

December 11, 2008

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th St. SW
Room 10276
Washington, DC 20410-0500

Re: Public Housing Evaluation and Oversight: Changes to the Public Housing Assessment System (PHAS) and Determining and Remediating Substantial Default (Docket No. FR-5094-P-01)

To Whom It May Concern:

We appreciate the reopening of the comment period on the proposed project-based Public Housing Assessment System (PHAS) so that we can supplement our previously submitted comments.

HUD states the public interest in this proposed rule and the availability of this new information (the spreadsheet tool) are the reasons for reopening the public comment period. Further, "*HUD hopes that this template helps clarify the proposed scoring system...*" Unfortunately, the problem was never the absence of a tool but rather the proposed assessment system itself. The tool adds nothing to the discussion except drop down boxes. The discussion should focus on whether: (1) the item being scored should actually be scored; (2) the rating of the indicator is fair or relevant to property management; (3) there is any balance between the poorly funded housing authorities and the much higher funded private market equivalents including multifamily and voucher programs; (4) it is reasonable to create an assessment year to accompany the already existing fiscal and funding years; (5) HUD should focus on currently available information it spent years and millions of dollars accumulating (the current PHAS system) to take action against non-performing housing authorities rather than moving forward with yet another assessment system.

Unclear Clarification

The issue is not whether housing authorities understand the proposed scoring system. Presumably if they can read and understand the monthly outpouring of guidance from HUD in the form of notices, funding letters, rules (proposed, interim, and final), newsletters, and web postings, they can figure out the much simpler task of accumulating information on a spreadsheet.

Rather, the issue is how much of the original proposed rule will remain intact after the wealth of thoughtful and on-point comments HUD received outlining the problems with the system proposed

in the rule. The clarification the industry seeks would be answers to questions we currently ask each other that we previously submitted in the form of comments to the proposed rule such as:

- Is HUD *really* going to assess housing authorities on the percentage of working families when the statutes and HUD's own regulations incentivize unemployment?
- Is HUD *really* going to score housing authorities downward if there is *any* trash, or a *single* instance of a torn window treatment or graffiti when these issues aren't addressed at all in the much larger (\$17 billion) Housing Choice Voucher program?
- Why, in a system built on statistics where points awarded are often to the right of the decimal point, can the final assessment be off by 29% (for example a score of 60 versus 89 under the new PHAS) and not be subject to appeal?
- Are housing authority properties *really* going receive a score of zero for their entire assessment if a tenant breaks their lease and installs their own lock in a single property so that the inspector can't access the unit? Surely HUD cares at least as much about housing authorities as it does voucher landlords that housing authorities are required by HUD regulations (not by statute) to *re-inspect without charge*.
- How does HUD justify a system where a PHA scoring 97% is not designated a top performer? (Refer to HUD's proposed requirement that every project – even if there are dozens of them that compose the PHA – pass every section of their assessment in order for the PHA to be designated a top performer.) This is analogous to saying HUD cannot be a top-performing agency as long as one of the 3400 housing authorities it oversees fails.
- Why under asset management is it important for HUD to come up with an agency-wide score like we have under the current PHAS? Wasn't the argument for project-based PHAS that property managers in the private sector are assessed on a property by property basis rather than in total? Shouldn't HUD develop consistency and either deal with housing authorities as a collection of individual properties (asset management) or as an entity charged with management of properties it owns that should be assessed on the quality of that management (the current PHAS)?
- Given that in many cases housing authorities put properties in sections of town that suffered from disinvestment and in all cases the location of the property was approved by HUD, is HUD *really* going to base a management assessment for a property on the condition of the surrounding neighborhood?
- Is HUD *really* not going to adjust the scoring for all the years that housing authorities received less funding than even HUD says well-managed housing authorities require to operate?
- Since the banking system no longer has the resources or the inclination to purchase property in general and under-performing public housing units in particular, now would be a good time to repeat the question that has yet to be satisfactorily answered. Specifically, what tangible benefits does HUD hope to reap from both asset management and project-based PHAS that justifies the outlay of time, money, bandwidth, and paper that we continue to pour into these proposed systems?

An Unappealing Appeal System

Nobody thoroughly understands the entire current assessment system including the contractors HUD pays to do the inspections. Despite the fact most Americans could determine the quality of maintenance of a property by spending a few minutes on that property, HUD has created a system

that is terribly subjective, incredibly burdensome, and only subject to appeal if the newly corrected score would cross an arbitrary threshold. And worse, that appeal is to HUD. Note that HUD will not allow housing authorities to conduct their own tenant appeals. Why does HUD propose an appeal system for their new PHAS where they are the designer and sales force for the system being appealed, and then the prosecutor, judge, and jury during the appeal?

Summary

It is hoped the investment the Department has in both drafting the proposed rule and developing the scoring tool is not so substantial that comments recommending the complete overhaul of the system (and therefore the tool) are not fairly considered. It is more than worth considering the proposed project-based physical assessment system is beyond tweaking. The “sometimes we are an agency and sometimes we are a collection of individual projects” is a concept spread throughout the new asset management and assessment systems that has moved forward not on merit but inertia. If the goal of the assessment is to improve the quality of the nation’s public housing units, imagine the improvement that could have occurred if the millions of hours and millions of dollars that have gone into this effort had been applied to something tangible like maintenance and management.

With the limited although substantial resources available, HUD has a difficult task balancing the statutes and their own passion to regulate with the needs of public housing residents. With these new systems, everyone is marching toward a promised land without knowing what promise it holds. HUD should start by explaining that promise – the tangible new benefits to be derived, not just another reporting system it seeks – and then work with the industry and other interested groups to develop a streamlined system that will deliver those benefits.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Beam", with a long, sweeping horizontal flourish extending to the right.

Steve Beam
Executive Director