



September 18, 2007

Writer's Extension: 312-263-3830 ext. 251

Dominique Matthew McCoy, Counsel
Committee on Financial Services
B-303 Rayburn House Office Building
Washington, D.C. 20515

Re: HR 3524, HOPE VI Improvement and Reauthorization Act

Dear Mr. McCoy:

In response to your email of September 12, 2007 concerning the introduction of HR 3524, enclosed are the comments of the Housing Justice Network, a national organization of attorneys and advocates for public and subsidized housing tenants, which has been working with the Committee for the last several months regarding this proposed legislation.

Initially, we wish to thank the Committee for soliciting our views on this matter and for adopting many of the suggestions we have offered. The bill represents a substantial attempt to address the hardships to tenants and loss of deeply affordable housing that has been occurring under present practice, addresses critical issues not addressed in the Senate bill and has the potential of improving the demolition, relocation and revitalization processes currently experienced by public housing residents affected by the HOPE VI program.

However, there still remain a few issues with the bill that we hope the Committee will consider during mark-up. These issues are: (1) change the language limiting the provision of replacement housing only in the jurisdiction of the public housing authority; (2) prohibit public housing authorities from temporarily relocating residents to segregated areas, (3) prohibit the public housing authority from evading the one-for-one replacement requirement, (4) clarify the bill so the Uniform Relocation and Real Property Acquisition Policies Act of 1974 applies to HOPE VI relocation.

1. The Committee's bill may restrict PHAs and/or their private sector partners from acquiring or building replacement units in desirable, newly developing areas that make sound real estate sense and offer their tenants better educational and economic opportunities.

On page 9 at Section 7(a)(2)(B)(v)(I), lines 4-12, and at page 29 at Section 8(j)(2)(B), lines 1-7, the Committee's bill limits the location of replacement housing units to areas within the "jurisdiction of the housing authority." We understand the Committee is aware of the problems surrounding this language and that it will be addressed during mark-up.

State and local law currently determine the areas in which PHAs operate. These state and local laws vary across the nation, but often allow a PHA to operate outside of the boundaries of a particular "jurisdiction." The bill should respect the variety of local responses to local conditions and should not attempt to impose a "one size fits all" restriction that will make it more difficult for PHAs to secure

desirable locations for replacement housing to serve displaced families and other households on its waiting list.

To cite just a few examples, in 2002 the Columbus (Ohio) Housing Authority partnered with a faith-based developer to build the very successful “Waggoner Grove” mixed income development in Blacklick, Ohio, an unincorporated area east of Columbus near the beltway. Although located outside of the City of Columbus, the development serves families referred from the CHAs waiting list, and provides them an opportunity to live in a desirable area with high performing schools and job growth. The bill’s current language would not have permitted Waggoner Grove to be built as HOPE VI replacement housing.

To achieve one-for-one replacement, it is simply counterproductive to restrict the PHAs to building or acquiring housing within their jurisdiction. Some Sunbelt cities that are still developing, such as Charlotte, N.C, have been successful in developing off-site HOPE VI replacement units in mixed income complexes located within desirable, newly developing, low poverty areas of their cities. These developments make sense from a sound business perspective and offer better educational and economic opportunities for residents. But most older cities are already fully built out and have only limited access to desirable, vacant land parcels within the jurisdiction. They usually have to undertake costly and disruptive clearance and demolition activities to create development sites. The clearance of a site, whether an existing public housing development or in another neighborhood, almost always results in the demolition of more affordable housing than is rebuilt and a net loss of housing resources. The draft bill would preclude PHAs who wish to minimize this type of dislocation from taking advantage of off-site replacement housing opportunities in newly developing areas outside of their jurisdictions.

For reasons that have been provided to the Committee, we believe the better course would be to adopt the Housing Justice Network’s proposal that off-site replacement units be constructed, ***“in other locations throughout the metropolitan area [for “housing market area”], consistent with the goal of expanding educational and economic opportunities.”***

As an acceptable alternative, the bill could remain silent and neutral on this issue, as is the case under current law, leaving PHAs the flexibility to develop in any areas where they are currently permitted to operate under state and local law, now and in the future. Thus, on page 9 at Section 7(a)(2)(B)(v)(I), lines 4-12, and at page 29 at Section 8(j)(2)(B), lines 1-7, the bill would simply read: ***“...provides for replacement in accordance with subsection (j) of 100 percent of all dwelling units demolished or disposed of.”*** Subsection (j)(2) on pages 26-29, which sets out detailed requirements relative to the location of replacement units should similarly be silent on this issue. Thus, on page 28 and page 29 the reference to “within the jurisdiction of the public housing agency” should simply be stricken.

