. Graphic design and Adobe Creative Cloud (Illustrator, InDesign, and/or Photoshop) experience needed. Please provide 3 design samples and/or link to online portfolio in addition to a writing sample.
- **Policy Intern.** Tracks new legislation, attends and summarizes Congressional hearings for the *Memo to Members and Partners* newsletter, participates in visits to Congressional offices, develops materials for use in lobbying the House and Senate to achieve NLIHC's policy agenda, and updates the NLIHC Congressional database.

Fall interns are expected to work 25 hours a week beginning in August or September and finishing up in December. A modest stipend is provided. A cover letter, resume, and writing sample are required for consideration. In your cover letter, please specify the position(s) for which you are applying and that you are interested in the fall 2017 internship.

## Where to Find Us – August 14

NLIHC President and CEO Diane Yentel and other NLIHC staff will be speaking/presenting at the following events in the coming months:

- [NeighborWorks Training Institute](#) in Philadelphia, PA, August 14-16
- The United Native American Housing Association [Summer Meeting](#) in Polson, Montana on August 21
- [Kansas Housing Conference](#) in Wichita, KS on August 23
- The [Hudson Valley Pattern for Progress Event](#) in Newburgh, NY on September 14
- [New York Association on Independent Living statewide conference](#) in Troy, NY, September 18-19
- [Tennessee Housing Development Agency Conference](#) in Nashville, TN, on September 21
- [Connecticut Housing Coalition's Annual Conference](#), Keynote, Cromwell, CT, September 26
- The Housing Washington 2017 ["24th Annual Affordable Housing Conference"](#) in Spokane, WA, October 2-4
- [Empower Missouri](#) annual conference in St. Louis, MO, October 5-6
- [Grounded Solutions Intersections 2017](#) in Oakland, CA, October 9-12
- [NALCAB's 2017 National Conference](#) in Ft. Lauderdale, FL, October 11
- [Ohio Housing Conference](#), Columbus, OH, on November 7
- [ReFrame Association Conference: Home, Health, and Hope](#) in Kingsport, TN on November 9
- [Low Income Housing Coalition of Alabama 2017 Housing Works! Conference](#) in Orange Beach, Alabama, November 15-17
- Yale University event in New Haven, CT on November 28

## Shop Amazon Smile to Support NLIHC's Work!

[Amazon Smile](#) is a simple and automatic way for you to support NLIHC and our mission to ensure that the lowest income households in America have access to affordable and decent homes. With every Amazon Smile purchase, Amazon will donate a portion of the purchase price to NLIHC at no additional cost to you!

Click [here](#) to support NLIHC's work while shopping.

Thank you for your support!

## **NLIHC in the News**

### **NLIHC in the News for the Weeks of July 30 and August 6**

The following are some of the news stories that NLIHC contributed to during the weeks of July 30 and August 6:

- “The Cities Where Rent Hikes Leave the Most People Homeless,” *Bloomberg*, August 3 at: <https://bloom.bg/2vxGfIv>
- “America's Public Housing Crisis May Worsen with Trump budget,” *Los Angeles Times*, August 4 at: <http://lat.ms/2vpVQIQ>
- “Advocates Seek MID Reform,” *Affordable Housing Finance*, August 8 at: <http://bit.ly/2uDS22O>
- “Millions of Poor Families Could Benefit from Housing Aid Trump Wants to Cut,” *Washington Post*, August 10 at: <http://wapo.st/2vq75z9>

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