2. The Committee’s bill may encourage temporary relocation into segregated areas.

On page 24 at Section 8(h)(5), lines 8-19, the Committee’s bill provides that when tenant-based assistance is used for relocation, the term during which the household may lease a dwelling unit shall not be shorter than 150 days, and that if the household is unable to lease a dwelling unit during such period, the PHA shall either extend the search time *or provide the tenant with the next available dwelling unit owned by the PHA*. What we are concerned about here is that PHA with high vacancies

in all or predominately minority developments (which may be in a location as severely distressed as the HOPE VI site) will often use the clearing out of a HOPE VI development to fill up their vacancies. We believe that there must be clear and unequivocal protection for families who do not want to move to these severely distressed and segregated developments. We propose the following language be added to Page 24 at Section 8(h)(5), lines 8-19:

“Except that no household shall be required to accept a public housing unit in a development or census tract where its race or ethnicity predominates, as a condition of receiving federal housing assistance. In the event that such household refuses the offer of such a unit, the public housing authority shall either extend the voucher search time and provide housing search assistance to the household to locate a unit, including a referral to a census tract where its race or ethnicity does not predominate, or provide that household with a public housing unit in a development where its race or ethnicity does not predominate.”

3. The Committee’s bill may allow PHAs to thwart the one-for-one requirement by demolishing units before applying for a HOPE VI grant.

On page 9 at Section 7(a)(2)(B)(v)(I), lines 4-12. and at page 26 at Section 8(j)(2)(B), lines 1-7, the bill provides that replacement units shall be provided for 100 per cent of all dwelling units demolished or disposed of under such revitalization plan, as of the date of the application of the grant...” Our concern here is that PHAs will demolish units before applying for a HOPE VI grant to reduce the number of public housing units that must be replaced. Tying the determination of the number of replacement units to the date of the HOPE VI application provides a serious loophole and gives PHAs an opportunity to demolish units first, and apply for HOPE VI grants later to avoid the one-for-one replacement requirement. This effect of this loophole is further emphasized by the fact that the current and unamended HOPE VI definition of “severely distressed public housing” (public housing eligible to receive a HOPE VI grant) includes a project that has been “legally vacated or demolished.” See 42 U.S.C. § 1437v(j)(2).

This danger is not theoretical: some PHAs already avoid the current HOPE VI relocation requirements by demolishing public housing before applying for HOPE VI. For example, in Baltimore, the PHA is in the process of demolishing, in whole or in part, several developments (relocating residents even before obtaining HUD approval to demolish). The Baltimore PHA recently demolished or is in the process of demolishing 600 units on its 900 unit O’Donnell Heights property. The PHA has expressed a desire to obtain HOPE VI funds to redevelop this property. If it does so, under the current language of the Committee’s bill, it would only be obligated to replace 300 units, just one-third of the units in the development before demolition began.

Similarly, the Baltimore PHA has largely emptied the 257-unit Somerset Homes development, even before obtaining HUD approval of a pending application for relocation and demolition approval. In the future, the PHA could apply for a HOPE VI grant to redevelop the site and would be required to ensure that at least one-third of the units on site were replacement housing, but would be able to avoid replacing all 257 of the units that will have already been demolished before the date of the application.

To reduce the opportunity for PHAs to demolish units before applying for a HOPE VI grant, we propose that the Committee require replacement of all units on the site as of the date three years before enactment of this bill.

4. The Committee should clarify that the Uniform Relocation and Real Property Acquisition Act applies to HOPE VI relocation activities.

The Committee's bill is not clear that the URA applies to HOPE VI relocation activities. On page 39 at Section (p)(1), lines 8-15, the bill states that all HOPE VI demolitions and dispositions are subject to Section 18 (which in turn says the URA does not apply) but if there is a conflict with Section 18 and this bill, the provisions of this bill apply (which says the URA does apply). However, at page 23 at Section 8(h), lines 7-24, and at page 24 at Section 8 (h), lines 1-19, the bill sets forth a "relocation program" that does not include all of the tenant protections that exist under the URA. The intent of the bill would be clearer if the reference to Section 18 in subsection 8(h) on page 23, lines 9-14 is deleted and replaced by, "*the Uniform Relocation and Real Property Acquisition Policies Act of 1974.*"

The Housing Justice Network again thanks you for soliciting our comments on the Committee's bill. We look forward to supporting efforts to achieve the bills' goals during the remainder of the legislative process.

Sincerely, on behalf of the
Housing Justice Network



WILLIAM P. WILEN

Director of Housing Litigation

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cc: Housing Justice Network Demolition/Disposition Group